

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

**Form 10-K**

(Mark One)

- ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
**For the fiscal year ended December 31, 2019**  
**OR**
- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE**  
**TRANSITION PERIOD FROM \_\_\_\_\_ TO \_\_\_\_\_**

**Commission File Number 001-33520**

**COMSCORE, INC.**

*(Exact Name of Registrant as Specified in its Charter)*

**Delaware**

**54-1955550**

*(State or Other Jurisdiction of Incorporation or Organization)*

*(I.R.S. Employer Identification Number)*

**11950 Democracy Drive, Suite 600**  
**Reston, Virginia 20190**

*(Address of Principal Executive Offices)*

**(703) 438-2000**

*(Registrant's Telephone Number, Including Area Code)*

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

Title of Each Class	Trading Symbol	Name of Each Exchange on Which Registered
Common Stock, par value \$0.001 per share	SCOR	NASDAQ Global Select 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 every Interactive Data File required to be submitted 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 such files). Yes  No

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

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

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 voting and non-voting common equity held by non-affiliates of the registrant, as of June 28, 2019, the last business day of the registrant's most recently completed second fiscal quarter, was approximately \$220.3 million (based on the closing price of the registrant's common stock on the Nasdaq Global Select Market on that date). Solely for purposes of this disclosure, shares of the registrant's common stock held by executive officers and directors and each person who owned 10% or more of the outstanding common stock of the registrant have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date: As of February 25, 2020, there were 70,103,469 shares of the registrant's common stock outstanding.

**DOCUMENTS INCORPORATED BY REFERENCE**

Specified portions of the registrant's Proxy Statement with respect to its 2020 Annual Meeting of Stockholders, to be filed with the Securities and Exchange Commission no later than 120 days following the end of the registrant's fiscal year ended December 31, 2019, are incorporated by reference in Part III of this Annual Report on Form 10-K.

**COMSCORE, INC.**  
**ANNUAL REPORT ON FORM 10-K**  
**FOR THE PERIOD ENDED DECEMBER 31, 2019**

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## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

We may make certain statements, including in this Annual Report on Form 10-K, or 10-K, including the information contained in [Item 7](#), "Management's Discussion and Analysis of Financial Condition and Results of Operations" of this 10-K, and the information incorporated by reference in this 10-K, that constitute forward-looking statements within the meaning of federal and state securities laws. Forward-looking statements are all statements other than statements of historical fact. We attempt to identify these forward-looking statements by words such as "may," "will," "should," "could," "might," "expect," "plan," "anticipate," "believe," "estimate," "target," "goal," "predict," "intend," "potential," "continue," "seek" and other comparable words. Similarly, statements that describe our business strategy, goals, prospects, opportunities, outlook, objectives, plans or intentions are also forward-looking statements. These statements may relate to, but are not limited to, expectations of future operating results or financial performance, macroeconomic trends that we expect may influence our business, plans for financing or capital expenditures, expectations regarding liquidity and compliance with financing covenants and payment obligations, expectations regarding the introduction of new products, effects of restructuring actions and changes in our management team, regulatory compliance and expected changes in the regulatory landscape affecting our business, internal control improvements, expected impact of litigation and regulatory proceedings, plans for growth and future operations, effects of acquisitions, divestitures and partnerships, as well as assumptions relating to the foregoing.

Forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified. These statements are based on expectations and assumptions as of the date of this 10-K regarding future events and business performance and involve known and unknown risks, uncertainties and other factors that may cause actual events or results to be materially different from any future events or results expressed or implied by these statements. These factors include those set forth in the following discussion and within [Item 1A](#), "Risk Factors" of this 10-K and elsewhere within this report, and those identified in other documents that we file from time to time with the U.S. Securities and Exchange Commission, or SEC.

We believe that it is important to communicate our future expectations to our investors. However, there may be events in the future that we are not able to accurately predict or control and that may cause our actual results to differ materially from the expectations we describe in our forward-looking statements. You should not place undue reliance on forward-looking statements, which apply only as of the date of this 10-K. You should carefully review the risk factors described in this 10-K and in other documents that we file from time to time with the SEC. Except as required by applicable law, including the rules and regulations of the SEC, we undertake no obligation, and expressly disclaim any duty, to publicly update or revise forward-looking statements, whether as a result of any new information, future events or otherwise. Although we believe the expectations reflected in the forward-looking statements are reasonable as of the date of this 10-K, our statements are not guarantees of future results, levels of activity, performance, or achievements, and actual outcomes and results may differ materially from those expressed in, or implied by, any of our statements.

## PART I

### ITEM 1. BUSINESS

Unless the context requires otherwise, references in this 10-K to "Comscore," "we," "us," the "Company" and "our" refer to comScore, Inc. and its consolidated subsidiaries. We have registered trademarks around the globe, including Unified Digital Measurement®, UDM®, vCE®, Metrix®, Essentials®, Box Office Essentials®, OnDemand Essentials®, OnDemand Everywhere®, and TV Essentials®. This 10-K also contains additional trademarks and trade names of our company and our subsidiaries. We file and maintain trademark protection for our products and services. All trademarks and trade names appearing in this 10-K are the property of their respective holders.

#### Overview

We are a global information and analytics company that measures advertising, content, and the consumer audiences of each, across media platforms. We create our products using a global data platform that combines information on digital platforms (smartphones, tablets and computers), television ("TV") and movie screens with demographics and other descriptive information. We have developed proprietary data science that enables measurement of person-level and household-level audiences, removing duplicated viewing across devices and over time. This combination of data and methods enables a common standard for buyers and sellers to transact on advertising. This helps companies across the media ecosystem better understand and monetize their audiences and develop marketing plans and products to more efficiently and effectively reach those audiences. Our ability to unify behavioral and other descriptive data enables us to provide audience ratings, advertising verification, and granular consumer segments that describe hundreds of millions of consumers. Our customers include digital publishers, television networks, movie studios, content owners, advertisers, agencies and technology providers.

The platforms we measure include televisions, smartphones, computers, tablets, over-the-top ("OTT") devices and movie theaters. The information we analyze crosses geographies, types of content and activities, including websites, mobile applications ("apps"), video games, television and movie programming, electronic commerce ("e-commerce") and advertising.

We are a Delaware corporation headquartered in Reston, Virginia with principal offices located at 11950 Democracy Drive, Suite 600, Reston, VA 20190. Our telephone number is 703-438-2000.

#### Key Developments in 2019

##### Leadership Changes

On March 31, 2019, Bryan Wiener resigned as our Chief Executive Officer ("CEO") and director and Sarah Hofstetter resigned as our President, effective immediately. On the same day, we appointed Dale Fuller, then a member of our Board of Directors, as Interim CEO. On November 4, 2019, Mr. Fuller resigned as Interim CEO and we appointed William Livek as our CEO and Executive Vice Chairman.

##### CVI Financing

On June 26, 2019, we issued 2,728,513 shares of our common stock, par value \$0.001 ("Common Stock") and four series of warrants to CVI Investments, Inc. ("CVI") in exchange for gross cash proceeds of \$20.0 million. On October 14, 2019, we issued 2,728,513 shares of our Common Stock to CVI upon exercise of our Series C warrant. On January 29, 2020, our Series B-1 warrant expired unexercised. For additional information about the CVI financing, refer to [Footnote 5, Stockholders' Equity](#).

##### SEC Settlement

On September 24, 2019, we announced a settlement with the SEC, resolving the previously disclosed investigation into financial accounting and disclosure practices between February 2014 and February 2016. For additional information about the SEC settlement, refer to [Footnote 11, Commitments and Contingencies](#).

##### Starboard Amendment

On November 6, 2019, we entered into an amendment agreement with the holders of our senior secured convertible notes. The amendment prescribed the terms under which we may redeem the convertible notes for cash in the event of a qualifying change of control, as defined in the amendment. For additional information about the amendment and our convertible notes, refer to [Footnote 4, Long-term Debt](#).

## **Background and Market**

We were founded in 1999 on the belief that digital technology would transform the interactions between people, media and brands in ways that would generate substantial demand for data and analytics about that interaction. The growing adoption of digital technologies also allowed measurement of the behavior of consumers' online activities. Based on this vision, we built a global opt-in panel of over two million individuals that provided insight into online activities. In 2002, we acquired Media Metrix, an internet ratings brand with its own panel of consumers. Anticipating that mobile would become a key digital platform in the future, we acquired mobile measurement specialist M:Metrics in 2008. In 2009, we introduced our proprietary Unified Digital Measurement ("UDM") methodology, which allowed us to unite consumer panel data with census-level data from tags that we implemented on websites and their content and later from software development kits on mobile apps.

To expand our global presence in Latin America and Europe, we acquired Certifica in 2009 and NedStat in 2010, respectively. To enhance our product offerings and expand our presence in certain markets, we acquired ARS in 2010, M.Labs, LLC in 2014, Proximic, Inc. in 2015, and Compete, Inc. in 2016. As consumer media consumption and the availability of television and video programming expanded across a myriad of consumer devices, the ability to measure this dynamic cross-platform world became more important for buyers and sellers of advertising. In response, we partnered with ESPN and Arbitron to pioneer a cross-platform measurement solution, and in 2015 launched Xmedia, a syndicated cross-platform measurement product. Arbitron was later acquired by Nielsen Holdings N.V. ("Nielsen"), and we continue to have access to legacy Arbitron data through a 2013 license agreement with Nielsen. This cross-platform measurement strategy led to our 2015 strategic alliance with WPP plc (together with its affiliates, "WPP"), one of the largest communications services businesses in the world, and our 2016 merger with Rentrak Corporation ("Rentrak"), a global media measurement and advanced consumer targeting company serving the entertainment, television, video and advertising industries. Following the Rentrak merger, we have access to millions of television and video on demand ("VOD") screens and the ability to measure box office results from movie screens across the world. We also have an opt-in Total Home Panel, which enables measurement of household devices that use a home's internet connection, whether traditional mobile and computer devices, streaming media devices, gaming consoles or Internet of Things ("IOT") devices, which may include devices such as smart speakers, thermostats, and appliances.

## **Our Approach to Media Measurement**

Our approach to measuring media consumption addresses the ubiquitous nature of media content and the fragmentation caused by the variety of platforms and technologies used to access such content. We believe this fragmentation presents major challenges to using legacy measurement systems that are comprised of relatively small panels of cooperating consumers or limited to specific media platforms. Our products and services are built on measurement and analytic capabilities comprised of broad-based data collection, proprietary databases, internally developed software and a computational infrastructure to measure, analyze and report on digital, television and movie activity at the level of granularity that we believe the media and advertising industries need.

## Data Collection

The following collection methods illustrate our extensive data sourcing:

- We collect data from proprietary consumer panels that measure the use of computers, tablets and smartphones that access the internet. These panelists have agreed to install our passive metering software on their devices, home network or both.
- We collect data from our near-census digital network whereby content publishers implement our software code (referred to as "tagging") on their websites, in mobile applications and video players to provide us usage information.
- We license certain demographic and behavioral mobile and panel data from third-party data providers.
- We obtain U.S. television viewership information from satellite, telecommunications and cable operators covering millions of television and VOD screens.
- We measure gross receipts and attendance information from movie screens across the world.
- We integrate our digital and television viewership information with other third-party datasets that include consumer demographic characteristics, attitudes, lifestyles and purchase behavior.
- We integrate many of our services with ad serving platforms.
- We utilize knowledgeable in-house industry analysts that span verticals such as pharmaceuticals, media, finance, consumer packaged goods and political information to add value to our data.
- We have created an opt-in Total Home Panel, which can capture data that runs through a home's internet connection. This expands our intelligence to include such activity as game console and IOT device usage.

## Data Science and Management

The ability to integrate, manage and transform massive amounts of data is core to our company. We continue to invest in technologies to enable large-scale measurement with protection of consumer privacy and attractive economics. Our systems contain multiple redundancies and advanced distributed processing technologies. We have created innovations such as:

- Our UDM methodology, which allows us to combine person-centric panel data with website server data. We believe this gives our customers greater accuracy, granularity and relevance in audience measurement.
- An ability to de-duplicate audiences across platforms, which is based on direct observations within our consumer panel and census data combined with proprietary data science. This de-duplication allows us to measure the reach and frequency of advertising and content exposure across platforms and over time.
- An ability to validate advertising delivery and detect fraud through our Invalid Traffic and Sophisticated Invalid Traffic filtration methods. These methods have been accredited by the Media Rating Council, which provides our customers with added assurances of validity and reliability.
- An ability to capture the full content of a website or app session, which allows us to measure activity beyond page views such as purchase transactions, application submissions and product configurations.
- An ability to intelligently categorize massive amounts of web content, which allows us to inform targeted and brand-safe advertising.

### Product Delivery

We deliver our products and services through diverse methods to meet the needs of our customers. These include Software-as-a-Service delivery platforms, application programming interface and other data feeds that integrate directly with customer systems, and integrations with advertising technology providers such as data management platforms and demand-side platforms that enable data management, ad management and programmatic ad trading.

### **Our Products and Services**

Our products and services help our customers measure audiences and consumer behavior across media platforms, while offering validation of advertising delivery and its effectiveness. Our customers include:

- Local and national television broadcasters and content owners;
- Network operators including cable companies, mobile operators and internet service providers;
- Digital content publishers and internet technology companies;
- Advertising agencies;
- Movie studios and movie theater operators;
- Financial service companies, including buy and sell-side investment firms, consumer banks and credit card issuers;
- Manufacturers and retailers of consumer products such as consumer packaged goods, pharmaceuticals, automotive and electronics; and
- Political campaigns and related organizations.

Our products and services are organized around three solution groups that address customer needs:

- Ratings and Planning products and services that provide measurement of the behavior and characteristics of audiences of content and advertising, across television and digital platforms including computers, tablets, smartphones, and other connected devices;
- Analytics and Optimization products and services including custom solutions, activation, lift and survey-based products, that provide end-to-end solutions for planning, optimization and evaluation of advertising campaigns and brand protection; and
- Movies Reporting and Analytics products and services that measure movie viewership and box office results by capturing movie ticket sales in real time or near real time and include box office analytics, trend analysis and insights for movie studios and movie theater operators worldwide.

We categorize our revenue along these three solution groups; however, our shared cost structure is defined and tracked by function and not by our solution groups. These shared costs include employee costs, operational overhead, data centers and our technology that supports our product offerings.

**Ratings and Planning** products and services are designed to help customers find the most relevant viewing audience, whether that viewing is linear, non-linear, online or on-demand. These products and services include:

- Media Metrix and Mobile Metrix, which measure websites and apps on computers, smartphones and tablets across dozens of countries, are leading currencies for online media planning and enable customers to analyze audience size, reach, engagement, demographics and other characteristics. Publishers use Media Metrix and Mobile Metrix to demonstrate the value of their audiences and understand market dynamics, and advertisers and their agencies use Media and Mobile Metrix to plan and execute effective marketing and content campaigns. These products also provide competitive intelligence such as cross-site visiting patterns, traffic source/loss reporting and local market trends.
- Video Metrix, which delivers unduplicated measurement of digital video consumption across computer, smartphone, tablet and OTT devices and provides TV-comparable reach and engagement metrics, as well as audience demographics.
- Plan Metrix, which provides an understanding of consumer lifestyle, buying and other consumption habits, online and offline, by integrating attitudes and interests with online behavior and provides customers with insight into patterns and trends needed to develop and execute advertising and marketing campaigns.
- TV Essentials, which combines TV viewing information with marketing segmentation and consumer databases for enhanced audience intelligence. TV Essentials data is also used in analytical applications to help customers better understand the performance of network advertising campaigns.
- StationView Essentials, which allows customers to better understand consumer viewing patterns and characteristics across local TV stations and cable channels in their market(s) to promote viewership of a particular station and negotiate inventory pricing based on the size, value and relevance of the audience.
- Cross-Platform Suite, including XMedia and Extended TV (currently in development), which provides the integration of person-level linear TV viewership with digital audience data and enables the creation of cross-platform media plans based on an analysis of de-duplicated reach, engagement and audience overlap across TV and digital platforms using a self-service tool. Customers can simulate cross-platform media planning and share scenarios, understand incremental reach and frequency that digital provides compared to that of linear TV media buys, and simulate various media-mix scenarios to better understand the optimal mix.
- OnDemand Essentials, which provides multichannel video programming distributors and content providers with transactional tracking and reporting based on millions of television screens, enabling our customers to plan advertising campaigns that more precisely target consumers watching on-demand video content.
- Comscore Campaign Ratings ("CCR"), which expands upon validated Campaign Essentials ("vCE") verification of mobile and desktop video campaigns with the addition of video advertising delivered via OTT and TV and provides unduplicated reporting that enables ad buyers and sellers to negotiate and evaluate campaigns across media platforms.
- vCE, which validates whether digital ad impressions are visible to humans, identifies those that are fraudulent (e.g., delivered to automated bots or requested by malware), and verifies that ads are shown in brand safe content and delivered to the right audience targets. Advertisers and their agencies use vCE as the basis for negotiating and evaluating campaign performance against their contracts with, and payments to, digital publishers for ad campaigns.

**Analytics and Optimization** products and services provide end-to-end solutions for planning, optimization and evaluation of advertising campaigns and brand protection. These products are primarily a part of customized data services. These products and services include:

- Comscore Marketing Solutions, which provide analytics that integrate online visitation and advertising data, TV viewing, purchase transactions, attitudinal research and other Comscore information assets. These custom deliverables are designed to meet client needs in specific industries such as automotive, financial services, media, retail, travel, telecommunications and technology. Applications include path-to-purchase analyses, competitive benchmarking, and market segmentation studies.
- Lift Models, which measure the impact of advertising on a brand across multiple behavioral and attitudinal dimensions such as brand awareness, purchase intent, online visitation, online and offline purchase behavior and retail store visitation, enabling customers to fine tune campaign strategy and execution.
- Survey Analytics, which measure various types of consumer insights including brand health metrics.
- Activation Solutions, which use Comscore-collected data about media characteristics and consumption to help our clients enhance their customer interactions, enable clients to ensure that their advertisements appear only in brand-safe, relevant environments, or enrich client databases for use in advanced analytic and media planning applications.
- Branded Content Analytics, which measure the impact and value of brand integrations into content such as TV programs.

**Movies Reporting and Analytics** products and services measure movie viewership and box office results by capturing movie ticket sales in real time or near real time and include box office analytics, trend analysis and insights for movie studios and movie theater operators worldwide. These products and services include:

- Box Office Essentials, which provides detailed measurement of domestic and international theatrical gross receipts and attendance, with movie-specific information across the globe.
- Box Office Analytics, which provides release-date optimization using predictive analytics to estimate the gross revenue potential for future films, long-lead measurement to help gauge the health of a movie's marketing campaign before theatrical release, and post-release reports of audience demographics and the aspects of each movie that trigger interest and attendance.
- Swift, which is an electronic box office reporting system that facilitates the flow of reconciled theater-level ticket transactions.
- Hollywood Software, which provides movie theater distributors and exhibitors with software and infrastructure to manage and control end-to-end processes and equipment for digital cinema exhibition and enables customers to plan releases, program theater screens, and manage payments across multiple theaters.

## **Research and Development**

Our research and development activities span our business of media and cross-platform measurement, encompassing data collection, data science, analytical application development and product delivery. We continue to focus on expanding our coverage and scale, precision and granularity across diverse types of media, devices and geographies using our census, panel and other data assets.

Examples of our research and development initiatives include:

- Enhancing our recruiting methods and software applications;
- Developing new technologies to manage, stage and deliver cross-platform data and analytics through traditional web-based user interfaces and via integration with customer systems;
- Creating new methodologies to measure person-level TV and digital consumption at scale and across platforms; and
- Continuing to develop expertise in combining our data assets with those of partner companies, which allows us to enhance existing services and create new audience rating products and insight into audience behavior.

## **Intellectual Property**

Our intellectual property assets are important to protect our business. We protect our innovations and products with numerous patents, trademarks, copyrights, trade secrets, and other intellectual property. In particular, we file for, and seek to acquire patent rights for our innovations and we continue to seek to enhance our patent portfolio through targeted and strategic patent filings and licensing opportunities. We believe that we own the material trademarks used in connection with the marketing, distribution and sale of our products, both domestically and internationally. We will continue to pursue intellectual property opportunities in areas and technologies that we deem to be strategic and appropriate for our business.

### Patents

Our patents extend across our data capture and processing techniques and include the following:

- Data Collection - metering such as biometrics and audio fingerprinting, tagging such as video viewability, browser optimization, IP obfuscation and TV-off measurement methodology.
- Data Processing - traffic and content categorization, demographic attribution, ad effectiveness measurement, data overlap and fusion, invalid traffic detection, data weighting, projection and processing of return path data.

### Trademarks

We file and maintain trademark protection for our products and services. We rely on trademarks and service marks to protect our intellectual property assets and believe these are important to our marketing efforts and the competitive value of our products and services. We have registered trademarks around the globe, including Unified Digital Measurement®, UDM®, vCE®, Metrix®, Essentials®, Box Office Essentials®, OnDemand Essentials®, OnDemand Everywhere®, and TV Essentials®. This 10-K also contains additional trademarks and trade names of our Company and our subsidiaries. All trademarks and trade names appearing in this 10-K are the property of their respective holders.



## Licenses

We license data from third-party providers across the media platforms that we measure. Our licenses include agreements with Nielsen to license certain market (DMA) data used in our television products and Arbitron data used in our cross-platform solutions, as well as licenses with satellite, telecommunications and cable operators covering television and VOD viewership data, third-party scheduling datasets and data matching partners, and agreements with providers of demographic and behavioral mobile and panel data. See "Our Approach to Media Measurement" above for a discussion of our data sourcing.

## **Competition**

The market for audience and advertising measurement products is highly competitive and is evolving rapidly. We compete primarily with other providers of media intelligence and related analytical products and services. We also compete with providers of marketing services and solutions, with full-service survey providers and with internal solutions developed by customers and potential customers. Our principal competitors include:

- Full-service market research firms, including Nielsen, Ipsos and GfK;
- Companies that provide audience ratings for TV, radio and other media that have extended or may extend their current services, particularly in certain international markets, to the measurement of digital media, including Nielsen Audio (formerly Arbitron) and TiVo Corporation;
- Online advertising companies that provide measurement of online ad effectiveness and ad delivery used for billing purposes, including Nielsen, Google and Facebook;
- Companies that provide digital advertising technology point solutions, including DoubleVerify, Integral Ad Science, Moat (owned by Oracle), and WhiteOps;
- Companies that provide audience measurement and competitive intelligence across digital platforms, including Nielsen, SimilarWeb, and App Annie;
- Analytical services companies that provide customers with detailed information about behavior on their own websites, including Adobe Analytics, IBM Digital Analytics and WebTrends Inc.;
- Companies that report Smart TV data such as Vizio, Alphonso, and Samba TV; and
- Companies that provide consumers with TV and digital services such as AT&T and Comcast.

We compete based on the following principal factors:

- The ability to provide accurate measurement of digital audiences across multiple digital platforms;
- The ability to provide TV audience measurement based on near-census data that increases accuracy and reduces variability;
- The ability to provide de-duplicated audience measurement across platforms;
- The ability to provide actual, accurate and reliable data regarding audience behavior and activity in a timely manner, including the ability to maintain large and statistically representative panels;
- The ability to provide reliable and objective third-party data that, as needed, is able to receive industry-accepted accreditation;
- The ability to adapt product offerings to emerging digital media technologies and standards;
- The breadth and depth of products and their flexibility and ease of use;
- The availability of data across various industry verticals and geographic areas and expertise across these verticals and in these geographic areas; and
- The ability to offer products that meet the changing needs of customers, particularly in the evolving privacy environment.

We believe we compete favorably on these factors and that our vision and investments in the future of media measurement across platforms will deliver products and services that our customers will continue to trust and value.

## **Government Regulation and Privacy**

U.S. and international data security and privacy laws apply to our various businesses. We have programs in place to detect, contain and respond to data security incidents; however, increasing technology risks or unauthorized users who successfully breach our network security could misappropriate or misuse our proprietary information or cause interruptions in our services. Many countries have data protection laws with different requirements than those in the U.S., and many states in the U.S. have or are developing their own data protection and privacy requirements. This may result in inconsistent requirements and differing interpretations across jurisdictions. Governments, privacy advocates and class action attorneys are increasingly scrutinizing how companies collect, process, use, store, share and transmit personal data. New laws such as the California Consumer Privacy Act ("CCPA"), Brazil's General Data Protection Law ("LGPD") and the General Data Protection Regulation ("GDPR") in Europe and industry self-regulatory codes have been enacted, and more are being considered that will affect our ability (and our customers' ability) to reach current and prospective customers, to respond to individual customer requests under the laws, and to implement our business models effectively. The GDPR took effect in May 2018 and includes requirements regarding the collection and handling of individuals' personal data. The CCPA went into effect in January 2020, and the LGPD is scheduled to come into effect in August

2020. In addition, regulators in the European Union and elsewhere are increasingly focused on consent and the collection of data using tracking technologies, including recent guidance from the U.K.'s Information Commissioner's Office. Failure to meet the applicable GDPR, CCPA or LGPD requirements, or failure to comply with privacy, data collection or consent requirements in other jurisdictions, could result in substantial penalties.

We participate in the EU-U.S. Privacy Shield Framework and the Swiss-U.S. Privacy Shield Framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information transferred from the European Economic Area and Switzerland to the U.S. We also monitor actions by the Federal Communications Commission and the Federal Trade Commission, including regulatory developments affecting Internet Service Providers and other industry participants.

Where we receive data from third-party service providers, our contracts with such providers obligate them to meet privacy and data security standards set forth therein, including a requirement to obtain appropriate consent or provide another appropriate legal basis for collection. Our policies and protocols are designed to be consistent with the American Institute of Certified Public Accountants, Inc. ("AICPA") and the Canadian Institute of Chartered Accountants ("CICA") Trust Service Principles criteria for online privacy.

## **Employees**

As of January 31, 2020, we had approximately 1,300 employees. We believe our employee relations are good. Our employees are not represented by labor unions outside of those few countries where union representation is a mandatory practice for doing business.

## **Locations and Geographic Areas**

We are located around the globe with employees in 20 countries. Our primary geographic market is the United States, followed by Europe, Latin America, Canada and Asia. For information with respect to our geographic markets, refer to [Footnote 14, Geographic Information](#), of the Notes to Consolidated Financial Statements.

## **Executive Officers and Directors**

### Executive Officers and Executive Director

*William (Bill) Livek* has served as our Chief Executive Officer since November 2019 and as our Vice Chairman since January 2016. He was our President from January 2016 through May 2018. Mr. Livek previously served as Vice Chairman and Chief Executive Officer of Rentrak Corporation, a media measurement and consumer targeting company, from June 2009 until our merger with Rentrak in January 2016. Prior to Rentrak, Mr. Livek was founder and Chief Executive Officer of Symmetrical Capital, an investment and consulting firm; Senior Vice President, Strategic Alliances and International Expansion, of Experian Information Solutions, Inc., a provider of information, analytical and marketing services; and co-President of Experian's subsidiary Experian Research Services. He holds a B.S. degree in Communications Radio/Television from Southern Illinois University. Mr. Livek brings substantial industry experience and audience measurement expertise to our Board and management team.

*Carol DiBattiste* has served as our Chief Legal Officer since December 2019 and as our Chief Compliance Officer since April 2017. She previously served as our General Counsel and Chief Privacy and People Officer from January 2017 to December 2019. Prior to joining the Company, Ms. DiBattiste held positions at the U.S. Department of Veterans Affairs with the Board of Veterans' Appeals as Executive in Charge and Vice Chairman from August 2016 to January 2017, and Senior Advisor for Appeals Modernization, Office of the Secretary, from May 2016 to August 2016. Prior to that, Ms. DiBattiste served as Executive Vice President and Chief Legal, Privacy, Security and Administrative Officer of Education Management Corporation, an operator of for-profit post-secondary educational institutions, from March 2013 through March 2016. She also served as Executive Vice President, General Counsel and Chief Administrative Officer of Geeknet, Inc., an online retailer, from April 2011 through March 2013. Among other distinguished government positions, Ms. DiBattiste served as Deputy Administrator of the U.S. Transportation Security Administration from 2003 to 2005, as Under Secretary of the U.S. Air Force from 1999 to 2001, as Deputy U.S. Attorney (Southern District of Florida) from 1998 to 1999, as Director, Executive Office for U.S. Attorneys from 1994 to 1998, and as Principal Deputy General Counsel, U.S. Department of the Navy from 1993 to 1994. Ms. DiBattiste holds an L.L.M., Law from the Columbia University School of Law, a J.D. from Temple University School of Law, and a B.A., Sociology-Criminal Justice from LaSalle University.

*Gregory Fink* has served as our Chief Financial Officer and Treasurer since October 2017 and previously served as our Executive Vice President, Finance since joining the Company earlier in October 2017. Prior to joining the Company, Mr. Fink was the Senior Vice President, Controller and Chief Accounting Officer at Fannie Mae, a government-sponsored enterprise in the mortgage industry, since 2011, where he led a team of 600 professionals and oversaw a multi-billion-dollar annual expense budget. He has more than 25 years of experience in accounting, financial reporting, business analytics, budgeting, internal controls and talent

development. Mr. Fink holds a B.S. in Business Administration with an accounting emphasis from San Diego State University and is a Certified Public Accountant.

*Christopher Wilson* has served as our Chief Commercial Officer since April 2019. He previously served as our Chief Revenue Officer from June 2017 to December 2018 and as our Executive Vice President, Commercial from January 2016 to June 2017. Prior to joining the Company, Mr. Wilson served as President, National Television at Rentrak Corporation from 2010 until our merger with Rentrak in January 2016. Before Rentrak, he was Senior Vice President, Sales at Scarborough Research Company; President at Experian Research Services; President and COO of Simmons Market Research Bureau; and CEO and President of LogicLab, a division of Merkle LLC. Mr. Wilson holds a bachelor's degree in Broadcast Communications from Southern Illinois University, Carbondale.

#### Non-Executive Directors

*Brent Rosenthal* has served as Chairman of the Board since April 2018 and as a director since January 2016. Mr. Rosenthal is the Founder of Mountain Hawk Capital Partners, LLC., an investment fund focused on small and microcap equities in the technology, media, telecom (TMT) and food industries. Mr. Rosenthal has been the Non-Executive Chairman of the board of directors of RiceBran Technologies, a food company, since July 2016 and has served as an advisor to the board of directors and executive management of FLYHT Aerospace since December 2019. He also served on the board of directors of SITO Mobile, Ltd., a mobile location-based media platform, from August 2016 to July 2018, and as Non-Executive Chairman of its board of directors from June 2017 to July 2018. Previously, Mr. Rosenthal was a Partner in affiliates of W.R. Huff Asset Management where he worked from 2002 to 2016. Mr. Rosenthal served as the Non-Executive Chairman of Rentrak Corporation from 2011 to 2016. He was Special Advisor to the board of directors of Park City Group from November 2015 to February 2018. Mr. Rosenthal earned his B.S. from Lehigh University and M.B.A. from the S.C. Johnson Graduate School of Management at Cornell University. He is an inactive Certified Public Accountant. Mr. Rosenthal brings to our Board financial expertise and experience in the media and information industries.

*Joanne Bradford* has served as a director since April 2019. She has been President of Honey Science Corp., an e-commerce technology platform, since August 2019. Honey was acquired by PayPal in January 2020. Prior to joining Honey, Ms. Bradford was Chief Marketing Officer of SoFi, an online personal finance company, from June 2017 to May 2019. She previously served as Chief Operating Officer of SoFi from July 2015 to June 2017. Ms. Bradford served as Head of Partnerships at Pinterest, a social media web and mobile application company, from November 2013 to December 2015. She previously held executive-level roles at the Hearst Corporation and San Francisco Chronicle, Demand Media, Yahoo!, and Microsoft Corporation. Ms. Bradford has served as a director of Wave App, a small business software company, since October 2018 and OneLogin, a unified access management company, since July 2019. Ms. Bradford holds a B.A. in Journalism from San Diego State University. Ms. Bradford brings to our Board over 20 years of experience leading product marketing, business development and programming, as well as building global sales and marketing teams.

*Irwin Gotlieb* has served as a director since April 2019. Mr. Gotlieb has been a senior advisor to WPP plc, a multinational advertising and public relations company, since April 2018. He was formerly the global Chief Executive Officer and Chairman of GroupM, a global media investment group, from its formation in early 2003 to 2012 and Chairman of GroupM until April 2018. Mr. Gotlieb has served on the board of directors of Invidi, a media solutions company, since October 2007, and on the advisory board of Harland Clarke, a payment solutions company, from January 2014 to December 2018. Mr. Gotlieb brings over 40 years of industry experience to the Board and is the first media agency executive inducted into both the American Advertising Federation Hall of Fame and the Broadcasting & Cable Hall of Fame.

*Jacques Kerrest* has served as a director since June 2017. Mr. Kerrest served as Executive Vice President and CFO of Intelsat S.A., a communications satellite services provider, from February 2016 to June 2019. Prior to his appointment at Intelsat, he held executive-level roles at numerous leading technology and communications companies, including ActivIdentity Corporation, Virgin Media Inc., Harte-Hanks Corporation and Chancellor Broadcasting Company. Previously, Mr. Kerrest served on the boards of directors of several public companies. Mr. Kerrest received his Master of Science Degree from Faculté des Sciences Économiques in Paris, France, and an M.B.A. from Institut D'Études Politiques De Paris in Paris, France as well as the Thunderbird School of Global Management in Glendale, Arizona. Mr. Kerrest's deep financial expertise and background enable him to bring valuable perspective to our Board.

*Kathleen Love* has served as a director since April 2019. Ms. Love is currently the Chief Executive Officer of Motherwell Resources LLC, a company devoted to management consulting and executive coaching, which she founded in 2013. Prior to founding Motherwell, Ms. Love served as the President and Chief Executive Officer of GFK MRI (formerly Mediamark Research), a media research company, from 2000 to 2013. Prior to joining MRI, Ms. Love held executive positions at The New York Times, EMAP Publishing and The Magazine Publishers of America. She has been an adjunct or guest instructor at Rutgers University, Brooklyn College and Queens College. Ms. Love holds a B.A. degree from Douglass College, Rutgers - The State University, an M.A. from Michigan State University and an M.Phil. from The Graduate Center, C.U.N.Y. She has advanced to candidacy for a Ph.D. in

psychology. Ms. Love brings over 30 years of industry experience in media and marketing research, strategic planning and business development to our Board.

*John Martin* has served as a director since May 2019. Mr. Martin was the Chairman and CEO of Turner Broadcasting System, Inc., a media and entertainment company, from January 2014 through June 2018. At Turner Broadcasting, Mr. Martin oversaw a portfolio of networks including CNN, TBS, TNT, Cartoon Network, Adult Swim and Turner Sports. Prior to Turner Broadcasting, Mr. Martin was the Chief Financial and Administrative Officer of Time Warner, Inc. for six years. Mr. Martin holds an M.B.A. from Columbia University and a B.S. from the Wharton School of Business. Mr. Martin brings substantial industry experience and financial expertise to our Board.

#### **Available Information**

We make our periodic and current reports along with amendments to such reports available, free of charge, on our website as soon as reasonably practicable after such material is electronically filed with or furnished to the SEC. Our website address is [www.comscore.com](http://www.comscore.com), and such reports are filed under "SEC Filings" in the Investor Relations section of our website. Information contained on our website is not part of this 10-K and is not incorporated herein by reference.

You can read our SEC filings, including this 10-K as well as our other periodic and current reports, on the SEC's website at [www.sec.gov](http://www.sec.gov).

## ITEM 1A. RISK FACTORS

*An investment in our Common Stock involves a substantial risk of loss. You should carefully consider these risk factors, together with all of the other information included herewith, before you decide whether to invest in shares of our Common Stock. The risks identified below could materially and adversely affect our business, financial condition and operating results. In that case, the trading price of our Common Stock could decline, and you could lose part or all of your investment. The risks described below are not the only risks we face. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially and adversely affect our business, financial condition and operating results, and may result in the loss of part or all of your investment.*

### Risks Related to Our Business and Our Technologies

***The market for media measurement and analytics products is highly competitive, and if we cannot compete effectively, our revenues could decline and our business could be harmed.***

The market for audience and advertising measurement products is highly competitive and is evolving rapidly. We compete primarily with providers of media intelligence and related analytical products and services. We also compete with providers of marketing services and solutions, with full-service survey providers, and with internal solutions developed by customers and potential customers.

Some of our competitors have longer operating histories, access to larger customer bases and substantially greater resources than we do. As a result, these competitors may be able to devote greater resources to marketing and promotional campaigns, panel retention, panel development, or development of systems and technologies than we can. In addition, some of our competitors have adopted and may continue to adopt aggressive pricing policies, including the provision of certain services at little or no cost, in order to retain or acquire customers.

Furthermore, large software companies, internet portals and database management companies may enter our market or enhance their current offerings, either by developing competing services or by acquiring our competitors, and could leverage their significant resources and pre-existing relationships with our current and potential customers. Finally, consolidation of our competitors could make it difficult for us to compete effectively.

If we are unable to compete successfully against our current and future competitors, we may not be able to retain and acquire customers, and we may consequently experience a decline in revenues, reduced operating margins, loss of market share and diminished value from our products.

***The market for cross-platform products is developing, and if it does not develop further, or develops more slowly than expected, our business could be harmed.***

The market for cross-platform products is still developing, and it is uncertain whether these products will achieve or maintain high levels of demand and increased market acceptance. Our success will depend to a substantial extent on the willingness of companies to increase their use of such products and to continue use of such products on a long-term basis. Factors that may affect market acceptance include:

- the reliability of cross-platform products;
- decisions of our customers and potential customers to develop cross-platform solutions internally rather than purchasing such products from third-party suppliers like us;
- decisions by industry associations in the U.S. or in other countries that result in association-directed awards of measurement contracts to one or a limited number of competitive vendors;
- the rate of growth in e-commerce and mobile commerce, cross-platform focused advertising and continued growth in television and digital media consumption; and
- public and regulatory concern regarding privacy and data security.

The adoption of advertising across television and digital platforms, particularly by advertisers that have historically relied on traditional offline media, requires the acceptance of new approaches to conducting business and a willingness to invest in such new approaches. Moreover, the decision to adopt a cross-platform approach to buying advertisement campaigns requires a change to buying approaches and a willingness to adopt new data analytics to assist in evaluating such approaches by advertisement buyers who traditionally focus on buying advertising campaigns through one medium. Advertisers may perceive such new approaches to advertising or understanding advertising to be less effective than traditional methods for marketing their products. They may also be unwilling to pay premium rates for advertising that is targeted at specific segments of validated users based on their demographic profile or internet behavior across digital media platforms. The digital media advertising and e-commerce markets may also be adversely affected by privacy issues relating to such targeted advertising, including that which makes use of personalized information or online behavioral information. Because of the foregoing factors, among others, the market for cross-platform focused

digital media advertising and e-commerce may not continue to grow at significant rates. If these markets do not continue to develop, or if they develop more slowly than expected, our business could suffer.

***If we are unable to provide television, digital or cross-platform analytics, or if our analytics are incomplete, our ability to maintain and grow our business may be harmed.***

As the media and advertising industries increasingly evaluate advertising campaigns across various forms of media, such as television, online, and mobile, the ability to measure the combined size and composition of audiences across platforms is increasingly important and in demand.

If we are unable to gain or maintain access to information measuring a media component or type, or if we are unable to do so on commercially reasonable terms, our ability to meet our customers' demands and our business and financial performance may be harmed. Furthermore, even if we do have access to television and digital (including mobile and OTT) data, if we have insufficient technology, encounter challenges in our methodological approaches or inadequate source materials to parse the information across such media components to avoid duplications or to do so in a cost-effective manner, our products may be inferior to other offerings, and we may be unable to meet our customers' demands. In such event, our business and financial performance may be harmed.

In particular, our acquisition of television data may be reliant on companies that have historically held a dominant market position measuring television to produce industry-accepted measurement across a combination of media platforms. Our competitors, such as Nielsen (with whom we have agreements, scheduled to expire in 2020 and 2021, to license certain geographic market definitions (DMA) used in our products and Arbitron data used in our cross-platform solutions), or other providers may have more leverage with data providers and may be unable or unwilling to provide us with access to quality data to support our products, on reasonable terms or at all. Likewise, our acquisition of digital data may be reliant on large digital publishers that may technologically or legally prevent access to their proprietary platforms for research or measurement purposes. Moreover, as mobile devices, technology and OTT viewing continue to proliferate, gaining and maintaining cost-effective access to mobile and OTT data will become increasingly critical, and we could face difficulty in accessing these forms of data. If we are unable to acquire data effectively and efficiently, or if the cost of data acquisition increases, our business, financial condition and results of operations may be harmed.

***We depend on third parties for data that is critical to our business, and our business could suffer if we cannot continue to obtain reliable data from these suppliers or if third parties place additional restrictions on our use of such data.***

We rely on third-party data sources for information usage across the media platforms that we measure, as well as demographics about the people that use such platforms. The availability and accuracy of this data is important to the continuation and development of our products and the performance of our obligations to customers. These data suppliers, some of whom compete with us, may increase restrictions on our use of such data, undertake audits (at either our or their expense) of our use of such data, require us to implement new processes with respect to such data, fail to adhere to our quality control, privacy or security standards or otherwise satisfactorily perform services, increase the price they charge us for the data or refuse to license the data to us. Additional restrictions on third-party data could limit our ability to include that data in certain products, which could lead to decreased commercial opportunities for certain products as well as loss of customers, sales credits, refunds or liability to our customers. To comply with any additional restrictions, we may be required to implement certain additional technological and manual controls that could put pressure on our cost structure and could affect our pricing. Supplier consolidation and increased pricing for additional use cases could also put pressure on our cost structure and our ability to meet obligations to our customers. We may be required to enter into vendor relationships, strategic alliances, or joint ventures with some third parties in order to obtain access to the data sources that we need. If our partners do not apply rigorous standards to their data collection methodology and actions, notwithstanding our best efforts, we may receive third-party data that is inaccurate, defective, or delayed. If third-party information is not available to us on commercially reasonable terms, or is found to be inaccurate, it could harm our products, our reputation, and our business and financial performance.

***If we fail to respond to technological developments or evolving industry standards, our products may become obsolete or less competitive.***

Our future success will depend in part on our ability to develop new and modify or enhance our existing products and services, including without limitation, our data collection technologies and approaches, in order to meet customer needs, add functionality and address technological advancements and industry standards. For example, if certain proprietary hand-held mobile devices become the primary mode of receiving content and conducting transactions on the internet, and we are unable to adapt to collect information from such devices, then we would not be able to report on digital usage activity. To remain competitive, we will need to develop new products that address these evolving technologies and standards across the universe of media including television, online, and mobile usage. However, we may be unsuccessful in identifying new product opportunities, developing or marketing new products in a timely or cost-effective manner, or obtaining the necessary access to data or technologies needed to support new products, or we may be limited in our ability to operate due to patents held by others. In addition, our product innovations may not achieve the market penetration or price levels necessary for profitability. If we are unable to develop timely enhancements to,

and new features for, our existing methodologies or products or if we are unable to develop new products and technology that keep pace with rapid technological developments or changing industry standards, our products may become obsolete, less marketable and less competitive, and our business will be harmed.

Furthermore, the market for our products is characterized by changes in protocols and evolving industry standards. For example, industry associations such as the Advertising Research Foundation, the Council of American Survey Research Organizations, the Internet Advertising Bureau ("IAB"), and the Media Rating Council ("MRC") as well as internationally-based industry associations have independently initiated efforts to either review market research methodologies across the media that we measure or develop minimum standards for such research. Failure to achieve accreditation, delays in accreditation, or adverse audit findings may negatively impact the market acceptance of our products. Meanwhile, successful accreditation or audits may lead to costly changes to our procedures and methodologies.

***Our business may be harmed if we deliver, or are perceived to deliver, inaccurate information products.***

The metrics contained in our products may be viewed as an important measure of the success of certain businesses, especially those that utilize our metrics to evaluate a variety of investments ranging from their internal operations to advertising initiatives. If the information that we provide to our customers, the media, or the public is inaccurate, or perceived to be inaccurate, whether due to inadequate methodological approaches, errors, biases towards certain available data sources or partners, disparate data sets across our products, defects or errors in data collection and processing (conducted by us or by third parties) or the systems used to collect, process or deliver data, our business may be harmed.

Any inaccuracy, perceived inaccuracy or inconsistency in the data reported by us could lead to consequences that could adversely impact our operating results, including:

- loss of customers;
- sales credits, refunds or liability to our customers;
- the incurrence of substantial costs to correct any material defect, error or inconsistency;
- increased warranty and insurance costs;
- potential litigation;
- interruptions in the availability of our products;
- diversion of development resources;
- lost or delayed market acceptance and sales of our products; and
- damage to our brand.

***Our business may be harmed if we change our methodologies or the scope of information we collect.***

We have in the past and may in the future change our methodologies, the methodologies of companies we acquire, or the scope of information we collect. Such changes may result from identified deficiencies in current methodologies, development of more advanced methodologies, changes in our business plans or in industry standards or regulatory requirements, changes in technology used by websites, browsers, mobile applications, servers, or media we measure, integration of acquired companies or expressed or perceived needs of our customers, potential customers or partners. Any such changes or perceived changes, or our inability to accurately or adequately communicate to our customers and the media such changes and the potential implications of such changes on the data we have published or will publish in the future, may result in customer dissatisfaction, particularly if certain information is no longer collected or information collected in future periods is not comparable with information collected in prior periods. As a result of future methodology changes, some of our customers that may also supply us with data may decide not to continue buying products or services from us or may decide to discontinue providing us with their data to support our products. Such customers may elect to publicly air their dissatisfaction with the methodological changes made by us, which may damage our brand and harm our reputation.

***If we are not able to maintain panels of sufficient size and scope, or if the costs of establishing and maintaining our panels materially increase, our business could be harmed.***

We believe that the quality, size and scope of our research panels are critical to our business. There can be no assurance, however, that we will be able to maintain panels of sufficient size and scope to provide the quality of marketing intelligence that our customers demand from our products. We anticipate that the cost of panel recruitment will continue to increase with the proliferation of proprietary and secure media content delivery platforms and evolving regulatory requirements, and that the difficulty in collecting these forms of data will continue to grow, which may require significant hardware and software investments, as well as increases to our panel incentive and panel management costs.

We have historically established and/or acquired new panels. We plan to continue to make significant investments in our panels in the future. Our panel costs may significantly increase our cost of revenues in the future. To the extent that such additional



expenses are not accompanied by increased revenues, our operating margins may be reduced and our financial results could be adversely affected.

***We derive a significant portion of our revenues from sales of our subscription-based products. If our customers terminate or fail to renew their subscriptions, our business could suffer.***

We currently derive a significant portion of our revenues from our syndicated products, which are generally one-year subscription-based products. This has generally provided us with recurring revenue due to high renewal rates among our enterprise customers; however, syndicated digital revenue from our smaller and international customers declined in 2019. If additional customers terminate their subscriptions for our products, do not renew their subscriptions, delay renewals of their subscriptions or renew on terms less favorable to us, our revenues could decline and our business could suffer.

Our customers have no obligation to renew after the expiration of their initial subscription period, and we cannot be assured that current subscriptions will be renewed at the same or higher dollar amounts, if at all. Furthermore, our newer subscription products, for which revenue is recognized based on impressions used, may be subject to higher fluctuations in revenue.

Our customer renewal rates may decline or fluctuate due to a number of factors, including customer satisfaction or dissatisfaction with our products, the costs or functionality of our products, the prices or functionality of products offered by our competitors, the health of the advertising marketplace, mergers and acquisitions affecting our customer base, general economic conditions or reductions in our customers' spending levels.

***Our growth depends upon our ability to retain existing large customers and add new large customers. To the extent we are not successful in doing so, our ability to grow revenue and attain profitability and positive cash flow may be impaired.***

Our success depends in part on our ability to sell our products to large customers and on the renewal of these subscriptions and contracts to these customers in subsequent years. For the years ended 2019 and 2018, we derived 27% and 24%, respectively, of our total revenues from our top 10 customers. Uncertain economic conditions, changes in the regulatory environment or other factors, such as the failure or consolidation of large customer companies, internal reorganization or changes in focus, or dissatisfaction with our products, may cause certain large customers to terminate or reduce their subscriptions and contracts with us. The loss of any one or more of these customers could decrease our revenues and harm our current and future operating results. The addition of new large customers or increases in sales to existing large customers may require particularly long implementation periods and other significant upfront costs, which may adversely affect our profitability. To compete effectively, we have in the past been, and may in the future be, forced to offer significant discounts to maintain existing customers or acquire other large customers. In addition, we may be forced to reduce or withdraw from our relationships with certain existing customers or refrain from acquiring certain new customers in order to acquire or maintain relationships with important large customers. As a result, new large customers or increased usage of our products by large customers may cause our profits to decline, and our ability to sell our products to other customers could be adversely affected.

***If we are unable to effectively persuade customers to buy our products in substitution for those of an incumbent services provider, our revenue growth may suffer.***

Some of our newer products require that we persuade prospective customers, or customers of our existing products, to buy our newer products in substitution for those of an incumbent service provider. In some instances, the customer may have built their systems and processes around the incumbent provider's products. Persuading such customers to switch service providers may be difficult and require longer sales cycles, affecting our ability to increase revenue in these areas. Moreover, the incumbent service provider may have the ability to significantly discount its services or enter into long-term agreements, which could further impede our ability to persuade customers to switch service providers, and accordingly, our ability to increase our revenues.

***We may expand through investments in, acquisitions of, or the development of new products with assistance from, other companies, any of which may not be successful and may divert our management's attention.***

In the past, we completed several strategic acquisitions. We also may evaluate and enter into discussions regarding an array of potential strategic transactions, including acquiring complementary products, technologies or businesses.

An acquisition, investment or business relationship may result in unforeseen operating difficulties and expenditures. In particular, we may encounter difficulties integrating the businesses, technologies, products, personnel or operations of the acquired companies, particularly if the key personnel of the acquired company choose not to be employed by us, and we may have difficulty retaining the customers of any acquired business due to changes in management and ownership. Acquisitions may also disrupt our ongoing business, divert our resources and require significant management attention that would otherwise be available for ongoing development of our business. Moreover, we cannot assure you that the anticipated benefits of any acquisition, investment or business relationship would be realized timely, if at all, or that we would not be exposed to unknown liabilities. In connection with any such transaction, we may:



- encounter difficulties retaining key employees of the acquired company or integrating diverse business cultures;
- incur large charges or substantial liabilities, including without limitation, liabilities associated with products or technologies accused or found to infringe on third-party intellectual property rights or violate existing or future privacy regulations;
- issue shares of our capital stock as part of the consideration, which may be dilutive to existing stockholders;
- become subject to adverse tax consequences, legal disputes, substantial depreciation or deferred compensation charges;
- use cash that we may otherwise need for ongoing or future operation of our business;
- enter new geographic markets that subject us to different laws and regulations that may have an adverse impact on our business;
- experience difficulties effectively utilizing acquired assets;
- encounter difficulties integrating the information and financial reporting systems of acquired businesses, particularly those that operated under accounting principles other than those generally accepted in the U.S. prior to the acquisition by us; and
- incur debt, which may be on terms unfavorable to us or that we are unable to repay.

We also have entered into relationships with certain third-party providers to expand our product offerings, and we may enter into similar arrangements in the future. These or other future relationships or transactions may involve preferred or exclusive licenses, discount pricing or investments in other businesses to expand our sales capabilities. These transactions could be material to our financial condition and results of operations, and though these transactions may provide additional benefits, they may not be profitable immediately or in the long term. Negotiating any such transactions could be time-consuming, difficult and expensive, and our ability to close these transactions may be subject to regulatory or other approvals and other conditions that are beyond our control. Consequently, we can make no assurances that any such transactions, investments or relationships, if undertaken and announced, would be completed or successful.

The impact of any one or more of these factors could materially and adversely affect our business, financial condition or results of operations.

***System failures, security breaches or delays in the operation of our computer and communications systems may harm our business.***

Our success depends on the efficient and uninterrupted operation of our computer and communications systems and the third-party data centers we use. Our ability to collect and report accurate data may be interrupted by a number of factors, including the failure of our network or software systems, computer viruses, security breaches, or variability in user traffic on customer websites. A failure of our network or data gathering procedures, or those of our third-party data suppliers, could impede the processing of data, cause the corruption or loss of data, prevent the timely delivery of our products, or damage our brand and reputation.

In the future, we may need to expand our network and systems at a more rapid pace than we have in the past. Our network or systems may not be capable of meeting the demand for increased capacity, or we may incur additional expenses to accommodate these capacity demands. In addition, we may lose valuable data or be unable to obtain or provide data on a timely basis or our network may temporarily shut down if we fail to adequately expand or maintain our network capabilities to meet future requirements. Any lapse in our ability to collect or transmit data may decrease the value of our products and prevent us from providing the data requested by our customers and partners. Any disruption in our network processing or loss of internet user data may damage our reputation and result in the loss of customers, partners and vendors and the imposition of penalties or other legal or regulatory action, and our business, financial condition and results of operations could be materially and adversely affected.

***We are subject to customer and partner security reviews, and failure to pass these reviews could have an adverse impact on our operations.***

Many of our customer and partner contracts require that we maintain certain physical and/or information security standards. Any failure to meet such standards could have an adverse impact on our business. In certain cases, we permit a customer or partner to audit our compliance with contractual standards. Negative findings in an audit and/or the failure to adequately remediate in a timely fashion such negative findings could cause customers or partners to terminate their contracts or otherwise have an adverse effect on our reputation, results of operations and financial condition.

Further, customers or partners from time to time may require new or stricter physical or information security than they negotiated in their contracts and may condition continued volumes and business on the satisfaction of such additional requirements. Some of these requirements may be expensive to implement or maintain and may not be factored into our contract pricing. Failure to meet these requirements could have an adverse effect on our business.

***We rely on a small number of third-party service providers to host and deliver our products, and any interruptions or delays in services from these third parties could impair the delivery of our products and harm our business.***

We host our products and serve our customers from data center facilities located throughout the U.S. While we operate our equipment inside these facilities, we do not control the operation of these facilities, and, depending on service level requirements and costs, we may not continue to operate or maintain redundant data center facilities for all of our products or for all of our data, which could increase our vulnerability. These facilities are vulnerable to damage or interruption from earthquakes, hurricanes, floods, fires, power loss, telecommunications failures and similar events. They are also subject to break-ins, computer viruses, security breaches, sabotage, intentional acts of vandalism and other misconduct. A natural disaster or an act of terrorism, a decision to close the facilities without adequate notice, or other unanticipated problems could result in lengthy interruptions in availability of our products. We may also encounter capacity limitations at our third-party data centers. Additionally, our data center facility agreements are of limited durations, and our data center facilities have no obligation to renew their agreements with us on commercially reasonable terms, if at all. We believe that we have good relationships with our data center facility vendors and believe that we will be able to renew, or find alternative data center facilities, on commercially reasonable terms, although there can be no guarantee of this. If we are unable to renew our agreements with the owners of the facilities on commercially reasonable terms, or if we migrate to a new data center, we may experience delays in delivering our products until an agreement with another data center facility can be arranged or the migration to a new facility is completed.

If we or the third-party data centers that we use were to experience a major power outage, we would have to rely on back-up generators, which may not function properly, and their supply may be inadequate. Such a power outage could result in the disruption of our business. Additionally, if our current facilities fail to have sufficient cooling capacity or availability of electrical power, we would need to find alternative facilities and could experience delays in delivering our products.

We currently leverage a large content delivery network ("CDN"), to provide services that allow us to offer a more efficient tagging methodology. If that network faced an outage or breach or the service became unavailable, an alternate CDN provider or additional capacity in our data centers would need to be established to support the large volume of tag requests that we currently manage, which would either require additional investments in equipment and facilities or a transition plan. This could unexpectedly raise our costs and could contribute to delays or losses in tag data that could affect the quality and reputation of our Media Metrix, vCE, cross-platform and other products that involve the measurement of a large amount of digitally transmitted activity across multiple providers.

Further, we depend on access to the internet through third-party bandwidth providers to operate our business. If we lose the services of one or more of our bandwidth providers for any reason, we could experience disruption in the delivery of our products or be required to retain the services of a replacement bandwidth provider. It may be difficult for us to replace any lost bandwidth on a timely basis, on commercially reasonable terms, or at all, due to the large amount of bandwidth our operations require.

Any errors, defects, breaches, disruptions or other performance problems related to our products or the delivery of our services caused by third parties could reduce our revenues, harm our reputation, result in the loss of customers, partners and vendors and the imposition of penalties or other legal or regulatory actions and otherwise damage our business. Interruptions in the availability of our products and the delivery of our services may reduce our revenues due to increased turnaround time to complete projects, cause us to issue credits or refunds to customers, cause customers to terminate their agreements or adversely affect our renewal rates. Our business, financial condition and results of operations would be materially and adversely affected if there were errors or delays in delivering our products or services, including for reasons beyond our control, and our reputation would be harmed if our customers or potential customers believe our products and services are unreliable.

***Our restructuring activities and cost reduction initiatives may not deliver the expected results and could disrupt our business operations.***

Achieving our long-term profitability goals depends significantly on our ability to control our operating costs. If we are not able to identify and implement initiatives that control or reduce costs and increase operating efficiency, or if the initiatives we have implemented to date do not generate the expected cost savings, our financial results could be adversely affected. Our efforts to reduce cost have included restructuring activities involving workforce reductions, lease and contract terminations, and other cost reduction initiatives. Some of the operational improvements we have made to reduce our cost structure will require careful management to avoid disrupting customer, partner and employee relationships. If we do not successfully manage our restructuring activities, the expected benefits may be delayed or not realized, and our operations and business could be disrupted.

***Our review of strategic options may not be successful and could disrupt our business operations.***

During our November 5, 2019 earnings call, we reiterated that we are pursuing all strategic options and that our Board of Directors remains open to any financial or operational strategies that would maximize stockholder value, including the sale of our company. We cannot assure you that this review will result in the identification or consummation of any transaction, and our Board of Directors may determine that our most effective strategy is to continue to effectuate our current business plan. Any strategic decision

will involve risks and uncertainties, and we cannot assure our stockholders that any strategic option, if identified, evaluated and consummated, will provide greater value to our stockholders than that reflected in our current stock price. In addition, the process of negotiating any corporate transaction could be time-consuming and disruptive, and any transaction would be dependent on a number of factors that are beyond our control, including, among other things, regulatory or other approvals, the availability of financing to potential buyers on reasonable terms, market conditions, industry trends and the interest of third parties in our business. We also could incur substantial expenses associated with identifying and evaluating potential strategic alternatives, including those related to employee retention payments, equity compensation, severance pay and legal, accounting and financial advisory fees. Moreover, this process could divert our resources and require significant management time and attention that would otherwise be available for ongoing development of our business. It also could disrupt our customer and partner relationships, impair our ability to recruit and retain key personnel, increase our costs, and lead to legal disputes in connection with this process or any resulting transaction. Any of these factors could have an adverse effect on our business and financial condition.

Further, we do not intend to disclose detailed developments or provide regular updates on the progress or status of this process until our Board of Directors deems further disclosure is appropriate or required. Accordingly, speculation regarding any developments related to this process and perceived uncertainties related to the future of our company could cause our stock price to fluctuate significantly and may result in the loss of potential business opportunities.

***We rely on our management team, many of whom were recently appointed to their roles, and may need additional personnel to operate and grow our business. The loss of one or more key employees, the inability to attract and retain qualified personnel, or the failure to integrate new personnel could harm our business.***

In 2019, we experienced a number of changes to our senior management team. Our success and future growth depend to a significant degree on the skills and continued services of our management team, many of whom were recently appointed to their roles. Our future success also depends on our ability to retain, attract and motivate highly skilled technical, managerial, marketing and customer service personnel, including members of our management team. We may experience a loss of productivity due to the departure of key personnel and the associated loss of institutional knowledge, or while new personnel integrate into our business and transition into their respective roles. This transition may not ultimately be successful.

A substantial majority of our U.S. employees work for us on an at-will basis. We continually evaluate our personnel needs in all areas of our business, particularly in our sales, marketing, finance and technology development areas, both domestically and internationally, which could increase our recruiting and hiring costs in the foreseeable future. Competition for these types of personnel is intense, particularly in the internet and software industries. Our inability to retain and attract the necessary personnel could adversely affect our business.

***The effectiveness of our equity awards as a means to recruit and retain key personnel has diminished, and we may need to grant equity awards outside of our existing plan.***

Historically, we have relied on equity awards as one means of recruiting and retaining key personnel, including our senior management. Due to declines in our stock price, the effectiveness of our outstanding equity awards as a means to retain key personnel has diminished. Moreover, the quantity of equity awards we are able to grant under our 2018 Equity and Incentive Compensation Plan ("2018 Plan") is limited, both by plan design and by certain limitations in our outstanding warrants. These limits have impacted our ability to offer new awards to current and prospective employees. In order to address our retention and hiring needs, we may seek to amend our 2018 Plan and warrants to increase the number of shares available for future equity awards, or we may need to consider granting equity awards outside of our 2018 Plan. Either of these options could result in additional dilution to our existing stockholders. Alternatively, we may need to shift a larger portion of employee compensation to cash, which could adversely affect our liquidity and financial condition.

## **Risks Related to Our Results of Operations**

***Our revenues and results of operations may fluctuate in the future. As a result, we may fail to meet or exceed the expectations of securities analysts or investors, which could cause our stock price to decline.***

Our results of operations may fluctuate as a result of a variety of factors, many of which are outside of our control. If our revenues or results of operations do not meet or exceed the expectations of securities analysts or investors, the price of our Common Stock could decline substantially. Factors that may cause fluctuations in our revenues or results of operations include:

- our ability to increase sales to existing customers and attract new customers;
- the potential loss or reduction in spending by significant customers;
- changes in our customers' subscription renewal behaviors and spending on projects;

- the impact of our contract renewal rates caused by our customers' budgetary constraints, competition, customer dissatisfaction, customer corporate restructuring or change in control, or our customers' actual or perceived lack of need for our products;
- the timing of contract renewals, delivery of products and duration of contracts and the corresponding timing of revenue recognition;
- variations in the demand for our products and the implementation cycles of our products by our customers;
- the challenges of persuading existing and prospective customers to switch from incumbent service providers;
- the timing of revenue recognition for usage-based or impression-based products;
- the effect of revenues generated from significant one-time projects or the loss of such projects;
- the timing and success of new product introductions by us or our competitors;
- changes in our pricing and discounting policies or those of our competitors;
- the impact of our decision to discontinue certain products;
- our failure to accurately estimate or control costs - including those incurred as a result of investments, other business or product development initiatives, legal proceedings, and the integration of acquired businesses;
- the cost and availability of data from third-party sources;
- adverse judgments or settlements, or increased legal fees, in legal disputes or government proceedings;
- changes in interest rates under our senior secured convertible notes or other financing vehicles;
- the amount and timing of capital expenditures and operating costs related to the maintenance and expansion of our operations and infrastructure;
- service outages, other technical difficulties or security breaches;
- limitations relating to the capacity of our networks, systems and processes;
- maintaining appropriate staffing levels and capabilities relative to projected growth, or retaining key personnel;
- limitations on our ability to use equity awards to compensate current and prospective employees;
- the cost and timing of organizational restructuring;
- the risks associated with operating in countries in which we may have little or no previous experience and with maintaining or reorganizing corporate entity structures in international jurisdictions;
- the extent to which certain expenses are deductible for tax purposes, such as share-based compensation that fluctuates based on the timing of vesting and our stock price;
- the timing of any changes to our deferred tax valuation allowance;
- adoption of new accounting pronouncements;
- changes in the fair value of our financing derivatives and warrants related to market volatility or management assumptions; and
- general economic, political, regulatory, industry and market conditions and those conditions specific to internet usage and online businesses.

We believe that our revenues and results of operations on a year-over-year and sequential quarter-over-quarter basis may vary significantly in the future and that period-to-period comparisons of our operating results may not be meaningful. Investors are cautioned not to rely on the results of prior periods as an indication of future performance.

***We may not be able to generate or obtain sufficient cash to service our debt and lease facilities or trade payables.***

We currently have, and will likely continue to have, a substantial amount of indebtedness (in the form of our senior secured convertible notes ("Notes") and subsidiary term debt) and lease facilities, as well as trade payables, including expenses incurred in prior periods. These obligations could require us to use a large portion of our cash flow from operations to service our debt and lease facilities and pay accrued expenses. They could also limit our flexibility to invest in our business and adjust to market conditions, which could impact our customer relationships and place us at a competitive disadvantage.

We expect to obtain the funds to pay our expenses and meet our financial obligations from cash flow from our operations and, potentially, from other debt and/or equity offerings. Accordingly, our ability to meet our obligations depends on our future performance and capital-raising activities, which will be affected by financial, business, contractual, economic and other factors, some of which are beyond our control. Failure to meet our payment obligations to vendors could disrupt our supply of goods and services and impact our reputation, creditworthiness and relations with customers. It could also lead to costly litigation.

If our cash flow and capital resources prove inadequate to allow us to pay the interest and principal on our debt when due and meet our other financial obligations, we could face substantial liquidity challenges and might be required to dispose of material assets or operations, restructure or refinance our debt (which we may be unable to do on acceptable terms) or forego attractive business opportunities. In addition, the terms of our existing or future financing agreements may restrict us from pursuing these alternatives. Failure to meet our obligations under the Notes could lead to an Event of Default (as defined in the Notes), which could have important consequences including, potentially, forcing us into bankruptcy or liquidation.

***Our financial condition and results of operations could suffer and be adversely affected if we incur an impairment of goodwill or other intangible assets.***

We are required to test goodwill and intangible assets, annually and on an interim basis if an event occurs or there is a change in circumstance that would more likely than not reduce the fair value of our reporting unit below its carrying values or indicate that the carrying value of such intangibles is not recoverable. When the carrying value of a reporting unit exceeds its fair value, a charge to operations, up to the total amount of goodwill, is recorded. If the carrying amount of an intangible asset is not recoverable, a charge to operations is recognized. Either event would result in incremental expenses for that period, which would reduce any earnings or increase any loss for the period in which the impairment was determined to have occurred. We recorded a \$224.3 million impairment charge related to goodwill and a \$17.3 million impairment charge for our strategic alliance intangible asset in the second quarter of 2019.

Our impairment analysis is sensitive to changes in key assumptions used in our analysis, such as expected future cash flows, the degree of volatility in equity and debt markets and our stock price. Additionally, changes in our strategy or significant technical developments could significantly impact the recoverability of our intangible assets. If the assumptions used in our analysis are not realized, it is possible that an additional impairment charge may need to be recorded in the future. We cannot predict the amount and timing of any future impairment of goodwill or other intangible assets.

***Changes in the fair value of our derivative financial instruments or warrants could adversely affect our financial condition and results of operations.***

Our financing derivatives, including the interest rate reset feature and change of control redemption features of our Notes, and our warrants are classified as liabilities in our consolidated financial statements. We use various models and assumptions to determine the fair value of these liabilities, including assumptions with respect to market rates, the price and volatility of our Common Stock, the probability of occurrence of certain events, and term. Any change in our assumptions could result in a change in the fair value of our derivative liabilities and warrants, which would be recorded to earnings and could significantly affect our financial condition and results of operations.

***We may encounter difficulties managing our costs, which could adversely affect our results of operations.***

We believe that we will need to continue to effectively manage our organization, operations and facilities in order to accommodate changes in our business and to successfully integrate acquired businesses. If we continue to grow or change, either organically or through acquired businesses, our current systems and facilities may not be adequate and may need to be expanded or reduced. For example, we may be required to enter into leases for additional facilities or commit to significant investments in the build out of current or new facilities, or we may need to renegotiate or terminate leases to reflect changes in our business. If we are unable to effectively forecast our facilities needs or if we are unable to sublease or terminate leases for unused space, we may experience increased and unexpected costs. Moreover, our need to effectively manage our operations and cost structure requires that we continue to assess and improve our operational, financial and management controls, reporting systems and procedures.

From time to time, as a result of acquisition integration initiatives, or through efforts to improve or streamline our operations, we have reduced our workforce or reassigned personnel, and we may do so in the future. Such actions may expose us to disruption by dissatisfied employees or employee-related claims, including claims by terminated employees who believe they are owed more compensation than we believe these employees are due under our compensation and benefit plans, or claims maintained internationally in jurisdictions whose laws and procedures differ from those in the U.S.

If we are not able to efficiently and effectively manage our cost structure and resolve employee-related claims, or if we are unable to find appropriate space to support our needs, our business may be impaired.

***We have a history of significant net losses, may incur significant net losses in the future and may not achieve profitability.***

We incurred net losses of \$339.0 million, \$159.3 million and \$281.4 million for the years ended December 31, 2019, 2018 and 2017, respectively. We cannot make assurances that we will be able to achieve profitability in the future. As of December 31, 2019, we had an accumulated deficit of \$1,108.1 million. Because a large portion of our costs are fixed, we may not be able to adequately reduce our expenses in response to any decrease in our revenues, which would materially and adversely affect our operating results. In addition, our operating expenses may increase as we implement certain growth initiatives, which include, among other things, the development of new products and enhancements of our infrastructure. If our revenues do not increase to offset these increases in costs and operating expenses, our operating results would be materially and adversely affected.

***Our net operating loss carryforwards may expire unutilized or underutilized, which could prevent us from offsetting future taxable income.***

We have experienced "changes in control" that have triggered the limitations of Section 382 of the Internal Revenue Code on a significant portion of our net operating loss carryforwards. As a result, we may be limited in the amount of net operating loss carryforwards that we can use in the future to offset taxable income for U.S. federal income tax purposes.

As of December 31, 2019, we estimate our U.S. federal and state net operating loss carryforwards for tax purposes are \$639.9 million and \$1,391.3 million, respectively, subject to limitation as described above. These net operating loss carryforwards will begin to expire in 2022 for federal income tax reporting purposes and portions are expiring annually for state income tax reporting purposes. The federal and certain state net operating losses generated after December 31, 2017 currently have an indefinite carryforward period as a result of the enactment of the Tax Cuts and Jobs Act (the "TCJA").

As of December 31, 2019, we estimate our aggregate net operating loss carryforwards for tax purposes related to our foreign subsidiaries are \$5.1 million, which will begin to expire in 2024.

We apply a valuation allowance to our deferred tax assets when management does not believe that it is more-likely-than-not that they will be realized. In assessing the need for a valuation allowance, we consider all sources of taxable income, including potential opportunities for loss carrybacks, the reversal of existing temporary differences associated with our deferred tax assets and liabilities, tax planning strategies and future taxable income. We also consider other evidence such as historical pre-tax book income in making the determination.

As of December 31, 2019, we continue to have a valuation allowance recorded against the net deferred tax assets of our U.S. entities and certain foreign subsidiaries, including net operating loss carryforwards.

***We have limited experience with respect to our pricing model for our new offerings, and if the fees we charge for our products are unacceptable to customers, our revenues and operating results will be harmed.***

Many of our customers purchase specifically tailored contracts that are priced in the aggregate. Due to the level of customization of such contracts, the pricing of contracts or individual product components of such packages may not be readily comparable across customers or periods. Existing and potential customers may have difficulty assessing the value of our products and services when comparing them to competing products and services. As the market for our products matures, or as competitors introduce new products or services that compete with ours, we may be unable to renew our agreements with existing customers or attract new customers with the fees we have historically charged. As a result, it is possible that future competitive dynamics in our market may require us to reduce our fees, which could have an adverse effect on our revenues, profitability and operating results.

**Risks Related to Legal and Regulatory Compliance, Litigation and Tax Matters**

***Concern over privacy violations and data breaches could lead to public relations problems, regulatory scrutiny and class action lawsuits, which could harm our business.***

We are subject to data privacy and protection laws and regulations that apply to the collection, transmission, storage and use of proprietary information and personal information. The regulatory environment surrounding information security and data privacy varies from jurisdiction to jurisdiction and is constantly evolving and increasingly demanding. The restrictions imposed by such laws continue to develop and may require us to incur substantial costs and fines or adopt additional compliance measures, such as notification requirements and corrective actions.

Any perception of our practices, products or services as a violation of individual privacy rights may subject us to public criticism, loss of customers, partners or vendors, class action lawsuits, reputational harm, or investigations or claims by regulators, industry groups or other third parties, all of which could significantly disrupt our business and expose us to increased liability. (Refer to [Footnote 11](#), *Commitments and Contingencies*, of the Notes to Consolidated Financial Statements for a discussion of certain legal proceedings in which we are involved.) Additionally, laws regulating privacy and third-party products purporting to address privacy concerns could negatively affect the functionality of, and demand for, our products and services, thereby resulting in loss of customers, partners and vendors and harm to our business.

We also rely on security questionnaires and contractual representations made to us by customers, partners, vendors and other third-party data providers that their own use of our services and the information they provide to us do not violate any applicable privacy laws, rules and regulations or their own privacy or security policies. As a component of our client contracts, we obligate customers to provide their consumers the opportunity to obtain the appropriate level of consent (including opt outs) for the information collection associated with our services, as applicable, or provide another appropriate legal basis for collection. If these questionnaires or representations are false, inaccurate or incomplete, or if our customers, partners, vendors and other third-party data providers do not otherwise comply with applicable privacy laws or security practices, we could face adverse publicity and possible legal or regulatory action.



Outside parties, including foreign actors, may attempt to fraudulently induce our employees or users of our solutions to disclose sensitive information via illegal electronic spamming, phishing, threats or other tactics. Unauthorized parties may also attempt to gain physical access to our information systems. This risk may be heightened in U.S. election years, particularly from foreign governments and other foreign actors. Any breach of our security measures or the accidental loss, inadvertent disclosure or unauthorized dissemination of proprietary information or sensitive, personal or confidential data about us, our employees or our customers, partners or vendors, including the potential loss or disclosure of such information or data as a result of hacking, fraud, trickery or other forms of deception, could expose us, our employees, our customers or the individuals affected to risks of loss or misuse of this information. Any actual or potential breach of our security measures may result in litigation and potential liability or fines, governmental inquiry or oversight or a loss of customer confidence, any of which could harm our business and damage our brand and reputation, possibly impeding our present and future success in retaining and attracting new customers and thereby requiring time and resources to repair our brand.

***Domestic or foreign laws, regulations or enforcement actions may limit our ability to collect and incorporate media usage information in our products, which may decrease their value and cause an adverse impact on our business and financial results.***

Our business could be adversely impacted by existing or future laws, regulations or actions by domestic or foreign regulatory agencies, or by our customers' or partners' efforts to comply with these laws. For example, privacy, data protection and personal information, intellectual property, advertising, data security, data retention and deletion, protection of minors, consumer protection, economic or other trade prohibitions or sanctions concerns could lead to legislative, judicial and regulatory limitations on our or our partners' ability to collect, maintain and use information about consumers' behavior or media consumption in the U.S. and abroad. This could impact the amount and quality of data in our products.

State and federal laws within the U.S. and foreign laws and regulations are varied, and at times conflicting, resulting in higher risk related to compliance. A number of new laws coming into effect and/or proposals pending before federal, state and foreign legislative and regulatory bodies will likely affect our business. For example, the European Union's ("EU") General Data Protection Regulation, or GDPR, became effective in May 2018, imposing more stringent EU data protection requirements and providing for greater penalties for noncompliance. In addition, regulators in the EU and elsewhere are increasingly focused on consent and the collection of data using tracking technologies, including recent guidance from the United Kingdom ("UK") Information Commissioner's Office. Adding further uncertainty is the UK's recent departure from the EU, commonly referred to as Brexit. Among other things, it is unclear how data transfers to and from the UK will be regulated. As another example, Brazil recently enacted the General Data Protection Law, and the State of California recently enacted the California Consumer Privacy Act ("CCPA"). The CCPA, which went into effect in January 2020, expands the scope of what is considered "personal information" and creates new data access and opt-out rights for consumers, which is impacting Comscore and other companies that operate in California, including many of our customers and partners. These U.S. federal and state and foreign laws and regulations, which in some cases can be enforced by private parties in addition to government entities, are constantly evolving and can be subject to significant change.

We have implemented policies and procedures to comply with GDPR, CCPA, the Children's Online Privacy Protection Act ("COPPA") and other laws, and we continue to evaluate and implement processes and enhancements and monitor changes in laws and regulations. However, the application, interpretation, and enforcement of these laws and regulations are often uncertain, particularly in the new and rapidly evolving industry in which we operate, and may be interpreted and applied inconsistently from country to country, state to state, and customer to customer, and inconsistently with our current policies and practices. Additionally, the costs of compliance with, and the other burdens imposed by, these and other laws, regulatory actions and customer or partner policies may prevent us from selling our products and have and may continue to increase the costs associated with selling our products, and may affect our ability to invest in or jointly develop products in the U.S. and in foreign jurisdictions. In addition, failure to comply with these and other laws and regulations may result in, among other things, administrative enforcement actions and substantial fines, class action lawsuits, significant legal fees, and civil and criminal liability. Any regulatory or civil action that is brought against us, even if unsuccessful, may distract our management's attention, divert our resources, negatively affect our public image or reputation among our panelists, customers, partners and vendors, and harm our business.

***An assertion from a third party that we are infringing its intellectual property rights, whether such assertion is valid or not, could subject us to costly and time-consuming litigation or expensive licenses.***

The media measurement, software and technology industries are characterized by the existence of a large number of patents, copyrights, trademarks and trade secrets and by frequent litigation based on allegations of infringement or other violations of intellectual property rights, domestically or internationally. As we grow and face increasing competition, the probability that one or more third parties will make intellectual property rights claims against us increases. In such cases, our technologies may be found to infringe on the intellectual property rights of others. Additionally, many of our agreements may require us to indemnify our customers for third-party intellectual property infringement claims, which would increase our costs if we have to defend such claims and may require that we pay damages and provide alternative services if there were an adverse ruling in any such claims. Intellectual property claims could harm our relationships with our customers, deter future customers from buying our products or expose us to litigation, which could be expensive and divert considerable attention of our management team from the normal

operation of our business. Even if we are not a party to any litigation between a customer and a third party, an adverse outcome in any such litigation could make it more difficult for us to defend against intellectual property claims by the third party in any subsequent litigation in which we are a named party. Any of these results could adversely affect our brand, business and results of operations.

With respect to any intellectual property rights claim against us or our customers, we may have to pay damages or stop using technology found to be in violation of a third party's rights. We may have to seek a license for the technology, which may not be available on reasonable terms or at all, may significantly increase our operating expenses or may significantly restrict our business activities in one or more respects. We may also be required to develop alternative non-infringing technology, which could require significant effort and expense. Any of these outcomes could adversely affect our business and results of operations. Even if we prove successful in defending ourselves against such claims, we may incur substantial expenses and the defense of such claims may divert considerable attention of our management team from the normal operation of our business.

***The success of our business depends in large part on our ability to protect and enforce our intellectual property rights.***

We rely on a combination of patent, copyright, service mark, trademark and trade secret laws, as well as confidentiality procedures and contractual restrictions, to establish and protect our proprietary rights, all of which provide only limited protection. We endeavor to enter into agreements with our employees and contractors and with parties with whom we do business in order to limit access to and disclosure of our proprietary information. We cannot be certain that the steps we have taken will prevent unauthorized use of our technology or the reverse engineering of our technology. We cannot make assurances that any additional patents will be issued with respect to any of our pending or future patent applications, nor can we assure that any patent issued to us will provide adequate protection, or that any patents issued to us will not be challenged, invalidated, circumvented, or held to be unenforceable in actions against alleged infringers. Also, we cannot make assurances that any future trademark or service mark registrations will be issued with respect to pending or future applications or that any of our registered trademarks and service marks will be enforceable or provide adequate protection of our proprietary rights.

***We have been named in a purported securities class action and may be named in further litigation or proceedings, which could require significant management time and attention and result in significant legal expenses, which could have an adverse impact on our financial condition.***

We, our former Chief Executive Officer and our current Chief Financial Officer have been named as defendants in a putative class action complaint alleging that we failed to disclose material information concerning a disagreement relating to our business strategy. While we believe that we have substantial legal and factual defenses in this matter, we cannot predict the outcome of this litigation or any future proceedings against us. (Refer to [Footnote 11](#), *Commitments and Contingencies*, of the Notes to Consolidated Financial Statements for a discussion of certain legal proceedings in which we are involved.)

Any legal proceedings could involve substantial defense and other costs and, if decided adversely to us, could result in significant monetary damages, penalties and reputational harm. Although we maintain insurance coverage in amounts and with deductibles that we believe are appropriate for our operations, our insurance may not cover all claims that have been or may be brought against us, and insurance coverage may not continue to be available to us at a reasonable cost in the future. As a result, we could be exposed to substantial uninsured liabilities, including pursuant to our indemnification obligations to directors and officers, which could adversely affect our business, results of operations and financial condition.

***We are subject to taxation in multiple jurisdictions. Any adverse development in the tax laws of any of these jurisdictions or any disagreement with our tax positions could have a material and adverse effect on our business, financial condition or results of operations.***

We are subject to taxation in, and to the tax laws and regulations of, multiple jurisdictions as a result of the international scope of our operations and our corporate entity structure. We are also subject to transfer pricing laws with respect to our intercompany transactions, including those relating to the flow of funds among our companies. Adverse developments in these laws or regulations, or any change in position regarding the application, administration or interpretation thereof, in any applicable jurisdiction, could have a material and adverse effect on our business, financial condition or results of operations. In addition, the tax authorities in any applicable jurisdiction, including the U.S., may disagree with the positions we have taken or intend to take regarding the tax treatment or characterization of any of our transactions. If any applicable tax authorities, including U.S. tax authorities, were to successfully challenge the tax treatment or characterization of any of our transactions, it could have a material and adverse effect on our business, financial condition or results of operations.



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

In certain cases, we have concluded that we do not need to collect sales and use, value added and similar taxes in jurisdictions in which we have sales. Sales and use, value added and similar tax laws and rates vary greatly by jurisdiction. Certain jurisdictions in which we do not collect such taxes may assert that such taxes are applicable, which could result in tax assessments, penalties and interest, and we may be required to collect such taxes in the future. Such tax assessments, penalties and interest or future requirements may adversely affect our financial condition and results of operations.

***Our annual effective income tax rate can change materially as a result of changes in our mix of U.S. and foreign earnings and other factors, including changes in tax laws and changes made by regulatory authorities.***

Our overall effective rate is equal to our total tax expense as a percentage of total earnings before tax. However, income tax expense and benefits are not recognized on a global basis but rather on a jurisdictional or legal entity basis. Losses in one jurisdiction may not be used to offset profits in other jurisdictions and may cause an increase in our tax rate. Changes in statutory tax rates and laws, as well as audits by domestic and international authorities, could affect the amount of income taxes and other taxes paid by us. Changes in the mix of earnings (or losses) between jurisdictions and assumptions used in the calculation of income taxes, among other factors, could have a significant effect on our overall effective income tax rate.

***We have incurred and will continue to incur costs and demands upon management as a result of complying with the laws and regulations affecting a public company, which could adversely affect our operating results.***

As a public company, we have incurred and will continue to incur significant legal, accounting and other expenses that we would not otherwise incur if we were a private company. In addition, the Sarbanes-Oxley Act of 2002 and the Dodd-Frank Wall Street Reform and Consumer Protection Act, as well as rules implemented by the SEC and the securities exchanges, require certain corporate governance practices for public companies. We have also implemented additional governance practices in connection with the settlement of past legal proceedings. Our management and other personnel have devoted and expect to continue to devote a substantial amount of time to public reporting requirements and corporate governance. These rules and regulations have significantly increased our legal and financial compliance costs and made some activities more time-consuming and costly. We also have incurred and expect to continue to incur substantial costs associated with internal control requirements. If these costs are not offset by increased revenues and improved financial performance, our financial condition and results of operations will be materially and adversely affected. These rules and regulations, together with current and past legal proceedings, also make it more difficult and more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage if these costs continue to rise. As a result, it may be more difficult for us to attract and retain qualified people to serve on our Board of Directors or as executive officers.

## **Risks Related to International Operations**

***Our business could become increasingly susceptible to risks associated with international operations.***

In the past, we acquired various businesses with substantial presence or clientele in multiple Latin American, European and Asian countries. Prior to these acquisitions, we otherwise had limited experience operating in markets outside of the U.S. Our inexperience in operating our business outside of the U.S. may increase the risk that the international businesses in which we are engaged will not be successful. In addition, conducting international operations subjects us to risks that we have not generally faced in the U.S. These risks include:

- recruitment and maintenance of a sufficiently large and representative panel both globally and in certain countries;
- difficulties and expenses associated with tailoring our products to local and international markets as may be required by local customers and joint industry committees or similar industry organizations;
- difficulties in expanding the adoption of our server- or census-based web beacon data collection in certain countries or obtaining access to other necessary data sources;
- differences in customer buying behaviors;
- the complexities and expense of complying with a wide variety of foreign laws and regulations, including the GDPR, LGPD, other privacy and data protection laws and regulations, and foreign anti-corruption laws, as well as the U.S. Foreign Corrupt Practices Act;
- difficulties in staffing and managing international operations, including complex and costly hiring, disciplinary, and termination requirements;
- the complexities of foreign value-added taxes and the repatriation of earnings, particularly following the enactment of the TCJA;

- reduced or varied protection for intellectual property rights in some countries;
- political, social and economic instability abroad, terrorist attacks and security concerns;
- fluctuations in currency exchange rates; and
- increased accounting and reporting burdens and complexities.

Additionally, operating in international markets requires significant additional management attention and financial resources. We cannot be certain that the investments and additional resources required to establish and maintain operations in other countries will hold their value or produce desired levels of revenues or profitability. We cannot be certain that we will be able to comply with laws, rules, regulations or local guidelines to maintain and increase the size of the user panels that we currently have in various countries, that we will be able to recruit a representative sample for our audience measurement products or that we will be able to enter into arrangements with a sufficient number of website and mobile app content providers and/or television operators to allow us to collect information for inclusion in our products. In addition, there can be no assurance that internet usage and e-commerce will continue to grow in international markets. In addition, governmental authorities in various countries have different views regarding regulatory oversight of the internet, data protection and consumer privacy.

The impact of these risks could negatively affect our international business and, consequently, our financial condition and results of operations.

***Export controls and economic and trade sanctions laws could impair our ability to compete in international markets and subject us to liability if we are not in full compliance with applicable laws.***

Our business activities include the collection of survey data from panelists around the world, and such activities are subject to various restrictions under U.S. export controls and economic and trade sanctions laws, including the U.S. Commerce Department's Export Administration Regulations and sanctions administered by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC). If we fail to comply with these laws and regulations, we could be subject to civil or criminal penalties and reputational harm. (Refer to [Footnote 11](#), *Commitments and Contingencies*, of the Notes to Consolidated Financial Statements for a discussion of an internal review we conducted and voluntary disclosure we filed with OFAC and the Commerce Department's Bureau of Industry and Security in 2018.)

Although we take precautions to prevent the collection of survey data from panelists in embargoed countries that are subject to export controls and economic and trade sanctions under these laws and regulations, we have collected such data in the past, and there is a risk that we could collect such data in the future despite such precautions. We have implemented a number of additional screening and other measures designed to prevent such transactions with embargoed countries and other U.S. sanctions targets. Changes in the list of embargoed countries and regions or prohibited persons may require us to modify these procedures in order to comply with governmental regulations. Our failure to screen potential panelists properly could result in negative consequences to us, including government investigations, penalties and reputational harm, any of which could materially and adversely affect our business, financial condition or results of operations.

***Changes in foreign currencies could have a significant effect on our operating results.***

We operate in several countries in Latin America, Europe and Asia. A portion of our revenues and expenses from business operations in foreign countries are derived from transactions denominated in currencies other than the functional currency of our operations in those countries. As such, we have exposure to adverse changes in exchange rates associated with revenues and operating expenses of our foreign operations, but we do not currently enter into any hedging instruments that hedge foreign currency exchange rate risk. If we grow our international operations, or acquire companies with established business in international regions, our exposure to foreign currency risk could become more significant.

***The UK's withdrawal from the EU, commonly known as Brexit, and the risk that other countries may follow suit could adversely affect our business.***

The UK formally left the EU on January 31, 2020. Although certain separation issues have been resolved, there is still significant uncertainty with respect to the terms of the future relationship between the EU and the UK. Given the status of Brexit at this time, we are unable to predict the impact that it may have on our business. Among other things, we could experience lower growth in the region, increased foreign currency risk, greater restrictions on business with UK customers and data providers, and increased regulatory complexity. Brexit has also created uncertainty with regard to the regulation of data protection in the UK and data transfers to and from the UK. A change in such regulations, or other regulations, could increase our costs of doing business, or in some cases our ability to do business, and adversely impact our operations and financial results. There is also a risk that other countries may decide to leave the EU. We cannot predict the impact that any additional countries leaving the EU may have on our business, but any such impact could adversely affect us.

## Risks Related to Our Capital Structure and Financings

### ***Restrictive covenants in the agreements governing our current and future indebtedness could restrict our operating flexibility.***

The agreements governing our existing debt, and debt we may incur in the future, contain, or may contain, affirmative and negative covenants that materially limit our ability to take certain actions, including our ability to incur debt, issue equity, pay dividends and repurchase stock, make certain investments and other payments, enter into certain mergers and consolidations, and encumber and dispose of assets. Our Notes also require us to maintain certain minimum cash balances, which may restrict our ability to invest in our business or may require us to invest less than we otherwise would. The minimum cash balance requirement under the Notes is currently \$40.0 million.

### ***We may require additional capital to support our business, and this capital may not be available on acceptable terms or at all.***

We intend to continue to make investments to support our business growth and may require additional funds to respond to business challenges, including the need to develop new products or enhance our existing products, enhance our operating infrastructure and acquire complementary businesses and technologies.

Accordingly, we may need to engage in equity or debt financings to secure additional funds. If we raise additional funds through further issuances of equity or convertible debt securities, our existing stockholders could suffer significant dilution, and any new securities we issue could have rights, preferences and privileges superior to those of holders of our Common Stock. Any financing secured by us in the future could include 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.

As a result of our settlement with the SEC relating to financial accounting and disclosure practices between February 2014 and February 2016, we are currently subject to a "bad actor" disqualification and are unable to rely on certain exemptions from registration under the federal securities laws, including Regulation D. In addition, we are an "ineligible issuer" as the term is defined under Rule 405 promulgated under the Securities Act. This could make it more difficult for us to raise necessary financing in the future.

Capital and credit market conditions, adverse events affecting our business or industry, the tightening of lending standards, rising interest rates, negative actions by regulatory authorities or rating agencies, or other factors also could negatively impact our ability to obtain future financing or to refinance our outstanding indebtedness on terms acceptable to us or at all. If we are unable to obtain adequate financing or financing on terms satisfactory to us when we require it, our ability to support our business growth and to respond to business challenges could be significantly limited. In addition, the terms of any additional equity or debt issuances may adversely affect the value and price of our Common Stock, our results of operations, financial condition and cash flows.

### ***The interest rate reset feature of our Notes subjects us to interest rate risk, which has caused our debt service obligations to increase and may continue to result in increased interest charges in future years.***

We are subject to interest rate risk as a result of the interest rate reset feature of our \$204.0 million aggregate principal amount of Notes outstanding. The interest rate on our Notes is currently 12.0% per year (increased from 6.0% per year effective January 30, 2019) and resets on February 1, 2021 (the "Interest Reset Date"), based on the then-applicable conversion premium, which is calculated by dividing the conversion price of the Notes (set at \$31.29 per share) by the arithmetic average of the volume-weighted average trading prices of our Common Stock on each of the ten consecutive trading days immediately preceding the Interest Reset Date. Generally, as the conversion premium increases, the interest rate increases, and as the conversion premium decreases, the interest rate decreases. We are unable to forecast with any certainty the conversion premium as of the Interest Reset Date, and as a result, there can be no assurance that the interest rate on the Notes will decrease in future years.

We have the ability, subject to certain conditions, to pay interest on the Notes through the issuance of additional shares of Common Stock ("PIK Interest Shares") rather than cash. Any PIK Interest Shares would be valued based on the arithmetic average of the volume-weighted average trading prices of our Common Stock on each trading day during the ten consecutive trading days ending immediately before the applicable interest payment date. In 2019, we paid interest on the Notes in cash in January and in PIK Interest Shares in April, July and October. We issued an aggregate of 4,057,129 PIK Interest Shares in 2019. We paid interest on the Notes in cash in January 2020. If we elect to pay future interest on the Notes in cash, our cash flow will be negatively affected, which could have a material and adverse effect on our liquidity and financial condition. If we elect to pay interest on the Notes in PIK Interest Shares, our existing stockholders could suffer significant dilution, particularly if our Common Stock continues to be subject to significant fluctuations in price.

***The issuance of shares of Common Stock upon conversion of, or payment of interest on, our Notes and the exercise of warrants to purchase our Common Stock could substantially dilute your investment and could impede our ability to obtain additional financing.***

Our Notes are convertible into, and our warrants are exercisable for, shares of our Common Stock and give the holders thereof an opportunity to profit from a rise in the market price of our Common Stock such that conversion or exercise thereof will result in dilution of the equity interests of our stockholders. Further, the issuance of shares of our Common Stock, at our election, in lieu of cash, in payment of interest on the Notes, has and would result in dilution of the equity interests of our other stockholders, particularly if our Common Stock continues to be subject to significant fluctuations in price. Except for our Series B-2 warrants, which allow us to force an exercise in certain circumstances, we have no control over whether the holders of Notes and warrants will exercise their right, in whole or in part, to convert their Notes or exercise their warrants. Additionally, if we elect to pay interest on the Notes in shares of Common Stock, the number of PIK Interest Shares issuable would depend on the trading price of our Common Stock during the ten consecutive trading days ending immediately before the applicable interest payment date. For these reasons, we are unable to forecast or predict with any certainty the total number of shares of Common Stock that may be issued under the Notes and warrants. The existence and potentially dilutive impact of the Notes and our warrants may prevent us from obtaining additional financing in the future on acceptable terms, or at all.

***The terms of our Notes, our warrants and our registration rights agreement with certain investors could impede our ability to enter into corporate transactions or obtain additional financing and could result in our paying premiums or penalties to the holders of the Notes and warrants.***

The terms of our Notes and our warrants require us, upon the consummation of any "Fundamental Transaction" (as defined in the Notes and the warrants), to cause any successor entity resulting from such Fundamental Transaction to assume all of our obligations under the Notes and warrants and the associated transaction documents. Further, the terms of the Notes and the warrants could impede our ability to enter into certain transactions or obtain additional financing in the future.

The Notes and the warrants require us to deliver the number of shares of our Common Stock issuable upon conversion or exercise within a specified time period. If we are unable to deliver the shares of Common Stock within the timeframe required, we may be obligated to reimburse the holders for the cost of purchasing the shares of our Common Stock in the open market or pay them the profit they would have realized upon the conversion or exercise and sale of such shares.

Our registration rights agreement with Starboard provides that in the event that the registration statement required to be filed under the Starboard registration rights agreement ceases to be effective and available to the selling stockholders party thereto under certain circumstances, we must pay to the selling stockholders on the 121st day after the occurrence of each such event and on every 30th day thereafter until the applicable event is cured, an amount equal to 1.0% of the Conversion Amount (as defined in the Notes), subject to a maximum of 3.0% of the aggregate principal amount outstanding under the Notes for any 30-day period. Our registration rights agreement with CVI provides that in the event that the registration statement required to be filed under the CVI registration rights agreement ceases to be effective and available to the selling stockholders party thereto under certain circumstances, we must pay to the selling stockholder on the date of the occurrence of each such event and on every 30<sup>th</sup> day thereafter until the applicable event is cured, an amount equal to 2.0% of the Purchase Price (as defined in the CVI purchase agreement), subject to a maximum of 8.0% of the Purchase Price.

The payments we may be obligated to make to the holders of the Notes and our warrants described above may adversely affect our financial condition, liquidity and results of operations.

***We may be obligated to redeem our Notes at a premium upon the occurrence of an Event of Default (as defined in the Notes) or a Change of Control (as defined in the Notes).***

If we fail to comply with the various covenants in our Notes, including the financial covenants, we could be in default. Upon an Event of Default under the Notes, we could be required to redeem the Notes at a premium. In addition, upon the occurrence of specific kinds of Change of Control events, we will be required to offer to redeem the Notes at a premium as set out in the Notes.

In either event, the source of funds for any such redemption would be our available cash or, possibly, other financing. We may not be able to redeem the Notes pursuant to the terms thereof because we may not have the financial resources to do so, and no assurances can be provided as to our ability to obtain other requisite financing in amounts, or at times, as may be needed. Our failure to repurchase the Notes upon a Change of Control in accordance with the terms thereof would also result in an Event of Default under the Notes. In the event the holders of the Notes exercised their rights thereunder and we were unable to redeem the Notes, it could have important consequences including, potentially, forcing us into bankruptcy or liquidation.

## **Risks Related to the Securities Markets and Ownership of Our Common Stock**

***The trading price of our Common Stock may be subject to significant fluctuations and volatility, and our stockholders may be unable to resell their shares at a profit.***

The stock markets, in general, and the markets for technology stocks in particular, have experienced high levels of volatility. The market for technology stocks has been extremely volatile and frequently reaches levels that bear no relationship to the past or present operating performance of those companies. These broad market fluctuations may adversely affect the trading price of our Common Stock. In addition, our Common Stock has been subject to significant fluctuations in price, particularly over the past year, and may continue to experience fluctuations or declines.

The price of our Common Stock in the market may be higher or lower depending on many factors, some of which are beyond our control and may not be related to our operating performance. It is possible that, in future quarters, our operating results may be below the expectations of analysts or investors, or we may take actions (including additional equity or debt financings) or have additional changes in management that are negatively perceived by the market. As a result of these and other factors, the price of our Common Stock may decline, possibly materially. These fluctuations could cause an investor to lose all or part of their investment in our Common Stock.

***The Company's outstanding securities, the stock or securities that we may become obligated to issue under existing or future agreements, and certain provisions of those securities, may cause immediate and substantial dilution to our existing stockholders.***

Our existing stockholders have and may continue to experience substantial dilution as a result of our obligations to issue shares of Common Stock.

The total principal amount of Notes held by Starboard as of December 31, 2019 was \$204.0 million. The Notes are convertible, at the option of Starboard, into shares of Common Stock at a conversion price of \$31.29 per share. Interest on the Notes is payable, at our option, in cash or through the issuance of PIK Interest Shares. Any PIK Interest Shares so issued are valued at the arithmetic average of the volume-weighted average trading prices of our Common Stock on each trading day during the ten consecutive trading days ending immediately preceding the applicable interest payment date. We issued PIK Interest Shares in April, July and October 2019, and we may issue PIK Interest Shares in the future.

In addition, we have the right to conduct a rights offering (the "Rights Offering") for up to \$150.0 million in senior secured convertible notes (the "Rights Offering Notes"). The Rights Offering Notes would be substantially similar to the Notes, except with respect to, among other things, the conversion price thereof, which would be equal to 130% of the closing price of our Common Stock on the last trading day immediately prior to the commencement of the Rights Offering (subject to a conversion price floor of \$28.00 per share). Interest on the Rights Offering Notes would also be payable, at our option, in cash or through the issuance of PIK Interest Shares.

Pursuant to the CVI purchase agreement, we granted to CVI warrants to initially purchase up to 11,654,033 shares of Common Stock. As of December 31, 2019, following exercise of the Series C warrant, 8,925,520 shares of Common Stock were reserved for issuance pursuant to the CVI warrants.

As of December 31, 2019, 1,538,967 shares of Common Stock were reserved for issuance pursuant to outstanding stock options under our equity incentive plans, 2,660,236 shares of Common Stock were reserved for issuance pursuant to outstanding restricted stock unit awards under our equity incentive plans, and 1,871,778 shares of Common Stock were available for future equity awards under our 2018 Equity and Incentive Compensation Plan.

The issuance of shares of Common Stock (i) upon the conversion of the Notes or the Rights Offering Notes (if issued), (ii) as payment-in-kind of interest on any such notes through the issuance of PIK Interest Shares, (iii) upon the exercise of warrants, (iv) pursuant to outstanding and future equity awards, or (v) upon the conversion of other existing or future convertible securities, may result in substantial dilution to each of our stockholders by reducing that stockholder's percentage ownership of our outstanding Common Stock.

***Provisions in our certificate of incorporation, bylaws and under Delaware law might discourage, delay or prevent a change of control of our company or changes in our management and, therefore, depress the trading price of our Common Stock.***

Our certificate of incorporation and bylaws contain provisions that could depress the trading price of our Common Stock by acting to discourage, delay or prevent a change of control of our company or changes in our management that the stockholders of our company may deem advantageous.

These provisions:

- provide for a classified board of directors so that not all members of our Board are elected at one time;
- authorize "blank check" preferred stock that our Board could issue to increase the number of outstanding shares to discourage a takeover attempt;

- prohibit stockholder action by written consent, which means that all stockholder actions must be taken at a meeting of our stockholders;
- prohibit stockholders from calling a special meeting of our stockholders;
- provide that the Board is expressly authorized to make, alter or repeal our bylaws; and
- provide for advance notice requirements for nominations for elections to our Board or for proposing matters that can be acted upon by stockholders at stockholder meetings.

In addition, we are subject to Section 203 of the Delaware General Corporation Law, which prohibits a Delaware corporation from engaging in any of a broad range of business combinations with any "interested" stockholder for a period of three years following the date on which the stockholder became an "interested" stockholder and which may discourage, delay or prevent a change of control of our company.

***Shareholder activists could cause a disruption to our business.***

We have been and may in the future be subject to legal and business challenges in the operation of our company due to actions instituted by activist shareholders or others, such as shareholder proposals, media campaigns, proxy contests and other such actions. Responding to proxy contests or such other actions has been and could continue to be costly and time-consuming, disrupt our operations and divert the attention of our Board and senior management from the pursuit of business strategies, which could adversely affect our results of operations and financial condition. Additionally, perceived uncertainties as to our future direction as a result of shareholder activism or potential changes to the composition of our Board may lead to the perception of a change in the direction of the business, loss of potential business opportunities, instability or lack of continuity. This may be exploited by our competitors, cause concern to our current or potential customers, and make it more difficult to attract and retain qualified personnel. In addition, actions of activist shareholders may cause significant fluctuations in our stock price based on temporary or speculative market perceptions or other factors that do not necessarily reflect the underlying fundamentals and prospects of our business.

**ITEM 1B. UNRESOLVED STAFF COMMENTS**

None.

**ITEM 2. PROPERTIES**

Our corporate headquarters is located in Reston, Virginia, where we occupy approximately 84,000 square feet of office space. We also lease space in various locations throughout North America, South America, Europe, and Asia Pacific for sales and other personnel. If we require additional space, we believe that we would be able to obtain such space on commercially reasonable terms.

Our other material locations, all of which are leased under operating leases, include the following:

- Portland, Oregon
- New York, New York
- Chicago, Illinois
- Amsterdam, Netherlands

As of December 31, 2019, we leased facilities in 38 locations worldwide, including approximately 49,000 square feet of subleased space in six properties.

In January 2020, we executed a sublease in Toronto, Canada for approximately 11,900 square feet.

For additional information regarding our obligations under operating and finance leases, refer to [Footnote 8](#), *Leases* of the Notes to Consolidated Financial Statements.

**ITEM 3. LEGAL PROCEEDINGS**

For a discussion of material legal proceedings in which we are involved, please refer to [Footnote 11](#), *Commitments and Contingencies* of the Notes to Consolidated Financial Statements included in Part II, [Item 8](#) of this 10-K, which is incorporated herein by reference.

**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 trades on The Nasdaq Global Select Market under the symbol "SCOR".

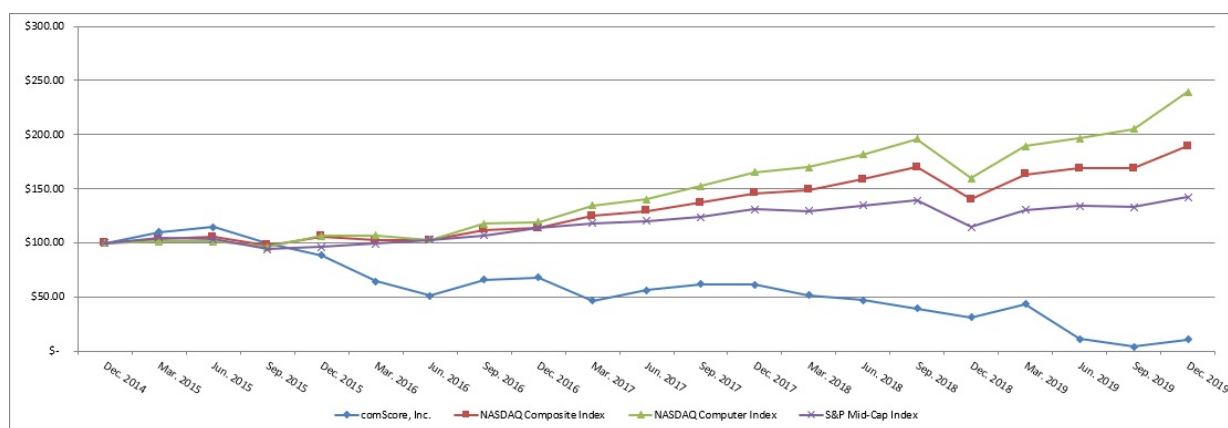
#### HOLDERS

As of February 25, 2020, there were 96 stockholders of record of our Common Stock, although we believe that there are a significantly larger number of beneficial owners of our Common Stock. We derived the number of stockholders by reviewing the listing of outstanding Common Stock recorded by our transfer agent as of February 25, 2020.

#### STOCK PERFORMANCE GRAPH

The following graph compares the cumulative total stockholder return on our Common Stock between December 31, 2014 and December 31, 2019 to the cumulative total returns of the Nasdaq Composite Index, the S&P MidCap 400 Index and the Nasdaq Computer Index over the same period. This graph assumes the investment of \$100 at the closing price of the markets on December 31, 2014 in our Common Stock, the Nasdaq Composite Index, the S&P MidCap 400 Index and the Nasdaq Computer Index, and assumes the reinvestment of dividends, if any. The comparisons shown in the following graph are based upon historical data. We caution that the stock price performance shown in the graph below is not necessarily indicative of, nor is it intended to forecast, the potential future performance of our Common Stock.

**COMPARISON OF CUMULATIVE TOTAL RETURN\***  
**among comScore, Inc., The Nasdaq Composite Index, The S&P MidCap 400 Index**  
**and The Nasdaq Computer Index**



\* \$100 invested upon market close of The Nasdaq Global Select Market on December 31, 2014, including reinvestment of dividends.

The preceding Stock Performance Graph is not deemed filed with the SEC and shall not be incorporated by reference in any of our filings under the Securities Act of 1933, as amended, or the Exchange Act, as amended whether made before or after the date hereof and irrespective of any general incorporation language in any such securities filing.

#### SECURITIES AUTHORIZED FOR ISSUANCE UNDER EQUITY COMPENSATION PLANS

The information relating to our equity compensation plans required by Item 5 is incorporated by reference to such information as set forth in Part III, [Item 12](#), "Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters."

#### UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS



The information required by Item 701 of Regulation S-K was previously included in Quarterly Reports on Form 10-Q filed on August 7, 2019 and November 6, 2019 and Current Reports on Form 8-K filed on April 1, June 24, June 26, July 1, October 1, and October 16, 2019.

**PURCHASES OF EQUITY SECURITIES BY THE ISSUER AND AFFILIATED PURCHASERS**

None.

**ITEM 6. SELECTED FINANCIAL DATA**

The selected Consolidated Statements of Operations and Comprehensive Loss data and Consolidated Balance Sheets data displayed below is derived from our audited Consolidated Financial Statements for the five-year period ended December 31, 2019. The selected financial data as of, and for the year ended, December 31, 2015 was adjusted from the unaudited information previously furnished in our Current Report on Form 8-K on February 17, 2016. [Item 6](#), "Selected Financial Data" of our Annual Report on Form 10-K for the year ended December 31, 2017 (the "[2017 10-K](#)") sets forth information regarding the applicable adjustments or restatements of our financial results for 2015. [Footnote 1](#), *Organization*, of the Notes to Consolidated Financial Statements contained in the [2017 10-K](#) sets forth information regarding the applicable adjustments and restatement of our stockholders' equity as of January 1, 2015.

The selected financial data set forth below is not necessarily indicative of results of future operations, and should be read in conjunction with [Item 7](#), *Management's Discussion and Analysis of Financial Condition and Results of Operations*, and the Consolidated Financial Statements and related notes thereto included in this 10-K under the caption [Item 8](#), *Financial Statements and Supplementary Data*.

(In thousands, except share and per share data)	Years Ended December 31,				
	2019	2018	2017	2016 <sup>(1)</sup>	2015
<b>Consolidated Statement of Operations and Comprehensive Loss Data:</b>					
Revenues <sup>(2)</sup>	\$ 388,645	\$ 419,482	\$ 403,549	\$ 399,460	\$ 270,803
Total expenses from operations	699,112	558,418	699,052	531,302	345,898
Loss from operations	(310,467)	(138,936)	(295,503)	(131,842)	(75,095)
Non-operating (expenses) income, net	(29,536)	(16,626)	11,393	10,662	(2,643)
Income tax benefit (provision)	1,007	(3,706)	2,717	4,007	(484)
Net loss	\$ (338,996)	\$ (159,268)	\$ (281,393)	\$ (117,173)	\$ (78,222)
Net loss per common share:					
Basic and diluted	\$ (5.33)	\$ (2.76)	\$ (4.90)	\$ (2.10)	\$ (2.07)
Weighted-average number of shares used in per share calculations - Common Stock:					
Basic and diluted	63,590,882	57,700,603	57,485,755	55,728,090	37,879,091

<sup>(1)</sup> Due to the Rentrak merger in January 2016, 2016 results include 11 months of Rentrak activity as compared to full-year results in the subsequent years.

<sup>(2)</sup> As discussed in [Footnote 2](#), *Summary of Significant Accounting Policies*, in our [2018 10-K](#), revenue for the years ended December 31, 2017, 2016, and 2015 is not comparable to revenue for the years ended December 31, 2019 and 2018 due to our adoption of Accounting Standards Codification 606, *Revenue from Contracts with Customers* ("ASC 606" or "Topic 606").

(In thousands)	As of December 31,				
	2019	2018	2017	2016 <sup>(1)</sup>	2015 (Unaudited)
<b>Consolidated Balance Sheets Data:</b>					
Cash, cash equivalents, restricted cash and marketable securities	\$ 66,773	\$ 50,198	\$ 45,125	\$ 116,753	\$ 146,986
Total current assets	153,983	145,779	179,554	232,433	247,263
Total assets	723,695	954,143	1,022,439	1,120,792	446,196
Capital lease obligations and software license arrangements, current and long-term <sup>(2) (3)</sup>	950	5,417	13,162	28,578	32,299
Finance lease liabilities, current and long-term <sup>(3)</sup>	4,250	—	—	—	—
Operating lease liabilities, current and long-term <sup>(3)</sup>	49,261	—	—	—	—
Senior secured convertible notes <sup>(4)</sup>	184,075	177,342	—	—	—
Financing derivatives <sup>(4)</sup>	21,587	26,100	—	—	—
Secured term note <sup>(5)</sup>	12,463	—	—	—	—
Warrants liability <sup>(6)</sup>	7,725	—	—	—	—
Total liabilities	464,721	402,576	365,947	215,939	184,018
Stockholders' equity	258,974	551,567	656,492	904,853	262,178

<sup>(1)</sup> As discussed in [Footnote 3, Business Combinations and Acquisitions](#) in our [2018 10-K](#), we completed the Rentrak merger in January 2016.

<sup>(2)</sup> Amounts for December 31, 2019, 2018, 2017, and 2016 include software license obligations in the amount of \$0.6 million, \$1.8 million, \$4.8 million, and \$7.7 million respectively. Amount for 2015 includes capital lease obligations only.

<sup>(3)</sup> As discussed in [Footnote 2, Summary of Significant Accounting Policies](#), we adopted ASC 842, Leases as of January 1, 2019.

<sup>(4)</sup> We entered into financing arrangements and issued senior secured convertible notes in 2018. Refer to [Footnote 4, Long-term Debt](#), for additional details.

<sup>(5)</sup> We issued a secured term note in December 2019. Refer to [Footnote 4, Long-term Debt](#), for additional details.

<sup>(6)</sup> We issued four series of liability-classified warrants in June 2019. Refer to [Footnote 5, Stockholders' Equity](#), for additional details.

## **ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our Consolidated Financial Statements and the related Notes to Consolidated Financial Statements included in Part II, [Item 8](#) of this Annual Report on Form 10-K, or 10-K. In addition to historical financial information, the following discussion and analysis contains forward-looking statements that involve risks, uncertainties and assumptions. Our actual results and timing of selected events in future periods may differ materially from those anticipated or implied in these forward-looking statements as a result of many factors, including those discussed under [Item 1A](#), "Risk Factors," and elsewhere in this 10-K. See also "[Cautionary Note Regarding Forward-Looking Statements](#)" at the beginning of this 10-K.*

### **Overview**

We are a global information and analytics company that measures advertising, content, and the consumer audiences of each, across media platforms. We create our products using a global data platform that combines information on digital platforms (smartphones, tablets and computers), TV and movie screens with demographics and other descriptive information. We have developed proprietary data science that enables measurement of person-level and household-level audiences, removing duplicated viewing across devices and over time. This combination of data and methods enables a common standard for buyers and sellers to transact on advertising. This helps companies across the media ecosystem better understand and monetize their audiences and develop marketing plans and products to more efficiently and effectively reach those audiences. Our ability to unify behavioral and other descriptive data enables us to provide audience ratings, advertising verification, and granular consumer segments that describe hundreds of millions of consumers. Our customers include digital publishers, television networks, movie studios, content owners, advertisers, agencies and technology providers.

The platforms we measure include televisions, smartphones, computers, tablets, OTT devices and movie theaters. The information we analyze crosses geographies, types of content and activities, including websites, mobile apps, video games, television and movie programming, e-commerce, and advertising.

## Results of Operations

The following table sets forth selected Consolidated Statements of Operations and Comprehensive Loss data as a percentage of revenues for each of the periods indicated.

<i>(In thousands)</i>	Years Ended December 31,					
	2019		2018		2017	
	Dollars	% of Revenue	Dollars	% of Revenue	Dollars	% of Revenue
Revenues	\$ 388,645	100.0 %	\$ 419,482	100.0 %	\$ 403,549	100.0 %
Cost of revenues	199,622	51.4 %	200,220	47.7 %	193,605	48.0 %
Selling and marketing	89,145	22.9 %	108,395	25.8 %	130,509	32.3 %
Research and development	61,802	15.9 %	76,979	18.4 %	89,023	22.1 %
General and administrative	66,419	17.1 %	84,535	20.2 %	74,651	18.5 %
Investigation and audit related	4,305	1.1 %	38,338	9.1 %	83,398	20.7 %
Amortization of intangible assets	30,076	7.7 %	32,864	7.8 %	34,823	8.6 %
Impairment of goodwill and intangible assets	241,580	62.2 %	—	— %	—	— %
Settlement of litigation, net	2,900	0.7 %	5,250	1.3 %	82,533	20.5 %
Restructuring	3,263	0.8 %	11,837	2.8 %	10,510	2.6 %
Total expenses from operations	699,112	179.9 %	558,418	133.1 %	699,052	173.2 %
Loss from operations	(310,467)	(79.9)%	(138,936)	(33.1)%	(295,503)	(73.2)%
Interest expense, net	(31,526)	(8.1)%	(16,465)	(3.9)%	(661)	(0.2)%
Other income (expense), net	1,654	0.4 %	(1,464)	(0.3)%	15,205	3.8 %
Gain (loss) from foreign currency transactions	336	0.1 %	1,303	0.3 %	(3,151)	(0.8)%
Loss before income taxes	(340,003)	(87.5)%	(155,562)	(37.1)%	(284,110)	(70.4)%
Income tax benefit (provision)	1,007	0.3 %	(3,706)	(0.9)%	2,717	0.7 %
Net loss	\$ (338,996)	(87.2)%	\$ (159,268)	(38.0)%	\$ (281,393)	(69.7)%

## Revenues

Our products and services are organized around solution groups that address customer needs. We evaluate revenues around three solution groups:

- Ratings and Planning provides measurement of the behavior and characteristics of audiences of content and advertising, across television and digital platforms including computers, tablets, smartphones, and other connected devices. These products and services are designed to help customers find the most relevant viewing audience, whether that viewing is linear, non-linear, online or on-demand.
- Analytics and Optimization includes custom solutions, activation, lift and survey-based products that provide end-to-end solutions for planning, optimization and evaluation of advertising campaigns and brand protection.
- Movies Reporting and Analytics measures movie viewership and box office results by capturing movie ticket sales in real time or near real time and includes box office analytics, trend analysis and insights for movie studios and movie theater operators worldwide.

We categorize our revenue along these solution groups; however, our cost structure is tracked at the corporate level and not by our solution groups. These costs include, but are not limited to employee costs, purchased data, operational overhead, data storage and technology that supports multiple solution groups.

Revenues for the years ended December 31, 2019 and 2018 are as follows:

(In thousands)	Years Ended December 31,					
	2019	% of Revenue	2018	% of Revenue	\$ Change	% Change
Ratings and Planning	\$ 271,623	69.9%	\$ 285,355	68.0%	\$ (13,732)	(4.8)%
Analytics and Optimization	74,725	19.2%	92,380	22.0%	(17,655)	(19.1)%
Movies Reporting and Analytics	42,297	10.9%	41,747	10.0%	550	1.3%
Total revenues	\$ 388,645	100.0%	\$ 419,482	100.0%	\$ (30,837)	(7.4)%

Total revenues decreased by \$30.8 million, or 7.4%, for the year ended December 31, 2019 as compared to the year ended December 31, 2018. The decrease was driven by the Ratings and Planning and Analytics and Optimization solution groups.

Ratings and Planning revenue decreased by \$13.7 million for the year ended December 31, 2019 as compared to the year ended December 31, 2018. The decrease was primarily driven by syndicated digital products, which declined 12% from 2019 to 2018. While retention of syndicated digital enterprise customers remained high in 2019, revenue from our smaller and international syndicated digital customers declined and continued to be impacted by ongoing industry changes in ad buying and consolidation. Syndicated digital revenue represented 51% and 55% of our Ratings and Planning revenue for 2019 and 2018, respectively. Revenue from vCE declined due to lower volumes of measured impressions as we transitioned to premium video content through our CCR product offering. Offsetting those decreases were increased revenue from our cross-platform and TV offerings. Cross-platform revenue increased from higher deliveries of data in 2019 versus 2018. TV revenue increased to 36% of Ratings and Planning revenue in 2019 as compared to 34% in 2018. TV revenue grew as a result of higher local TV revenue due to new customers and expansion of existing relationships, offset in part by lower national TV revenue, due in part to political revenue recognized in 2018 that did not recur in 2019.

Analytics and Optimization revenue decreased by \$17.7 million for the year ended December 31, 2019 as compared to the year ended December 31, 2018. The decrease was primarily driven by lower sales and deliveries of digital custom solutions, survey and lift products in 2019. The decrease was offset by increased revenue from Activation products, which continued to experience year-over-year growth.

Movies Reporting and Analytics revenue increased by \$0.6 million for the year ended December 31, 2019 as compared to the year ended December 31, 2018 due to growth in new product revenue.

Revenues for the years ended December 31, 2018 and 2017 are as follows:

(In thousands)	Years Ended December 31,					
	2018 <sup>(1)</sup>	% of Revenue	2017	% of Revenue	\$ Change	% Change
Ratings and Planning	\$ 285,355	68.0%	\$ 278,081	68.9%	\$ 7,274	2.6%
Analytics and Optimization	92,380	22.0%	86,765	21.5%	5,615	6.5%
Movies Reporting and Analytics	41,747	10.0%	38,703	9.6%	3,044	7.9%
Total revenues	\$ 419,482	100.0%	\$ 403,549	100.0%	\$ 15,933	3.9%

<sup>(1)</sup> As discussed in [Footnote 2](#), Summary of Significant Accounting Policies, the revenue for the year ended December 31, 2018 is not comparable to the year ended December 31, 2017 due to our adoption of ASC 606. Refer to our reconciliation of as reported revenue to compare the periods presented.

Total revenues increased by \$15.9 million, or 3.9%, for the year ended December 31, 2018 as compared to the year ended December 31, 2017, with increases across all three of our solution groups. Revenues for the year ended December 31, 2018 include \$1.0 million related to the adoption of ASC 606, primarily included in Analytics and Optimization.

Ratings and Planning revenue increased \$7.3 million for the year ended December 31, 2018 as compared to the year ended December 31, 2017. The increase was primarily from our TV products, which made up 34% of Ratings and Planning revenue in 2018 compared to 27% in 2017, due to increases in existing customer contract values as well as the establishment of stand-alone selling price over certain distinct performance obligations in arrangements that include the purchase and sale of services. The increase also included approximately \$2.8 million related to the delivery of cross-platform products in certain international markets. These increases were offset by lower revenue from our syndicated digital products, which decreased from 61% of Ratings and Planning revenue in 2017 to 55% in 2018, as these products continued to be negatively impacted by ongoing industry changes in ad buying and consolidation.

Analytics and Optimization revenue increased by \$5.6 million for the year ended December 31, 2018 as compared to the year ended December 31, 2017. Revenue increased primarily due to increases in our emerging products, including Activation, which experienced significant growth, primarily in the latter part of 2018. This increase was partially offset by lower revenue from our digital custom marketing solutions products.

Movies Reporting and Analytics revenue increased by \$3.0 million for the year ended December 31, 2018 as compared to the year ended December 31, 2017. Revenue increased as our global footprint remained strong and our products continued to result in higher contract pricing. As we continued to collect data from box office locations worldwide, our customers continued to expand and renew agreements.

#### Revenues by Geographic Location

Revenue from outside of the United States was \$52.6 million, \$60.1 million and \$71.2 million for the years ended December 31, 2019, 2018, and 2017, respectively. Revenue declines were due in part to our exit from certain countries as part of our restructuring activities. Please refer to [Footnote 16, Organizational Restructuring](#), of the Notes to Consolidated Financial Statements.

We generate the majority of our revenues from the sale and delivery of our products within the United States. For information with respect to our geographic markets, refer to [Footnote 14, Geographic Information](#), of the Notes to Consolidated Financial Statements. Our chief operating decision maker (our CEO) does not evaluate the profit or loss from any separate geography.

We anticipate that revenues from our U.S. sales will continue to constitute a substantial and increasing portion of our revenues in future periods. We expect our international revenues to continue to decline as a percentage of our total revenues as a result of growth in our domestic product offerings.

#### WPP Related Party Revenue

We provide WPP and its affiliates, in the normal course of business, services relating to our different product lines and receive various services from WPP and its affiliates in supporting our data collection efforts. For the years ended 2019, 2018, and 2017, related party revenues with WPP and its affiliates were \$15.9 million, \$11.6 million and \$13.2 million, respectively.

#### **Cost of Revenues**

Cost of revenues consists primarily of expenses related to producing our products, operating our network infrastructure, the recruitment, maintenance and support of our consumer panels and amortization of capitalized fulfillment costs. Expenses associated with these areas include employee costs including salaries, benefits, stock-based compensation and other related personnel costs of network operations, survey operations, custom analytics and technical support, all of which are expensed as they are incurred. Cost of revenues also includes costs to obtain multichannel video programming distributor ("MVPD") data sets and panel, census based and other data sets used in our products as well as operational costs associated with our data centers, including depreciation expense associated with computer equipment and internally developed software that supports our panels and systems. Additionally, cost of revenues includes allocated overhead, lease expense and other facilities-related costs.

Cost of revenues for the years ended December 31, 2019 and 2018 are as follows:

<i>(In thousands)</i>	Years Ended December 31,					
	2019	% of Revenue	2018	% of Revenue	\$ Change	% Change
Data costs	\$ 60,165	15.5%	\$ 53,248	12.7%	\$ 6,917	13.0 %
Employee costs	50,996	13.1%	57,490	13.7%	(6,494)	(11.3)%
Systems and bandwidth costs	25,023	6.4%	27,033	6.4%	(2,010)	(7.4)%
Panel costs	20,901	5.4%	22,670	5.4%	(1,769)	(7.8)%
Lease expense and depreciation <sup>(1)</sup>	15,052	3.9%	12,753	3.0%	2,299	18.0 %
Sample and survey costs	7,225	1.9%	6,295	1.5%	930	14.8 %
Professional fees	6,985	1.8%	5,470	1.3%	1,515	27.7 %
Technology	5,887	1.5%	6,492	1.5%	(605)	(9.3)%
Royalties and resellers	4,027	1.0%	3,389	0.8%	638	18.8 %
Other	3,361	0.9%	5,380	1.3%	(2,019)	(37.5)%
<b>Total cost of revenues</b>	<b>\$ 199,622</b>	<b>51.4%</b>	<b>\$ 200,220</b>	<b>47.7%</b>	<b>\$ (598)</b>	<b>(0.3)%</b>

<sup>(1)</sup>As discussed in [Footnote 2, Summary of Significant Accounting Policies](#), lease expense and depreciation for the year ended December 31, 2019 is not comparable to the year ended December 31, 2018 due to our adoption of ASC 842.

Cost of revenues decreased by \$0.6 million, or 0.3%, for the year ended December 31, 2019 as compared to the year ended December 31, 2018. The decrease was attributable to a decrease in employee costs, systems and bandwidth, such as data storage costs, and panel costs and other costs offset by an increase in data costs, lease expense, depreciation and professional fees.

Employee costs decreased \$6.5 million due to reduced headcount and restructuring efforts as discussed in [Footnote 16, Organizational Restructuring](#). Systems and bandwidth costs decreased \$2.0 million due to our ongoing technology transformation

to reduce complexity, increase capacity, and transition to a cloud-based environment from data centers. Panel costs decreased \$1.8 million due to lower costs associated with incentive plans used in certain countries and the use of more cost-effective recruitment solutions. Other costs decreased \$2.0 million due to reduction in travel costs from lower headcount and certain license expenses that are now included in data costs. Offsetting these decreases was an increase in data costs of \$6.9 million due to increased costs associated with our long-term data contracts with MVPDs. We continued to invest in product solution offerings through the acquisition of additional TV data. Lease expense and depreciation increased \$2.3 million primarily due to increased depreciation related to internally developed software. Professional fees increased \$1.5 million due to an increase in data governance and technology consulting services to improve operational processes.

Cost of revenues for the years ended December 31, 2018 and 2017 are as follows:

(In thousands)	Years Ended December 31,					
	2018	% of Revenue	2017	% of Revenue	\$ Change	% Change
Employee costs	\$ 57,490	13.7%	\$ 63,143	15.6%	\$ (5,653)	(9.0)%
Data costs	53,248	12.7%	40,324	10.0%	12,924	32.1 %
Systems and bandwidth costs	27,033	6.4%	20,803	5.2%	6,230	29.9 %
Panel costs	22,670	5.4%	23,966	5.9%	(1,296)	(5.4)%
Lease expense and depreciation	12,753	3.0%	17,479	4.3%	(4,726)	(27.0)%
Technology	6,492	1.5%	5,369	1.3%	1,123	20.9 %
Sample and survey costs	6,295	1.5%	5,845	1.4%	450	7.7 %
Professional fees	5,470	1.3%	6,053	1.5%	(583)	(9.6)%
Royalties and resellers	3,389	0.8%	3,271	0.8%	118	3.6 %
Other	5,380	1.3%	7,352	1.8%	(1,972)	(26.8)%
<b>Total cost of revenues</b>	<b>\$ 200,220</b>	<b>47.7%</b>	<b>\$ 193,605</b>	<b>48.0%</b>	<b>\$ 6,615</b>	<b>3.4 %</b>

Cost of revenues increased by \$6.6 million, or 3.4%, for the year ended December 31, 2018 as compared to the year ended December 31, 2017. The increase was largely attributable to increases in data and systems and bandwidth costs, offset by decreases in employee costs, lease expense and depreciation, panel costs, and other costs.

Data costs increased \$12.9 million primarily due to costs associated with the acquisition of data for distinct services provided under certain arrangements that include the purchase and sale of services and increases in our long-term contracts with MVPDs. We continued to invest in product solution offerings through the acquisition of additional TV data, as well as in our digital platform through the acquisition of additional mobile data during 2018. Systems and bandwidth costs increased \$6.2 million primarily as a result of our ongoing technology transformation to reduce complexity, increase capacity and transition to a cloud-based environment from data centers.

These increases in expenses were offset by decreases in employee costs, rent and depreciation, and other costs. Employee costs declined \$5.7 million, primarily due to the capitalization of payroll costs for internal-use software development in 2018 totaling \$3.7 million compared with no amounts capitalized in 2017. In addition, employee costs decreased due to reduced headcount and restructuring efforts as discussed in [Footnote 16, Organizational Restructuring](#), offset by an increase in stock-based compensation expense. Lease expense and depreciation decreased \$4.7 million due to assets fully depreciating in 2018. Other cost of revenues decreased \$2.0 million primarily due to reduced activity under our Digital Analytix ("DAX") transition services agreement as related contracts wound down.

### **Selling and Marketing**

Selling and marketing expenses consist primarily of employee costs, including salaries, benefits, commissions, stock-based compensation and other related costs for personnel associated with sales and marketing activities, as well as costs related to online and offline advertising, industry conferences, promotional materials, public relations, other sales and marketing programs and allocated overhead, which is comprised of lease expense and other facilities-related costs, and depreciation expense generated by general purpose equipment and software.



Selling and marketing expenses for the years ended December 31, 2019 and 2018 are as follows:

(In thousands)	Years Ended December 31,					
	2019	% of Revenue	2018	% of Revenue	\$ Change	% Change
Employee costs	\$ 71,979	18.5%	\$ 87,591	20.9%	\$ (15,612)	(17.8)%
Lease expense and depreciation <sup>(1)</sup>	5,690	1.5%	7,670	1.8%	(1,980)	(25.8)%
Travel	3,260	0.8%	4,780	1.1%	(1,520)	(31.8)%
Technology	2,726	0.7%	1,042	0.2%	1,684	161.6 %
Professional fees	2,521	0.6%	3,311	0.8%	(790)	(23.9)%
Other	2,969	0.8%	4,001	1.0%	(1,032)	(25.8)%
<b>Total selling and marketing expenses</b>	<b>\$ 89,145</b>	<b>22.9%</b>	<b>\$ 108,395</b>	<b>25.8%</b>	<b>\$ (19,250)</b>	<b>(17.8)%</b>

<sup>(1)</sup>As discussed in [Footnote 2](#), Summary of Significant Accounting Policies, lease expense and depreciation for the year ended December 31, 2019 is not comparable to the year ended December 31, 2018 due to our adoption of ASC 842.

Selling and marketing expenses decreased by \$19.3 million, or 17.8%, for the year ended December 31, 2019 as compared to the year ended December 31, 2018. The decrease was attributable to a decrease in employee costs as well as lease expense and depreciation, travel and professional fees, offset by an increase in technology costs.

Employee costs decreased \$15.6 million due to reduced headcount and restructuring efforts as discussed in [Footnote 16](#), *Organizational Restructuring*. Lease expense and depreciation decreased \$2.0 million as a result of various lease terminations and decreased depreciation expense as various assets reached the end of their depreciable lives. Travel costs decreased \$1.5 million from lower headcount while professional fees decreased \$0.8 million from reduced use of consultants. Offsetting these decreases in costs was an increase of \$1.7 million in technology costs due certain license expenses that were previously included in research and development expense.

Selling and marketing expenses for the years ended December 31, 2018 and 2017 are as follows:

(In thousands)	Years Ended December 31,					
	2018	% of Revenue	2017	% of Revenue	\$ Change	% Change
Employee costs	\$ 87,591	20.9%	\$ 100,236	24.8%	\$ (12,645)	(12.6)%
Lease expense and depreciation	7,670	1.8%	10,304	2.6%	(2,634)	(25.6)%
Travel	4,780	1.1%	6,926	1.7%	(2,146)	(31.0)%
Professional fees	3,311	0.8%	6,551	1.6%	(3,240)	(49.5)%
Other	5,043	1.2%	6,492	1.6%	(1,449)	(22.3)%
<b>Total selling and marketing expenses</b>	<b>\$ 108,395</b>	<b>25.8%</b>	<b>\$ 130,509</b>	<b>32.3%</b>	<b>\$ (22,114)</b>	<b>(16.9)%</b>

Selling and marketing expenses decreased by \$22.1 million, or 16.9%, for the year ended December 31, 2018 as compared to the year ended December 31, 2017. The decrease was the result of a decrease in employee costs, professional fees and lease expense and depreciation. Employee costs decreased \$12.6 million, due to reduced headcount and restructuring efforts as discussed in [Footnote 16](#), *Organizational Restructuring* and lower sales commissions, offset by an increase in stock-based compensation. Lease expense and depreciation decreased \$2.6 million due to assets fully depreciating in 2018. The decrease in professional fees of \$3.2 million was mainly due to the decreased use of consultants.

### Research and Development

Research and development expenses include product development costs, consisting primarily of employee costs including salaries, benefits, stock-based compensation and other related costs for personnel associated with research and development activities, third-party expenses to develop new products and third-party data costs and allocated overhead, which is comprised of lease expense and other facilities-related costs, and depreciation expense related to general purpose equipment and software.

Research and development expenses for the years ended December 31, 2019 and 2018 are as follows:

(In thousands)	Years Ended December 31,					
	2019	% of Revenue	2018	% of Revenue	\$ Change	% Change
Employee costs	\$ 47,626	12.3%	\$ 60,490	14.4%	\$ (12,864)	(21.3)%
Lease expense and depreciation <sup>(1)</sup>	5,958	1.5%	7,057	1.7%	(1,099)	(15.6)%
Technology	4,164	1.1%	5,057	1.2%	(893)	(17.7)%
Professional fees	2,860	0.7%	2,668	0.6%	192	7.2 %
Other	1,194	0.3%	1,707	0.4%	(513)	(30.1)%
Total research and development expenses	\$ 61,802	15.9%	\$ 76,979	18.4%	\$ (15,177)	(19.7)%

<sup>(1)</sup>As discussed in [Footnote 2](#), Summary of Significant Accounting Policies, lease expense and depreciation for the year ended December 31, 2019 is not comparable to the year ended December 31, 2018 due to our adoption of ASC 842.

Research and development expenses decreased by \$15.2 million, or 19.7%, for the year ended December 31, 2019 as compared to the year ended December 31, 2018. This is primarily attributable to a decrease in employee costs, lease expense and depreciation and technology costs.

Employee costs decreased \$12.9 million due to reduced headcount and restructuring efforts as discussed in [Footnote 16](#), Organizational Restructuring. Lease expense and depreciation decreased \$1.1 million as a result of various lease terminations and decreased depreciation expense as various assets reached the end of their depreciable lives. Technology costs decreased \$0.9 million due to certain license expenses that are now included in selling and marketing expense.

Research and development expenses for the years ended December 31, 2018 and 2017 are as follows:

(In thousands)	Years Ended December 31,					
	2018	% of Revenue	2017	% of Revenue	\$ Change	% Change
Employee costs	\$ 60,490	14.4%	\$ 71,527	17.7%	\$ (11,037)	(15.4)%
Lease expense and depreciation	7,057	1.7%	7,729	1.9%	(672)	(8.7)%
Technology	5,057	1.2%	4,736	1.2%	321	6.8 %
Professional fees	2,668	0.6%	2,351	0.6%	317	13.5 %
Other	1,707	0.4%	2,680	0.7%	(973)	(36.3)%
Total research and development expenses	\$ 76,979	18.4%	\$ 89,023	22.1%	\$ (12,044)	(13.5)%

Research and development expenses decreased by \$12.0 million, or 13.5%, for the year ended December 31, 2018 as compared to the year ended December 31, 2017. The decrease was primarily attributable to lower employee costs due to the capitalization of \$5.1 million of payroll costs for internal-use software development in 2018 compared with no amount capitalized in 2017. In addition, employee costs decreased due to reduced headcount and restructuring efforts as discussed in [Footnote 16](#), Organizational Restructuring, offset by an increase in stock-based compensation.

### General and Administrative

General and administrative expenses consist primarily of employee costs including salaries, benefits, stock-based compensation and other related costs, and related expenses for executive management, finance, human capital, legal and other administrative functions, as well as professional fees, overhead, including allocated overhead, which is comprised of lease expense and other facilities-related costs, depreciation expense related to general purpose equipment and software, and expenses incurred for other general corporate purposes.

General and administrative expenses for the years ended December 31, 2019 and 2018 are as follows:

(In thousands)	Years Ended December 31,					
	2019	% of Revenue	2018	% of Revenue	\$ Change	% Change
Employee costs	\$ 34,435	8.9%	\$ 38,094	9.1%	\$ (3,659)	(9.6)%
Professional fees	18,385	4.7%	21,528	5.1%	(3,143)	(14.6)%
Lease expense and depreciation <sup>(1)</sup>	2,491	0.6%	3,711	0.9%	(1,220)	(32.9)%
Bad debt expense	727	0.2%	966	0.2%	(239)	(24.7)%
Transition services agreement	667	0.2%	9,035	2.2%	(8,368)	(92.6)%
Other	9,714	2.5%	11,201	2.7%	(1,487)	(13.3)%
<b>Total general and administrative expenses</b>	<b>\$ 66,419</b>	<b>17.1%</b>	<b>\$ 84,535</b>	<b>20.2%</b>	<b>\$ (18,116)</b>	<b>(21.4)%</b>

<sup>(1)</sup>As discussed in [Footnote 2, Summary of Significant Accounting Policies](#), lease expense and depreciation for the year ended December 31, 2019 is not comparable to the year ended December 31, 2018 due to our adoption of ASC 842.

General and administrative expenses decreased by \$18.1 million, or 21.4%, for the year ended December 31, 2019 as compared to the year ended December 31, 2018. The decrease was largely attributable to a reduction in transition services agreement costs, employee costs, professional fees and lease depreciation expense. Transition services agreement costs decreased \$8.4 million as a result of the termination of a three-year DAX transition services agreement. Employee costs decreased primarily due to reduced headcount and restructuring efforts as discussed in [Footnote 16, Organizational Restructuring](#), partially offset by a \$3.3 million increase in severance expense related to the departure of certain executives in 2019. Professional fees decreased \$3.1 million as a result of lower audit and compliance costs, offset by transaction costs associated with the sale of shares of Common Stock and warrants in June 2019. Lease expense and depreciation decreased \$1.2 million as a result of decreased depreciation expense as various assets reached the end of their depreciable lives and decreased lease expense from various lease terminations and executed sublease agreements.

General and administrative expenses for the years ended December 31, 2018 and 2017 are as follows:

(In thousands)	Years Ended December 31,					
	2018	% of Revenue	2017	% of Revenue	\$ Change	% Change
Employee costs	\$ 38,094	9.1%	\$ 30,362	7.5%	\$ 7,732	25.5 %
Professional fees	21,528	5.1%	17,383	4.3%	4,145	23.8 %
Transition services agreement	9,035	2.2%	11,004	2.7%	(1,969)	(17.9)%
Lease expense and depreciation	3,711	0.9%	3,148	0.8%	563	17.9 %
Bad debt expense	966	0.2%	983	0.2%	(17)	(1.7)%
Other	11,201	2.7%	11,771	2.9%	(570)	(4.8)%
<b>Total general and administrative expenses</b>	<b>\$ 84,535</b>	<b>20.2%</b>	<b>\$ 74,651</b>	<b>18.5%</b>	<b>\$ 9,884</b>	<b>13.2 %</b>

General and administrative expenses increased by \$9.9 million, or 13.2%, for the year ended December 31, 2018 as compared to the year ended December 31, 2017. Employee costs increased \$7.7 million, primarily as a result of an increase in stock-based compensation expense of \$6.7 million related to awards granted under our 2018 Equity and Incentive Compensation Plan. We did not grant any stock-based awards in 2017. Professional fees increased \$4.1 million primarily due to our increased costs of audit, compliance and legal services. These increased costs were offset by a \$2.0 million decrease in the DAX transition services agreement costs due to the wind down of contracts in 2018 compared with 2017.

### Investigation and Audit Related

Investigation and audit related expenses were \$4.3 million, \$38.3 million, and \$83.4 million for the years ended December 31, 2019, 2018, and 2017, respectively. Investigation expenses include professional fees associated with legal and forensic accounting services rendered in connection with the previously disclosed internal Audit Committee investigation into matters related to the Company's revenue recognition practices, disclosures, internal controls, corporate culture and employment practices prior to 2017. Audit related expenses consist of professional fees associated with accounting related consulting services and external auditor fees

associated with the audit of our Consolidated Financial Statements for the prior years. Litigation related expenses include legal fees associated with various lawsuits or investigations, including those initiated either directly or indirectly as a result of the Audit Committee's investigation. The decrease in investigation and audit related expenses in 2019 as compared to 2018 is due to the conclusion of the Audit Committee investigation and multi-year audit in 2018, as well as the resolution of related legal proceedings. We resolved a related SEC investigation in September 2019, and as such, we expect these costs to be minimal in 2020.

### ***Amortization of Intangible Assets***

Amortization expense consists of charges related to the amortization of intangible assets associated with acquisitions, primarily our Rentrak merger in which we acquired \$170.3 million of finite-lived intangible assets. Amortization of intangible assets decreased by \$2.8 million, or 8.5%, for 2019 as compared to 2018 due to the impairment of an intangible asset as described below. Amortization of intangible assets decreased by \$2.0 million, or 5.6%, for 2018 as compared to 2017 as a portion of these assets became fully amortized.

### ***Impairment of Goodwill and Intangible Asset***

In the second quarter of 2019, as a result of a sustained decline in our stock price and market capitalization, changes in management, and lower revenue, among other factors, we performed an interim impairment review of our goodwill and long-lived assets. Our reporting unit did not pass the goodwill impairment test, and as a result we recorded a \$224.3 million impairment charge.

We also recorded an impairment charge related to our strategic alliance intangible asset. Changes in our projected revenue in certain non-U.S. geographic markets due to the changing international competitive landscape as well as significant reductions in international staffing, resulted in a change in our long-term view of the viability of the intangible asset. As such, our assessment yielded that the benefit of the strategic alliance would not be realized. The fair value of the strategic alliance intangible asset was estimated using an income approach, resulting in an impairment charge for the full carrying value of the long-lived asset of \$17.3 million. While this was a non-cash charge, it is expected to reduce amortization expense by \$3.0 million on an annualized basis.

For further information refer to [Footnote 9](#), *Goodwill and Intangible Assets* and [Item 7](#), *Critical Accounting Policies*.

### ***Settlement of Litigation, Net***

Settlement of litigation, net consists of gains and losses from the settlement of various litigation matters. The \$2.9 million net settlement of litigation expense for the year ended December 31, 2019 relates to the conclusion of the SEC investigation in September 2019. A civil monetary penalty of \$5.0 million payable to the SEC was offset by a clawback of \$2.1 million from our former CEO, Serge Matta. The \$5.3 million net settlement of litigation expense for the year ended December 31, 2018 relates to the settlement and final resolution of a prior federal securities class action and shareholder derivative actions. The \$82.5 million net settlement of litigation expense for the year ended December 31, 2017 primarily relates to the settlement of the federal securities class action litigation, derivative actions, and Rentrak merger litigation.

### ***Organizational Restructuring***

We incurred restructuring expenses of \$3.3 million, \$11.8 million, and \$10.5 million for the years ended December 31, 2019, 2018, and 2017, respectively, related to significant reductions in headcount and reorganization of our business.

In 2019, we implemented two reduction in force plans in order to reduce costs and better align resources with business priorities.

In 2018, we implemented an organizational restructuring to reduce staffing levels and rationalize our portfolio of leased properties which resulted in the termination of one operating lease, the extension of the lease related to our headquarters, and the sublease office space in various locations.

In 2017, we implemented an organizational restructuring to reduce staffing levels and exit certain geographic regions in order to decrease our global costs and more effectively align our resources to business priorities.

### ***Interest Expense, Net***

Interest expense, net consists of interest income and interest expense. Interest income primarily consists of interest earned from our cash and cash equivalent balances and imputed interest on our minimum commitment agreements with WPP plc and its affiliates. Interest expense primarily relates to interest on our senior secured convertible notes ("Notes") and our finance leases of computer equipment and automobiles.

Interest expense, net, increased \$15.1 million during 2019 to \$31.5 million as compared to \$16.5 million in 2018. Interest expense increased in 2019 primarily as a result of the interest rate reset feature on the Notes. For additional information, refer to [Item 7A](#), *Quantitative and Qualitative Disclosures About Market Risk*. Interest on the Notes is payable, at our option, in cash, or, subject to certain conditions, through the issuance by us of shares of Common Stock.

Interest expense, net, increased \$15.8 million during 2018 to \$16.5 million as compared to \$0.7 million in 2017 as a result of the issuance of the Notes. The increase is comprised of \$11.0 million of interest, \$1.0 million of amortization of deferred financing costs and \$4.8 million from the amortization of the discount on the Notes, offset by a decrease of \$1.0 million in interest recognized on capital leases.

### **Other Income (Expense), Net**

Other income (expense), net represents income and expenses incurred that are generally not recurring in nature or are not part of our normal operations.

Income from transition services represents reimbursement of costs incurred under the DAX transition services agreement and is offset as expense in cost of revenues and general and administrative expenses.

The following is a summary of other income (expense), net:

<i>(In thousands)</i>	Years Ended December 31,		
	2019	2018	2017
Change in fair value of financing derivatives	\$ 5,100	\$ (14,226)	\$ —
Change in fair value of warrants liability	(2,411)	—	—
Change in fair value of investment in equity securities	(2,324)	1,443	—
Transition services agreement income	534	9,029	11,080
Gain on forgiveness of obligation	—	—	4,000
Other	755	2,290	125
<b>Total other income (expense), net</b>	<b>\$ 1,654</b>	<b>\$ (1,464)</b>	<b>\$ 15,205</b>

Total other income, net for the year ended December 31, 2019 was \$1.7 million as compared to total other expense, net of \$1.5 million in 2018. The shift to other income was primarily driven by the change in fair value of financing derivatives. Offsetting the increase to other income was a decrease in transition services income, a decline in the fair value of equity securities (which we sold in 2019) and a decrease resulting from patent income in 2018 that was not received in 2019.

Other expense, net of \$1.5 million for the year ended December 31, 2018 compared to other income, net of \$15.2 million for the year ended December 31, 2017 was driven primarily by the \$14.2 million loss recorded as a result of changes in the fair value of the interest rate reset liability, notes option derivative liability, and change of control derivative liability in 2018. Additionally, we had a \$2.1 million reduction of income related to the DAX transition services agreement due to the wind down of managed contracts, as well as debt forgiveness of \$4.0 million in 2017 as we were released from our Strategic Partnership Agreement with Adobe, Inc. with the remaining obligations forgiven. These decreases were offset in 2018 by a \$2.0 million increase in patent income and a \$1.4 million increase due to a change in the fair value of equity securities.

### **Gain (Loss) from Foreign Currency Transactions**

Our foreign currency transactions are recorded as a result of fluctuations in the exchange rate between the transactional currency and the functional currency of foreign subsidiary transactions.

For the year ended December 31, 2019, the gain from foreign currency transactions was \$0.3 million. The gain was primarily driven by fluctuations of the average Chilean Peso against the U.S. Dollar exchange rate.

For the year ended December 31, 2018, the gain from foreign currency transactions was \$1.3 million. The gain was primarily related to fluctuations in the average U.S. Dollar to Euro, Canadian Dollar and Chilean Peso exchange rates.

For the year ended December 21, 2017, the loss from foreign currency transactions was \$3.2 million and related to differences in the average U.S. Dollar to Euro exchange rates.

### **Income Tax Benefit (Provision)**

A valuation allowance has been established against our net U.S. federal and state deferred tax assets, and certain foreign deferred tax assets, including net operating loss carryforwards. As a result, our income tax position is primarily related to foreign tax activity.

During the years ended December 31, 2019, 2018, and 2017, we recorded an income tax benefit (provision) of \$1.0 million, \$(3.7) million, and \$2.7 million, resulting in an effective tax rate of 0.3%, (2.4)%, and 1.0%, respectively. These effective tax rates differ from the U.S. federal statutory rate primarily due to the effects of certain permanent items, foreign tax rate differences, and increases in the valuation allowance against our domestic deferred tax assets.

Included within the tax benefit for the year ended December 31, 2019 are income tax adjustments of \$58.6 million related to the impairment of goodwill and \$15.2 million for permanent differences in the book and tax treatment of certain stock-based

compensation, limitations on the deductibility of certain executive compensation, nondeductible interest expense on debt instruments and associated derivatives, and other nondeductible expenses. Income tax expense of \$17.3 million has also been included for the increase in valuation allowance recorded against our deferred tax assets to offset the tax benefit of our operating losses in the U.S. and certain foreign jurisdictions.

Included within the tax expense for the year ended December 31, 2018, is an income tax adjustment of \$19.7 million for permanent differences in the book and tax treatment of certain stock-based compensation, limitations on the deductibility of certain executive compensation, nondeductible interest expense on debt instruments and associated derivatives, and other nondeductible expenses. Income tax expense of \$19.0 million has also been included for the increase in valuation allowance recorded against our deferred tax assets to offset the tax benefit of our operating losses in the U.S. and certain foreign jurisdictions. We completed our assessment of the TCJA provisions on our U.S. deferred taxes during 2018 and concluded that no material adjustments were required.

Included within the total tax benefit for the year ended December 31, 2017 is an income tax benefit of \$8.3 million related to the impact of the TCJA provisions on our U.S. deferred taxes, including the reduction in the corporate tax rate from 35% to 21% and a change in our valuation allowance assessment. Also included is income tax expense of \$126.1 million related to the increase in valuation allowance recorded against our deferred tax assets to offset the tax benefit of our operating losses in the U.S. and certain foreign jurisdictions.

### **Non-GAAP Financial Measures**

To provide investors with additional information regarding our financial results, and to comply with a covenant under our Notes (described below), we are disclosing herein Adjusted Earnings Before Interest, Taxes, Depreciation, and Amortization ("EBITDA") and non-GAAP net loss, each of which are non-GAAP financial measures used by our management to understand and evaluate our core operating performance and trends. We believe that these non-GAAP financial measures provide useful information to investors and others in understanding and evaluating our operating results, as they permit our investors to view our core business performance using the same metrics that management uses to evaluate our performance.

EBITDA is defined as GAAP net income (loss) plus or minus interest, taxes, depreciation and amortization of intangible assets and finance leases. We define Adjusted EBITDA as EBITDA plus or minus stock-based compensation expense as well as other items and amounts that we view as not indicative of our core operating performance, specifically: charges for matters relating to the Audit Committee investigation, such as litigation and investigation-related costs, costs associated with tax projects, audits, consulting and other professional fees; other legal proceedings specified in the Notes; settlement of certain litigation; restructuring expense; transaction costs related to the issuance of equity securities; non-cash impairment charges; and non-cash changes in the fair value of financing derivatives, warrants liability and investments in equity securities.

We define non-GAAP net loss as GAAP net income (loss) plus or minus stock-based compensation expense and amortization of intangible assets, as well as other items and amounts that we view as not indicative of our core operating performance, specifically: charges for matters relating to the Audit Committee investigation, such as litigation and investigation-related costs, costs associated with tax projects, audits, consulting and other professional fees; other legal proceedings specified in the Notes; settlement of certain litigation; restructuring expense; transaction costs related to the issuance of equity securities; non-cash impairment charges; and non-cash changes in the fair value of financing derivatives, warrants liability and investments in equity securities. We changed our definition of non-GAAP net loss in 2018 to adjust for amortization of intangible assets, a change that is intended to better reflect our core operating performance.

Our use of these non-GAAP financial measures has limitations as an analytical tool, and investors should not consider these measures in isolation or as a substitute for analysis of our results as reported under GAAP. The limitations of such non-GAAP measures include the following:

- Adjusted EBITDA does not reflect tax or interest payments that represent a reduction in cash available to us (or, in the case of interest paid in Common Stock, that represent additional dilution to our existing stockholders);
- Depreciation and amortization are non-cash charges and the assets being depreciated may have to be replaced in the future. Adjusted EBITDA does not reflect cash capital expenditure requirements for such replacements or for new capital expenditure requirements;
- Adjusted EBITDA does not reflect changes in, or cash requirements for, our working capital needs;
- Adjusted EBITDA and non-GAAP net loss do not reflect cash payments relating to fees incurred in connection with issuance of equity securities, restructuring, litigation and the Audit Committee investigation, such as litigation and investigation-related costs, costs associated with tax projects, audits and other professional, consulting or other fees incurred in connection with our prior-year audits and certain legal proceedings, all of which represent a reduction in cash available to us;
- Adjusted EBITDA and non-GAAP net loss do not consider the impact of stock-based compensation and similar arrangements that represent dilution to our existing stockholders;
- Adjusted EBITDA and non-GAAP net loss do not consider impairment of goodwill and long-lived assets, which represents a decline in the value of our assets;

- Adjusted EBITDA and non-GAAP net loss do not consider possible cash gains or losses related to our financing derivatives, warrants liability or investment in equity securities; and
- Other companies, including companies in our industry, may calculate any of these non-GAAP financial measures differently, which reduces their usefulness as comparative measures.

Because of these and other limitations, you should consider Adjusted EBITDA and non-GAAP net loss alongside GAAP-based financial performance measures, including GAAP revenue and various cash flow metrics, net income (loss) and our other GAAP financial results. Management addresses the inherent limitations associated with using non-GAAP financial measures through disclosure of such limitations, presentation of our financial statements in accordance with GAAP and a reconciliation of Adjusted EBITDA and non-GAAP net loss to the most directly comparable GAAP measure, net income (loss).

Under our Notes, we are required to disclose Consolidated EBITDA, a non-GAAP financial measure, on a quarterly basis. Consolidated EBITDA, as defined for purposes of the Notes, was the same as Adjusted EBITDA as presented below.

The following table presents a reconciliation of net loss (GAAP) to Adjusted EBITDA for each of the periods identified:

(In thousands)	Years Ended December 31,		
	2019	2018	2017
<b>Net loss (GAAP)</b>	<b>\$ (338,996)</b>	<b>\$ (159,268)</b>	<b>\$ (281,393)</b>
Income tax (benefit) provision	(1,007)	3,706	(2,717)
Interest expense, net	31,526	16,465	661
Depreciation	12,778	17,259	23,339
Amortization expense of finance leases	2,413	—	—
Amortization of intangible assets	30,076	32,864	34,823
EBITDA	(263,210)	(88,974)	(225,287)
Adjustments:			
Stock-based and expected awards compensation expense <sup>(3)</sup>	16,695	37,151	34,261
Investigation and audit related	4,305	38,338	83,398
Settlement of certain litigation, net <sup>(2)</sup>	2,900	5,250	82,533
Restructuring	3,263	11,837	10,510
Impairment of goodwill	224,272	—	—
Impairment of intangible asset	17,308	—	—
Other expense (income), net <sup>(1)</sup>	682	12,783	(4,125)
Adjusted EBITDA	<u>\$ 6,215</u>	<u>\$ 16,385</u>	<u>\$ (18,710)</u>

<sup>(1)</sup> In 2019 and 2018, adjustments to other income (expense), net, reflect non-cash changes in the fair value of financing derivatives, warrants liability and equity securities investment included in other income (expense), net and certain legal expenses defined by the Notes and classified as general and administrative expenses on our Consolidated Statements of Operations and Comprehensive Loss. Additionally, we recorded transaction costs related to the issuance of warrants, which costs were allocated to the warrants liability and recorded in general and administrative expenses in the Consolidated Statements of Operations and Comprehensive Loss. The remaining transaction costs were recorded in additional paid-in capital in the Consolidated Balance Sheets. For more information regarding this adjustment, see [Footnote 5](#), Stockholders' Equity.

<sup>(2)</sup> Settlement of certain litigation, net includes settlement amounts incurred for certain legal proceedings defined by the Notes, which amounts are classified as general and administrative expenses in the Consolidated Statements of Operations and Comprehensive Loss.

<sup>(3)</sup> 2017 includes \$16.9 million related to a stock-based retention program that was settled in cash for employees who departed prior to issuance of equity.



The following table presents a reconciliation of net loss (GAAP) to non-GAAP net loss for each of the periods identified:

(In thousands)	Years Ended December 31,		
	2019	2018	2017
<b>Net loss (GAAP)</b>	<b>\$ (338,996)</b>	<b>\$ (159,268)</b>	<b>\$ (281,393)</b>
<b>Adjustments:</b>			
Stock-based and expected awards compensation expense <sup>(4)</sup>	16,695	37,151	34,261
Investigation and audit related	4,305	38,338	83,398
Amortization of intangible assets <sup>(3)</sup>	30,076	32,864	34,823
Settlement of certain litigation, net <sup>(2)</sup>	2,900	5,250	82,533
Restructuring	3,263	11,837	10,510
Impairment of goodwill	224,272	—	—
Impairment of intangible asset	17,308	—	—
Other expense (income), net <sup>(1)</sup>	682	12,783	(4,125)
<b>Non-GAAP net loss</b>	<b>\$ (39,495)</b>	<b>\$ (21,045)</b>	<b>\$ (39,993)</b>

<sup>(1)</sup> In 2019 and 2018, adjustments to other income (expense), net, reflect non-cash changes in the fair value of financing derivatives, warrants liability and equity securities investment included in other income (expense), net and certain legal expenses defined by the Notes and classified as general and administrative expenses on our Consolidated Statements of Operations and Comprehensive Loss. Additionally, we recorded transaction costs related to the issuance of warrants, which costs were allocated to the warrants liability and recorded in general and administrative expenses in the Consolidated Statements of Operations and Comprehensive Loss. The remaining transaction costs were recorded in additional paid-in capital in the Consolidated Balance Sheets. For more information regarding this adjustment, see [Footnote 5](#), Stockholders' Equity.

<sup>(2)</sup> Settlement of certain litigation, net includes settlement amounts incurred for certain legal proceedings defined by the Notes, which amounts are classified as general and administrative expenses in the Consolidated Statements of Operations and Comprehensive Loss.

<sup>(3)</sup> In 2018, amortization of intangible assets was added as an adjustment in our calculation of non-GAAP net loss. Prior year non-GAAP net loss has been recast to include this adjustment, which is intended to better reflect our core operating performance.

<sup>(4)</sup> 2017 includes \$16.9 million related to a stock-based retention program that was settled in cash for employees who departed prior to issuance of equity.

## Liquidity and Capital Resources

The following table summarizes our cash flows:

(In thousands)	Years Ended December 31,		
	2019	2018	2017
<b>Consolidated Statements of Cash Flow Data:</b>			
Net cash used in operating activities	\$ (4,636)	\$ (72,575)	\$ (56,405)
Net cash (used in) provided by investing activities	\$ (10,460)	\$ (13,814)	\$ 18,254
Net cash provided by (used in) financing activities	\$ 31,973	\$ 93,119	\$ (7,518)
Effect of exchange rate changes on cash, cash equivalents and restricted cash	\$ (302)	\$ (1,657)	\$ 2,453
Net increase (decrease) in cash, cash equivalents and restricted cash	\$ 16,575	\$ 5,073	\$ (43,216)

Our principal uses of cash historically consisted of cash paid for payroll and other operating expenses, payments related to investments in equipment, primarily to support our consumer panels and technical infrastructure required to deliver our products and services and support our customers, and service of our debt and lease facilities. We have also incurred significant professional fees relating to our Audit Committee's investigation, subsequent audit and compliance efforts, management changes and various legal proceedings.

As of December 31, 2019, our principal sources of liquidity consisted of cash, cash equivalents and restricted cash totaling \$66.8 million, including \$20.2 million in restricted cash.

Our principal sources of liquidity have historically been our cash and cash equivalents, as well as cash flow generated from our operations. Our recent operating losses, including the significant costs associated with the investigation and completing the audit of our prior years' consolidated financial statements, resulted in a need to secure long-term financing. In 2018, we entered into agreements with funds affiliated with or managed by Starboard Value LP (collectively, "Starboard"), pursuant to which we issued and sold to Starboard a total of \$204.0 million in Notes as well as warrants to purchase shares of our Common Stock in exchange for \$100.0 million in cash and 4,000,000 shares of Common Stock. See "Senior Secured Convertible Notes" below.

Prior to April 2019, we paid our quarterly accrued interest liability on the Notes in cash. In April, July and October 2019, we paid our quarterly accrued interest liability on the Notes through the issuance of Common Stock. In January 2020, we paid our quarterly accrued interest liability in cash; the amount was accrued in short term liabilities as of December 31, 2019.

In June 2019, we issued 2,728,513 shares of our Common Stock and four series of warrants in a private placement to CVI Investments, Inc. ("CVI") in exchange for gross cash proceeds of \$20.0 million. See "Sale of Common Stock and Warrants" below.

During the nine months ended September 30, 2019, we sold our investment in equity securities for total cash proceeds of \$3.8 million, of which \$3.1 million was received in July 2019. See [Footnote 2](#), *Summary of Significant Accounting Policies* for additional information.

In December 2019, we issued a secured term note ("Secured Term Note") for gross proceeds of \$13.0 million. See "Secured Term Note" below.

Our liquidity could be negatively affected by a decrease in demand for our products and services or additional losses from operations, as well as payment of expenses incurred in prior periods. Our liquidity could also be negatively affected if we elect to pay our interest liability on the Notes (currently set at 12.0% per year) in cash in lieu of Common Stock. For additional information on our interest liability, see [Footnote 4](#), *Long-term Debt*. Finally, our liquidity could be significantly affected if we are unable to maintain compliance with the affirmative and negative covenants in our Notes, including the minimum cash balance requirement described below. If we fail to comply with our covenants, we could be required to redeem the Notes at a premium. The source of funds for any such redemption would be our available cash or, possibly, other financing. Based on our current plans, including actions within management's control, we do not anticipate a breach of these covenants that would result in an event of default under the Notes; however, any such breach could have a material impact on our liquidity.

We continue to be focused on maintaining flexibility in terms of sources, amounts and the timing of any potential financing, refinancing or strategic transaction in order to best position the Company for future success. We believe that our sources of funding will be sufficient to satisfy our currently anticipated requirements for at least the next 12 months. However, we cannot predict with certainty the outcome of our actions to generate liquidity, including the availability of additional financing.

#### Restricted Cash

Restricted cash represents our requirement to collateralize the Secured Term Note, outstanding letters of credit, international payroll processing exposures and lines of credit related to certain of our corporate credit card programs and international payroll processing exposures. As of December 31, 2019 and 2018, we had \$20.2 million and \$6.1 million of restricted cash, respectively, with the increase due primarily to the issuance of the Secured Term Note.

#### Credit Facility

In 2018, we entered into a Security Agreement with Wells Fargo Bank, N.A. to issue standby letters of credit on our behalf. As of December 31, 2019, \$3.3 million in letters of credit were outstanding and cash collateralized under the Security Agreement with Wells Fargo Bank, N.A.

#### Sale-Leaseback Financing Transaction

In June 2019, we entered into an arrangement with a vendor to sell and lease back certain previously acquired computer and other equipment. The arrangement, which resulted in cash proceeds of \$4.3 million, requires lease payments over a 24-month term for total consideration of \$4.8 million, with control of the equipment transferring to the vendor at the end of the lease term.

#### Sale of Common Stock and Warrants

On June 23, 2019, we entered into a Securities Purchase Agreement with CVI pursuant to which we sold to CVI for aggregate gross proceeds of \$20.0 million (i) 2,728,513 shares of Common Stock and (ii) Series A Warrants, Series B-1 Warrants, Series B-2 Warrants and Series C Warrants to initially purchase up to 11,654,033 shares of Common Stock (the "Private Placement"). On October 14, 2019, we issued 2,728,513 shares of Common Stock to CVI upon exercise by CVI of the Series C Warrants. As a result of this exercise, the number of shares issuable under our Series A Warrants was increased by 2,728,513. On January 29, 2020, the Series B-1 Warrants expired unexercised.

For additional information on the Private Placement, refer to [Footnote 5](#), *Stockholders' Equity*.

#### Senior Secured Convertible Notes

On January 16, 2018, we entered into certain agreements with Starboard, pursuant to which we issued and sold to Starboard \$150.0 million in Notes in exchange for \$85.0 million in cash and 2,600,000 shares of Common Stock. We also agreed to issue to Starboard warrants to purchase 250,000 shares of Common Stock at a price of \$0.01 per share, as adjusted pursuant to the terms of the warrants. The warrants were issued on October 12, 2018 and exercised in full on April 3, 2019 for 323,448 shares of Common Stock. On May 17, 2018, we issued and sold to Starboard \$50.0 million of Notes in exchange for \$15.0 million in cash and 1,400,000 shares of Common Stock. Later in 2018, we issued an aggregate of \$4.0 million in Notes to Starboard, bringing the total balance of Notes as of December 31, 2019 to \$204.0 million.

On November 6, 2019, we entered into an amendment with Starboard that prescribed the terms under which we may redeem the Notes for cash in the event of a qualifying change of control, as defined in the amendment.

The Notes contain certain affirmative and restrictive covenants with which we must comply, including (i) covenants with respect to limitations on additional indebtedness, (ii) limitations on liens, (iii) limitations on certain payments, (iv) maintenance of certain minimum cash balances (\$40.0 million effective August 6, 2019) and (v) the timely filing of certain disclosures with the SEC. We are in compliance with the Notes covenants as of December 31, 2019. As discussed above, any breach of these covenants could have a significant negative effect on our liquidity.

For additional information about the terms of the Notes, refer to [Footnote 4, Long-term Debt](#).

#### Secured Term Note

On December 31, 2019, our wholly owned subsidiary, Rentrak B.V., entered into an agreement with several third parties for the Secured Term Note in exchange for gross proceeds of \$13.0 million. The Secured Term Note matures on December 31, 2021 and has an annual interest rate of 9.75% that is payable monthly in cash.

For additional information, refer to [Footnote 4, Long-term Debt](#).

#### **Operating Activities**

Our primary source of cash provided by operating activities is revenues generated from sales of our Ratings and Planning, Analytics and Optimization, and Movies Reporting and Analytics products and services. Our primary uses of cash from operating activities include personnel costs and costs related to data and infrastructure used to develop and maintain our products and services. We have also incurred significant professional fees relating to the Audit Committee's investigation, subsequent audit and compliance efforts, management changes, and various legal proceedings.

Cash used in operating activities is calculated by adjusting our net loss for changes in working capital, as well as by excluding non-cash items such as: depreciation, non-cash operating lease expense, amortization expense of finance leases and intangible assets, impairment of goodwill and intangible asset, stock-based compensation, deferred tax (benefit) provision, change in the fair value of financing derivatives, warrants liability and equity securities, non-cash interest expense related to the Notes, accretion of debt discount, and amortization of deferred financing costs.

Net cash used in operating activities in 2019 was \$4.6 million compared to net cash used of \$72.6 million in 2018. The decrease in cash used in operating activities during 2019 as compared to 2018 was primarily attributable to a decrease in cash operating expenses driven by lower investigation and audit related expenses and headcount, and extended trade payables. This drove a net increase in operating assets and liabilities of \$4.3 million for the year ended December 31, 2019 as compared to a net decrease of \$23.2 million for the year ended December 31, 2018. In addition, there was a net decrease in cash used of \$4.4 million related to interest payments made on the Notes in stock in lieu of cash during 2019.

Net cash used in operating activities in 2018 was \$72.6 million compared to net cash used of \$56.4 million in 2017. The increase in cash used in operating activities during 2018 as compared to 2017 was primarily attributable to a \$90.0 million increase in payments of our outstanding liabilities, driven by investigation and audit related expenses, cash interest payments on the Notes and settlement of compensation liabilities.

#### **Investing Activities**

Cash used in investing activities primarily consists of payments related to capitalized internal-use software costs, purchases of computer and network equipment to support our technical infrastructure, and furniture and equipment.

Net cash used in investing activities in 2019 was \$10.5 million compared to net cash used in investing activities of \$13.8 million in 2018. The decrease in cash used in investing activities was attributable to \$3.8 million in cash received from the sale of an equity security. Increased capitalized costs of \$1.9 million were offset by a \$1.5 million decrease in purchases of property and equipment.

Net cash used in investing activities in 2018 was \$13.8 million compared to net cash provided by investing activities of \$18.3 million in 2017. The shift from cash provided by investing activities to cash used in investing activities was mainly attributable to the sales of marketable securities in 2017 compared with the increase in cash used for the development of internal-use software in 2018. We did not capitalize any internal-use software costs in 2017.

## Financing Activities

Net cash provided by financing activities in 2019 was \$32.0 million compared to net cash provided by financing activities of \$93.1 million in 2018. In 2019, we raised gross cash proceeds of \$20.0 million from the sale of shares of Common Stock and warrants in the Private Placement, \$13.0 million from the issuance of the Secured Term Note, and \$4.3 million from a sale lease-back transaction. We also had a decrease of debt issuance costs of \$5.1 million in 2019 compared to 2018. By comparison, in 2018 we generated gross cash proceeds of \$100.0 million from the issuance of Notes, partially offset by a \$9.7 million decrease in proceeds from subscription receivables which ended in 2018.

Net cash provided by financing activities in 2018 was \$93.1 million compared to net cash used in financing activities of \$7.5 million in 2017. The change was largely due to the cash proceeds of \$100.0 million from the issuance of the Notes. These proceeds were offset by debt issuance costs of \$5.1 million and the use of \$5.3 million of cash to cover minimum statutory withholding taxes due upon the vesting of certain restricted stock and restricted stock unit awards and exercise of stock options in 2018.

## Contractual Payment Obligations

We are subject to certain contractual arrangements that are long-term in nature.

The information set forth below summarizes our contractual obligations as of December 31, 2019 that are fixed and determinable.

<i>(In thousands)</i>	Total	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
Operating lease obligations <sup>(1)</sup>	\$ 75,059	\$ 12,739	\$ 21,107	\$ 18,489	\$ 22,724
Finance lease obligations <sup>(2)</sup>	4,966	2,161	2,783	22	—
Sale-leaseback financing transaction <sup>(3)</sup>	3,669	2,247	1,422	—	—
Long-term debt obligations <sup>(4)</sup>	217,000	—	217,000	—	—
Unconditional purchase obligations with MVPDs <sup>(5)</sup>	102,609	41,035	43,052	18,522	—
Other long-term obligations <sup>(6)</sup>	3,860	2,114	1,746	—	—
<b>Total</b>	<b>\$ 407,163</b>	<b>\$ 60,296</b>	<b>\$ 287,110</b>	<b>\$ 37,033</b>	<b>\$ 22,724</b>

<sup>(1)</sup> Operating lease obligations represent future lease commitments, primarily for real estate leases, accounted for under ASC 842. See [Footnote 8](#), Leases for more information.

<sup>(2)</sup> Finance lease obligations represent future lease commitments, primarily for equipment leases, accounted for under ASC 842. See [Footnote 8](#), Leases for more information.

<sup>(3)</sup> We entered into a sale-leaseback arrangement with a vendor in June 2019. See [Footnote 4](#), Long-term Debt for more information.

<sup>(4)</sup> In 2018, we entered into several agreements with Starboard whereby we issued Notes in exchange for cash and shares of Common Stock. In 2019 our wholly owned subsidiary Rentrak B.V., entered into a Secured Term Note. See [Footnote 4](#), Long-term Debt for more information.

<sup>(5)</sup> Unconditional purchase obligations with MVPDs include contractual arrangements with MVPDs for the purchase of TV viewing data that is used in our products, primarily reported in the Ratings & Planning solution group. If these arrangements are canceled by the MVPDs, we have the ability to terminate contracts with our end customers. Commitments reflected herein relate to purchases of data/future obligations after December 31, 2019.

<sup>(6)</sup> Other long-term obligations include future commitments for software licenses and the right to access cloud-based solutions under long-term contracts.

## Future Capital Requirements

Our ability to generate cash is subject to our performance, general economic conditions, industry trends and other factors, including expenses from ongoing compliance efforts and related to various legal proceedings, as well as trade payables and service of our debt and lease facilities. To the extent that our existing cash, cash equivalents and operating cash flow, together with any proceeds from previous financing arrangements, are insufficient to fund our future activities and requirements, we may need to raise additional funds through public or private equity or debt financing. If we issue additional equity securities in order to raise additional funds or pay interest on the Notes, further dilution to existing stockholders may occur.

## Off-Balance Sheet Arrangements

We have no material off-balance sheet arrangements (as defined in Item 303 of Regulation S-K) other than certain purchase obligations with MVPDs, which are disclosed in the Contractual Payment Obligations table above.

## Critical Accounting Policies

Our discussion and analysis of our financial condition and results of operations are based on our Consolidated Financial Statements, which have been prepared in accordance with generally accepted accounting principles in the U.S. ("GAAP"). The preparation of these financial statements requires us to make estimates, assumptions and judgments that affect the amounts reported in our Consolidated Financial Statements and the accompanying Notes to Consolidated Financial Statements. We base our estimates on

historical experience and on various other assumptions that we believe to be reasonable under the circumstances. Actual results may differ from these estimates.

While our significant accounting policies are described in more detail in the Notes to Consolidated Financial Statements included in [Item 8](#) of this 10-K, we believe the following accounting policies to be the most critical to the judgments and estimates used in the preparation of our Consolidated Financial Statements.

### ***Accounting for Warrants***

During the second quarter of 2019, we issued warrants which were determined to be freestanding financial instruments that qualify for liability treatment as a result of a net cash settlement feature associated with a cap on the issuance of shares under certain circumstances. Changes in the fair value of these instruments are immediately recorded in other income (expense), net in the Consolidated Statements of Operations and Comprehensive Loss.

The fair value of the warrants is determined using a Monte Carlo simulation analysis within an option pricing model. The fair value estimate is determined using an estimate for our credit rating, probability of change of control, dividend yield, risk-free rate, remaining term of the warrants and volatility. The valuation is derived from techniques which utilize inputs, certain of which are significant and unobservable, that result in classification of the warrants as a Level 3 fair value measurement.

The fair value of the warrants is estimated using forward projections of stock issuances with relative certainty and estimated cash payments at each exercise date discounted back to the valuation date at rates commensurate with the remaining term of the related warrants. The primary sensitivity in the valuation of each warrant liability is driven by our Common Stock price at the measurement date and the observable volatility of the Common Stock.

Refer to [Footnote 6](#), *Fair Value Measurements* for the significant inputs used to determine the fair value of the warrants as of December 31, 2019.

### ***Impairment of Long-Lived Assets***

Our long-lived assets consist of property and equipment and finite-lived intangible assets. We evaluate our long-lived assets for impairment whenever events or changes in circumstances indicate the carrying value of such assets may not be recoverable. If an indication of impairment is present, we compare the estimated undiscounted future cash flows to be generated by the asset group to its carrying amount. Recoverability measurement and estimation of undiscounted cash flows are grouped at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. If the undiscounted future cash flows are less than the carrying amount of the asset group, we record an impairment loss equal to the excess of the asset group's carrying amount over its fair value. The fair value is determined based on valuation techniques such as a comparison to fair values of similar assets or using a discounted cash flow analysis.

During the second quarter of 2019, we evaluated our strategic alliance asset group for recoverability. Our assessment considered the changes in our projected revenue in certain non-U.S. geographic markets due to the changing international competitive landscape as well as significant reductions in international staffing during the second quarter, which resulted in a change in our long-term view of the viability of the intangible asset. As such, our analysis yielded that the benefit of the strategic alliance would not be realized, and the related investment would not be recoverable. The fair value of the strategic alliance intangible asset was estimated using the income approach, resulting in a non-cash impairment charge for the full carrying value of the asset. Consequently, we recorded a \$17.3 million impairment charge during the year ended December 31, 2019 in our Consolidated Statements of Operations and Comprehensive Loss.

Although we believe that the carrying values of our long-lived assets are appropriately stated, changes in strategy or market conditions, significant technological developments or significant changes in legal or regulatory factors could significantly impact these judgments and require future adjustments to recorded asset balances.

### ***Revenue Recognition***

We apply the provisions of Accounting Standards Codification ("ASC") 606, *Revenue from Contracts with Customers* and all related appropriate guidance. We recognize revenue under the core principle of depicting the transfer of promised goods and services to our customers in an amount that reflects the consideration to which we expect to be entitled. In order to achieve that core principle, we apply the following five-step approach: (1) identify the contract with a customer, (2) identify the performance obligations in the contract, (3) determine the transaction price, (4) allocate the transaction price to the performance obligations in the contract, and (5) recognize revenue when a performance obligation is satisfied.

Our contracts with customers may include multiple promised goods and services, consisting of the various services we offer. Contracts with multiple performance obligations typically consist of a mix of subscriptions to online products, our online database and custom products and services. At contract inception, we identify performance obligations by evaluating whether the promised

goods and services are capable of being distinct within the context of the contract. Promised goods and services that are not distinct are combined until the combined bundle of goods and services is distinct.

In general, transaction price is determined by estimating the fixed amount of consideration to which we are entitled for transfer of goods and services and all relevant sources and components of variable consideration. Variable consideration is estimated based on the most likely amount or expected value approach. Once we select a method to estimate variable consideration for a particular type of performance obligation, we will apply that method consistently. We will constrain estimates of variable consideration only to the extent that it is probable that significant reversal in the amount of cumulative revenue recognized will not occur.

Significant judgment is required to determine the stand-alone selling price ("SSP") for each performance obligation. We allocate transaction price to each performance obligation based on relative SSP.

For the majority of our products and services, we apply an adjusted market assessment approach for the determination of SSP for identified performance obligations. In general, we bundle multiple products and very few are sold on a standalone basis. We use rate cards and pricing calculators that are periodically reviewed and updated to reflect the latest sales data and observable inputs by industry, channel, geography, customer size, and other relevant groupings. Certain products are sold on a standalone basis in a narrow band of prices. If a product is sold outside of the narrow band of prices, it will be assigned the midpoint of the narrow band for purposes of allocating transaction price on a relative SSP basis.

We recognize revenue when (or as) we satisfy a performance obligation by transferring promised goods or services to a customer. Customers may obtain the control of promised goods or services over time or at a point in time.

We enter into a limited number of monetary contracts that involve both the purchase and sale of services with a single counterparty. We assess each contract to determine if the revenue and expense should be presented gross or net. We recognize revenue for these contracts to the extent that SSP is established for distinct services provided. Any excess consideration above the established standalone selling price of services is presented as an offset to cost of revenues in the Consolidated Statements of Operations and Comprehensive Loss.

### **Goodwill**

Goodwill represents the excess of the purchase price over the fair value of identifiable assets acquired and liabilities assumed when a business is acquired. The valuation of goodwill involves the use of management's estimates and assumptions and can have a significant impact on future operating results. Goodwill is not amortized but is evaluated for impairment at least annually, as of October 1, by comparing the fair value of a reporting unit to its carrying value including goodwill recorded by the reporting unit.

We have one reporting unit. As such, we perform the impairment assessment for goodwill at the enterprise level. Goodwill is reviewed for possible impairment between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of the reporting unit below the carrying value. We initially assess qualitative factors to determine if it is necessary to perform the goodwill impairment review. We review the goodwill for impairment if, based on our assessment of the qualitative factors, we determine that it is more likely than not that the fair value of its reporting unit is less than the carrying value, or if we decide to bypass the qualitative assessment. We review the carrying value of our reporting unit utilizing a combination of the discounted cash flow model and a market value approach. We make assumptions regarding estimated future cash flows, discount rates, long-term growth rates and market values to determine the estimated fair value of its reporting unit.

A discounted cash flow analysis requires the use of various assumptions, including; expectations of future cash flows, growth rates, tax rates, and discount rates in developing the present value of projected cash flows. The following assumptions are significant to our discounted cash flow analysis:

*Projected financial performance:* expected future cash flows and growth rates are based upon assumptions of our future revenue growth and operating costs. Actual results of operations and cash flows will likely differ from those utilized in our discounted cash flow analysis, and it is possible that those differences could be material. We monitor for events and circumstances that could negatively impact the key assumptions in determining fair value, including long-term revenue growth projects, profitability, discount rates, volatility in our market capitalization, and general industry, micro and macro-economic conditions.

*Long-term growth rate:* the long-term growth rate represents the rate at which our single reporting unit's earnings are expected to grow or losses to decrease. Our assumed long-term growth rate was based on projected long-term inflation and gross domestic product growth estimates for the countries in which we operate and a long-term growth estimate for our business and the industry in which we operate. The long-term growth rate utilized in the 2019 annual impairment analysis was 3.0%.

*Discount rate:* our reporting unit's future cash flows are discounted at a rate that is consistent with our average weighted cost of capital that is likely to be utilized by market participants. The weighted-average cost of capital is our estimate of the overall returns required by both debt and equity investors, weighted by their respective contributions of capital. We used a 18.0% discount rate in the 2019 annual impairment analysis.



In addition, we also use a market-based approach to estimate the value of our reporting unit. The market value is estimated by comparing our reporting unit to publicly-traded companies and/or to publicly-disclosed business mergers and acquisitions in similar lines of business. The value of the business entity is based on pricing multiples of certain financial parameters observed in the comparable companies.

We performed an interim analysis as of June 30, 2019 and determined that goodwill was impaired. Refer to [Footnote 9](#), *Goodwill and Intangible Assets* for further information. We completed our annual assessment on October 1, 2019, and there was no further impairment of goodwill at the assessment date.

Goodwill allocated to our single reporting unit as of December 31, 2019 was \$416.4 million. As of our October 1, 2019 annual assessment, the estimated fair value of our reporting unit exceeded its carrying value by approximately 6%. The projected long-term cash flows used in our fair value estimate are consistent with our most recent operating plan and are dependent on the successful execution of our business plan, overall industry growth rates and the competitive environment.

We monitor for events and circumstances that could negatively impact the key assumptions in determining fair value, including long-term revenue growth projections, profitability, discount rates, volatility in our market capitalization, and general industry, market and macro-economic conditions. If the reporting unit's future performance falls below our expectations, or there are negative revisions to other significant assumptions, including the long-term growth rate or discount rate, we may need to record a material, non-cash goodwill impairment charge in a future period.

#### ***Derivative Financial Instruments***

We have derivative financial instruments that are not hedges and do not qualify for hedge accounting. Changes in the fair value of these instruments are immediately recorded in other income (expense), net in the Consolidated Statements of Operations and Comprehensive Loss.

The fair value of our interest rate reset derivative liability is determined using a with-and-without approach, using a standard binomial tree convertible bond model. The fair value estimate is determined using an estimate for the Company's credit rating, the premium attributable to the payment-in-kind feature of the Notes, and premium estimates for company-specific risk factors (together, the credit adjusted discount rate). The valuation is derived from techniques which utilize inputs, certain of which are significant and unobservable, that result in classification of the interest rate reset derivative liability as a Level 3 fair value measurement.

The fair values of change of control redemption derivative liabilities are determined using a probability adjusted binomial lattice model. The fair value estimates are determined using management's estimate for the probability of change of control, credit adjusted discount rate, risk-free rate, and remaining term of the redemption features. The valuations are derived from techniques which utilize inputs, certain of which are significant and unobservable, that result in classification of the change of control redemption liabilities as Level 3 fair value measurements.

The fair values of our financing derivatives are estimated using forward projections and are discounted back at rates commensurate with the remaining term of the related derivative. The primary sensitivity in the interest rate reset derivative liability is driven by our Common Stock price at the measurement date, the observable volatility of the Common Stock, and the discount rate used to determine the present value of the instrument. The primary sensitivity for the change of control redemption derivative liabilities is driven by the probability of a change of control.

Refer to [Footnote 6](#), *Fair Value Measurements* for the significant inputs used to determine the fair value of the derivatives as of December 31, 2019.

#### **ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

Market risk represents the risk of loss that may impact our financial position due to adverse changes in financial market prices and rates. We are subject to interest rate risk in connection with the Notes, and we hold derivative financial instruments and have outstanding warrants that are subject to market risk. We also have foreign currency exchange rate risk from our global operations, although we do not believe this risk to be significant.

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

As a result of having \$204.0 million aggregate principal amount of the Notes outstanding, which are convertible into shares of Common Stock at a conversion price of \$31.29 per share (the "Conversion Price"), we are subject to interest rate risk. As of December 31, 2019, the interest rate on the Notes was 12.0% per year. The interest rate reset on January 30, 2020 and will remain at 12.0% (subject to certain conditions) until February 1, 2021 (the "Interest Reset Date"). On the Interest Reset Date, the interest



rate will reset based on the then-applicable Conversion Premium, which is calculated by dividing the Conversion Price by the arithmetic average of the volume-weighted average trading prices of our Common Stock on each of the ten consecutive trading days immediately preceding the Interest Reset Date (the "VWAP"). The interest rate is then determined in accordance with the table below, which includes theoretical VWAP calculations:

If the Conversion Premium (as of the applicable Interest Reset Date) is:	Implied VWAP	Then the Interest Rate from the applicable Interest Reset Date until the next subsequent Interest Reset Date shall be:
1.0 or less	\$31.29 or higher	4.0%
1.05	\$29.80	4.3%
1.10	\$28.45	4.7%
1.15	\$27.21	5.0%
1.20	\$26.08	5.3%
1.25	\$25.03	5.7%
1.30	\$24.07	6.0%
1.35	\$23.18	8.0%
1.40	\$22.35	10.0%
1.45 or higher	\$21.58 or less	12.0%

If the Conversion Premium is between two Conversion Premium amounts in the table above, the interest rate is determined by straight-line interpolation between the interest rates for the higher and lower Conversion Premium amounts.

As discussed in [Footnote 4, Long-term Debt](#), we have the ability, subject to certain conditions, to pay interest on the Notes through the issuance of PIK Interest Shares, and we elected to do so for the interest payments made on April 1, 2019, July 1, 2019 and October 1, 2019.

#### Derivative financial instrument risk

The interest rate reset feature of the Notes represents a complex derivative financial instrument, which is classified as a liability in the Consolidated Balance Sheets. This derivative is not considered a hedging instrument. We determine the fair value of our derivative financial instrument, relying in part on the work of an independent valuation firm engaged by us to provide inputs as to the fair value of the liability, including the valuation models and assumptions used to determine its fair value. For additional information on the determination of fair value, including the assumptions used in those determinations, refer to [Footnote 4, Long-term Debt](#) and [Footnote 6, Fair Value Measurements](#). As of December 31, 2019, the fair value of our interest rate reset derivative financial instrument of \$18.8 million was recorded in financing derivatives within the Consolidated Balance Sheets. Any changes in fair value of financing derivatives are recorded to earnings and could affect our financial position and results of operations. A change in fair value of the interest rate reset derivative liability of 10% in either direction would result in a \$1.9 million gain or loss recorded in earnings in our consolidated financial statements.

The fair value of our interest rate reset derivative liability relates to the interest rate reset feature of the Notes. Changes in the fair value of the interest rate reset derivative liability are primarily driven by changes in the price and volatility of a share of our Common Stock. Generally, as our stock price decreases, the fair value of the derivative liability will increase, although not in a linear relationship. Similar to an option, over time, and at each of the Interest Reset Dates, the value of the interest rate reset derivative liability will decrease as the time to maturity shortens and each Interest Reset Date passes.

#### Warrants liability financial instrument risk

As a result of having \$7.7 million in liability related to outstanding warrants as of December 31, 2019, which warrants are exercisable for shares of Common Stock under certain conditions, we are subject to market risk. The value of each warrant, and the number of shares likely to be issued under the warrants, is impacted by changes in the market price of our Common Stock. As of December 31, 2019, a 10% increase in our stock price would result in a \$1.4 million increase in the fair value of the warrants and a 90,924 increase in shares likely to be issued under the warrants, while a 10% decrease in our stock price would result in a \$1.3 million decrease in fair value of the warrants and a 77,007 decrease in shares likely to be issued under the warrants, in each case on an aggregate basis.

For further information regarding our outstanding warrants, see [Footnote 5, Stockholders' Equity](#).

### **Foreign currency risk**

We operate globally, and we predominantly generate revenues and expenses in local currencies. We operate in several countries in Europe, as well as countries throughout South America and Asia Pacific. As such, we have exposure to adverse changes in exchange rates associated with revenues and operating expenses of our foreign operations, but we believe this exposure is not material at this time. We have not engaged in any transactions that hedge foreign currency exchange rate risk.

There can be no guarantee that exchange rates will remain constant in future periods. In addition to the impact from the U.S. Dollar to Euro exchange rate movements, we are also impacted by the movements in the exchange rates between the U.S. Dollar and various South American, Asia Pacific and other European currencies. We have evaluated and assessed the potential effect of this risk and believe that near-term changes in currency rates should not materially affect our financial position, results of operations or cash flows. We performed a sensitivity analysis, assuming a 10% decrease or increase in the value of foreign currencies in which we operate. Our analysis has determined that a 10% decrease in value would have resulted in a decrease to our operating loss of approximately \$6.0 million for 2019, and a 10% increase in value would have resulted in an increase to our operating loss of approximately \$5.2 million for the year ended December 31, 2019.

As of December 31, 2019, of the total \$66.8 million in cash and cash equivalents, including restricted cash, \$27.3 million was held by foreign subsidiaries. Of this amount, we believe \$3.1 million could be subject to income tax withholding of 5% to 15% if the funds were repatriated to the U.S.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

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## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of comScore, Inc.

### Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of comScore, Inc. and subsidiaries (the "Company") as of December 31, 2019 and 2018, the related consolidated statements of operations and comprehensive loss, stockholders' equity, and cash flows, for each of the three years in the period ended December 31, 2019, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and 2018, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2019, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 27, 2020, expressed an unqualified opinion on the Company's internal control over financial reporting.

### Change in Accounting Principles

As discussed in Note 2 to the financial statements, the Company has changed its method of accounting for leases as of January 1, 2019 due to adoption of Accounting Standards Codification (ASC) 842, *Leases*. The Company adopted ASC 842 using the modified retrospective transition method with optional transition relief.

As discussed in Note 2 to the financial statements, the Company has changed its method of accounting for revenue recognition as of January 1, 2018 due to adoption of Accounting Standards Codification (ASC) 606, *Revenue from Contracts with Customers*. The Company adopted ASC 606 using the modified retrospective method.

### Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Deloitte & Touche LLP

McLean, Virginia  
February 27, 2020

We have served as the Company's auditor since 2017.

**COMSCORE, INC.**  
**CONSOLIDATED BALANCE SHEETS**  
(In thousands, except share and per share data)

	As of December 31, 2019	As of December 31, 2018
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 46,590	\$ 44,096
Restricted cash	20,183	6,102
Accounts receivable, net of allowances of \$1,919 and \$1,597, respectively (\$2,698 and \$4,024 of accounts receivable attributable to related parties, respectively)	71,853	75,609
Prepaid expenses and other current assets (\$1,180 and \$484 attributable to related parties)	15,357	19,972
<b>Total current assets</b>	<b>153,983</b>	<b>145,779</b>
Property and equipment, net	31,693	27,339
Operating right-of-use assets	36,689	—
Other non-current assets	2,979	8,898
Deferred tax assets	2,374	3,991
Intangible assets, net	79,559	126,945
Goodwill	416,418	641,191
<b>Total assets</b>	<b>\$ 723,695</b>	<b>\$ 954,143</b>
<b>Liabilities and Stockholders' Equity</b>		
Current liabilities:		
Accounts payable (\$2,510 and \$1,878 attributable to related parties, respectively)	\$ 44,804	\$ 29,836
Accrued expenses (\$6,902 and \$4,478 attributable to related parties, respectively)	55,507	58,140
Accrued litigation settlements	3,575	3,500
Contract liability (\$1,519 and \$2,521 attributable to related parties, respectively)	58,158	64,189
Customer advances	9,886	6,688
Warrant liability	7,725	—
Current operating lease liabilities	6,764	—
Deferred rent	—	1,884
Other current liabilities	3,818	4,699
<b>Total current liabilities</b>	<b>190,237</b>	<b>168,936</b>
Secured term note	12,463	—
Financing derivatives (related party)	21,587	26,100
Senior secured convertible notes (related party)	184,075	177,342
Non-current operating lease liabilities	42,497	—
Deferred rent	—	10,304
Deferred tax liabilities	287	5,527
Other non-current liabilities (\$- and \$251 attributable to related parties)	13,575	14,367
<b>Total liabilities</b>	<b>464,721</b>	<b>402,576</b>
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, \$0.001 par value per share; 5,000,000 shares authorized at December 31, 2019 and 2018; no shares issued or outstanding as of December 31, 2019 or 2018	—	—
Common stock, \$0.001 par value per share; 150,000,000 shares authorized as of December 31, 2019 and 2018; 76,829,926 shares issued and 70,065,130 shares outstanding as of December 31, 2019, and 66,154,626 shares issued and 59,389,830 shares outstanding as of December 31, 2018	70	59
Additional paid-in capital	1,609,358	1,561,208
Accumulated other comprehensive loss	(12,333)	(10,621)
Accumulated deficit	(1,108,137)	(769,095)
Treasury stock, at cost, and 6,764,796 shares as of December 31, 2019 and 2018	(229,984)	(229,984)
<b>Total stockholders' equity</b>	<b>258,974</b>	<b>551,567</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 723,695</b>	<b>\$ 954,143</b>

See accompanying Notes to Consolidated Financial Statements.

**COMSCORE, INC.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS**  
(In thousands, except share and per share data)

	Years Ended December 31,		
	2019	2018	2017
Revenues <sup>(1)</sup>	\$ 388,645	\$ 419,482	\$ 403,549
Cost of revenues <sup>(1) (2) (3)</sup>	199,622	200,220	193,605
Selling and marketing <sup>(1) (2) (3)</sup>	89,145	108,395	130,509
Research and development <sup>(1) (2) (3)</sup>	61,802	76,979	89,023
General and administrative <sup>(1) (2) (3)</sup>	66,419	84,535	74,651
Investigation and audit related <sup>(1)</sup>	4,305	38,338	83,398
Amortization of intangible assets	30,076	32,864	34,823
Impairment of goodwill	224,272	—	—
Impairment of intangible asset <sup>(1)</sup>	17,308	—	—
Settlement of litigation, net	2,900	5,250	82,533
Restructuring <sup>(2)</sup>	3,263	11,837	10,510
Total expenses from operations	699,112	558,418	699,052
Loss from operations	(310,467)	(138,936)	(295,503)
Interest expense, net <sup>(1)</sup>	(31,526)	(16,465)	(661)
Other income (expense), net	1,654	(1,464)	15,205
Gain (loss) from foreign currency transactions	336	1,303	(3,151)
Loss before income taxes	(340,003)	(155,562)	(284,110)
Income tax benefit (provision)	1,007	(3,706)	2,717
Net loss	\$ (338,996)	\$ (159,268)	\$ (281,393)
Net loss per common share:			
Basic and diluted	\$ (5.33)	\$ (2.76)	\$ (4.90)
Weighted-average number of shares used in per share calculation - Common Stock:			
Basic and diluted	63,590,882	57,700,603	57,485,755
Comprehensive loss:			
Net loss	\$ (338,996)	\$ (159,268)	\$ (281,393)
Other comprehensive (loss) income:			
Foreign currency cumulative translation adjustment	(1,712)	(4,397)	6,168
Other	—	—	28
Total comprehensive loss	\$ (340,708)	\$ (163,665)	\$ (275,197)

(1) Transactions with related parties are included in the line items above as follows (refer to Footnote 15, Related Party Transactions, of the Notes to Consolidated Financial Statements for additional information):

	Years Ended December 31,		
	2019	2018	2017
Revenues	\$ 17,464	\$ 12,662	\$ 13,181
Cost of revenues	10,490	11,239	12,956
Selling and marketing	312	158	157
Research and development	26	186	119
General and administrative	776	650	777
Investigation and audit related	—	—	16,844
Interest (expense) income, net	(23,494)	(16,023)	672

(2) Stock-based compensation expense is included in the line items above as follows:

	Years Ended December 31,		
	2019	2018	2017
Cost of revenues	\$ 1,852	\$ 6,349	\$ 1,766
Selling and marketing	3,615	9,452	5,247
Research and development	1,981	6,580	2,270
General and administrative	9,247	14,770	8,031
Restructuring	(137)	468	—
Total stock-based compensation expense	\$ 16,558	\$ 37,619	\$ 17,314

(3) Excludes amortization of intangible assets, which is presented separately in the Consolidated Statements of Operations and Comprehensive Loss.

See accompanying Notes to Consolidated Financial Statements.



**COMSCORE, INC.**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**  
(In thousands, except share data)

	Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Treasury stock, at cost	Total Stockholders' Equity
	Shares	Amount					
<b>Balance as of December 31, 2016</b>	<b>57,172,597</b>	<b>\$ 60</b>	<b>\$ 1,380,881</b>	<b>\$ (12,420)</b>	<b>\$ (327,698)</b>	<b>\$ (135,970)</b>	<b>\$ 904,853</b>
Net loss	—	—	—	—	(281,393)	—	(281,393)
Foreign currency translation adjustment	—	—	—	6,168	—	—	6,168
Unrealized gain on marketable securities, net of tax	—	—	—	28	—	—	28
Subscription Receivable	—	—	11,012	—	—	—	11,012
Restricted stock units vested	185,754	—	—	—	—	—	—
Payments for taxes related to net share settlement of equity awards	(69,304)	—	(1,514)	—	—	—	(1,514)
Stock-based compensation	—	—	17,338	—	—	—	17,338
<b>Balance as of December 31, 2017</b>	<b>57,289,047</b>	<b>\$ 60</b>	<b>\$ 1,407,717</b>	<b>\$ (6,224)</b>	<b>\$ (609,091)</b>	<b>\$ (135,970)</b>	<b>\$ 656,492</b>
Adoption of ASC 606	—	—	—	—	(736)	—	(736)
Net loss	—	—	—	—	(159,268)	—	(159,268)
Foreign currency translation adjustment	—	—	—	(4,397)	—	—	(4,397)
Subscription Receivable	—	—	10,254	—	—	—	10,254
Common Stock warrants issued	—	—	5,545	—	—	—	5,545
Exercise of Common Stock options, net	222,229	—	2,855	—	—	—	2,855
Shares issued in connection with settlement of litigation	4,024,115	4	90,764	—	—	—	90,768
Repurchase of Common Stock in exchange for senior secured convertible notes	(4,000,000)	(7)	—	—	—	(94,014)	(94,021)
Restricted stock units vested	2,077,253	2	15,816	—	—	—	15,818
Payments for taxes related to net share settlement of equity awards	(222,814)	—	(5,263)	—	—	—	(5,263)
Stock-based compensation	—	—	33,520	—	—	—	33,520
<b>Balance as of December 31, 2018</b>	<b>59,389,830</b>	<b>\$ 59</b>	<b>\$ 1,561,208</b>	<b>\$ (10,621)</b>	<b>\$ (769,095)</b>	<b>\$ (229,984)</b>	<b>\$ 551,567</b>
Adoption of ASC 842	—	—	—	—	(46)	—	(46)
Net loss	—	—	—	—	(338,996)	—	(338,996)
Foreign currency translation adjustment	—	—	—	(1,712)	—	—	(1,712)
Issuance of Common Stock - CVI	2,728,513	3	8,159	—	—	—	8,162
Common Stock warrants exercised - Starboard	323,448	—	—	—	—	—	—
Common Stock warrants exercised - CVI	2,728,513	3	5,482	—	—	—	5,485
Exercise of Common Stock options, net	68,259	—	1,191	—	—	—	1,191
Interest paid in Common Stock	4,057,129	4	17,370	—	—	—	17,374
Restricted stock units vested	854,998	1	4,610	—	—	—	4,611
Payments for taxes related to net share settlement of equity awards	(85,560)	—	(1,267)	—	—	—	(1,267)
Stock-based compensation	—	—	12,605	—	—	—	12,605
<b>Balance as of December 31, 2019</b>	<b>70,065,130</b>	<b>\$ 70</b>	<b>\$ 1,609,358</b>	<b>\$ (12,333)</b>	<b>\$ (1,108,137)</b>	<b>\$ (229,984)</b>	<b>\$ 258,974</b>

See accompanying Notes to Consolidated Financial Statements.

**COMSCORE, INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(In thousands)

	Years Ended December 31,		
	2019	2018	2017
<b>Operating activities:</b>			
Net loss	\$ (338,996)	\$ (159,268)	\$ (281,393)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation	12,778	17,259	23,339
Non-cash operating lease expense	5,369	—	—
Amortization expense of finance leases	2,413	—	—
Amortization of intangible assets	30,076	32,864	34,823
Impairment of goodwill	224,272	—	—
Impairment of intangible asset	17,308	—	—
Provision for bad debts	727	966	983
Stock-based compensation	16,558	37,619	17,314
Deferred tax (benefit) provision	(3,727)	2,019	(3,203)
Change in fair value of financing derivatives	(5,100)	14,226	—
Change in fair value of warrant liability	2,411	—	—
Change in fair value of investment in equity securities	2,324	(1,443)	—
Non-cash interest expense on senior secured convertible notes (related party)	17,374	—	—
Accretion of debt discount	6,242	4,812	—
Amortization of deferred financing costs	1,078	955	—
Gain on forgiveness of obligation	—	—	(4,000)
Accrued litigation settlements to be settled in Common Stock	—	—	90,800
Other	(2)	568	192
Changes in operating assets and liabilities:			
Accounts receivable	2,738	4,707	14,529
Prepaid expenses and other assets	2,198	(4,456)	4,067
Insurance recoverable on litigation settlements	—	10,000	(37,232)
Accounts payable, accrued expenses, and other liabilities	10,438	(4,955)	85,001
Contract liability and customer advances	(3,477)	(30,013)	(2,638)
Deferred rent	—	1,565	1,013
Current operating lease liability	(7,638)	—	—
Net cash used in operating activities	(4,636)	(72,575)	(56,405)
<b>Investing activities:</b>			
Sales of marketable securities	3,776	—	28,436
Purchases of property and equipment	(2,736)	(4,206)	(10,182)
Capitalized internal-use software costs	(11,500)	(9,608)	—
Net cash (used in) provided by investing activities	(10,460)	(13,814)	18,254
<b>Financing activities:</b>			
Proceeds from borrowings on senior secured convertible notes (related party)	—	100,000	—
Debt issuance costs	—	(5,146)	—
Proceeds from secured term note	13,000	—	—
Secured term note issuance costs	(350)	—	—
Proceeds from private placement, net of issuance costs paid	19,752	—	—
Financing proceeds received on subscription receivable (related party)	—	9,679	11,012
Proceeds from sale-leaseback financing transaction	4,252	—	—
Proceeds from the exercise of stock options	1,191	2,855	—
Payments for taxes related to net share settlement of equity awards	(1,267)	(5,263)	(1,514)

Principal payments on finance leases	(2,535)	—	—
Principal payments on capital lease and software license arrangements	(2,070)	(9,006)	(17,016)
Net cash provided by (used in) financing activities	31,973	93,119	(7,518)
Effect of exchange rate changes on cash, cash equivalents and restricted cash	(302)	(1,657)	2,453
Net increase (decrease) in cash, cash equivalents and restricted cash	16,575	5,073	(43,216)
Cash, cash equivalents and restricted cash at beginning of period	50,198	45,125	88,341
Cash, cash equivalents and restricted cash at end of period	\$ 66,773	\$ 50,198	\$ 45,125

	As of December 31,		
	2019	2018	2017
Cash and cash equivalents	\$ 46,590	\$ 44,096	\$ 37,859
Restricted cash	20,183	6,102	7,266
Total cash, cash equivalents and restricted cash	\$ 66,773	\$ 50,198	\$ 45,125

**Supplemental cash flow disclosures:**

Interest paid (\$3,046 and \$7,484 of interest paid in 2019 and 2018 attributable to related party, respectively)	\$ 4,081	\$ 8,136	\$ 1,691
Income taxes paid, net of refunds	1,191	1,260	497

**Supplemental non-cash activities:**

Assets acquired through finance leases and software obligations	4,277	1,737	191
Leasehold improvements acquired through lease incentives	2,050	—	—
Change in accounts payable and accrued expenses related to capital expenditures	456	1,149	336
Repurchase of Common Stock in exchange for senior secured convertible notes	—	94,021	—
Shares issued in connection with settlement of litigation	—	90,768	—
Insurance recovery on litigation settlement	—	27,232	—
Common Stock warrants issued with senior secured convertible notes	—	5,733	—
Fair value of financing derivatives issued with senior secured convertible notes	—	17,574	—
Notes Option derivative liability settlement	—	5,700	—
Modification of debt in consideration for the reduction of the senior secured convertible note minimum cash balance requirement	—	4,000	—
Settlement of restricted stock unit liability	4,611	15,818	—
Fair value of warrants issued in private placement	10,798	—	—

See accompanying Notes to Consolidated Financial Statements.

**COMSCORE, INC.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

## 1. Organization

comScore, Inc., together with its consolidated subsidiaries (collectively, "Comscore" or the "Company"), headquartered in Reston, Virginia, is a global information and analytics company that measures audiences, consumer behavior and advertising across media platforms.

Operating segments are defined as components of a business that can earn revenues and incur expenses for which discrete financial information is available that is evaluated on a regular basis by the chief operating decision maker ("CODM"). The Company's CODM is its principal executive officer, who decides how to allocate resources and assess performance. The Company has one operating segment. A single management team reports to the CODM, who manages the entire business. The Company's CODM reviews consolidated results of operations to make decisions, allocate resources and assess performance and does not evaluate the profit or loss from any separate geography or product line.

On March 31, 2019, Bryan Wiener resigned as the Company's Chief Executive Officer ("CEO") and director and Sarah Hofstetter resigned as the Company's President, effective immediately. On the same day, the Company appointed Dale Fuller as Interim CEO, and Mr. Fuller assumed the role of CODM. On November 4, 2019, Mr. Fuller resigned as Interim CEO and William Livek was appointed as CEO and Executive Vice Chairman, and Mr. Livek assumed the role of CODM.

### *Uses and Sources of Liquidity and Management's Plans*

The Company's primary need for liquidity is to fund working capital requirements and capital expenditures of its business. Since 2017, the Company has implemented certain organizational restructuring plans to reduce staffing levels, exit certain geographic regions, and rationalize its leased properties, to enable the Company to decrease its global costs, more effectively align resources to business priorities, and maintain compliance with its financial covenants, as described in [Footnote 4, Long-Term Debt](#). For additional information related to the restructuring plans, refer to [Footnote 16, Organizational Restructuring](#).

The Company has secured the following long-term financing in order to increase its available working capital and fund ongoing operations:

- During 2018, the Company entered into certain agreements with funds affiliated with or managed by Starboard Value LP (collectively, "Starboard"), pursuant to which the Company issued and sold to Starboard a total of \$204.0 million in senior secured convertible notes as well as warrants to purchase shares of the Company's common stock, par value \$0.001 per share (the "Common Stock") in exchange for \$100.0 million in cash and 4,000,000 shares of Common Stock. For additional information, refer to [Footnote 4, Long-term Debt](#).
- On June 26, 2019, the Company issued 2,728,513 shares of Common Stock and four series of warrants in a private placement to CVI Investments, Inc. ("CVI") in exchange for gross cash proceeds of \$20.0 million. On October 14, 2019, the Company issued 2,728,513 shares of Common Stock to CVI upon exercise by CVI of the Series C warrant. For additional information, refer to [Footnote 5, Stockholders' Equity](#).
- On December 31, 2019, the Company's wholly owned subsidiary, Rentrak B.V., entered into an agreement with several third parties (collectively the "Noteholder") for a secured term note (the "Secured Term Note") in exchange for gross proceeds \$13.0 million. The Secured Term Note matures on December 31, 2021, is cash collateralized, and has an annual interest rate of 9.75% that is payable monthly in arrears. For additional information, refer to [Footnote 4, Long-term Debt](#).

As of December 31, 2019, the Company was in compliance with its covenants under the senior secured convertible notes and the Secured Term Note.

Liquidity could be negatively affected by a decrease in demand for the Company's products and services or additional losses from operations, as well as payment of expenses incurred in prior periods. Liquidity could also be negatively affected if the Company elects to pay its interest liability on the senior secured convertible notes (currently set at 12.0% per year) in cash in lieu of Common Stock. Finally, liquidity could be significantly affected if the Company is unable to maintain compliance with the affirmative and negative covenants in the senior secured convertible notes and the Secured Term Note, including the minimum cash balance requirements.

The Company continues to be focused on maintaining flexibility in terms of sources, amounts, and the timing of any potential financing, refinancing or strategic transaction, in order to best position the Company for future success. The Company believes that its sources of funding, after taking into account the restructuring and financing transactions described above, as well as the availability of the rights offering described in [Footnote 4, Long-term Debt](#), will be sufficient to satisfy the Company's estimated liquidity needs and allow the Company to remain in compliance with its covenants under the senior secured convertible notes and the Secured Term Note for at least one year after the date that these financial statements are issued. However, the Company cannot

predict with certainty the outcome of its actions to generate liquidity, including the availability of additional financing, or whether such actions would generate the expected liquidity as currently planned.

## **2. Summary of Significant Accounting Policies**

### ***Basis of Presentation and Consolidation***

The accompanying Consolidated Financial Statements include the accounts of the Company and its wholly-owned domestic and foreign subsidiaries. All intercompany transactions and balances are eliminated upon consolidation.

### ***Reclassification***

Certain amounts in the prior year financial statements have been reclassified to conform to the current year presentation. Specifically, current capital lease obligations have been aggregated within other current liabilities on the Consolidated Balance Sheets. Non-current capital lease obligations have been aggregated within other non-current liabilities on the Consolidated Balance Sheets.

### ***Use of Estimates and Judgments in the Preparation of the Consolidated Financial Statements***

The preparation of financial statements in conformity with generally accepted accounting principles ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the reported amounts of revenue and expense during the reporting periods. Significant estimates and judgments are inherent in the analysis and the measurement of: management's standalone selling price ("SSP"), principal versus agent revenue recognition, determination of performance obligations, determination of transaction price, including the determination of variable consideration and allocation of transaction price to performance obligations, deferred tax assets and liabilities, including the identification and quantification of income tax liabilities due to uncertain tax positions, the valuation and recoverability of goodwill and intangible assets, the determination of appropriate discount rates for lease accounting, the probability of exercising either lease renewal or termination clauses, the assessment of potential loss from contingencies, the fair value determination of financing-related liabilities and warrants, the allowance for doubtful accounts, and the valuation of options, performance-based and market-based stock awards. Management bases its estimates and assumptions on historical experience and on various other factors that are believed to be reasonable under the circumstances. Due to the inherent uncertainty involved in making estimates, actual results reported in future periods may be affected by changes in those estimates. The Company evaluates its estimates and assumptions on an ongoing basis.

### ***Fair Value Measurements***

The Company evaluates the fair value of certain assets and liabilities using the fair value hierarchy. Fair value is an exit price representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. As a basis for considering such assumptions, the Company applies the three-tier GAAP value hierarchy which prioritizes the inputs used in measuring fair value as follows:

Level 1 - observable inputs such as quoted prices in active markets;

Level 2 - inputs other than the quoted prices in active markets that are observable either directly or indirectly;

Level 3 - unobservable inputs of which there is little or no market data, which require the Company to develop its own assumptions.

Financial assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measure. The Company's assessment of the significance of a particular input to the fair value measurements requires judgment and may affect the valuation of the assets and liabilities being measured and their placement within the fair value hierarchy.

For assets that are measured using quoted prices in active markets, the total fair value is the published market price per unit multiplied by the number of units held, without consideration of transaction costs. Assets and liabilities that are measured using significant other observable inputs are primarily valued by reference to quoted prices of similar assets or liabilities in active markets, adjusted for any terms specific to that asset or liability.

Assets and liabilities that are measured at fair value on a non-recurring basis include property and equipment, operating right-of-use assets, intangible assets and goodwill. The Company recognizes these items at fair value when they are considered to be impaired or upon initial recognition. The fair value of these assets and liabilities are determined with valuation techniques using the best information available and may include quoted market prices, market comparables and discounted cash flow models.

### ***Fair Value of Financial Instruments***

Due to their short-term nature, the carrying amounts reported in the Company's Consolidated Financial Statements approximate the fair value for cash and cash equivalents, restricted cash including certificates of deposit, accounts receivable, accounts payable

and accrued expenses, the current portion of contract liability and customer advances. The carrying values of finance lease obligations approximate their fair value as the interest rates for the lease term approximate market rates (Level 2).

The fair values of the Company's financing derivatives are estimated using forward projections and are discounted back at rates commensurate with the remaining term of the related derivatives. The fair value of the interest reset liability is determined based on an estimate for the Company's credit rating, the premium attributable to the payment-in-kind feature of the senior secured convertible notes ("Notes"), and premium estimates for company-specific risk factors (together, the credit adjusted discount rate), the Company's Common Stock price at measurement date, the observable volatility of the Common Stock and risk-free rate. The fair value of the change in control redemption derivative liabilities is determined based on the probability of change of control, credit adjusted discount rate, and risk-free rate. The fair value of the Notes is determined using the credit adjusted discount rate, the Company's Common Stock price at the valuation date, risk-free rate and volatility commensurate with the remaining term of the Notes.

### **Cash and Cash Equivalents**

The Company considers highly liquid investments with an original maturity of three months or less at the time of purchase and qualifying money-market funds as cash equivalents. Cash and cash equivalents are maintained with several financial institutions domestically and internationally. The combined account balances held on deposit at each institution typically exceed Federal Deposit Insurance Corporation ("FDIC") insurance coverage and, as a result, there is a concentration of credit risk related to amounts on deposit in excess of FDIC insurance coverage. The Company monitors this credit risk and makes adjustments to the concentrations as necessary.

### **Restricted Cash**

Restricted cash represents the Company's cash collateral requirements under the Secured Term Note, outstanding letters of credit, international payroll processing exposures, and corporate credit card obligations. As of December 31, 2019 and 2018, the Company had \$20.2 million and \$6.1 million of restricted cash, respectively, of which \$1.0 million was held in certificates of deposit as of both December 31, 2019 and 2018. As of December 31, 2019, certificates of deposit in the amount of \$0.9 million will mature within the next one year.

### **Allowance for Doubtful Accounts**

The Company generally grants uncollateralized credit terms to its customers and maintains an allowance for doubtful accounts to reserve for uncollectible receivables. Allowances are based on management's judgment, which considers historical collection experience, a specific review of all significant outstanding receivables, an assessment of company-specific credit conditions and general economic conditions.

The following is a summary of the allowance for doubtful accounts:

<i>(In thousands)</i>	Years Ended December 31,	
	2019	2018
Beginning Balance	\$ (1,597)	\$ (1,991)
Additions	(727)	(966)
Recoveries	(481)	(225)
Write-offs	886	1,585
Ending Balance	<u>\$ (1,919)</u>	<u>\$ (1,597)</u>

### **Property and Equipment, net**

Property and equipment is recorded at cost, net of accumulated depreciation, and is depreciated on a straight-line basis over the estimated useful lives of the assets, ranging from 3 to 5 years. Assets under finance leases are recorded at their net present value at the commencement of the lease. Assets under finance leases and leasehold improvements are amortized over the shorter of the related lease terms or their useful lives. Replacements and major improvements are capitalized; maintenance and repairs are expensed as incurred.

### **Capitalized Software**

Capitalized software, which is included in property and equipment, net, consists of costs to purchase and develop internal-use software, which the Company uses to provide services to its clients. The costs to purchase and develop internal-use software are capitalized from the time that the preliminary project stage is completed, and it is considered probable that the software will be used to perform the function intended, until the time the software is placed in service for its intended use. Any costs incurred during

subsequent efforts to upgrade and enhance the functionality of the software are also capitalized. Once this software is ready for use in the Company's products, these costs are amortized on a straight-line basis over the estimated useful life of the software, which is typically assessed to be 3 to 5 years. During the years ended December 31, 2019 and 2018 the Company capitalized \$11.9 million and \$9.6 million in internal-use software costs, respectively. The Company depreciated \$4.8 million and \$1.3 million in capitalized internal-use software costs during the years ended December 31, 2019 and 2018, respectively. No amounts were capitalized in 2017.

Certain costs incurred for implementation, setup, and other upfront activities in a hosting arrangement that is a service contract are capitalized within other non-current assets in the Consolidated Balance Sheets. Once the implementation has been completed, the capitalized amounts are amortized on a straight-line basis over the remaining noncancelable term of the hosting arrangement, including options to extend the hosting arrangement when it is reasonably certain the options will be exercised. The Company capitalized \$1.0 million of implementation costs in 2019. No expenses were recognized in 2019, 2018 or 2017.

### **Goodwill and Intangible Assets**

Goodwill represents the excess of the purchase price over the fair value of identifiable assets acquired and liabilities assumed when a business is acquired. The valuation of intangible assets and goodwill involves the use of management's estimates and assumptions and can have a significant impact on future operating results. The Company initially records its intangible assets at fair value. Intangible assets with finite lives are amortized over their estimated useful lives while goodwill is not amortized but is evaluated for impairment at least annually, as of October 1, by comparing the fair value of a reporting unit to its carrying value including goodwill recorded by the reporting unit.

The Company has a single reporting unit. Accordingly, the impairment assessment for goodwill is performed at the enterprise level. Goodwill is reviewed for possible impairment between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of the reporting unit below its carrying value. The Company initially assesses qualitative factors to determine if it is necessary to perform the goodwill impairment review. Goodwill is reviewed for impairment if, based on an assessment of the qualitative factors, it is determined that it is more likely than not that the fair value of the reporting unit is less than its carrying value, or the Company decides to bypass the qualitative assessment. The carrying value of the reporting unit is reviewed utilizing a combination of the discounted cash flow model and a market value approach. The estimated fair value of a reporting unit is determined based on assumptions regarding estimated future cash flows, discount rates, long-term growth rates and market values. Additionally, the Company considers income tax effects from any tax-deductible goodwill on the carrying amount of the reporting unit when measuring the goodwill impairment loss.

The Company monitors for events and circumstances that could negatively impact the key assumptions in determining fair value, including long-term revenue growth projections, profitability, discount rates, volatility in the Company's market capitalization, general industry, and market and macro-economic conditions. It is possible that future changes in such circumstances, or in the variables associated with the judgments, assumptions and estimates used in assessing the fair value of the reporting unit, would require the Company to record a non-cash impairment charge.

The Company performed an interim analysis as of June 30, 2019 and determined that goodwill was then impaired. Refer to [Footnote 9](#), *Goodwill and Intangible Assets* for further information. The Company completed its annual assessment on October 1, 2019, and there was no additional impairment of goodwill at the assessment date. There were no goodwill impairment charges recognized during the years ended December 31, 2018 and 2017.

Intangible assets with finite lives are generally amortized using the straight-line method over the following useful lives:

	<b>Useful Lives (Years)</b>
Acquired methodologies/technology	2 to 7
Acquired software	3
Customer relationships	3 to 7
Intellectual property	2 to 13
Patent	1 to 7
Trade Names	2 to 6
Other	6 to 8



### ***Impairment of Long-Lived Assets***

The Company's long-lived assets consist of property and equipment and finite-lived intangible assets. The Company evaluates its long-lived assets for impairment whenever events or changes in circumstances indicate the carrying value of such assets may not be recoverable. If an indication of impairment is present, the Company compares the estimated undiscounted future cash flows to be generated by the asset group to its carrying amount. Recoverability measurement and estimation of undiscounted cash flows are grouped at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. If the undiscounted future cash flows are less than the carrying amount of the asset group, the Company records an impairment loss equal to the excess of the asset group's carrying amount over its fair value. The fair value is determined based on valuation techniques such as a comparison to fair values of similar assets or using a discounted cash flow analysis.

Although the Company believes that the carrying values of its long-lived assets are appropriately stated, changes in strategy or market conditions, significant technological developments or significant changes in legal or regulatory factors could significantly impact these judgments and require adjustments to recorded asset balances. The Company performed an interim analysis as of June 30, 2019, as events or changes in circumstances indicated the carrying value of certain assets may not be recoverable, and determined that the Company's strategic alliance (the "strategic alliance") with WPP plc and its affiliates ("WPP") was impaired. Refer to [Footnote 9, Goodwill and Intangible Assets](#) for further information. There were no impairment charges recognized during the years ended December 31, 2018 and 2017 or subsequent to June 30, 2019.

### ***Accounting for Warrants***

In June 2019, the Company issued warrants to CVI in connection with the private placement described above. The warrants were determined to be freestanding financial instruments that qualify for liability treatment as a result of a net cash settlement feature associated with a cap on the issuance of shares under certain circumstances. Changes in the fair value of these instruments are immediately recorded in other income (expense), net in the Consolidated Statements of Operations and Comprehensive Loss.

The fair value of the warrants is determined using a Monte Carlo simulation analysis within an option pricing model. The fair value estimate is determined using an estimate for the Company's cost of debt, probability of change of control, dividend yield, risk-free rate, remaining term of the warrants and volatility. The fair values of the warrants are estimated using forward projections of stock issuances with relative certainty and estimated payments at each exercise date discounted back to the valuation date with the remaining term of the related warrants. The primary sensitivity in the valuation of each warrant liability is driven by the Common Stock price at the measurement date and the observable volatility of the Common Stock.

### ***Equity Securities***

The Company sold its remaining investment in equity securities during 2019 for gross cash proceeds of \$3.8 million. Changes in the investment's fair value were reported in other income (expense), net as they occurred; therefore, the sale of this investment did not result in a gain or loss in the Consolidated Statements of Operations and Comprehensive Loss.

### ***Leases***

The Company applies the provisions of Accounting Standards Codification ("ASC") 842, *Leases*. The Company's lease portfolio is comprised of three major classes. Real estate leases, which are the majority of the Company's leased assets, are accounted for as operating leases. Computer equipment and automobile leases, which comprise the remaining two major lease classes in the Company's portfolio, are generally accounted for as finance leases.

The Company determines if an arrangement is a lease at inception by evaluating whether the arrangement conveys the right to use an identified asset and whether the Company obtains substantially all of the economic benefits from and has the ability to direct the use of the asset. Right-of-use ("ROU") assets and lease liabilities are recognized at the lease commencement date based on the present value of the future minimum lease payments over the lease term. Operating ROU assets also include the impact of any lease incentives.

For any leases in which an asset is not specifically identified, the Company performs a discrete analysis to identify whether there is an implicitly identified asset based on the contractual or other known requirements, such as the presence of substantive substitution rights on the part of the supplier or the right of the Company to sublease the asset. As part of this analysis, the Company also determines whether there are any restrictions on the use of the asset placed on the Company that are not considered protective rights on the part of the supplier and thus would allow the Company to assume which specific assets have been identified.

The Company identifies separate lease and non-lease components within the contract. Non-lease components primarily include payments for common-area maintenance and management charges. The Company has elected to combine lease and non-lease payments and account for them together as a single lease component, which increases the amount of the Company's ROU assets and lease liabilities.

The interest rate used to determine the present value of the future lease payments is the Company's incremental borrowing rate, because the interest rate implicit in the Company's leases is not readily determinable. The incremental borrowing rate is estimated to approximate the interest rate on a collateralized basis with similar terms and payments, and in economic environments where the leased asset is located. The Company's current discount rates range from 13.6% to 14.6% depending on the term of the lease.

The Company's lease terms include periods under options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. The Company considers contractual-based factors such as the nature and terms of the renewal or termination, asset-based factors such as physical location of the asset and entity-based factors such as the importance of the leased asset to the Company's operations to determine the lease term. The Company generally uses the base, non-cancelable, lease term when determining the ROU assets and lease liabilities.

Payments under the Company's lease arrangements are primarily fixed; however, certain lease agreements contain variable payments, which are expensed as incurred and not included in the measurement of ROU assets and lease liabilities. These amounts include payments affected by changes in the Consumer Price Index and payments for common-area maintenance, real estate taxes and utilities, which are based on usage or performance.

Operating leases are included in operating ROU assets, current operating lease liability, and non-current operating lease liability in the Consolidated Balance Sheets. The Company recognizes lease expense for its operating leases on a straight-line basis over the term of the lease. Finance lease activity is included in property and equipment, net; current finance lease liabilities are aggregated into other current liabilities; and non-current finance lease obligations are aggregated in other non-current liabilities in the Company's Consolidated Balance Sheets. Finance ROU assets are amortized on a straight-line basis over their estimated useful lives.

The execution of a sublease where remaining lease payments on the head lease exceed the anticipated sublease receipts reflects an indication of impairment which suggests the carrying value of the ROU asset may not be recoverable. The Company treats operating lease ROU assets as financing transactions, thereby excluding the operating lease liability and related lease payments from the head lease, for purposes of testing recoverability. The Company compares the estimated undiscounted cash flows generated by the sublease to the current carrying value of the ROU asset. If the undiscounted cash flows are less than the carrying value of the ROU asset, the Company records an impairment loss equal to the excess of the ROU asset's carrying value over its fair value consistent with other long-lived assets.

Income from subleased properties is recognized on a straight-line basis and presented as a reduction of costs, allocated among operating expense line items, in the Company's Consolidated Statements of Operations and Comprehensive Loss. In addition to sublease rent, variable non-lease costs such as common-area maintenance and utilities are charged to subtenants over the duration of the lease for their proportionate share of these costs. These variable non-lease income receipts are recognized in operating expenses as a reduction to costs incurred by the Company in relation to the head lease.

The Company determines the nature of a sale-leaseback transaction based on the determination of whether the transaction qualifies as a sale and whether there is a transfer in the control of assets. If the transaction does not qualify as a sale, the Company recognizes the transaction as a failed sale-leaseback transaction (financing arrangement). The Company records a financing obligation, and the assets that are included in the failed sale-leaseback transaction remain on the Consolidated Balance Sheets until the end of the lease term.

### **Change in Accounting Policy**

The Company adopted ASC 842, with an initial application date of January 1, 2019, using the modified retrospective transition method with optional transition relief, under which the Company did not restate prior comparative periods and instead recorded an adjustment to stockholders' equity as of the date of initial implementation for the cumulative impact of adoption.

As part of the transition, the Company implemented new internal controls and key system functionality to enable the preparation of financial information on adoption, and elected the following practical expedients:

- Not to reassess whether any expired or existing contracts are or contain leases.
- Not to reassess the lease classification for any expired or existing leases.
- Not to reassess initial direct costs for any existing leases.
- The hindsight practical expedient in determining the lease term.
- The practical expedient whereby the lease and non-lease components will not be separated for all classes of assets.
- Not to record ROU assets and corresponding lease liabilities with a lease term of 12 months or less.

The Company has elected to net its sublease exit liabilities recognized under ASC 420, *Exit or Disposal Cost Obligations* as an adjustment to the opening ROU asset for the corresponding head lease established upon the adoption of ASC 842. Sublease exit liabilities had a carrying value of \$2.5 million as of December 31, 2018.

Upon adoption, ASC 842 had an impact on the Consolidated Balance Sheets but did not have an impact on the Consolidated Statements of Operations and Comprehensive Loss. The adoption of ASC 842 impacted the Company's previously reported results as follows:

<i>(In thousands)</i>	<b>As previously reported as of December 31, 2018</b>	<b>New lease standard adjustments</b>	<b>As adjusted as of January 1, 2019</b>
Operating right-of-use assets	\$ —	\$ 42,472	\$ 42,472
Property and equipment, net	27,339	(203)	27,136
Current capital lease obligations	2,421	(161)	2,260
Current restructuring accrual	5,479	(708)	4,771
Current deferred rent	1,884	(1,884)	—
Current operating lease liabilities	—	7,846	7,846
Non-current restructuring accrual	1,810	(1,810)	—
Non-current deferred rent	10,304	(10,304)	—
Non-current capital lease obligations	1,182	3	1,185
Non-current operating lease liabilities	—	49,333	49,333
Stockholders' equity	551,567	(46)	551,521

### **Foreign Currency**

Generally, the functional currency of the Company's foreign subsidiaries is the local currency. In those cases where the transaction is not denominated in the functional currency, the Company revalues the transaction to the functional currency and records the translation gain or loss in the Company's Statements of Operations and Comprehensive Loss. Assets and liabilities are translated at the current exchange rate as of the end of the year, and revenues and expenses are translated at average exchange rates in effect during the year. The gain or loss resulting from the process of translating a foreign subsidiary's functional currency financial statements into U.S. Dollars ("USD") is reflected as foreign currency cumulative translation adjustment and reported as a component of accumulated other comprehensive loss. The translation adjustment for intercompany foreign currency loans that are permanent in nature are also recorded as accumulated other comprehensive loss. Translation adjustments on intercompany accounts that are short term in nature are recorded as gain (loss) from foreign currency transactions. For foreign entities where USD is the functional currency, re-measurement of gains and losses related to deferred tax assets and liabilities are reflected in income tax provision in the Company's Statements of Operations and Comprehensive Loss.

### **Revenue Recognition**

The Company applies the provisions of ASC 606, *Revenue from Contracts with Customers*, and all related applicable guidance. The Company recognizes revenue under the core principle to depict the transfer of control to its customers in an amount reflecting the consideration to which it expects to be entitled. In order to achieve that core principle, the Company applies the following five-step approach: (1) identify the contract with a customer, (2) identify the performance obligations in the contract, (3) determine the transaction price, (4) allocate the transaction price to the performance obligations in the contract, and (5) recognize revenue when a performance obligation is satisfied.

The Company's contracts with customers may include multiple promised goods and services. Contracts with multiple performance obligations typically consist of a mix of subscriptions to the Company's online database, customized data services, and delivery of periodic custom reports based on information obtained from the database. In such cases, the Company identifies performance obligations by evaluating whether the promised goods and services are capable of being distinct and distinct within the context of the contract at contract inception. Promised goods and services that are not distinct at contract inception are combined as one performance obligation. Once the Company identifies the performance obligations, the Company will determine the transaction price based on contractually fixed amounts and an estimate of variable consideration. The Company allocates the transaction price to each performance obligation based on relative standalone selling price ("SSP"). Judgment is exercised to determine the SSP of each distinct performance obligation. The Company will constrain estimates of variable consideration based on its expectation of recovery from the customer. Some sources of variable consideration such as refunds, penalties, or allowances will reduce transaction price. In some instances, the Company may have non-cash consideration or elements of consideration payable to the customer, which will also be included in the transaction price. These sources of variable consideration are relatively infrequent and generally not significant. The Company recognizes revenue when (or as) it satisfies a performance obligation by transferring promised goods or services to a customer. Customers may obtain the control of promised goods or services over time or at a point in time. The Company recognizes revenue net of sales taxes remitted to government authorities. In general, transaction price is determined by estimating the fixed amount of consideration to which the Company is entitled for transfer of goods and services and all relevant

sources and components of variable consideration. Variable consideration is estimated based on the most likely amount or expected value approach, depending on which method the Company expects to better predict the amount of consideration to which it will be entitled. Once the Company elects one of the methods to estimate variable consideration for a particular type of performance obligation, the Company will apply that method consistently.

Subscription-based revenues are typically recognized on a straight-line basis over the access period, which ranges from three to thirty-six months. Revenue for validated Campaign Essentials ("vCE") and Comscore Campaign Ratings ("CCR") is recognized over time, either on a time-elapsed basis, as the Company is providing services that the customer is continuously consuming and receiving benefit from, or on an output method, such as volume of impressions processed. Activation products vary in nature, and can be recognized over time, generally on an input method time-elapsed basis, as the Company provides continuous tracking of activity. Other activation products are delivered at a point in time, based on custom attributes agreed upon by customers and the Company.

The Company's customized data services are delivered in the form of custom recurring reports or ad hoc reports. Custom report performance obligations, in general, are transferred at a point in time once the product has been delivered to the customer.

Survey products vary in nature and can be recognized at a point in time, generally on an output method report delivery basis, once the final report has been delivered to the customer. Other survey products are recognized over time, generally on a time-elapsed basis, as the Company provides access to continuous reporting on survey results through a user interface. Survey services consist of survey design with subsequent data collection, analysis and reporting.

For performance obligations satisfied at a point in time, the Company evaluates a number of factors to determine whether control of goods and services has been transferred. The Company considers whether there is a present right to payment and whether the customer has accepted the asset. In many instances the Company has objective evidence of the acceptance criteria, while in other cases the acceptance provisions are substantive, and the customer must affirmatively signal acceptance. The preceding two factors are not the only factors that may be considered. Other considerations include, but are not limited to, whether risks and rewards of ownership have been transferred for a particular product.

For the majority of its products and services, the Company applies an adjusted market assessment approach for the determination of SSP for identified performance obligations. In general, the Company bundles multiple products and very few are sold on a standalone basis. The Company uses rate cards and pricing calculators that are periodically reviewed and updated to reflect the latest sales data and observable inputs by industry, channel, geography, customer size, and other relevant groupings. Certain products are sold on a standalone basis in a narrow band of prices. If a product is sold outside of the narrow band of prices, it will be assigned the midpoint of the narrow band for purposes of allocating transaction price on a relative SSP basis.

Customers may have the right to cancel their contracts by providing a written notice of cancellation, although most subscription-based contracts are non-cancelable. If a customer cancels its contract, the customer is generally not entitled to a refund for prior services. In the event a portion of a contract is refundable, revenue recognition is delayed until the refund provision lapses. For multi-year contracts with annual price increases and no opt out clauses, the total consideration for each of the years included in the contract term will be combined and recognized on a straight-line basis over the term of the contract.

The Company may enter into multiple contracts with a single counterparty at or near the same time. The Company will combine contracts and account for them as a single contract when one or more of the following criteria are met: (i) the contracts are negotiated as a package with a single commercial objective, (ii) consideration to be paid in one contract depends on the price or performance of the other contract, and (iii) goods or services promised are a single performance obligation.

For transactions that involve third parties, the Company evaluates whether the Company is the principal, in which case the Company recognizes revenue on a gross basis. If the Company is an agent, the Company recognizes revenue on a net basis. In certain countries, the Company may use third-party resellers to sell its products and services. In these transactions, the Company is generally the principal as the Company controls the products and services and is primarily responsible for providing them to the end user. The Company also has certain revenue share arrangements that involve the use of partner data in its sales to end users or the use of its data in partner sales to end users. In these arrangements, the Company assesses which party controls the specified goods or services before they are transferred to the customer, as well as other indicators such as the party primarily responsible for fulfillment, inventory risk, and discretion in establishing price.

The Company enters into a limited number of monetary contracts with multichannel video programming distributors ("MVPDs") that involve both the purchase and sale of services with a single counterparty. The Company assesses each contract to determine if the revenue and expense should be presented gross or net. The Company recognizes revenue for these contracts to the extent that SSP is established for distinct services provided. Any excess consideration above the established SSP of services is presented as an offset to cost of revenues in the Consolidated Statements of Operations and Comprehensive Loss.

Nonmonetary transactions represent data exchanges, which may consist of digital usage and general demographic data. The data obtained through nonmonetary transactions differs from the data provided by the Company in the exchange. Under ASC 606, the transaction price of a nonmonetary exchange that has commercial substance is based on the fair value of the non-cash consideration

received. If an entity cannot reasonably estimate the fair value of the non-cash consideration received, then it uses the estimated selling price of the promised goods or services. None of the nonmonetary transactions entered into by the Company met the requirements to recognize revenue or expense. Therefore, these nonmonetary transactions are not reflected in the Consolidated Financial Statements.

### ***Contract Balances***

Accounts receivable are billed and unbilled amounts related to the Company's rights to consideration as performance obligations are satisfied when the rights to payment become unconditional but for the passage of time.

Contract assets are included in prepaid expenses and other current assets within the Consolidated Balance Sheets. Contract assets represent the Company's right to consideration in exchange for goods or services transferred to the customer either prior to the receipt of consideration or before payment is due.

Contract payments are generally due in advance for subscription-based services or prior to delivery of custom reports. If a contract exists under ASC 606, advance payments are recorded as a contract liability or a customer advance until the performance obligations are satisfied and revenue is earned.

Contract liabilities relate to amounts billed in advance, or advance consideration received from customers, for which transfer of control of the good or service occurs at a later point in time. Customer advances relate to amounts billed in advance, or advance considerations received from customers, for contracts with termination rights for which transfer of control of the good or service occurs at a later point in time. Contract liabilities and customer advances to be recognized in the succeeding twelve-month period are classified as current and the remaining amounts are classified as non-current liabilities within the Consolidated Balance Sheets.

### ***Transaction Price Allocated to the Remaining Performance Obligations***

The Company elected an optional exemption to not disclose information about remaining performance obligations that have an original expected duration of one year or less, or where the transaction price allocated to unsatisfied performance obligations for which variable consideration is allocated entirely to a wholly unsatisfied performance obligation, or to a wholly unsatisfied promise to transfer a distinct good or service that forms part of a single performance obligation in accordance with the series guidance.

### ***Costs to Obtain or Fulfill a Contract***

The Company elected the practical expedient to recognize the incremental costs of obtaining contracts as an expense when incurred if the amortization period of the assets is one year or less. These costs include commission programs to compensate employees for obtaining new contracts and are included in selling and marketing expense.

Certain costs to fulfill are capitalized in relation to long-term contracts wherein the transfer of goods and services will occur at a point in time. In addition, the Company capitalizes costs to fulfill for long-term contracts that are incurred during a setup period prior to transferring control of the good or service over time. These costs include dedicated employees, subcontractors, and other third-party costs. The Company will assess capitalized costs to fulfill at each reporting period for recoverability. These costs are included in cost of revenue and are recognized in the same manner as the corresponding performance obligation.

### ***Cost of Revenues***

Cost of revenues consists primarily of costs to produce the Company's products including viewing data from MVPDs, census-based, panel and other third-party data as well as costs to operate its network infrastructure including data center, data storage and compliance costs. Other costs include amortization of capitalized fulfillment costs, employee costs including stock-based compensation, depreciation related to assets used to maintain the network and produce products and allocated overhead, including rent and depreciation expenses generated by general purpose equipment and software.

### ***Selling and Marketing***

Selling and marketing expenses consist primarily of salaries, commissions, stock-based compensation, benefits and bonuses for personnel associated with sales and marketing activities, as well as costs related to online and offline advertising, product management, seminars, promotional materials, public relations, other sales and marketing programs, and allocated overhead, including rent and other facilities related costs, and depreciation.

### ***Research and Development***

Research and development expenses consist primarily of salaries, stock-based compensation, benefits and related costs for personnel associated with research and development activities, as well as allocated overhead, including rent and other facilities related costs, and depreciation.

**General and Administrative**

General and administrative expenses consist primarily of salaries, stock-based compensation, benefits and related costs for executive management, finance, accounting, human capital, legal, information technology and other administrative functions, as well as professional fees and allocated overhead, including rent and other facilities related costs, depreciation and expenses incurred for other general corporate purposes.

**Investigation and Audit Related**

Investigation expenses are professional fees associated with legal and forensic accounting services rendered as a result of an internal Audit Committee investigation into matters related to the Company's revenue recognition practices, disclosures, internal controls, corporate culture and employment practices prior to 2017. Audit related expenses consist of professional fees associated with accounting related consulting services and external auditor fees associated with the audit of the Company's prior-year financial statements. Also included are litigation related expenses, which include legal fees associated with various lawsuits or investigations that were initiated either directly or indirectly as a result of the Audit Committee's investigation.

**Other Income (Expense), Net**

The following is a summary of other income (expense), net:

<i>(In thousands)</i>	Years Ended December 31,		
	2019	2018	2017
Change in fair value of financing derivatives	\$ 5,100	\$ (14,226)	\$ —
Change in fair value of warrants liability	(2,411)	—	—
Change in fair value of investment in equity securities	(2,324)	1,443	—
Transition services agreement income	534	9,029	11,080
Gain on forgiveness of obligation	—	—	4,000
Other	755	2,290	125
<b>Total other income (expense), net</b>	<b>\$ 1,654</b>	<b>\$ (1,464)</b>	<b>\$ 15,205</b>

**Concentration of Credit Risk**

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash, cash equivalents, restricted cash and accounts receivable. The Company maintains cash deposits with financial institutions that, from time to time, exceed applicable insurance limits. The Company reduces this risk by maintaining such deposits with high quality financial institutions that management believes are creditworthy. With respect to accounts receivable, credit risk is mitigated by the Company's ongoing credit evaluation of its customers' financial condition.

**Debt Issuance Costs**

The Company reflects debt issuance costs in the Consolidated Balance Sheets as a direct deduction from the gross amount of debt, consistent with the presentation of a debt discount. Debt issuance costs are amortized to interest expense, net over the term of the underlying debt instrument, utilizing the effective interest method.

**Derivative Financial Instruments**

The Company has derivative financial instruments that are not hedges and do not qualify for hedge accounting. Changes in the fair value of these instruments are recorded in other income (expense), net in the Consolidated Statements of Operations and Comprehensive Loss.

**Stock-Based Compensation**

The Company estimates the fair value of stock-based awards on the date of grant. The fair value of stock options with only service conditions is determined using the Black-Scholes option pricing model. The fair value of restricted stock units ("RSUs") and restricted stock awards is based on the closing price of the Company's Common Stock on the date of grant. The Company amortizes the fair value of awards expected to vest on a straight-line basis over the requisite service periods of the awards, which is generally the period from the grant date to the end of the vesting period. The determination of the fair value of the Company's stock option awards is based on a variety of factors, including, but not limited to, the Company's Common Stock price, risk-free rate, expected stock price volatility over the expected life of awards, dividend yield and actual and projected exercise behavior. Additionally, the

Company has estimated forfeitures for stock-based awards at the dates of grant based on historical experience and adjusted for future expectation. The Company performs a review of the forfeiture rate assumption at least annually or as deemed necessary if there are changes that could potentially significantly impact the future rate of forfeiture of its stock-based awards. The forfeiture estimate is revised as necessary if actual forfeitures differ from these estimates.

The Company issues RSU awards with restrictions that lapse upon the passage of time (service vesting), achieving performance targets, fulfillment of market conditions or a combination thereof. For those RSU awards with only service vesting, the Company recognizes compensation cost on a straight-line basis over the service period. For awards with performance conditions only, or performance and service conditions, the Company starts recognizing compensation cost over the remaining service period when it is probable the performance conditions will be met. Stock awards that contain performance vesting conditions are excluded from diluted earnings per share computations until the contingency is met as of the end of that reporting period.

For awards with market conditions, the Company recognizes compensation cost over the remaining service period, with the effect of the market condition reflected in the calculation of the award's fair value at grant date. The Company values awards with market conditions using certain valuation techniques, such as a Monte Carlo simulation analysis. The Company determines the requisite service period based on the longer of the explicit service period and the derived service period. Stock awards that contain market vesting conditions are included in the computations of diluted EPS reflecting the number of shares that would be issued based on the current market price at the end of the period being reported on, if their effect is dilutive.

Under the Company's annual incentive compensation plan, the Company may grant immediate or future vesting RSUs to certain employees. For these awards, stock-based compensation expense is recognized over the requisite service period, which generally precedes the grant date. The Company accrues stock-based compensation expense for these awards until the date of grant.

### ***Income Taxes***

Income taxes are accounted for using the asset and liability method. Deferred income taxes are provided for temporary differences in recognizing certain income, expense and credit items for financial reporting purposes and tax reporting purposes. Such deferred income taxes primarily relate to the difference between the tax bases of assets and liabilities and their financial reporting amounts. Deferred tax assets and liabilities are measured by applying enacted statutory tax rates applicable to the future years in which deferred tax assets or liabilities are expected to be settled or realized. Excess tax benefits and tax deficiencies are recognized in the income tax provision in the period in which they occur.

The Company records a valuation allowance when it determines, based on available positive and negative evidence, that it is more-likely-than-not that some portion or all of its deferred tax assets will not be realized. The Company determines the realizability of its deferred tax assets primarily based on the reversal of existing taxable temporary differences and projections of future taxable income (exclusive of reversing temporary differences and carryforwards). In evaluating such projections, the Company considers its history of profitability, the competitive environment, and general economic conditions. In addition, the Company considers the time frame over which it would take to utilize the deferred tax assets prior to their expiration.

For certain tax positions, the Company uses a more-likely-than-not threshold based on the technical merits of the tax position taken. Tax positions that meet the more-likely-than-not recognition threshold are measured at the largest amount of tax benefits determined on a cumulative probability basis, which are more-likely-than-not to be realized upon ultimate settlement in the financial statements. The Company's policy is to recognize interest and penalties related to income tax matters in income tax expense.

On December 22, 2017, U.S. tax reform legislation known as the Tax Cuts and Jobs Act (the "TCJA") was signed into law. As of December 31, 2018, the Company's accounting for the TCJA has been completed. The Company has determined the effects of certain provisions, including but not limited to: a reduction in the corporate tax rate from 35% to 21%, a limitation of the deductibility of certain officers' compensation, a limitation on the current deductibility of net interest expense in excess of 30% of adjusted taxable income, a limitation of net operating losses generated after 2018 to 80% of taxable income, an incremental tax (base erosion anti-abuse or "BEAT") on excessive amounts paid to foreign related parties, and a minimum tax on certain foreign earnings in excess of 10% of the foreign subsidiaries tangible assets (global intangible low-taxed income or "GILTI"). As part of its GILTI review, the Company has determined that it will account for GILTI income as it is generated (i.e., treat it as a period expense). Given the Company's loss position in the U.S. and the valuation allowance recorded against its U.S. net deferred tax assets, these provisions have not had a material impact on the Company's financial statements.



**Loss Per Share**

Basic net loss per common share excludes dilution for potential Common Stock issuances and is computed by dividing net loss by the weighted-average number of shares of Common Stock outstanding for the period. 250,000 shares of Common Stock issuable upon the exercise of warrants ("penny warrants") were included in the number of outstanding shares used for the computation of basic net loss per share prior to the exercise of those warrants on April 3, 2019. In periods with a reported net loss, the effect of anti-dilutive stock options, stock appreciation rights, restricted stock units, senior secured convertible notes and warrants are excluded and diluted loss per share is equal to basic loss per share.

The following is a summary of the Common Stock equivalents for the securities outstanding during the respective periods that have been excluded from the computation of diluted net loss per common share, as their effect would be anti-dilutive:

	Years Ended December 31,		
	2019	2018	2017
Stock options, stock appreciation rights, restricted stock units, senior secured convertible notes and warrants	12,443,032	8,392,748	2,837,872

**Comprehensive Loss**

Comprehensive loss consists of net loss, foreign currency translation adjustments and the unrealized gains on investments in marketable securities.

**Accounting Standards Recently Adopted**

In July 2017, the Financial Accounting Standards Board ("FASB") issued ASU 2017-11, *Earnings Per Share, Distinguishing Liabilities from Equity; Derivatives and Hedging*. This update was issued to address complexities in accounting for certain equity-linked financial instruments containing down round features. The amendments in ASU 2017-11 change the classification analysis of these financial instruments (or embedded features) so that equity classification is no longer precluded. The amendments in ASU 2017-11 are effective for annual reporting periods beginning after December 15, 2018, including interim reporting periods within those annual reporting periods. Early adoption is permitted. The adoption of the standard did not have an impact on the Consolidated Financial Statements.

In February 2018, the FASB issued ASU 2018-02, *Income Statement-Reporting Comprehensive Income (Topic 220): Reclassification of Certain Tax Effects from Accumulated Other Comprehensive Income*. This update was issued to allow companies to reclassify tax effects stranded in accumulated other comprehensive income as a result of tax reform to retained earnings. Companies that elect to reclassify these amounts must reclassify stranded tax effects for all items accounted for in accumulated other comprehensive income. The amendments in ASU 2018-02 are effective for annual reporting periods beginning after December 15, 2018, including interim reporting periods within those annual reporting periods. Early adoption is permitted. Upon adoption of the standard, the Company did not elect to reclassify stranded tax effects to retained earnings. The adoption of the standard did not have an impact on the Consolidated Financial Statements.

In June 2018, the FASB issued ASU 2018-07, *Compensation—Stock Compensation (Topic 718): Improvements to Non-employee Share-Based Payment Accounting*. This update was issued to allow companies to account for share-based payment transactions with non-employees in the same way as share-based payment transactions with employees, with the main differences being the accounting for attribution and a contractual term election for valuing non-employee equity share options. The amendments in ASU 2018-07 are effective for annual reporting periods beginning after December 15, 2018, including interim reporting periods within those annual reporting periods. Per ASU 2018-07, this update should be applied on a modified retrospective basis via a cumulative effect adjustment to retained earnings as of the beginning of the fiscal year of adoption. Early adoption is permitted only if the Company has adopted ASC 606, *Revenue from Contracts with Customers*. The adoption of the standard did not have an impact on the Consolidated Financial Statements.

In August 2018, the FASB issued ASU 2018-15, *Intangibles - Goodwill and Other - Internal-Use Software (Subtopic 350-40): Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That is a Service Contract*. This update was issued to align the requirements for capitalizing implementation costs incurred in a hosting arrangement that is a service contract with the requirements for capitalizing implementation costs incurred to develop or obtain internal-use software (and hosting arrangements that include an internal-use software license). The amendments in ASU 2018-15 are effective for annual periods beginning after December 15, 2019, including interim reporting periods within those annual periods. Early adoption is permitted. The Company early adopted this standard, effective January 1, 2019, on a prospective basis. The adoption did not have an impact on the Consolidated Financial Statements.

In July 2019, the FASB issued ASU 2019-07, *Codification Updates to SEC Sections*. This update was issued to align the codification requirements with the issuance of SEC Final Rule Releases No. 33-10532, *Disclosure Update and Simplification*, and Nos. 33-10231



and 33-10442, *Investment Company Reporting Modernization*, as well as other miscellaneous updates, including updates to XBRL taxonomy. The adoption did not have an impact on the Consolidated Financial Statements.

### Recently Issued Accounting Pronouncements

In December 2019, the FASB issued ASU 2019-12, *Income Taxes (Topic 740)*, which simplifies the accounting for income taxes by eliminating certain exemptions as well as a few other changes. The amendments are effective for fiscal years beginning after December 15, 2020, including interim periods within those fiscal years. An entity is permitted to early adopt any removed or modified disclosures upon issuance of the update and to delay adoption of the additional disclosures until their effective date. The Company is in the process of evaluating the guidance but does not believe that the adoption of this standard will have a material impact on the Consolidated Financial Statements or related disclosures.

In August 2018, the FASB issued ASU 2018-13, *Fair Value Measurement (Topic 820)*, which removes and modifies certain disclosure requirements under Topic 820. The amendments are effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. An entity is permitted to early adopt any removed or modified disclosures upon issuance of the update and to delay adoption of the additional disclosures until their effective date. The Company is in the process of evaluating the guidance but does not believe that the adoption of this standard will have a material impact on the Consolidated Financial Statements or related disclosures.

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments - Credit Losses (Topic 326)*, which requires the measurement and recognition of expected credit losses for financial assets held at amortized cost. ASU 2016-13 replaces the existing incurred loss impairment model with an expected loss model which requires consideration of forward-looking information to calculate credit loss estimates. These changes will result in an earlier recognition of credit losses. The amendment is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. The Company's financial assets held at amortized cost include certificates of deposit, accounts receivable and contract assets. The Company will adopt the new standard effective January 1, 2020 and does not expect the adoption of this standard will have a material impact on the Consolidated Financial Statements or related disclosures.

### 3. Revenue Recognition

The following table presents the Company's revenue disaggregated by solution group, geographical market and timing of transfer of products and services. The Company has one reportable segment in accordance with ASC 280, *Segment Reporting*; as such, the disaggregation of revenue below reconciles directly to its unique reportable segment.

(In thousands)	Years Ended December 31,	
	2019	2018
<b>By solution group:</b>		
Ratings and Planning	\$ 271,623	\$ 285,355
Analytics and Optimization	74,725	92,380
Movies Reporting and Analytics	42,297	41,747
<b>Total</b>	<b>\$ 388,645</b>	<b>\$ 419,482</b>
<b>By geographical market:</b>		
United States	\$ 336,087	\$ 359,379
Europe	30,619	34,623
Latin America	10,326	13,179
Canada	7,046	7,882
Other	4,567	4,419
<b>Total</b>	<b>\$ 388,645</b>	<b>\$ 419,482</b>
<b>By timing of revenue recognition:</b>		
Products and services transferred at a point in time	\$ 93,036	\$ 113,583
Products and services transferred over time	295,609	305,899
<b>Total</b>	<b>\$ 388,645</b>	<b>\$ 419,482</b>

### Contract Balances

The following table provides information about receivables, contract assets, contract costs, contract liabilities and customer advances from contracts with customers:

<i>(In thousands)</i>	As of	As of
	December 31, 2019	December 31, 2018
Accounts receivable, net	\$ 71,853	\$ 75,609
Current and non-current contract assets	1,035	2,438
Current and non-current contract costs	799	1,402
Current contract liability	58,158	64,189
Current customer advances	9,886	6,688
Non-current contract liability	291	508

Significant changes in the contract assets and the contract liabilities balances are as follows:

<i>(In thousands)</i>	Contract Liability (Current)	
	Years Ended December 31,	
	2019	2018
Revenue recognized that was included in the contract liability balance at the beginning of period	\$ (58,918)	\$ (75,162)
Cash received or amounts billed in advance and not recognized as revenue	53,881	60,040

### Transaction Price Allocated to the Remaining Performance Obligations

As of December 31, 2019, approximately \$230 million of revenue is expected to be recognized from remaining performance obligations that are unsatisfied (or partially unsatisfied) for non-cancelable contracts. The Company expects to recognize revenue on approximately 64% of these remaining performance obligations in 2020, and approximately 25% in 2021, with the remainder recognized thereafter.

### Costs to Obtain or Fulfill a Contract

As of December 31, 2019 and 2018, the Company had \$0.8 million and \$1.4 million, respectively, in capitalized contract costs. For the years ended December 31, 2019 and 2018, amortized and expensed contract costs were \$1.9 million and \$2.3 million, respectively.

## 4. Long-term Debt

### Issuance and Sale of Initial Notes

On January 16, 2018, the Company entered into certain agreements with Starboard, pursuant to which, among other things, the Company issued and sold to Starboard \$150.0 million of senior secured convertible notes (the "Initial Notes") in exchange for \$85.0 million in cash and 2,600,000 shares of Common Stock valued at \$65.0 million. Based upon the fair value of the Common Stock on the closing date of the Initial Notes issuance, January 16, 2018, which was \$24.45 per share, the difference of \$1.4 million was recorded as an issuance discount to the Initial Notes. The Company also granted to Starboard an option (the "Notes Option") to acquire up to an additional \$50.0 million in senior secured convertible notes (the "Option Notes" and together with the Initial Notes, the "Notes") and agreed to grant Starboard warrants to purchase 250,000 shares of Common Stock at a price of \$0.01 per share, as adjusted pursuant to the terms of the warrants. The warrants were issued on October 12, 2018 and were exercised in full by Starboard on April 3, 2019 for 323,448 shares of Common Stock.

The conversion price for the Notes (the "Conversion Price") is equal to a 30% premium to the volume weighted average trading prices ("VWAP") of the Common Stock on each trading day during the 10 consecutive trading days commencing on January 16, 2018, subject to a Conversion Price floor of \$28.00 per share. In accordance with the foregoing, the Conversion Price was set at \$31.29 per share.

The Notes mature on January 16, 2022. Based upon the determination of the Conversion Price, interest on the Notes accrued at 6.0% per year through January 30, 2019. On January 30, 2019, the interest rate reset to 12.0% through January 30, 2020. On each of January 30, 2020 and February 1, 2021, the interest rate on the Notes will reset, and interest will thereafter accrue at a minimum of 4.0% per year and a maximum of 12.0% per year, based upon the then-applicable conversion premium in accordance with the terms of the Notes. The interest rate remains at 12.0% based on the January 30, 2020 reset calculation. The interest rate reset feature

of the Initial Notes was determined by management to be a derivative instrument that qualifies for liability treatment. The derivative instrument is initially measured at fair value and classified as a liability on the balance sheet, with subsequent changes in fair value being recorded in earnings. To determine the fair value of the interest rate reset feature, management utilized a "with-and-without" convertible bond model, modified to incorporate the interest rate reset feature, using the following key assumptions:

- *Credit Adjusted Discount Rate*: The Company estimated a market-based discount rate of 25%.
- *Stock Price*: The stock price was measured using the fair value of the Common Stock on the closing date of the Initial Notes issuance, January 16, 2018, which was \$24.45 per share.
- *Volatility*: Based on the historical volatility of the Company's Common Stock, determined to be 41.3% as of the valuation date.
- *Term*: Based on the time period of the Notes maturity, 4 years.
- *Risk Free Rate*: Assumed to be 2.2% based on the Federal Reserve bond yield.

Based upon the modified convertible bond model utilized by management, the fair value of the interest rate reset feature was determined to be \$6.4 million as of January 16, 2018 and was recognized as an issuance discount for the Initial Notes at inception.

Interest on the Initial Notes is payable on a quarterly basis in arrears beginning on April 1, 2018, at the option of the Company, in cash, or, subject to certain conditions, through the issuance by the Company of additional shares of Common Stock (the "PIK Interest Shares"). Any PIK Interest Shares so issued will be valued at the arithmetic average of the VWAP of the Common Stock on each trading day during the 10 consecutive trading days ending immediately preceding the applicable interest payment date. On April 1, 2019, July 1, 2019 and October 1, 2019, the Company paid its quarterly accrued interest liability on the Notes for the first, second and third quarters through the issuance of 243,261, 856,289 and 2,957,579 PIK Interest Shares, respectively. The Company paid accrued interest of \$6.1 million on January 2, 2020 in cash. The accrued interest was classified within accrued expenses in the Consolidated Financial Statements as of December 31, 2019.

Management evaluated the Notes Option and determined that it met the definition of a derivative as it represented a written option. The Notes Option qualified for liability treatment and was initially measured at fair value, with subsequent changes in fair value being recorded in earnings. To determine the fair value of the Notes Option, management utilized an option pricing model as the option represents a put option that gains value as the underlying asset (Common Stock) decreases in value. The following key assumptions were utilized in the Company's estimate of the fair value of the Notes Option derivative:

- *Stock Price*: The stock price was measured using the fair value of the Common Stock on the closing date of the Initial Notes issuance, January 16, 2018, which was \$24.45 per share.
- *Volatility*: Based on the historical volatility of the Company's Common Stock, determined to be 38.4% as of the valuation date.
- *Term*: Based on the time period of the Notes Option, 6 months.
- *Risk Free Rate*: Assumed to be 1.6% based on the Federal Reserve bond yield with a term commensurate with the remaining life of the Notes Option.

Based upon the option pricing model utilized, management estimated the fair value of the Notes Option as of January 16, 2018 to be \$2.1 million. The fair value was recognized as an issuance discount for the Initial Notes at inception.

The Initial Notes contain redemption provisions whereby, upon the occurrence of certain change of control transactions, a holder would have the right to require the Company to redeem all or any portion of such holder's outstanding Initial Notes for cash at a price determined in accordance with the terms of the Initial Notes (the "make-whole change of control redemption"). Management evaluated this make-whole change of control redemption feature and determined that it represented an embedded derivative that must be bifurcated and accounted for separately from the Initial Notes. The make-whole change of control derivative is treated as a liability, initially measured at fair value with subsequent changes in fair value recorded in earnings. Management utilized a probability-adjusted binomial lattice model to determine the fair value of the make-whole change of control derivative, with the following key assumptions:

- *Probability*: The Company utilized a range between 0% and 10% to estimate the likelihood of occurrence.
- *Term*: Based on the time period of the feature, 4 years.
- *Risk Free Rate*: Assumed to be 2.2% based on the U.S. Treasury bonds on the valuation date with a term commensurate with the remaining life of the change of control derivative.

Based on the binomial lattice model, the Company determined the fair value of the make-whole redemption provision as of January 16, 2018 to be \$4.4 million. The fair value was recognized as an issuance discount of the Initial Notes at inception. See "Notes Modifications" below.

The Notes contain certain affirmative and restrictive covenants with which the Company must comply, including (i) covenants with respect to limitations on additional indebtedness, (ii) limitations on liens, (iii) limitations on certain payments, (iv) maintenance of certain minimum cash balances (currently \$40.0 million), and (v) the timely filing of certain disclosures with the SEC. The Company is in compliance with its debt covenants as of December 31, 2019.

In connection with the issuance of the Initial Notes, the Company also agreed to issue to Starboard warrants to purchase 250,000 shares of Common Stock at a price of \$0.01 per share, as adjusted pursuant to the terms of the warrants. The warrants were issued on October 12, 2018 and were exercisable for five years from the date of issuance. The Company valued the warrants using the Black-Scholes model, with the following key assumptions:

- *Stock Price*: The stock price was measured using fair value of the Common Stock on the closing date of the Initial Notes issuance, January 16, 2018, which was \$24.45 per share.
- *Volatility*: The Company determined volatility to be 39.6% based on the historical volatility of its Common Stock daily volume weighted average price with a look-back period commensurate with the term of the warrants.
- *Risk Free Rate*: Assumed to be 2.4% based on U.S. Treasury bonds on the valuation date with a 5-year term.
- *Dividend Yield*: Assumed to be zero based on the historical payout history of the Company.

Based on the Black-Scholes model, the Company determined that the fair value of the warrants as of January 16, 2018 was \$6.1 million. The Company recorded the warrants at allocated proceeds of \$5.7 million, less allocated issuance costs of \$0.2 million, as additional paid-in capital.

The cash proceeds and Common Stock received by the Company in exchange for the Initial Notes were net of a \$20.1 million issuance discount and \$4.6 million in third party debt issuance costs.

On August 8, 2018, the Company and Starboard entered into an amendment to the outstanding Notes to reduce the requirement to maintain certain minimum cash balances. In connection with and as consideration for this modification, the Company issued to Starboard \$2.0 million in additional aggregate principal amount of senior secured convertible notes, \$1.5 million of which was classified as additional Initial Notes. The terms of the additional notes are identical to the terms of the Initial Notes, except with regard to the date from which interest began to accrue thereon, which is August 8, 2018. The amendment is treated as a modification to the debt agreements and the costs related to the issuance of the additional notes were combined with the existing unamortized discount of the Initial Notes on the modification date and will be amortized to interest expense over the remaining term of the modified debt. In connection with the modification of the Notes, the Company recorded \$0.2 million in additional derivative liabilities.

On November 13, 2018, the Company and Starboard entered into an agreement whereby the applicable period for the \$20.0 million minimum cash balance required to be maintained by the Company was extended until the earlier of August 9, 2019 or the date the Company filed its Form 10-Q for the quarterly period ended June 30, 2019, subject to certain limitations. The agreement also modified the provisions of the Notes and the Registration Rights Agreement between the Company and Starboard by revising the grace periods during which the Company would not be obligated to keep applicable registration statements available for use by Starboard. In connection with, and as consideration for these amendments, the Company issued to Starboard \$2.0 million in additional aggregate principal amount of senior secured convertible notes, the terms of which are identical to the terms of the Initial Notes, except with regard to the date from which interest began to accrue thereon, which is November 13, 2018. In connection with this modification, the Company recorded \$0.2 million in additional derivative liabilities.

Additional modifications to the Initial Notes are described under "Notes Modifications" below.

### ***Issuance and Sale of Option Notes***

On May 17, 2018, the Notes Option was exercised by Starboard, pursuant to which the Company issued and sold to Starboard \$50.0 million of Option Notes in exchange for \$15.0 million in cash and 1,400,000 shares of Common Stock valued at \$35.0 million. Based upon the fair value of the Common Stock on the closing date of the Option Notes issuance, May 17, 2018, which was \$21.75 per share, the difference of \$4.6 million was recorded as an issuance discount to the Option Notes. The Option Notes have the same terms, including maturity, interest rate, convertibility, and security, as the Initial Notes, except with regard to the date from which interest began to accrue thereon, which was May 17, 2018. Upon the exercise of the Notes Option, the derivative liability recorded for the Notes Option at inception was settled. Management determined the fair value of the Notes Option immediately prior to settlement utilizing an option pricing model using the following key assumptions:

- *Stock Price*: The stock price was measured using the fair value of the Common Stock on the closing date of the Option Notes issuance, May 17, 2018, which was \$21.75 per share.
- *Volatility*: Based on the historical volatility of the Company's Common Stock, determined to be 26.3% as of the valuation date.
- *Term*: Based on the time period of the expected exercise of the Notes Option, 0.16 years.

- *Risk Free Rate*: Assumed to be 1.8% based on the Federal Reserve bond yield with a term commensurate with the remaining life of the Notes Option.

Based upon the option pricing model utilized, management estimated the fair value of the Notes Option as of May 17, 2018 to be \$5.7 million. The loss related to the change in fair value of \$1.6 million was recorded in other income (expense), net on the Consolidated Statements of Operations and Comprehensive Loss. The fair value of the Notes Option was recognized as an issuance premium for the Option Notes at inception.

The interest rate reset feature of the Option Notes was determined by management to be a derivative instrument that qualifies for liability treatment. The derivative instrument is initially measured at fair value and classified as a liability on the balance sheet, with subsequent changes in fair value being recorded in earnings. To determine the fair value of the interest rate reset feature, management utilized a "with-and-without" convertible bond model, modified to incorporate the interest rate reset feature, using the following key assumptions:

- *Credit Adjusted Discount Rate*: The Company estimated a market-based discount rate of 24%.
- *Stock Price*: The stock price was measured using the fair value of the Common Stock on the closing date of the Option Notes issuance, May 17, 2018, which was \$21.75 per share.
- *Volatility*: Based on the historical volatility of the Company's Common Stock, determined to be 42.6% as of the valuation date.
- *Term*: Based on the time period of the Option Notes maturity, 3.7 years.
- *Risk Free Rate*: Assumed to be 2.8% based on the Federal Reserve bond yield.

Based upon the modified convertible bond model utilized by management, the fair value of the interest rate reset feature was determined to be \$3.0 million as of May 17, 2018 and was recognized as an issuance discount for the Option Notes at inception.

The Option Notes contain redemption provisions whereby, upon the occurrence of certain change of control transactions, a holder would have the right to require the Company to redeem all or any portion of such holder's outstanding Option Notes for cash at a price determined in accordance with the terms of the Option Notes. Management evaluated the make-whole change of control redemption feature and determined that it represented an embedded derivative that must be bifurcated and accounted for separately from the Option Notes. The make-whole change of control derivative is treated as a liability, initially measured at fair value with subsequent changes in fair value recorded in earnings. Management utilized a probability-adjusted binomial lattice model to determine the fair value of the make-whole change of control derivative, with the following key assumptions:

- *Probability*: The Company utilized a range between 0% and 10% to estimate the likelihood of occurrence.
- *Term*: Based on the time period of the feature, 3.7 years.
- *Risk Free Rate*: Assumed to be 2.8% based on U.S. Treasury bonds on the valuation date with a term commensurate with the remaining life of the change of control derivative.

Based on the binomial lattice model, the Company determined the fair value of the make-whole redemption provision as of May 17, 2018 to be \$1.2 million. The fair value was recognized as an issuance discount of the Option Notes at inception. See "Notes Modifications" below.

The cash proceeds and Common Stock received by the Company in exchange for the Option Notes were net of a \$3.1 million issuance discount and \$0.2 million in third-party debt issuance costs.

On August 8, 2018, the Company and Starboard entered into an amendment to the outstanding Notes to reduce the requirement to maintain certain minimum cash balances. In connection with the modification, the Company issued to Starboard \$2.0 million in additional aggregate principal amount of senior secured convertible notes, \$0.5 million of which was classified as additional Option Notes. The terms of the additional notes are identical to the terms of the Option Notes, except with regard to the date from which interest began to accrue thereon, which is August 8, 2018.

Additional modifications to the Option Notes are described under "Notes Modifications" below.

### **Notes Modifications**

In accordance with the amendments described above, the minimum cash balance under the Notes covenant increased to \$40.0 million upon filing of the Company's quarterly report on Form 10-Q on August 6, 2019.

On November 6, 2019, the Company and Starboard entered into an additional amendment to the Notes. The terms of the Notes were amended to provide the Company with an optional redemption right, whereby, in connection with a qualifying change of control pursuant to documentation entered into no later than August 5, 2020, the Company has the right to redeem the Notes in full in cash at a price equal to the sum of (i) the aggregate outstanding principal amount of the Notes, as of the consummation of the qualifying change of control, (ii) accrued interest, (iii) any other amounts owed pursuant to the Notes, and (iv) a 20% premium

on the aggregate outstanding principal amount of the Notes (the "qualifying change of control redemption"). The amendment also provided for an adjustment to the minimum cash balance required to be maintained by the Company. Upon execution of documentation providing for a qualifying change of control, the \$40.0 million minimum cash balance would be reduced, on a dollar for dollar basis, for each dollar of cash interest paid to the holders of the Notes, subject to a \$20.0 million minimum, until consummation of the qualifying change in control or, upon termination of the change in control, the shorter of 90 days after such termination or the consummation of a financing that enables the Company to maintain a minimum cash balance of \$40.0 million. The amendment also modified the provisions of the Registration Rights Agreement between the Company and Starboard by revising the grace periods during which the Company would not be obligated to keep applicable registration statements available for use by Starboard.

Management evaluated the qualifying change of control redemption feature, described above, and determined that it represented an embedded derivative that must be bifurcated and accounted for separately from the Notes. The qualifying change of control derivative is treated as a liability, initially measured at fair value with subsequent changes in fair value recorded in earnings. Management utilized a discounted cash flow model to determine the fair value of the qualifying change of control derivative, with the following key assumptions:

- *Probability*: The Company utilized a range between 0% and 5% to estimate the likelihood of occurrence.
- *Term*: Based on the time period of the feature, 0.7 years.
- *Credit Adjusted Discount Rate*: The Company estimated a market-based discount rate of 25.0%.

Based on the discounted cash flow model, the Company determined the fair value of the qualifying change of control redemption provision as of November 6, 2019 to be \$1.2 million.

In determining the amount to be recognized as an issuance discount of the Notes, the Company compared the fair value of the make-whole change of control redemption option of \$2.2 million as of November 6, 2019 to the combined value of the make-whole and qualifying change of control redemption options immediately after the modification. The combined value of both redemption options after modification was \$2.8 million. The difference in fair value of \$0.6 million is combined with the existing unamortized discount of the Notes on the modification date and is amortized to interest expense over the remaining term of the modified debt. The Company recorded an additional \$0.6 million in derivative liabilities due to this modification.

The balance of the Notes as of December 31, 2019 and 2018 was as follows:

<i>(In thousands, except interest rates)</i>	<b>As of December 31, 2019</b>					
	Stated Interest Rate	Effective Interest Rate	Face Value	Issuance Discount	Deferred Financing Costs	Net Carrying Value
Initial Notes, due January 16, 2022	12.0%	18.8%	\$ 153,500	\$ (14,703)	\$ (2,706)	\$ 136,091
Option Notes, due January 16, 2022	12.0%	14.9%	50,500	(2,365)	(151)	47,984
<b>Total</b>			<b>\$ 204,000</b>	<b>\$ (17,068)</b>	<b>\$ (2,857)</b>	<b>\$ 184,075</b>

<i>(In thousands, except interest rates)</i>	<b>As of December 31, 2018</b>					
	Stated Interest Rate	Effective Interest Rate	Face Value	Original Issuance Discount	Deferred Financing Costs	Net Carrying Value
Initial Notes, due January 16, 2022	6.0%	12.0%	\$ 153,500	\$ (19,627)	\$ (3,724)	\$ 130,149
Option Notes, due January 16, 2022	6.0%	8.5%	50,500	(3,096)	(211)	47,193
<b>Total</b>			<b>\$ 204,000</b>	<b>\$ (22,723)</b>	<b>\$ (3,935)</b>	<b>\$ 177,342</b>

Due to the interest rate reset feature of the Notes, the potential future cash flows associated with the Notes are variable. Accordingly, the accretion schedule of debt discount and the amortization schedule of debt issuance costs are updated annually to reflect periodic changes in the future cash flows using the effective interest rate on a prospective basis.

The Company amortized \$1.1 million in debt issuance costs and accreted \$6.2 million in issuance discounts related to the total outstanding long-term debt during the year ended December 31, 2019. The Company amortized \$1.0 million in debt issuance costs and accreted \$4.8 million in issuance discounts related to the total outstanding long-term debt during the year ended December 31, 2018.



The estimated fair value of the Notes, using Level 3 inputs based on interest rates available for debt with terms and maturities similar to the Company's outstanding debt, was \$172.4 million as of December 31, 2019.

**Potential Rights Offering**

Under the January 16, 2018 agreements with Starboard, the Company has the right to conduct a rights offering (the "Rights Offering") for up to \$150.0 million in senior secured convertible notes (the "Rights Offering Notes"). Subject to the terms of the Rights Offering, if undertaken, the Company would distribute to all of the Company's stockholders rights to acquire Rights Offering Notes. Stockholders who elect to participate in the Rights Offering could elect to have up to 30% of the Rights Offering Notes they acquire pursuant thereto delivered through the sale to or exchange with the Company of shares of Common Stock, with the per share value thereof equal to the closing price of the Common Stock on the last trading day immediately prior to the commencement of the Rights Offering. The Rights Offering Notes would be substantially similar to the Notes, except, among other things, with respect to: (i) the date from which interest thereon would begin to accrue and the maturity date thereof (which would be 4 years from the date of issuance of the Rights Offering Notes) and (ii) the conversion price thereof, which would be equal to 130% of the closing price of the Common Stock on the last trading day immediately prior to the commencement of the Rights Offering (subject to a conversion price floor of \$28.00 per share). Starboard also agreed to enter into one or more backstop commitment agreements, pursuant to which Starboard would backstop up to \$100.0 million in aggregate principal amount of Rights Offering Notes through the purchase of additional Notes, with such backstop obligation reduced by the amount of Option Notes purchased (\$50.0 million). The Company is not obligated to undertake the Rights Offering, and the Company does not currently intend to do so.

**Guarantee and Security of Notes**

The Notes are guaranteed by certain of the Company's direct and indirect wholly-owned domestic subsidiaries (the "Guarantors") and are secured by a security interest in substantially all of the assets of the Company and the Guarantors, pursuant to a Guaranty, dated as of January 16, 2018, entered into by the Guarantors, and a Pledge and Security Agreement, dated as of January 16, 2018, among the Company, the Guarantors and Starboard Value and Opportunity Master Fund Ltd. as collateral agent.

**Registration of Underlying Shares**

Pursuant to the Registration Rights Agreement with Starboard, the Company filed a registration statement on Form S-1 with the SEC allowing for the resale of the shares of Common Stock underlying the Notes, potential PIK Interest Shares, and warrants. In conjunction with this registration, WPP exercised its right to have its shares of Common Stock included in the registration statement. The registration statement on Form S-1 was declared effective as of October 16, 2018. For additional information, refer to [Footnote 15, Related Party Transactions](#).

On May 28, 2019, the Company filed a registration statement on Form S-3 with the SEC allowing for the resale of additional shares of Common Stock underlying the Notes and potential PIK Interest Shares. The previously filed registration statement on Form S-1 was amended to convert into a registration statement on Form S-3, and the amendment was declared effective as of June 24, 2019.

**Issuance of Secured Term Note**

On December 31, 2019 the Company's wholly owned subsidiary, Rentrak B.V., entered into an agreement with the Noteholder for the Secured Term Note for aggregate gross proceeds of \$13.0 million, less issuance costs of \$0.5 million. The Secured Term Note, which is cash collateralized, matures on December 31, 2021 and has an annual interest rate of 9.75%. Interest is payable in arrears on the last business day of each calendar month commencing on January 31, 2020.

The Secured Term Note contains certain affirmative and restrictive covenants with which Rentrak B.V. must comply, including (i) maintenance of a minimum cash collateral balance of \$14.8 million, (ii) provision of certain financial statements, (iii) limitations on additional indebtedness and liens, (iv) limitations on repayment of debt, (v) limitations on repurchase of stock, and (vi) limitations on disposition of assets. Rentrak B.V. is in compliance with the Secured Term Note covenants as of December 31, 2019.

	<b>As of</b>				
	<b>December 31, 2019</b>				
<i>(In thousands, except interest rates)</i>	Stated Interest Rate	Effective Interest Rate	Face Value	Deferred Financing Costs	Net Carrying Value
Secured Term Note	9.75%	12.2%	\$ 13,000	\$ (537)	\$ 12,463

The Company concluded that the carrying amount reported in the Consolidated Balance Sheet (\$12.5 million) approximates the fair value of the Secured Term Note as of December 31, 2019.

#### **Revolving Credit Facility**

On June 1, 2018, the Company entered into a Security Agreement with Wells Fargo Bank, N.A. to issue standby letters of credit. As of December 31, 2019, \$3.3 million in letters of credit are outstanding and are cash collateralized under the Security Agreement.

#### **Failed Sale-Leaseback Transaction**

In June 2019, the Company entered into a sale-leaseback arrangement with a vendor to provide \$4.3 million in cash proceeds for previously acquired computer and other equipment. The arrangement is repayable over a 24-month term for total consideration of \$4.8 million, with control of the equipment transferring to the vendor at the end of the leaseback term.

The Company concluded the leaseback would be classified as a financing lease. Therefore, the transaction was deemed a failed sale-leaseback and was accounted for as a financing arrangement. The assets continue to be depreciated over their useful lives, and payments are allocated between interest expense and repayment of the financing liability. The financing obligation is included within other current and other non-current liabilities on the Consolidated Balance Sheets, with \$1.8 million classified as short-term and \$1.7 million classified as long-term as of December 31, 2019.

Future minimum payments related to the financing obligations under the failed sale-leaseback transaction as of December 31, 2019 are summarized below:

	<i>(In thousands)</i>	
2020	\$	2,247
2021		1,422
Total	\$	3,669

## **5. Stockholders' Equity**

#### **2019 Issuance and Sale of Common Stock and Warrants**

On June 23, 2019, the Company entered into a Securities Purchase Agreement (the "Purchase Agreement") with CVI, pursuant to which CVI agreed to purchase (i) 2,728,513 shares of Common Stock (the "Initial Shares"), at a price of \$7.33 per share and (ii) Series A Warrants, Series B-1 Warrants, Series B-2 Warrants and Series C Warrants, for aggregate gross proceeds of \$20.0 million (the "Private Placement"). The Private Placement closed on June 26, 2019 (the "Closing Date").

The Series B-1 Warrants were exercisable by the holders at any time prior to the six-month anniversary of the Closing Date, as adjusted pursuant to the terms of the Series B-1 Warrants. The Series B-1 Warrants provided the holders the right to purchase an aggregate of up to 2,347,418 shares of Common Stock at an exercise price equal to \$8.52 and could have been exercised for cash only. The Series B-1 Warrants expired in January 2020.

The Series B-2 Warrants are exercisable by the holders at any time prior to the 12-month anniversary of the Closing Date, as adjusted pursuant to the terms of the Series B-2 Warrants. The Series B-2 Warrants provide the holders the right to purchase an aggregate of up to 1,121,076 shares of Common Stock at an exercise price equal to \$8.92 and may be exercised for cash only. If all of the Series B-2 Warrants have not been exercised prior to their expiration date, the Company will have the right, subject to prior notice to the holders and certain equity, volume and other conditions, to force the exercise of any unexercised portion of the Series B-2 Warrants by such holders. Key conditions that may impact the ability of the Company to force the exercise of these warrants include a \$3.96 minimum for the VWAP of the Common Stock leading up to the forced exercise date, a minimum threshold for trading volume, and the maintained effectiveness of a registration statement with the SEC. The forced exercise price for the Series B-2 Warrants, if applicable, will be 85.0% of the VWAP of the Common Stock on the date immediately preceding the expiration date of the Series B-2 Warrants.

The Series A Warrants are exercisable for a period of five years from the Closing Date and are currently exercisable into 5,457,026 shares of Common Stock, which is equal to the Initial Shares plus the number of shares issued pursuant to the exercise of the Series C Warrants (described below). The exercise price for the Series A Warrants is \$12.00. The Series A Warrants may be exercised for cash or through a net settlement feature.

The Series C Warrants are partially prepaid warrants (with a nominal remaining exercise price) that were not exercisable before September 21, 2019 and expire 90 days after the first anniversary of the Closing Date. CVI exercised the Series C Warrants on October 10, 2019. Because the VWAP of the Common Stock as of the date of exercise, discounted by 7.5%, was less than CVI's purchase price for the Initial Shares, the Company was required to issue to CVI a number of shares of Common Stock equal to (i) (x) CVI's purchase price for the Initial Shares divided by (y) 92.5% of the VWAP of the Common Stock leading up to September



21, 2019, subject to a floor of 50.0% of the price per Initial Share, less (ii) the number of Initial Shares issued to CVI on the Closing Date. As a result of this exercise, the Company issued 2,728,513 shares of Common Stock to CVI on October 14, 2019. In addition, the number of shares issuable under the Company's Series A Warrants was increased by 2,728,513.

The exercise prices for the Series A and Series B-2 Warrants are subject to anti-dilution adjustment in certain circumstances. In addition, if and to the extent the exercise of any warrants would, together with the issuances of the Initial Shares and the shares issued pursuant to the exercise of any other warrants, result in the issuance of 20.0% or more of the outstanding Common Stock of the Company on the Closing Date (the "Exchange Cap"), the Company intends to, in lieu of issuing such shares, settle the obligation to issue such shares in cash.

In addition, CVI will not have the right to exercise any warrants that would result in CVI beneficially owning more than 4.99% of the outstanding Common Stock after giving effect to such exercise. CVI has the right, in its discretion, to raise this threshold up to 9.99% with 60 days' notice to the Company. If any forced exercise of the Series B-2 Warrants would result in CVI beneficially owning more than 4.99% of the outstanding Common Stock, CVI will pay the applicable forced exercise price and no shares of Common Stock will be issued, but instead the aggregate number of shares of Common Stock issuable upon any exercise of the Series C Warrants will increase by an equal amount.

Pursuant to the transactions described above, the Company agreed to a 105-day lock-up period related to any future offering of equity or equity-linked securities and also agreed to provide CVI with registration rights relating to the Initial Shares and any shares issuable upon the exercise of the warrants. On June 26, 2019, the Company filed a prospectus supplement to its effective registration statement on Form S-3 to permit the resale of such shares.

Management determined each warrant to be a freestanding financial instrument that qualifies for liability treatment as a result of the net cash settlement feature associated with the Exchange Cap provision. Each warrant is initially measured at fair value and classified as a current liability on the Consolidated Balance Sheets, with subsequent changes in fair value recorded in earnings. To determine the fair value of each warrant, management utilized a Monte Carlo simulation analysis within an option pricing model using the following key assumptions as of the Closing Date:

- *Stock price:* The stock price was measured using the fair value of the Common Stock on the Closing Date, which was \$5.57 per share.
- *Volatility:* The Company determined volatility to be 50.0% based on (i) the historical volatility of the Common Stock daily volume weighted average price with a look-back period commensurate with the term of the warrants and (ii) options-based implied volatility.
- *Term:* Management determined the term based on the time period of each warrant's maturity, between six months and five years from the Closing Date.
- *Change of control probability:* The Company utilized a range between 0.0% and 10.0% to estimate the likelihood of occurrence.
- *Risk-free rate:* Management assumed the risk-free rate to be between 1.7% and 2.1%, based on the U.S. Treasury bonds on the valuation date with terms commensurate with the terms of each warrant.
- *Cost of debt:* Management assumed the cost of debt to be between 16.7% and 18.7% based on a synthetic credit rating analysis.
- *Dividend yield:* Management assumed the dividend yield to be zero based on the historical payout of the Company.

Certain estimates above represent Level 3 inputs within the fair value hierarchy. Based on the option pricing valuation model, the Company determined the fair value of the warrants as of the Closing Date to be the following:

<i>(in thousands)</i>		<b>Warrants Liability</b>
Series A Warrants	\$	3,862
Series B-1 Warrants <sup>(1)</sup>		328
Series B-2 Warrants		376
Series C Warrants <sup>(2)</sup>		6,232
<b>Total</b>	<b>\$</b>	<b>10,798</b>

<sup>1)</sup> Series B-1 warrants expired in January 2020.

<sup>2)</sup> Series C warrants were exercised in October 2019.

The Company recorded \$1.8 million in accrued transaction costs in 2019, of which approximately \$0.8 million was allocated to the warrants liability and recorded in general and administrative expenses in the Consolidated Statements of Operations and Comprehensive Loss. The remaining transaction costs of \$1.0 million were recorded in additional paid-in capital in the Consolidated Balance Sheets.

The estimated fair value of the warrants as of December 31, 2019 was \$7.7 million. Refer to [Footnote 6](#), *Fair Value Measurements*, for further information.

### 2007 Equity Incentive Plan

Pursuant to a merger agreement with Rentrak Corporation, upon the closing of the transaction in 2016, the Company assumed outstanding stock options under the Rentrak Corporation Amended and Restated 2005 Stock Incentive Plan and assumed outstanding stock options, RSUs and a stock appreciation right ("SAR") under the Rentrak Corporation 2011 Incentive Plan, and such stock options, RSUs and SAR were automatically converted into stock options, RSUs and SAR, respectively, with respect to shares of Common Stock, subject to appropriate adjustments to the number of shares and the exercise price (if applicable) of each such award.

In 2017, the Company's 2007 Equity Incentive Plan (the "2007 Plan") reached the end of its ten-year term and expired.

### 2018 Equity and Incentive Compensation Plan

The Company's stockholders approved the 2018 Equity and Incentive Compensation Plan (the "2018 Plan") at the Company's 2018 Annual Meeting. Under the 2018 Plan, the Company may grant option rights, appreciation rights, restricted stock awards, restricted stock units, performance shares and performance units up to 10,650,000 shares of Common Stock. The aggregate number of shares of Common Stock available will be reduced by: (i) one share of Common Stock for every one share of Common Stock subject to an award of option rights or appreciation rights granted under the 2018 Plan and (ii) two shares of Common Stock for every one share of Common Stock subject to an award other than option rights or appreciation rights granted under the 2018 Plan. If any award granted under the 2018 Plan (in whole or in part) is canceled or forfeited, expires, is settled in cash, or is unearned, the shares of Common Stock subject to such award will, to the extent of such cancellation, forfeiture, expiration, cash settlement, or unearned amount, again be available at a rate of one share of Common Stock for every one share of Common Stock subject to awards of option rights or appreciation rights and two shares of Common Stock for every one share of Common Stock subject to awards other than of option rights or appreciation rights. Additionally, if, after December 31, 2017, any shares of Common Stock subject to an award granted under the 2007 Plan are forfeited, or an award granted under the 2007 Plan (in whole or in part) is canceled or forfeited, expires, is settled in cash, or is unearned, the shares of Common Stock subject to such award will, to the extent of such cancellation, forfeiture, expiration, cash settlement, or unearned amount, be available for awards under the 2018 Plan at a rate of one share for every one share subject to such award. The Company registered the securities under the 2018 Plan with the SEC effective June 1, 2018. The maximum number of shares available for issuance under the 2018 Plan as of December 31, 2019 is 1,871,778.

### Stock Options

During the year ended December 31, 2019, the Company's Compensation Committee approved and awarded 925,000 stock options under the 2018 Plan to employees and consultants of the Company. The fair value of options at date of grant was estimated using the Black-Scholes method utilizing the following assumptions:

Dividend yield	0.0%
Expected volatility	44.5% - 52.9%
Risk-free interest rate	1.3% - 2.7%
Expected life of options (in years)	5.21 - 10.00

*Dividend yield* — The Company has never declared or paid a cash dividend on its Common Stock and has no plans to pay cash dividends in the foreseeable future.

*Expected volatility* — Volatility is a measure of the amount by which a financial variable such as a share price has fluctuated (historical volatility) or is expected to fluctuate (expected volatility) during a period. The Company considered the historical volatility of its stock price over a term similar to the expected life of the options in determining expected volatility.

*Risk-free interest rate* — The Company used rates on the grant date of zero-coupon government bonds with maturities over periods covering the term of the awards, converted to continuously compounded forward rates.

*Expected life of the options* — This is the period of time that the options granted are expected to remain outstanding.

A summary of the options granted, exercised and expired during the years ended December 31, 2017, 2018 and 2019 is presented below:

	Number of shares	Weighted-Average Exercise Price
Options outstanding as of December 31, 2016	3,445,512	\$ 30.65
Options expired	(1,260)	20.24
Options outstanding as of December 31, 2017	3,444,252	30.65
Options exercised <sup>(1)</sup>	(347,752)	15.45
Options expired	(2,050,587)	39.74
Options outstanding as of December 31, 2018	1,045,913	17.89
Options granted	925,000	5.64
Options exercised	(68,259)	17.44
Options forfeited	(363,687)	15.15
Options outstanding as of December 31, 2019	1,538,967	\$ 11.27
Options exercisable as of December 31, 2019	765,217	\$ 17.04

<sup>(1)</sup> Includes 125,523 options withheld to pay the exercise price for certain exercises during the year ended December 31, 2018.

The following table summarizes information about options outstanding as of December 31, 2019:

Range of Exercise Prices	Options Outstanding			Options Exercisable		
	Options Outstanding	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)	Options Exercisable	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)
\$1.88 - 5.38	635,000	\$ 3.57	9.84	81,250	\$ 2.57	9.70
\$10.00 - \$19.31	638,385	12.98	5.38	418,385	14.42	3.26
\$20.11 - \$25.86	259,525	25.22	1.15	259,525	25.22	1.15
\$40.80	6,057	40.80	4.62	6,057	40.80	4.62
	1,538,967	\$ 11.27	6.51	765,217	\$ 17.04	3.24

The intrinsic value of exercised stock options is calculated based on the difference between the exercise price and the quoted market price of the Company's Common Stock as of the close of the exercise date. There were 68,259 and 347,752 options exercised during the years ended December 31, 2019 and 2018, respectively. There were no options exercised during 2017. The aggregate intrinsic value for all options exercisable was \$0.2 million, \$1.5 million, and \$17.2 million under the Company's stock plans as of December 31, 2019, 2018, and 2017 respectively. The aggregate intrinsic value for all options outstanding was \$0.9 million, \$0.7 million, and \$17.2 million under the Company's stock plans as of December 31, 2019, 2018, and 2017, respectively. As of December 31, 2019, the total unrecognized compensation expense related to outstanding options is \$1.9 million. There was no unrecognized compensation expense related to outstanding options as of December 31, 2018 and 2017.

#### Stock Appreciation Rights ("SAR")

The Company assumed an as-converted SAR with respect to 86,250 shares of Common Stock originally granted pursuant to the terms of Rentrak Corporation 2005 Stock Incentive Plan at an as-converted base price of \$12.61 per share. The SAR expired unexercised on June 15, 2019.

### Stock Awards

The Company's outstanding stock awards are comprised of RSUs, including both time-based and performance-based RSUs.

A summary of the stock awards granted, vested and forfeited during the years ended December 31, 2017, 2018 and 2019 is presented as follows. RSU awards with undelivered shares are classified as unvested until the date of delivery of the shares.

Unvested Stock Awards	Restricted Stock Awards	Restricted Stock Units	Number of Shares Underlying Awards	Weighted Average Grant-Date Fair Value
Unvested as of December 31, 2016	3,748	1,042,385	1,046,133	\$ 37.16
Vested	(1,623)	(185,754)	(187,377)	36.45
Forfeited	—	(76,719)	(76,719)	38.48
Unvested as of December 31, 2017	2,125	779,912	782,037	\$ 37.22
Granted	—	2,872,408	2,872,408	22.53
Vested	(2,125)	(2,077,253)	(2,079,378)	27.55
Forfeited	—	(108,932)	(108,932)	29.50
Unvested as of December 31, 2018	—	1,466,135	1,466,135	\$ 22.62
Granted	—	2,578,866	2,578,866	7.56
Vested	—	(854,998)	(854,998)	23.96
Forfeited	—	(529,767)	(529,767)	18.47
Unvested as of December 31, 2019	—	2,660,236	2,660,236	\$ 8.42

The aggregate intrinsic value for all unvested RSUs outstanding was \$12.1 million, \$21.3 million, and \$22.0 million as of December 31, 2019, 2018, and 2017, respectively.

During the year ended December 31, 2019, the Company's Compensation Committee approved and awarded 1,603,866 time-based RSUs (of which 206,108 RSUs related to the settlement of an accrued 2018 annual incentive plan liability) and 975,000 market-based RSUs, which were valued using a Monte Carlo simulation analysis, to employees, directors and consultants of the Company. The Monte Carlo simulation analysis uses key assumptions including the performance period, grant date stock price, performance-based vesting hurdles and achievement requirements. Of the time-based RSUs, 581,491 shares vested immediately upon grant. The remaining time-based RSUs generally vest after one to three years contingent on continued service. The market-based RSUs vest over up to ten years based on the achievement of certain stock price hurdles.

As of December 31, 2019, total unrecognized compensation expense related to unvested RSUs was \$13.7 million, which the Company expects to recognize over a weighted-average vesting period of approximately 5.06 years. The estimated forfeiture rate as of December 31, 2017, 2018, and 2019 was 10.0%. Changes in the estimates and assumptions relating to forfeitures and subsequent grants may result in material changes in stock-based compensation expense in the future.

During 2018, the Company's Compensation Committee approved and awarded 2,612,457 time-based RSUs, 191,800 performance-based RSUs, and 68,151 market-based RSUs under the 2018 Plan to employees, directors and consultants of the Company. Of the time-based RSUs, 1,493,288 vested immediately upon grant, including 165,086 shares related to the compensation of the Company's former CEO as part of his retirement and transition services agreement. The remaining time-based RSUs generally vest after three to four years contingent on continued service, and performance-based RSUs generally vest after three years based on achievement of pre-established revenue and adjusted earnings before interest income, interest expense, income taxes, depreciation and amortization (Adjusted EBITDA) goals. Market-based awards generally vest after three years based on the attainment of certain stock price hurdles.

### Preferred Stock

The Company has 5,000,000 shares of \$0.001 par value preferred stock authorized; no shares have been issued or were outstanding as of December 31, 2019 and 2018.

## 6. Fair Value Measurements

The Company's financial instruments measured at fair value in the accompanying Consolidated Balance Sheets on a recurring basis consist of the following:

(In thousands)	As of December 31, 2019				As of December 31, 2018			
	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total
<b>Assets:</b>								
Money market funds <sup>(1)</sup>	\$ 24,327	\$ —	\$ —	\$ 24,327	\$ 6,037	\$ —	\$ —	\$ 6,037
Certificates of deposit <sup>(2)</sup>	—	1,009	—	1,009	—	986	—	986
Investment in equity securities	—	—	—	—	6,100	—	—	6,100
<b>Total</b>	<b>\$ 24,327</b>	<b>\$ 1,009</b>	<b>\$ —</b>	<b>\$ 25,336</b>	<b>\$ 12,137</b>	<b>\$ 986</b>	<b>\$ —</b>	<b>\$ 13,123</b>
<b>Liabilities:</b>								
Financing derivatives: no hedging designation <sup>(3)</sup>								
Interest rate reset	\$ —	\$ —	\$ 18,800	\$ 18,800	\$ —	\$ —	\$ 23,300	\$ 23,300
Make-whole change of control	—	—	1,600	1,600	—	—	2,800	2,800
Qualifying change of control	—	—	1,187	1,187	—	—	—	—
Warrants Issued: <sup>(4)</sup>								
Series A	—	—	7,508	7,508	—	—	—	—
Series B-2	—	—	217	217	—	—	—	—
<b>Total</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 29,312</b>	<b>\$ 29,312</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 26,100</b>	<b>\$ 26,100</b>

<sup>(1)</sup> Level 1 cash equivalents are invested in money market funds that are intended to maintain a stable net asset value of \$1.00 per share by investing in liquid, high quality U.S. Dollar-denominated money market instruments with maturities less than three months.

<sup>(2)</sup> The Company's certificates of deposit are recorded at their face value which approximates their fair value.

<sup>(3)</sup> The fair values of the financing derivatives are derived from techniques which utilize inputs, certain of which are significant and unobservable, that result in classification as Level 3 fair value measurements.

<sup>(4)</sup> The fair values of the warrant liabilities are derived from techniques which utilize inputs, certain of which are significant and unobservable, that result in classification as Level 3 fair value measurements. The fair value of the Series B-1 warrants was estimated as negligible as of December 31, 2019. The Series B-1 warrants expired without exercise on January 29, 2020.

The Company did not have any transfers between fair value measurement levels during the periods presented. There were no changes to the Company's valuation methodologies during the years ended December 31, 2018 or 2019.

The following tables present the changes in the Company's recurring Level 3 fair value measurements for the financing derivatives for the years ended December 31, 2019 and 2018:

(In thousands)	Financing Derivative Liabilities
<b>Balance as of December 31, 2017</b>	\$ —
Issuances	17,574
Total losses included in other income (expense), net <sup>(1)</sup>	14,226
Settlement <sup>(2)</sup>	(5,700)
<b>Balance as of December 31, 2018</b>	<b>26,100</b>
Issuances	587
Total gain included in other income (expense), net <sup>(3)</sup>	(5,100)
<b>Balance as of December 31, 2019</b>	<b>\$ 21,587</b>

<sup>(1)</sup> Represents change in fair value of interest rate reset derivative liability \$13.6 million loss, Notes Option derivative liability \$3.3 million loss, and change of control derivative liability of \$2.7 million gain. All changes in fair value were recorded in other income (expense), net in the Consolidated Statements of Operations and Comprehensive Loss.

<sup>(2)</sup> Represents settlement of the Notes Option derivative liability through the issuance of the Option Notes on May 17, 2018. The derivative was net settled with the Option Notes and recorded as an issuance premium. Refer to [Footnote 4](#), Long-term Debt, for further information.

<sup>(3)</sup> Represents \$4.5 million gain due to change in fair value of interest rate reset derivative liability and \$0.6 million gain due to change in fair value of the make-whole redemption derivative liability. All gains were recorded in other income (expense), net in the Consolidated Statements of Operations and Comprehensive Loss.

The following tables present the changes in the Company's recurring Level 3 fair value measurements for the warrants liability for the year ended December 31, 2019:

(In thousands)

	Warrants Liability
<b>Balance as of December 31, 2018</b>	\$ —
Issuance of warrants liability	10,798
Settlement	(5,484)
Total losses included in other income (expense), net <sup>(1)</sup>	2,411
<b>Balance as of December 31, 2019</b>	<b>\$ 7,725</b>

<sup>(1)</sup> Represents \$3.6 million loss due to change in fair value of the Series A Warrants, \$0.3 million gain due to change in fair value of the Series B-1 Warrants, \$0.2 million gain due to change in fair value of the Series B-2 Warrants, and \$0.7 million gain due to change in fair value of Series C Warrants. All gains and losses were recorded in other income (expense), net in the Consolidated Statements of Operations and Comprehensive Loss.

The following table displays valuation techniques and the significant inputs, certain of which are unobservable, for the Company's Level 3 liabilities measured at fair value as of December 31, 2019 and 2018:

	Significant valuation technique	Fair value measurements		
		Significant valuation inputs	December 31, 2019	December 31, 2018
Interest rate reset derivative liability	Discounted cash flow	Discount rate	25.0%	25.0%
		Stock price	\$4.94	\$14.43
		Volatility	74.1%	43.9%
		Term	2.04 years	3.04 years
		Risk-free rate	1.6%	2.5%
Make-whole change of control redemption derivative liability	Option pricing model	Change of control probability	5.0 - 10.0%	0.0 - 10.0%
		Term	2.04 years	3.04 years
		Risk-free rate	1.6%	2.5%
Qualifying change of control redemption derivative liability	Discounted cash flow	Change of control probability	5.0%	
		Term	0.60 years	
		Discount rate	25.0%	
Warrants liability <sup>(1)</sup>	Option pricing model	Stock price	\$4.94	
		Volatility	65.0%	
		Term	0.59 - 4.49 years	
		Change of control probability	5.0 - 10.0%	
		Risk-free rate	1.6 - 1.7%	
		Cost of debt	14.7 - 16.0%	

<sup>(1)</sup> Warrants liability includes Series A and Series B-2.

The fair values of the Company's financing derivatives are estimated using forward projections and are discounted back at rates commensurate with the remaining term of the related derivative. The primary sensitivity in the interest rate reset derivative liability is driven by the discount rate used to determine the present value of the instrument, the Common Stock price at the measurement date and the observable volatility of the Common Stock. The primary sensitivity for the make-whole and qualifying change of control redemption derivative liabilities is driven by the probability of the change of control.

The fair values of the Company's warrants liability are estimated using forward projections of stock issuances with relative certainty and estimated cash payments at each exercise date discounted back to the valuation date at rates commensurate with the remaining term of the related warrants. The primary sensitivity in the valuation of each warrant liability is driven by the Common Stock price at the measurement date and the observable volatility of the Common Stock.

**7. Property and Equipment**

<i>(In thousands)</i>	As of December 31, 2019 <sup>(1)</sup>	As of December 31, 2018
Computer equipment (including capital leases of \$7,859 in 2018)	\$ 103,604	\$ 107,405
Capitalized internal-use software	21,534	9,608
Leasehold improvements	18,453	16,430
Computer software (including software license arrangements of \$936 in 2019, and capital leases of \$684 in 2018) <sup>(2)</sup>	8,956	8,709
Finance leases	5,442	—
Office equipment, furniture, and other (including capital leases of \$925 in 2018)	5,619	5,802
Total property and equipment	163,608	147,954
Less: accumulated depreciation and amortization (including software license arrangements of \$400 in 2019, and capital leases of \$5,685 in 2018)	(131,915)	(120,615)
Total property and equipment, net	\$ 31,693	\$ 27,339

<sup>(1)</sup> As discussed in [Footnote 2, Summary of Significant Accounting Policies](#), property and equipment for the year ended December 31, 2018 may not be comparable to the year ended December 31, 2019 due to the adoption of ASC 842, Leases, as of January 1, 2019.

<sup>(2)</sup> In 2019, the Company reclassified any software licenses categorized as a capital lease in 2018 to software license arrangements.

For the years ended December 31, 2019, 2018, and 2017, depreciation expense was \$12.8 million, \$17.3 million, and \$23.3 million respectively. In addition, amortization expense from finance leases was \$2.4 million for the year ended December 31, 2019.

## 8. Leases

The Company has operating leases for real estate and finance leases for computer equipment and automobiles. These leases have remaining lease terms of one year to eight years, some of which include options to extend the leases for up to five years, and some of which include options to terminate the leases within one year. As of December 31, 2019, the weighted average remaining lease term for the Company's finance leases and operating leases was 2.42 years and 6.47 years, respectively. As of December 31, 2019, the weighted average discount rate for the Company's finance leases and operating leases was 14.6% and 13.6%, respectively.

The components of lease cost were as follows:

<i>(In thousands)</i>	<b>Year Ended</b>
	<b>December 31, 2019</b>
<b>Finance lease cost</b>	
Amortization of right-of-use assets <sup>(1)</sup>	\$ 2,413
Interest on lease liabilities	518
Total finance lease cost	<u>\$ 2,931</u>
<b>Operating lease cost <sup>(1)</sup></b>	
Fixed lease cost	\$ 12,556
Short-term lease cost	830
Variable lease cost	1,986
Sublease income	(1,857)
Total operating lease cost	<u>\$ 13,515</u>

<sup>(1)</sup> The lease costs, net of sublease income, are reflected in the Consolidated Statements of Operations and Comprehensive Loss as follows:

<i>(In thousands)</i>	<b>Year Ended December 31, 2019</b>	
	<b>Amortization of Right-of-Use Assets</b>	<b>Operating Lease Cost</b>
Cost of revenues	\$ 1,771	\$ 3,885
Selling and marketing	258	4,192
Research and development	253	2,595
General and administrative	131	2,843
	<u>\$ 2,413</u>	<u>\$ 13,515</u>

Other information related to leases was as follows:

<i>(In thousands)</i>	<b>Year Ended</b>
	<b>December 31, 2019</b>
<b>Supplemental Cash Flows Information</b>	
Cash paid for amounts included in the measurement of lease liabilities:	
Operating cash flows from finance leases	\$ 471
Operating cash flows from operating leases	15,546
Financing cash flows from finance leases	2,535
Right-of-use assets obtained in exchange for lease obligations:	
Right-of-use assets obtained in exchange for new finance lease liabilities	\$ 4,049
Right-of-use assets obtained in exchange for new operating lease liabilities	397



Maturities of operating and finance lease liabilities as of December 31, 2019 were as follows:

<i>(In thousands)</i>	<b>Operating Leases</b>		<b>Finance Leases</b>	
2020	\$	12,739	\$	2,161
2021		12,016		1,911
2022		9,091		872
2023		9,731		22
2024		8,758		—
Thereafter		22,724		—
<b>Total lease payments</b>		<b>75,059</b>		<b>4,966</b>
Less: imputed interest		(25,798)		(716)
<b>Total lease liabilities</b>		<b>49,261</b>		<b>4,250</b>
Less: current lease liabilities		(6,764)		(1,720)
<b>Total non-current lease liabilities</b>	<b>\$</b>	<b>42,497</b>	<b>\$</b>	<b>2,530</b>

As of December 31, 2019, the Company subleases six real estate properties. One sublease has a noncancelable term of less than one year. One sublease is for a noncancelable term of 36 months commencing in the first quarter of 2020. The Company expects to receive fixed lease payments in the amount of \$1.5 million over the 36-month term.

The remaining four subleases are noncancelable and have remaining lease terms of one year to seven years. None of the four subleases contain any options to renew or terminate the sublease agreement. Future expected cash receipts from these four subleases with a term greater than one year that have commenced as of December 31, 2019 were as follows:

<i>(In thousands)</i>	<b>Sublease Receipts</b>	
2020	\$	1,681
2021		1,599
2022		1,566
2023		1,145
2024		794
Thereafter		2,053
<b>Total expected sublease receipts</b>	<b>\$</b>	<b>8,838</b>

#### **Disclosures Related to Periods Prior to Adoption of ASC 842**

##### **Capital Leases**

Future minimum payments under capital leases with initial terms of one year or more as of December 31, 2018 were as follows:

<i>(In thousands)</i>	<b>As of</b>
	<b>December 31, 2018</b>
2019	\$ 2,582
2020	744
2021	417
2022	76
2023	44
<b>Total minimum lease payments</b>	<b>3,863</b>
Less amount representing interest	260
<b>Present value of net minimum lease payments</b>	<b>3,603</b>
Less current portion	2,421
<b>Capital lease obligations, long-term</b>	<b>\$ 1,182</b>

## Operating Leases

Future minimum lease commitments and sublease receipts under non-cancelable lease agreements with initial terms of one year or more in effect as of December 31, 2018 were as follows:

<i>(In thousands)</i>	Operating Lease Commitment	Sublease Receipts
2019	\$ 14,780	\$ 1,385
2020	13,027	1,693
2021	12,259	1,597
2022	9,322	1,551
2023	9,722	1,145
Thereafter	31,475	2,905
Total minimum lease payments	<u>\$ 90,585</u>	<u>\$ 10,276</u>

## 9. Goodwill and Intangible Assets

In 2019, the Company concluded it was more likely than not that the estimated fair value of its reporting unit was less than its carrying value. In its assessment, the Company considered the sustained decline in the Company's stock price and market capitalization, changes in management, and lower revenue, among other factors. Accordingly, the Company performed a quantitative goodwill impairment test as of June 30, 2019, relying in part on the work of an independent valuation firm engaged by the Company to provide inputs as to the fair value of the reporting unit and to assist in the related calculations and analysis.

The fair value of the reporting unit was determined using a combination of the discounted cash flow model and market value approach. The Company's reporting unit failed the goodwill impairment test; and as a result, the Company recorded a \$224.3 million impairment charge.

The change in the carrying value of goodwill is as follows:

<i>(In thousands)</i>	
Balance as of December 31, 2017	\$ 642,424
Translation adjustments	(1,233)
Balance as of December 31, 2018	<u>\$ 641,191</u>
Translation adjustments	(501)
Impairment charge	<u>\$ (224,272)</u>
Balance as of December 31, 2019	
Goodwill	\$ 640,690
Accumulated Impairment	(224,272)
Total	<u>\$ 416,418</u>

In addition, the Company recorded a \$17.3 million impairment charge related to its strategic alliance intangible asset during 2019. Changes in the Company's projected revenue in certain non-U.S. geographic markets due to the changing international competitive landscape as well as significant reductions in international staffing during the second quarter, resulted in a change in the Company's long-term view of the viability of the intangible asset. As such, the Company's assessment yielded that the benefit of the strategic alliance would not be realized. The fair value of the strategic alliance intangible asset was estimated using an income approach resulting in an impairment charge for the full carrying value of the long-lived asset of \$17.3 million.

The carrying values of the Company's amortizable acquired intangible assets are as follows:

<i>(In thousands)</i>	As of				As of		
	December 31, 2019				December 31, 2018		
	Gross Carrying Amount	Accumulated Amortization	Accumulated Impairment	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Acquired methodologies/technology	\$ 148,386	\$ (86,771)	\$ —	\$ 61,615	\$ 148,374	\$ (66,690)	\$ 81,684
Customer relationships	40,143	(25,864)	—	14,279	40,127	(20,338)	19,789
Intellectual property	14,372	(12,346)	—	2,026	14,366	(11,905)	2,461
Acquired software	9,287	(7,928)	—	1,359	9,287	(5,531)	3,756
Trade names	768	(691)	—	77	775	(636)	139
Strategic alliance	30,100	(12,792)	(17,308)	—	30,100	(11,288)	18,812
Panel	3,123	(3,123)	—	—	3,107	(3,107)	—
Other	600	(397)	—	203	600	(296)	304
<b>Total intangible assets</b>	<b>\$ 246,779</b>	<b>\$ (149,912)</b>	<b>\$ (17,308)</b>	<b>\$ 79,559</b>	<b>\$ 246,736</b>	<b>\$ (119,791)</b>	<b>\$ 126,945</b>

Amortization expense related to intangible assets was \$30.1 million, \$32.9 million, and \$34.8 million for the years ended December 31, 2019, 2018, and 2017, respectively. There were no impairment charges recognized during the years ended December 31, 2018 and 2017.

The weighted-average remaining amortization period by major asset class as of December 31, 2019 is as follows:

	<i>(In years)</i>
Intellectual property	4.7
Customer relationships	2.6
Acquired methodologies/technology	2.4
Trade names	1.2
Acquired software	0.9
Other	1.3

The estimated future amortization of intangible assets is as follows:

	<i>(In thousands)</i>
2020	\$ 27,221
2021	25,038
2022	24,567
2023	2,445
2024	288
<b>Total</b>	<b>\$ 79,559</b>

## 10. Accrued Expenses

<i>(In thousands)</i>	As of	As of
	December 31, 2019	December 31, 2018
Accrued data costs	19,593	14,617
Payroll and payroll-related	\$ 15,412	\$ 18,972
Accrued interest on senior secured convertible notes	6,120	3,046
Professional fees	4,118	8,477
Restructuring accrual	992	5,479
Other	9,272	7,549
<b>Total accrued expenses</b>	<b>\$ 55,507</b>	<b>\$ 58,140</b>

## 11. Commitments and Contingencies

### Contingencies

The Company is involved in various legal proceedings from time to time. The Company establishes reserves for specific legal proceedings when management determines that the likelihood of an unfavorable outcome is probable, and the amount of loss can be reasonably estimated. The Company has also identified certain other legal matters where an unfavorable outcome is reasonably possible and/or for which no estimate of possible losses can be made. In these cases, the Company does not establish a reserve until it can reasonably estimate the loss. Legal fees are expensed as incurred. The outcomes of legal proceedings are inherently unpredictable, subject to significant uncertainties, and could be material to the Company's operating results and cash flows for a particular period.

### Privacy Class Action Litigation

On September 11, 2017, the Company and a wholly-owned subsidiary, Full Circle Studies, Inc., ("Full Circle"), received demand letters on behalf of named plaintiffs and all others similarly situated alleging that the Company and Full Circle collected personal information from users under the age of 13 without verifiable parental consent in violation of Massachusetts law and the federal Children's Online Privacy Protection Act. The letters alleged that the Company and Full Circle collected such personal information by embedding advertising software development kits ("SDKs") in applications created or developed by The Walt Disney Company. The letters sought monetary damages, attorneys' fees and damages under Massachusetts law. On June 4, 2018, the plaintiffs filed amended complaints with the U.S. District Court for the Northern District of California adding the Company and Full Circle as defendants in a purported class action (captioned *Rushing, et al v. The Walt Disney Company, et al.*, Case No. 3:17-cv-04419-JD) against Disney, Twitter and other defendants, alleging violations of California's constitutional right to privacy and intrusion upon seclusion law, New York's deceptive trade practices statute, and Massachusetts' deceptive trade practices and right to privacy statutes. The complaints alleged damages in excess of \$5.0 million, with any award to be apportioned among the defendants. On February 26, 2020, the Company and Full Circle reached an agreement with the plaintiffs to settle the complaints in full, with no admission of liability, in return for injunctive relief and payment of the plaintiffs' attorneys fees, to be covered by the Company's insurance.

### Securities Class Action Litigation

On April 10, 2019, Sergii Bratusov, a purported shareholder of the Company, filed a putative class action complaint against the Company. The case, captioned *Bratusov v. comScore, Inc., et al.*, Case No. 19 Civ. 03210, was filed in the U.S. District Court for the Southern District of New York and also names the Company's Chief Financial Officer, Gregory Fink, and the Company's former Chief Executive Officer, Bryan Wiener, as defendants. The complaint, which was amended on September 30, 2019, purports to bring claims on behalf of all persons and entities that acquired securities of the Company between February 28, 2019 and August 7, 2019 and alleges that the Company, Mr. Wiener, and Mr. Fink violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder, by allegedly failing to disclose in public statements in February and March 2019 material information concerning a disagreement relating to the Company's business strategy. The complaint also alleges that Mr. Wiener and Mr. Fink, acting as control persons of the Company, violated Section 20(a) of the Exchange Act in connection with the Company's alleged failure to disclose material information. The complaint seeks a determination of the propriety of the class, compensatory damages and the award of reasonable costs and expenses incurred in the action. The defendants deny any wrongdoing or liability and intend to vigorously defend against these claims. Although the ultimate outcome of this matter is unknown, the Company believes that a material loss was not probable or estimable as of December 31, 2019.

### SEC Settlement

On September 24, 2019, the Company announced a settlement with the SEC, resolving a previously disclosed investigation into financial accounting and disclosure practices between February 2014 and February 2016. The findings reached by the SEC related to revenue recognition and disclosure practices in 2014-2016, including contravention of civil antifraud and books and records provisions. The conduct occurred under prior management, including the Company's former Chief Executive Officer, Serge Matta. In agreeing to the terms of the settlement, which included a civil monetary penalty of \$5.0 million and a cease-and-desist order (dated September 24, 2019) under Section 8A of the Securities Act of 1933 and Section 21C of the Exchange Act, the Company neither admitted nor denied the SEC's allegations. A separate proceeding against Mr. Matta was announced by the SEC, pursuant to which Mr. Matta agreed to pay a clawback to the Company of \$2.1 million.

The SEC considered the Company's cooperation during the investigation and its significant remedial efforts, including replacing the former Chief Executive Officer and other senior executives, constituting a new management team, implementing new and extensive internal control procedures and policies, and implementing a new, comprehensive compliance management system. In its order, the SEC also noted that all senior management and directors who were with the Company at the time of the conduct described in the order are no longer with the Company.

Mr. Matta's \$2.1 million clawback was paid to the Company in September 2019. The Company's first payment to the SEC (of the same amount, \$2.1 million) was made in October 2019, to be followed by three equal payments of the remaining penalty amount plus post-judgment interest due 120, 240, and 360 days after the entry of the SEC's order.

### **Export Controls Review**

In March 2018, the Company became aware of possible violations of U.S. export controls and economic sanctions laws and regulations involving the Company. The circumstances giving rise to these possible violations pertained to the Company's collection of survey data from panelists within U.S. embargoed countries, as a part of the Company's larger global survey efforts not intentionally targeted at such countries. The Company filed a joint initial notice of voluntary disclosure with the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") and the U.S. Commerce Department's Bureau of Industry and Security ("BIS") and commenced an internal review to identify the causes and scope of transactions that could constitute violations of the OFAC and BIS regulations. On May 31, 2018, the Company filed a final voluntary disclosure with OFAC and BIS. On September 10, 2018, the Company was notified that BIS did not find a violation of export regulations and closed the matter. On September 13, 2019, OFAC issued a letter stating that although potential violations may have occurred, OFAC had decided not to pursue a civil monetary penalty or take other enforcement action. The letter represented a final enforcement response from OFAC. In its letter, OFAC noted that the Company had taken a number of remedial compliance measures and detailed the compliance measures taken.

### **Other Matters**

In addition to the matters described above, the Company is, and may become, a party to a variety of legal proceedings from time to time that arise in the normal course of the Company's business. While the results of such legal proceedings cannot be predicted with certainty, management believes that, based on current knowledge, the final outcome of any such current pending matters will not have a material adverse effect on the Company's financial position, results of operations or cash flows. Regardless of the outcome, legal proceedings can have an adverse effect on the Company because of defense costs, diversion of management resources and other factors.

### **Indemnification**

The Company has entered into indemnification agreements with each of the Company's directors and certain officers, and the Company's amended and restated certificate of incorporation requires it to indemnify each of its officers and directors, to the fullest extent permitted by Delaware law, who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that he or she is or was a director or officer of the Company. The Company has paid and continues to pay legal counsel fees incurred by the present and former directors and officers who are involved in legal proceedings that require indemnification.

Similarly, certain of the Company's commercial contracts require it to indemnify contract counterparties under specified circumstances, and the Company may incur legal counsel fees and other costs in connection with these obligations.

## 12. Income Taxes

The components of loss before income tax benefit (provision) are as follows:

<i>(In thousands)</i>	Years Ended December 31,		
	2019	2018	2017
Domestic	\$ (316,479)	\$ (140,298)	\$ (258,735)
Foreign	(23,524)	(15,264)	(25,375)
Total	<u>\$ (340,003)</u>	<u>\$ (155,562)</u>	<u>\$ (284,110)</u>

Income tax (benefit) provision is as follows:

<i>(In thousands)</i>	Years Ended December 31,		
	2019	2018	2017
<b>Current:</b>			
Federal	\$ —	\$ —	\$ (850)
State	(42)	(119)	(155)
Foreign	2,762	1,806	1,491
Total	<u>\$ 2,720</u>	<u>\$ 1,687</u>	<u>\$ 486</u>
<b>Deferred:</b>			
Federal	\$ (1,189)	\$ 898	\$ (5,216)
State	(3,992)	1,060	1,120
Foreign	1,454	61	893
Total	<u>\$ (3,727)</u>	<u>\$ 2,019</u>	<u>\$ (3,203)</u>
Income tax (benefit) provision	<u>\$ (1,007)</u>	<u>\$ 3,706</u>	<u>\$ (2,717)</u>

A reconciliation of the statutory U.S. income tax rate to the effective income tax rate is as follows:

	Years Ended December 31,		
	2019	2018	2017
Statutory federal tax rate	21.0 %	21.0 %	35.0 %
State taxes	1.1 %	(2.8)%	(0.3)%
Nondeductible items	(0.7)%	(0.5)%	0.7 %
Nondeductible interest and derivatives	(1.5)%	(4.0)%	— %
Foreign rate differences	(1.8)%	(2.2)%	(3.7)%
Change in statutory tax rates	— %	— %	1.4 %
Change in valuation allowance	(5.3)%	(5.4)%	(30.8)%
Stock compensation	(1.2)%	(5.6)%	(0.1)%
Executive compensation	(0.1)%	(0.3)%	— %
Goodwill impairment	(10.7)%	— %	— %
Subscription receivable	— %	(1.2)%	(1.3)%
Other adjustments	(0.5)%	(1.0)%	(0.1)%
Uncertain tax positions	— %	(0.4)%	0.2 %
Effective tax rate	<u>0.3 %</u>	<u>(2.4)%</u>	<u>1.0 %</u>

### *Income Tax Benefit (Provision)*

The Company recognized an income tax benefit of \$1.0 million during the year ended December 31, 2019, which is comprised of current tax expense of \$2.7 million primarily related to foreign taxes and a deferred tax benefit of \$3.7 million related to temporary differences between the tax treatment and GAAP accounting treatment for certain items. Included within the total tax benefit is income tax expense of \$17.3 million related to the increase in valuation allowance recorded against the Company's deferred tax assets to offset the tax benefit of the Company's operating losses in the U.S. and certain foreign jurisdictions. Also included in the total tax benefit are income tax adjustments of \$58.6 million related to the impairment of goodwill and \$15.2 million for permanent differences in the book and tax treatment of certain stock-based compensation, limitations on the deductibility of certain executive compensation, nondeductible interest expense on debt instruments and associated derivatives, and other nondeductible expenses.

These tax adjustments, along with state and local taxes and book losses in foreign jurisdictions where the income tax rate is substantially lower than the U.S. federal statutory rate, are the primary drivers of the annual effective income tax rate.

The Company recognized an income tax expense of \$3.7 million during the year ended December 31, 2018, which is comprised of current tax expense of \$1.7 million primarily related to foreign taxes and a deferred tax expense of \$2.0 million related to temporary differences between the tax treatment and GAAP accounting treatment for certain items. Included within the total tax expense is an income tax expense of \$19.0 million related to the increase in valuation allowance recorded against the Company's deferred tax assets to offset the tax benefit of the Company's operating losses in the U.S. and certain foreign jurisdictions. An income tax adjustment of \$19.7 million has also been included for permanent differences in the book and tax treatment of certain stock-based compensation, limitations on the deductibility of certain executive compensation, nondeductible interest expense on debt instruments and associated derivatives, and other nondeductible expenses. These tax adjustments, along with state and local taxes and book losses in foreign jurisdictions where the income tax rate is substantially lower than the U.S. federal statutory rate, are the primary drivers of the annual effective income tax rate.

The Company recognized an income tax benefit of \$2.7 million during the year ended December 31, 2017, which is comprised of current tax expense of \$0.5 million primarily related to foreign taxes and a deferred tax benefit of \$3.2 million related to temporary differences between the tax treatment and GAAP accounting treatment for certain items. Included within the total tax benefit is an income tax benefit of \$8.3 million related to the impact of the TCJA provisions on the Company's U.S. deferred taxes, including the reduction in the corporate tax rate from 35% to 21% and a change in the Company's valuation allowance assessment. Also included is income tax expense of \$126.1 million related to the increase in valuation allowance recorded against the Company's deferred tax assets to offset the tax benefit of the Company's operating losses in the U.S. and certain foreign jurisdictions. An income tax adjustment of \$2.5 million has also been included for permanent differences in the book and tax treatment of certain stock-based compensation, meals and entertainment and other nondeductible expenses. These tax adjustments, along with having book losses in foreign jurisdictions where the income tax rate is substantially lower than the U.S. federal statutory rate, are the primary drivers of the annual effective income tax rate.

### Deferred Income Taxes

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amount of assets and liabilities for financial reporting purposes and the amounts used for income tax reporting purposes. The components of net deferred income taxes are as follows:

(In thousands)	As of	
	December 31,	
	2019	2018
Deferred tax assets:		
Net operating loss carryforwards	\$ 212,253	\$ 199,959
Deferred compensation	8,146	13,684
Tax credits	2,945	6,171
Deferred rent	—	3,976
Deferred revenues	5,095	2,764
Property and equipment	—	1,788
Goodwill	2,462	—
Tax contingencies	1,127	1,422
Accrued salaries and benefits	2,406	2,200
Capital leases	16,772	444
Allowance for doubtful accounts	453	334
Capital loss carryforwards	266	266
Litigation settlement	225	1,197
Other	2,409	1,105
Gross deferred tax assets	254,559	235,310
Valuation allowance	(219,607)	(200,366)
Net deferred tax assets	\$ 34,952	\$ 34,944
Deferred tax liabilities:		
Intangible assets	\$ (15,202)	\$ (23,886)
Goodwill	—	(9,987)
Lease asset	(11,219)	—
Property and equipment	(5,134)	—
Subpart F income recapture	(1,224)	(1,404)
Outside basis difference	—	(152)
Other	(86)	(1,051)
Total deferred tax liabilities	(32,865)	(36,480)
Net deferred tax asset (liability)	\$ 2,087	\$ (1,536)

### Tax Valuation Allowance

As of December 31, 2019, and 2018, the Company had a valuation allowance of \$219.6 million and \$200.4 million, respectively, against certain deferred tax assets. The valuation allowance relates to the deferred tax assets of the Company's U.S. entities, including federal and state tax attributes and timing differences, as well as the deferred tax assets of certain foreign subsidiaries. The increase in the valuation allowance during 2019 is primarily related to operating losses incurred during the year. To the extent the Company determines that, based on the weight of available evidence, all or a portion of its valuation allowance is no longer necessary, the Company will recognize an income tax benefit in the period such determination is made for the reversal of the valuation allowance. If management determines that, based on the weight of available evidence, it is more-likely-than-not that all or a portion of the net deferred tax assets will not be realized, the Company may recognize income tax expense in the period such determination is made to increase the valuation allowance. It is possible that such reduction of or addition to the Company's valuation allowance may have a material impact on the Company's results from operations.



A summary of the deferred tax asset valuation allowance is as follows:

(In thousands)	As of	
	December 31,	
	2019	2018
Beginning Balance	\$ 200,366	\$ 181,334
Additions	19,832	19,356
Reductions	(591)	(324)
Ending Balance	\$ 219,607	\$ 200,366

#### Net Operating Loss and Credit Carryforwards

As of December 31, 2019, the Company had federal and state net operating loss carryforwards for tax purposes of \$639.9 million and \$1,391.3 million, respectively. These net operating loss carryforwards begin to expire in 2022 for federal income tax purposes and are expiring annually for state income tax purposes. The federal and certain state net operating losses generated after December 31, 2017 will have an indefinite carryforward period as a result of the TCJA. As of December 31, 2019, the Company had an aggregate net operating loss carryforward for tax purposes related to its foreign subsidiaries of \$5.1 million, which will begin to expire in 2024.

As of December 31, 2019, the Company had research and development credit carryforwards of \$3.2 million which begin to expire in 2025.

Under the provisions of Internal Revenue Code Section 382, certain substantial changes in the Company's ownership may result in a limitation on the amount of U.S. net operating loss carryforwards that can be utilized annually to offset future taxable income and taxes payable. A significant portion of the Company's net operating loss carryforwards are subject to an annual limitation under Section 382 of the Internal Revenue Code. Additionally, despite the net operating loss carryforwards, the Company may have a future tax liability due to foreign tax or state tax requirements.

#### Foreign Undistributed Earnings

As of December 31, 2019, the Company has certain foreign subsidiaries with accumulated undistributed earnings. The TCJA allows for a dividend received deduction resulting in no material U.S. federal income tax upon repatriation of these earnings. The Company intends to indefinitely reinvest these earnings, as well as future earnings from its foreign subsidiaries, to fund its international operations and therefore has not accrued any foreign withholding taxes or state income taxes.

#### Uncertain Tax Positions

For uncertain tax positions, the Company uses a more-likely-than-not recognition threshold based on the technical merits of the tax position taken. Tax positions that meet the more-likely-than-not recognition threshold are measured as the largest amount of tax benefits determined on a cumulative probability basis, which are more-likely-than-not to be realized upon ultimate settlement in the financial statements. The Company has unrecognized tax benefits, which are tax benefits related to uncertain tax positions which have been or will be reflected in income tax filings that have not been recognized in the financial statements due to potential adjustments by taxing authorities in the applicable jurisdictions. The Company's liabilities for unrecognized tax benefits, which include interest and penalties, were \$1.6 million as of both December 31, 2019 and 2018. The remaining unrecognized tax benefits have reduced deferred tax balances. The amount of unrecognized tax benefits that, if recognized, would affect the Company's effective tax rate are \$2.3 million, \$2.5 million and \$2.4 million as of December 31, 2019, 2018 and 2017, respectively, and include the federal tax benefit of state deductions. The Company anticipates that \$0.4 million of unrecognized tax benefits will reverse during the next year due to the expiration of statutes of limitation.

Changes in the Company's unrecognized income tax benefits are as follows:

(In thousands)	As of December 31,		
	2019	2018	2017
Beginning balance	\$ 2,560	\$ 2,508	\$ 3,608
Increase related to tax positions of prior years	14	167	81
Increase related to tax positions of the current year	53	90	88
Decrease related to tax positions of prior years	(84)	(106)	(1,064)
Decrease due to lapse in statutes of limitations	(143)	(99)	(205)
Ending balance	\$ 2,400	\$ 2,560	\$ 2,508

The Company recognizes interest and penalties related to income tax matters in income tax expense. As of both December 31, 2019 and 2018, accrued interest and penalties on unrecognized tax benefits were \$0.7 million. The Company or one of its subsidiaries files income tax returns in the U.S. federal jurisdiction, and various state and foreign jurisdictions. For income tax returns filed by the Company, the Company is no longer subject to U.S. federal examinations by tax authorities for years prior to 2016 or state and local tax examinations by tax authorities for years prior to 2015. Tax attribute carryforwards may still be adjusted upon examination by tax authorities.

### 13. Employee Benefit Plans

The Company has a 401(k) plan for the benefit of all U.S. employees who meet certain eligibility requirements. This plan covers substantially all of the Company's full-time U.S. employees. The Company contributed \$1.1 million, \$1.2 million and \$1.3 million to the 401(k) plan for the years ended December 31, 2019, 2018 and 2017, respectively.

### 14. Geographic Information

The Company attributes revenues to customers based on the location of the customer. The composition of the Company's sales to customers between those in the United States and those in other locations is as follows:

(In thousands)	Years Ended December 31,		
	2019	2018	2017 <sup>(1)</sup>
United States	\$ 336,087	\$ 359,379	\$ 332,344
Europe	30,619	34,623	43,218
Latin America	10,326	13,179	13,460
Canada	7,046	7,882	9,273
Other	4,567	4,419	5,254
Total revenues	\$ 388,645	\$ 419,482	\$ 403,549

<sup>(1)</sup> As discussed in [Footnote 2](#), Summary of Significant Accounting Policies, of the 2018 10-K, revenue for 2017 is not comparable to 2019 and 2018 due to the adoption of ASC 606 on January 1, 2018.

The composition of the Company's property and equipment, net between those in the United States and those in other locations as of the end of each year are as follows:

(In thousands)	As of December 31,	
	2019	2018
United States	\$ 30,556	\$ 25,456
Europe	841	1,415
Latin America	251	365
Other	45	103
Total	\$ 31,693	\$ 27,339

Of the Company's long-lived intangible assets, net, \$79.5 million and \$107.9 million were generated by or located in the United States for the years ended December 31, 2019 and 2018, respectively. The Company also had \$0.1 million and \$19.0 million of long-lived intangible assets, net generated by or located in Europe for the years ended December 31, 2019 and 2018, respectively.

### 15. Related Party Transactions

#### Transactions with WPP

As of December 31, 2019 (based on public filings), WPP owned 11,319,363 shares of the Company's outstanding Common Stock, representing 16.2% ownership in the Company. On July 19, 2018, the Company filed a registration statement on Form S-1 with the SEC for the purpose of registering the shares of Common Stock owned by WPP in order to fulfill the Company's contractual obligations under a stockholders' rights agreement entered into by the Company and WPP in 2015. Refer to [Footnote 4](#), Long-term Debt for more information. The Company provides WPP, in the normal course of business, services amongst its different products and receives various services from WPP supporting the Company's data collection efforts. In early 2015, there were a series of business and asset acquisitions and sales and issuances of Common Stock between the Company and WPP (giving rise to the stockholders' rights agreement described above) as well as a Subscription Receivable agreement that the Company entered into with GroupM, a WPP subsidiary.

In 2015, the Company and GroupM entered into an agreement in which GroupM agreed to a minimum commitment to purchase \$20.9 million of the Company's products over five years, which was recorded as Subscription Receivable as contra equity within additional paid-in capital on the Consolidated Statements of Stockholders' Equity. In December 2017, the Company signed an amendment with GroupM in which GroupM agreed to purchase additional subscription services for \$17.8 million over three years, which was offset by the \$3.7 million Subscription Receivable that remained as of December 31, 2017. Upon fully utilizing the Subscription Receivable in September 2018, the Company began recognizing revenue under the amendment as the Company delivered products and services under the agreement. Total revenue recognized was \$6.0 million and \$2.0 million for the years ended December 31, 2019 and 2018, respectively.

In January 2016, as part of the Company's merger with Rentrak Corporation ("Rentrak"), the Company acquired two contracts with net present value of \$14.5 million with WPP wholly-owned subsidiaries which were reflected as Subscription Receivable. The Company recorded the Subscription Receivable as contra equity within additional paid-in capital on the Consolidated Statements of Stockholders' Equity. As cash was received on the Subscription Receivable, additional paid-in capital was increased by the amount of cash received and the Company recognized imputed interest income. Effective August 31, 2018, the Company terminated one legacy Rentrak agreement which was originally reflected in Subscription Receivable and concurrently signed a new arrangement for \$7.4 million for various subscription services over a three-year period. As of December 31, 2019, the balance of the Subscription Receivable is zero. The Company recorded \$2.3 million and \$0.8 million in revenues in the Consolidated Statements of Operations and Comprehensive Loss for the years ended December 31, 2019 and 2018, respectively.

The Company has a cancelable five-year agreement with Lightspeed, a WPP subsidiary, to conduct a proof of concept and follow-on program (the "Program") to demonstrate the capability of designing and deploying a program to collect browsing and demographic data for individual participating households. The agreement provides that the Company makes payments to Lightspeed of approximately \$5.0 million per year through 2020. The Program is designed to be a comprehensive data collection effort across multiple in-home devices (e.g., television, streaming devices, computers, mobile phones, tablets, gaming devices and wearables) monitored via the installation of household internet routers ("Meters") in panelist households. The Meters collect and send the data back to the Company for use in its Total Home Panel product. Under the terms of the Program, Lightspeed is paid to manage the operational aspects of panel recruitment, compliance, inventory management, support and collection of panel demographic data.

The Company's results from transactions with WPP and its affiliates, as reflected in the Consolidated Statements of Operations and Comprehensive Loss, are detailed below:

<i>(In thousands)</i>	Years Ended December 31,		
	2019	2018	2017
Revenues <sup>(1)</sup>	\$ 15,858	\$ 11,610	\$ 13,181
Cost of revenues	10,455	11,077	12,956
Selling and marketing	20	158	157
Research and development	—	111	119
General and administrative	539	99	115
Interest income	—	343	672

<sup>(1)</sup> The Company entered into certain agreements with WPP and its affiliates that were not characterized as revenue arrangements under GAAP. Accordingly, despite cash being received by the Company under these agreements, no revenue was recognized during the year ended December 31, 2018 other than imputed interest income on the net present value of anticipated future cash payments from WPP.

The Company has the following balances related to transactions with WPP and its affiliates, as reflected in the Consolidated Balance Sheets:

(In thousands)	As of December 31,	
	2019	2018
<b>Assets</b>		
Accounts receivable, net	\$ 2,542	\$ 3,353
Prepaid expenses and other current assets	1,180	429
<b>Liabilities</b>		
Accounts payable	\$ 2,510	\$ 1,833
Accrued expenses	716	1,384
Contract liability	1,361	1,945
Other non-current liabilities	—	251

#### Transactions with Starboard

On January 16, 2018, the Company entered into certain agreements with Starboard, then a beneficial owner of more than five percent of the Company's outstanding Common Stock. Refer to [Footnote 4, Long-term Debt](#), for further information regarding these agreements and the Company's issuance of senior secured convertible notes to Starboard in 2018. As a result of these agreements and the transactions contemplated thereby, Starboard ceased to be a beneficial owner of more than five percent of the Company's outstanding Common Stock on January 16, 2018.

On April 18, 2018, the Company amended a prior agreement with Starboard, dated as of September 28, 2017 (the "September Agreement"), pertaining to the membership and composition of the Company's Board of Directors (the "Board"). Pursuant to the amendment, the Company and Starboard agreed that, effective as of the Company's annual meeting of stockholders on May 30, 2018, the size of the Board would be fixed at eight members. The amendment further designated Starboard's "appointees" under the September Agreement. As of December 31, 2018, Starboard had no remaining right to designate any directors to the Board.

Included in the Consolidated Statements of Operations and Comprehensive Loss, the Company recorded interest expense related to Starboard of \$30.8 million and \$16.4 million during the years ended December 31, 2019 and 2018, respectively.

The Company has the following balances related to transactions with Starboard, as reflected in the Consolidated Balance Sheets:

(In thousands)	As of December 31,	
	2019	2018
Accrued expenses	\$ 6,120	\$ 3,046
Financing derivatives	21,587	26,100
Senior secured convertible notes	184,075	177,342

## 16. Organizational Restructuring

In December 2017, the Company implemented a reduction in force plan ("2017 Restructuring Plan") that resulted in the termination of approximately 10% of its workforce. The reduction in force was implemented following management's determination to reduce its staffing levels and exit certain geographic regions, in order to enable the Company to decrease its global costs and more effectively align resources to business priorities. Total restructuring expense recognized for the 2017 Restructuring Plan was \$11.8 million and this plan was complete as of December 31, 2018.

In June and December 2018, the Company's Board of Directors authorized management to implement additional reductions in its workforce (less than 10%) and rationalize its portfolio of leased properties due to the reductions in headcount ("2018 Restructuring Plans"). This additional restructuring effort resulted in the termination of one operating lease, the extension of the lease related to the Company's headquarters, and the sublease of three offices. In connection with the 2018 Restructuring Plans, the Company incurred total exit-related costs of \$8.1 million. \$10.3 million was recorded in 2018, and \$2.2 million was reversed in 2019 related to an employee who ultimately did not exit the Company. These plans were complete as of December 31, 2019.

In May 2019, the Company implemented an additional reduction in force plan ("May 2019 Restructuring Plan") in order to reduce costs and more effectively align resources with business priorities. Together with attrition, the May 2019 Restructuring Plan resulted in the termination of approximately 10% of the Company's workforce. In connection with the May 2019 Restructuring Plan, the Company incurred total exit-related costs of \$3.1 million during the year ended December 31, 2019. The Company does not expect to incur any future expenses related to this plan.

In August 2019, the Company implemented a further reduction in force plan ("August 2019 Restructuring Plan") in order to reduce costs and more effectively align resources with business priorities. The August 2019 Restructuring Plan resulted in the termination of approximately 8% of the Company's workforce. In connection with the August 2019 Restructuring Plan, the Company incurred total exit-related costs of \$2.5 million.

As of December 31, 2019, the total remaining accrual for restructuring is \$1.0 million, all of which is current. The tables below summarize the balance of accrued restructuring expenses and the changes in the accrued amounts for each period presented.

### 2017 Restructuring Plan

<i>(In thousands)</i>	Severance pay and benefits	Other direct costs	Total
Restructuring expense	\$ 10,298	\$ 212	\$ 10,510
Payments	(1,340)	—	(1,340)
Foreign exchange	14	—	14
Accrued Balance as of December 31, 2017	\$ 8,972	\$ 212	\$ 9,184
Restructuring expense	1,275	—	1,275
Payments	(10,180)	—	(10,180)
Foreign exchange	(1)	—	(1)
Accrued Balance as of December 31, 2018	\$ 66	\$ 212	\$ 278
Payments	(66)	(212)	(278)
Accrued Balance as of December 31, 2019	\$ —	\$ —	\$ —

### 2018 Restructuring Plans

<i>(In thousands)</i>	Severance pay and benefits	Short-term lease exit and other direct costs	Long-term lease exit and other direct costs	Total
Restructuring expense <sup>(1)</sup>	\$ 7,145	\$ 1,271	\$ 1,847	\$ 10,263
Payments	(2,652)	(561)	(37)	(3,250)
Foreign exchange	—	(2)	—	(2)
Accrued Balance as of December 31, 2018	\$ 4,493	\$ 708	\$ 1,810	\$ 7,011
Adoption of ASC 842 <sup>(2)</sup>	\$ —	\$ (708)	\$ (1,810)	\$ (2,518)
Restructuring expense <sup>(3)</sup>	(2,195)	—	—	(2,195)
Payments	(2,298)	—	—	(2,298)
Accrued Balance as of December 31, 2019	\$ —	\$ —	\$ —	\$ —

<sup>(1)</sup> During the year ended December 31, 2018, the Company recognized a reduction of \$0.7 million of liability related to the write-off of certain lease-related liabilities, offset by \$0.5 million in stock-based compensation related to the termination of certain employees, \$0.5 million in accelerated depreciation on assets located within subleased properties, and \$0.1 million in other expenses.

<sup>(2)</sup> The Company adopted ASC 842, Leases, as of January 1, 2019. For additional details regarding the adoption, please refer to [Footnote 2](#), Summary of Significant Accounting Policies.

<sup>(3)</sup> Restructuring expense decreased due to a reversal of planned executive compensation.

### 2019 Restructuring Plans

<i>(In thousands)</i>	May 2019 Restructuring Plan	August 2019 Restructuring Plan
Severance pay and benefits related restructuring expense	3,141	2,454
Payments	(2,847)	(1,756)
Accrued Balance as of December 31, 2019	\$ 294	\$ 698

## 17. Quarterly Financial Information (Unaudited)

The following tables summarize quarterly financial data for 2019 and 2018. The Company's results of operations vary and may continue to fluctuate significantly from quarter to quarter. The results of operations in any period should not necessarily be considered indicative of the results to be expected from any future period.

### CONSOLIDATED STATEMENTS OF OPERATIONS (Unaudited) (In thousands, except share and per share data)

	2019			
	First	Second	Third	Fourth
Revenues	\$ 102,294	\$ 96,888	\$ 94,300	\$ 95,163
Cost of revenues <sup>(1)</sup>	53,407	51,994	47,390	46,831
Gross profit	48,887	44,894	46,910	48,332
Selling and marketing <sup>(1)</sup>	24,840	23,329	20,421	20,555
Research and development <sup>(1)</sup>	18,216	16,883	14,064	12,639
General and administrative <sup>(1)</sup>	19,545	16,932	14,064	15,878
Investigation and audit related	842	2,354	980	129
Amortization of intangible assets	8,105	8,076	6,970	6,925
Impairment of goodwill	—	224,272	—	—
Impairment of intangible asset	—	17,308	—	—
Settlement of litigation, net	—	5,000	(2,100)	—
Restructuring	(70)	2,949	2,270	(1,886)
Total operating expenses	71,478	317,103	56,669	54,240
Loss from operations	(22,591)	(272,209)	(9,759)	(5,908)
Interest expense, net	(6,759)	(8,242)	(8,175)	(8,350)
Other income (expense), net	2,969	(3,081)	6,733	(4,967)
Gain (loss) from foreign currency transactions	38	(464)	1,194	(432)
Loss before income taxes	(26,343)	(283,996)	(10,007)	(19,657)
Income tax (provision) benefit	(1,171)	4,463	(552)	(1,733)
Net loss	\$ (27,514)	\$ (279,533)	\$ (10,559)	\$ (21,390)
Net loss per common share:				
Basic and diluted	\$ (0.46)	\$ (4.61)	\$ (0.16)	\$ (0.31)
Weighted-average number of shares used in per share calculation - Common Stock:				
Basic and diluted	59,958,203	60,697,608	64,157,167	69,644,437

<sup>(1)</sup> Amortization of stock-based compensation expense is included in the line items above as follows:

	First	Second	Third	Fourth
Cost of revenues	\$ 848	\$ 636	\$ 396	\$ (28)
Selling and marketing	1,316	1,087	756	456
Research and development	726	668	469	118
General and administrative	4,063	1,913	1,392	1,879
Restructuring	—	(266)	129	—
Total stock-based compensation expense	\$ 6,953	\$ 4,038	\$ 3,142	\$ 2,425

2018

	First	Second	Third	Fourth
Revenues	\$ 105,919	\$ 101,389	\$ 102,864	\$ 109,310
Cost of revenues <sup>(1)</sup>	47,254	51,526	49,446	51,994
Gross profit	58,665	49,863	53,418	57,316
Selling and marketing <sup>(1)</sup>	25,905	29,647	24,866	27,977
Research and development <sup>(1)</sup>	18,716	20,889	18,742	18,632
General and administrative <sup>(1)</sup>	18,661	28,699	18,707	18,468
Investigation and audit related	31,867	4,883	696	892
Amortization of intangible assets	8,544	8,266	7,896	8,158
Settlement of litigation, net	—	5,250	—	—
Restructuring	1,257	3,833	51	6,696
Total operating expenses	104,950	101,467	70,958	80,823
Loss from operations	(46,285)	(51,604)	(17,540)	(23,507)
Interest expense, net	(2,905)	(4,124)	(4,682)	(4,754)
Other income (expense), net	77	807	(1,711)	(637)
(Loss) gain from foreign currency transactions	(922)	1,045	(304)	1,484
Loss before income taxes	(50,035)	(53,876)	(24,237)	(27,414)
Income tax (provision) benefit	(1,415)	(2,101)	(400)	210
Net loss	\$ (51,450)	\$ (55,977)	\$ (24,637)	\$ (27,204)
Net loss per common share:				
Basic and diluted	\$ (0.93)	\$ (1.02)	\$ (0.42)	\$ (0.46)
Weighted-average number of shares used in per share calculation - Common Stock:				
Basic and diluted	55,227,046	55,192,741	58,212,306	59,116,831

<sup>(1)</sup> Stock-based compensation expense is included in the line items above as follows:

	First	Second	Third	Fourth
Cost of revenues	\$ 213	\$ 3,774	\$ 1,248	\$ 1,114
Selling and marketing	575	5,792	1,860	1,225
Research and development	344	3,972	1,137	1,127
General and administrative	749	9,461	2,066	2,494
Restructuring	—	—	—	468
Total stock-based compensation expense	\$ 1,881	\$ 22,999	\$ 6,311	\$ 6,428

**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**

We carried out an evaluation required by the Securities Exchange Act of 1934 (the "Exchange Act"), under the supervision and with the participation of our principal executive officer and our principal financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act, as of December 31, 2019. Based on this evaluation, our principal executive officer and principal financial officer concluded that as of December 31, 2019, these disclosure controls and procedures were effective to provide reasonable assurance that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms and to provide reasonable assurance that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

**Management's Report on Internal Control over Financial Reporting**

Management is responsible for establishing and maintaining adequate internal control over financial reporting, as defined in Rule 13a-15(f) and 15d-15(f) of the Exchange Act. Management, under the supervision and with the participation of our principal executive officer and principal financial officer, assessed the effectiveness of our internal control over financial reporting as of December 31, 2019 based on criteria established in Internal Control - Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission. As a result of this assessment, management concluded that, as of December 31, 2019, our internal control over financial reporting was effective in providing reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles.

Deloitte & Touche LLP, an independent registered public accounting firm, has audited the effectiveness of our internal control over financial reporting as of December 31, 2019, and their report is included below. Deloitte & Touche LLP has also audited, and issued an unqualified opinion with respect to, our Consolidated Financial Statements for 2019, which opinion is included in [Item 8](#), "Financial Statements and Supplementary Data," of this 10-K.

**Changes in Internal Control over Financial Reporting**

Under Exchange Act Rules 13a-15(d) and 15d-15(d), management is required to evaluate, with the participation of our principal executive officer and principal financial officer, any changes in internal control over financial reporting that occurred during each fiscal quarter that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. There were no changes in our internal control over financial reporting during our most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**Remediation Efforts to Address Material Weakness in Internal Control Over Financial Reporting**

As discussed in [Item 9A](#), *Controls and Procedures*, of the 2018 10-K, we identified a material weakness in the area of revenue accounting as of December 31, 2018 related to journal entries, evaluating evidence of product or service delivery, and account reconciliations related to unbilled revenue and deferred revenue. Prior to December 31, 2018, we designed and implemented new controls to compensate for the complexity of our accounting for revenue contracts and our dependence on manual processes. Due to the timing of the design and implementation of these controls during the fourth quarter of 2018, however, there was insufficient time to consistently execute against their design as of December 31, 2018. During 2019, to remediate the material weakness described above, we:

- Enhanced controls related to manual journal entries to strengthen the completeness and accuracy of revenue-related entries;
- Enhanced controls, including new automated reports, to demonstrate and verify evidence of product or service delivery;
- Enhanced communication between financial and operating personnel to better monitor the status of product and service delivery;



- Centralized responsibility for product and service delivery under one department and implemented a monthly attestation process for key operating personnel;
- Implemented mandatory training for operational and revenue personnel who are responsible for product or service delivery and revenue recognition;
- Enhanced controls over unbilled revenue and deferred revenue account reconciliations, including the review and timely analysis of reconciling items; and
- Implemented a business process review control that compares our actual results to our forecast and historical results.

We have completed the documentation, implementation and testing of the remediation actions described above, and as of September 30, 2019, management determined that the material weakness identified in the 2018 10-K had been remediated.

### **Compliance Program**

As discussed in [Item 9A, Controls and Procedures](#), of the 2018 10-K, we have taken a number of actions to reinforce a culture of integrity, accountability, and adherence to established internal controls, policies and procedures, including through formal communications, town hall meetings, and mandatory employee training, which continued through 2019. We have a Compliance Coordinating Committee at the executive level that oversees our compliance program, which includes a policies and procedures library, education and mandatory training, and monitoring for compliance and corrective action where appropriate. The program also includes policies for receiving, evaluating and reporting on allegations of misconduct or noncompliance with our Code of Business Conduct and Ethics and our Reporting and Non-Retaliation Policy (our corporate whistleblower program). We continue our focus on maintaining a strong "tone at the top" and culture of compliance and control consciousness.

### **Inherent Limitation on the Effectiveness of Internal Controls**

The effectiveness of any system of internal control over financial reporting is subject to inherent limitations, including the exercise of judgment in designing, implementing, operating, and evaluating the controls and procedures, and the inability to eliminate misconduct completely. Accordingly, any system of internal control over financial reporting can only provide reasonable, not absolute, assurance that its objectives will be met. In addition, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. We intend to continue to monitor and upgrade our internal controls as necessary or appropriate for our business, but we cannot assure that such improvements will be sufficient to provide us with effective internal control over financial reporting in future periods.

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of comScore, Inc.

### Opinion on Internal Control over Financial Reporting

We have audited the internal control over financial reporting of comScore, Inc. and subsidiaries (the “Company”) as of December 31, 2019, based on criteria established in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control - Integrated Framework (2013)* issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated financial statements as of and for the year ended December 31, 2019, of the Company and our report dated February 27, 2020, expressed an unqualified opinion on those financial statements and included an explanatory paragraph regarding the Company’s adoption of new accounting standards.

### Basis for Opinion

The Company’s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying *Management’s Report on Internal Control over Financial Reporting*. Our responsibility is to express an opinion on the Company’s internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

### Definition and Limitations of Internal Control over Financial Reporting

A company’s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company’s internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company’s assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Deloitte & Touche LLP

McLean, Virginia  
February 27, 2020

**ITEM 9B. OTHER INFORMATION**

Not applicable.

## PART III

### **ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE**

Certain information regarding our directors and executive officers required by Item 10 of Part III is set forth in [Item 1](#) of Part I "Business - Executive Officers and Directors." Other information required by Item 10 of Part III, including information regarding any material changes to the process by which security holders may recommend nominees to the Board of Directors, is included in our Proxy Statement relating to our 2020 Annual Meeting of Stockholders, and is incorporated herein by reference. Information required by Item 10 of Part III regarding our Audit Committee is set forth in our Proxy Statement relating to our 2020 Annual Meeting of Stockholders and is incorporated herein by reference. Information relating to our compliance with Section 16(a) of the Exchange Act is set forth in our Proxy Statement relating to our 2020 Annual Meeting of Stockholders and is incorporated herein by reference.

We have adopted a Code of Business Conduct and Ethics that applies to our principal executive officer, principal financial officer, principal accounting officer or controller, and persons performing similar functions. We have posted the Code of Business Conduct and Ethics on our investor relations website under the heading "Corporate Governance" at [www.comscore.com](http://www.comscore.com). To the extent permissible under Nasdaq rules, we intend to disclose any amendments to our Code of Business Conduct and Ethics, as well as waivers of the provisions thereof, on our investor relations website under the heading "Corporate Governance" at [www.comscore.com](http://www.comscore.com).

### **ITEM 11. EXECUTIVE COMPENSATION**

Information required by Item 11 of Part III is included in our Proxy Statement relating to our 2020 Annual Meeting of Stockholders and is incorporated herein by reference.

### **ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

Information required by Item 12 of Part III is included in our Proxy Statement relating to our 2020 Annual Meeting of Stockholders and is incorporated herein by reference.

### **ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE**

Information required by Item 13 of Part III is included in our Proxy Statement relating to our 2020 Annual Meeting of Stockholders and is incorporated herein by reference.

### **ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES**

Information required by Item 14 of Part III is included in our Proxy Statement relating to our 2020 Annual Meeting of Stockholders and is incorporated herein by reference.

**PART IV**

**ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES**

(a) The following documents are filed as part of this Annual Report on Form 10-K:

(1) Financial statements and reports of our independent registered public accounting firm. See (i) Index to Consolidated Financial Statements at [Item 8](#) and (ii) [Item 9A](#) of this Annual Report on Form 10-K.

(2) All other schedules, for which provision is made in the applicable accounting regulations of the SEC, are omitted, as the required information is inapplicable or the information is presented in the Consolidated Financial Statements and Notes to Consolidated Financial Statements in [Item 8](#) of this Annual Report on Form 10-K.

(3) Exhibits. The exhibits filed as part of this report are listed under "Exhibits" at subsection (b) of this [Item 15](#).

(b) [Exhibits](#)

**EXHIBITS**

<b>Exhibit No.</b>	<b>Exhibit Document</b>
3.1	<a href="#">Amended and Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 3.3 to the Registrant's Registration Statement on Form S-1, as amended, filed June 12, 2007) (File No. 333-141740)</a>
3.2	<a href="#">Certificate of Amendment of Amended and Restated Certificate of Incorporation of comScore, Inc. (incorporated by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form S-8, filed June 4, 2018) (File No. 333-225400)</a>
3.3	<a href="#">Certificate of Designation of Series A Junior Participating Preferred Stock of comScore, Inc., as filed with the Secretary of State of the State of Delaware on February 9, 2017 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K, filed February 9, 2017) (File No. 001-33520)</a>
3.4	<a href="#">Certificate of Elimination of Series A Junior Participating Preferred Stock of comScore, Inc., as filed with the Secretary of State of the State of Delaware on September 29, 2017 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K, filed October 4, 2017) (File No. 001-33520)</a>
3.5	<a href="#">Amended and Restated Bylaws of comScore, Inc (incorporated by reference to Exhibit 3.2 to the Registrant's Quarterly Report on Form 10-Q for the period ended June 30, 2018, filed August 10, 2018) (File No. 001-33520)</a>
4.1+	<a href="#">Form of Senior Secured Convertible Note (Initial Notes), as amended</a>
4.2+	<a href="#">Form of Senior Secured Convertible Note (Option Notes), as amended</a>
4.3	<a href="#">Specimen Common Stock Certificate (incorporated by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form S-1, as amended, filed June 12, 2007) (File No. 333-141740)</a>
4.4	<a href="#">Series A Warrant Issued to CVI Investments, Inc. (incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K, filed June 26, 2019) (File No. 001-33520)</a>
4.5	<a href="#">Series B-1 Warrant Issued to CVI Investments, Inc. (incorporated by reference to Exhibit 4.2 to the Registrant's Current Report on Form 8-K, filed June 26, 2019) (File No. 001-33520)</a>
4.6	<a href="#">Series B-2 Warrant Issued to CVI Investments, Inc. (incorporated by reference to Exhibit 4.3 to the Registrant's Current Report on Form 8-K, filed June 26, 2019) (File No. 001-33520)</a>
4.7	<a href="#">Series C Warrant Issued to CVI Investments, Inc. (incorporated by reference to Exhibit 4.7 to the Registrant's Quarterly Report on Form 10-Q, filed August 07, 2019) (File No. 001-33520)</a>
4.8	<a href="#">Registration Rights Agreement, dated June 26, 2019, between comScore, Inc and CVI Investments, Inc. (incorporated by reference to Exhibit 4.5 to the Registrant's Current Report on Form 8-K, filed June 26, 2019) (File No. 001-33520)</a>
4.9+	<a href="#">Description of Securities</a>
4.10	<a href="#">Voting Agreement, dated as of December 20, 2011, by and among comScore, Inc. and The Nielsen Company (US) LLC (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K, filed December 21, 2011) (File No. 001-33520)</a>
4.11	<a href="#">Stockholders Rights Agreement, dated as of February 11, 2015, by and among comScore, Inc., WPP Group USA, Inc. and Cavendish Square Holding B.V. (incorporated by reference to Exhibit (d)(3) to Cavendish Square Holding B.V.'s and WPP plc's Tender Offer Statement on Schedule TO, filed February 20, 2015) (File No. 005-83687)</a>
4.12	<a href="#">Voting Agreement, dated as of February 11, 2015, by and among comScore, Inc., WPP Group USA, Inc. and Cavendish Square Holding B.V. (incorporated by reference to Exhibit (d)(4) to Cavendish Square Holding B.V.'s and WPP plc's Tender Offer Statement on Schedule TO, filed February 20, 2015) (File No. 005-83687)</a>
4.13	<a href="#">Registration Rights Agreement, dated as of January 16, 2018, by and among comScore, Inc. and the investors listed on the Schedule of Buyers attached thereto (incorporated by reference to Exhibit 10.4 to the Registrant's Current Report on Form 8-K, filed January 16, 2018) (File No. 001-33520)</a>
4.14	<a href="#">First Amendment to Senior Secured Convertible Notes, dated as of May 17, 2018, by and between comScore, Inc., Starboard Value and Opportunity Master Fund Ltd. and each of the other investors listed on the signature pages attached thereto (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed May 17, 2018) (File No. 001-33520)</a>

- 4.15 [Second Amendment to Senior Secured Convertible Notes, dated as of August 8, 2018, by and between comScore, Inc., Starboard Value and Opportunity Master Fund Ltd. and each of the other investors listed on the signature pages attached thereto \(incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed August 9, 2018\) \(File No. 001-33520\)](#)
- 4.16 [Agreement, dated as of November 13, 2018, by and between comScore, Inc., Starboard Value and Opportunity Master Fund Ltd. and each of the other investors listed on the signature pages attached thereto \(incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed on November 13, 2018\) \(File No. 001-33520\)](#)
- 4.17 [Amendment Agreement, dated November 6, 2019, by and among comScore, Inc., Starboard Value LP and certain affiliates of Starboard Value LP \(incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed November 6, 2019\) \(File No. 001-33520\)](#)
- 10.1 [Patent Purchase, License and Settlement Agreement, dated as of December 20, 2011, by and among comScore, Inc., The Nielsen Company \(US\) LLC and NetRatings LLC \(incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed December 21, 2011\) \(File No. 001-33520\)](#)
- 10.2 [Purchase Agreement, dated as of December 20, 2011, by and among comScore, Inc. and The Nielsen Company \(US\) LLC \(incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, filed December 21, 2011\) \(File No. 001-33520\)](#)
- 10.3 [Stock Purchase Agreement, dated as of February 11, 2015, by and among Cavendish Square Holding B.V., WPP Group USA, Inc., CS Worldnet Holding B.V. and comScore, Inc. \(incorporated by reference to Exhibit \(d\)\(1\) to Cavendish Square Holding B.V.'s and WPP plc's Tender Offer Statement on Schedule TO, filed February 20, 2015\) \(File No. 005-83687\)](#)
- 10.4 [Strategic Alliance Agreement, dated February 11, 2015, by and between comScore, Inc. and WPP Group USA, Inc. \(incorporated by reference to Exhibit \(d\)\(5\) to Cavendish Square Holding B.V.'s and WPP plc's Tender Offer Statement on Schedule TO, filed February 20, 2015\) \(File No. 005-83687\)](#)
- 10.5 [Purchase Agreement, dated as of April 1, 2015, by and between comScore, Inc. and Cavendish Square Holding B.V. \(incorporated by reference to Exhibit 10.5 to the Registrant's Current Report on Form 8-K, filed April 3, 2015\) \(File No. 001-33520\)](#)
- 10.6 [Securities Purchase Agreement, dated as of January 16, 2018, by and among comScore, Inc. and the investors listed on the Schedule of Buyers attached thereto \(incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed January 16, 2018\) \(File No. 001-33520\)](#)
- 10.7 [Guaranty Agreement, dated as of January 16, 2018, made by the subsidiary guarantors signatory thereto \(incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, filed January 16, 2018\) \(File No. 001-33520\)](#)
- 10.8 [Pledge and Security Agreement, dated as of January 16, 2018, made by comScore, Inc., the subsidiaries signatory thereto and Starboard Value and Opportunity Master Fund Ltd., as Collateral Agent \(incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K, filed January 16, 2018\) \(File No. 001-33520\)](#)
- 10.9 [Deed of Lease between South of Market LLC \(as Landlord\) and comScore, Inc. \(as Tenant\), dated December 21, 2007 \(incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed February 5, 2008\) \(File No. 001-33520\)](#)
- 10.10 [Amendment No. 6 to Deed of Lease, dated as of May 30, 2018, by and between South of Market LLC and comScore, Inc. \(incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed June 5, 2018\) \(File No. 001-33520\)](#)
- 10.11\* [2007 Equity Incentive Plan, as amended and restated September 8, 2014 \(incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q, filed October 29, 2014\) \(File No. 001-33520\)](#)
- 10.12\* [Form of Notice of Grant of Stock Option under 2007 Equity Incentive Plan \(incorporated by reference to Exhibit 10.7 to the Registrant's Registration Statement on Form S-1, filed April 2, 2007\) \(File No. 333-141740\)](#)
- 10.13\* [Form of Notice of Grant of Restricted Stock Units under 2007 Equity Incentive Plan \(incorporated by reference to Exhibit 10.9 to the Registrant's Registration Statement on Form S-1, filed April 2, 2007\) \(File No. 333-141740\)](#)
- 10.14\* [2018 Equity and Incentive Compensation Plan \(incorporated by reference to Exhibit 10.1 to the Registrant's Registration Statement on Form S-8, filed June 4, 2018\) \(File No. 333-225400\)](#)
- 10.15\* [Form of Restricted Stock Units Award Notice for Employees \(incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K, filed June 5, 2018\) \(File No. 001-33520\)](#)

10.16*	<a href="#">Form of Restricted Stock Units and Common Stock Award Notice for Employees (incorporated by reference to Exhibit 10.4 to the Registrant's Current Report on Form 8-K, filed June 5, 2018) (File No. 001-33520)</a>
10.17*	<a href="#">Form of Restricted Stock Units Award Notice for Directors (incorporated by reference to Exhibit 10.5 to the Registrant's Current Report on Form 8-K, filed June 5, 2018) (File No. 001-33520)</a>
10.18*	<a href="#">Form of Common Stock Award Notice for Employees (incorporated by reference to Exhibit 10.6 to the Registrant's Current Report on Form 8-K, filed June 5, 2018) (File No. 001-33520)</a>
10.19*	<a href="#">Form of Performance Restricted Stock Units Award Agreement for CEO/President (incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q for the period ended September 30, 2018, filed November 9, 2018) (File No. 001-33520)</a>
10.20*	<a href="#">Form of Performance Restricted Stock Units Award Agreement for Employees (incorporated by reference to Exhibit 10.4 to the Registrant's Quarterly Report on Form 10-Q for the period ended September 30, 2018, filed November 9, 2018) (File No. 001-33520)</a>
10.21*	<a href="#">Form of Restricted Stock Units Award Agreement for Employees (incorporated by reference to Exhibit 10.5 to the Registrant's Quarterly Report on Form 10-Q for the period ended September 30, 2018, filed November 9, 2018) (File No. 001-33520)</a>
10.22*	<a href="#">Form of Change of Control and Severance Agreement (CFO and General Counsel) (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, filed on September 10, 2018) (File No. 001-33520)</a>
10.23*	<a href="#">Form of Change of Control and Severance Agreement (Other Executive Officers) (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K, filed on September 10, 2018) (File No. 001-33520)</a>
10.24	<a href="#">Form of Indemnification Agreement for directors and executive officers (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K, filed October 4, 2017) (File No. 001-33520)</a>
10.25*	<a href="#">Letter Agreement, dated as of March 31, 2019, by and between comScore, Inc. and Dale Fuller (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed April 1, 2019) (File No. 001-33520)</a>
10.26*	<a href="#">Separation Agreement, dated as of March 31, 2019, by and between comScore, Inc. and Bryan Wiener (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, filed April 1, 2019) (File No. 001-33520)</a>
10.27*	<a href="#">Separation Agreement, dated as of March 31, 2019, by and between comScore, Inc. and Sarah Hofstetter (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K, filed April 1, 2019) (File No. 001-33520)</a>
10.28	<a href="#">Securities Purchase Agreement, dated as of June 23, 2019, by and among comScore, Inc. and CVI Investments, Inc. (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed June 24, 2019) (File No. 001-33520)</a>
10.29*	<a href="#">Letter Agreement, dated November 4, 2019, between comScore, Inc. and William Livek (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q, filed November 6, 2019) (File No. 001-33520)</a>
10.30*	<a href="#">Consulting Agreement, dated November 8, 2019, by and between comScore, Inc. and Dale Fuller (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed November 8, 2019) (File No. 001-33520)</a>
10.31+*	<a href="#">Separation and General Release Agreement, dated as of November 5, 2019, by and between comScore, Inc. and Joseph Rostock</a>
10.32+*	<a href="#">Change of Control and Severance Agreement, executed on September 28, 2015, by between comScore, Inc. and William Livek</a>
10.33+*	<a href="#">Form of Stock Option Grant Notice and Stock Option Agreement under 2018 Equity and Incentive Compensation Plan</a>
10.34+*	<a href="#">Form of Deferred Stock Units Award Agreement under 2018 Equity and Incentive Compensation Plan</a>
10.35+*	<a href="#">Form of Performance Restricted Stock Units Award Agreement under 2018 Equity and Incentive Compensation Plan</a>
10.36+*	<a href="#">Form of Restricted Stock Units Award Agreement under 2018 Equity and Incentive Compensation Plan</a>
21.1+	<a href="#">List of Subsidiaries</a>



23.1+	<a href="#">Consent of Deloitte &amp; Touche LLP</a>
31.1+	<a href="#">Certification of Principal Executive Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>
31.2+	<a href="#">Certification of Principal Financial Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>
32.1+	<a href="#">Certification of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>
32.2+	<a href="#">Certification of Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>
101.INS	XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
101.SCH	XBRL Taxonomy Extension Schema Document.
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB	XBRL Taxonomy Extension Label Linkbase Document.
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.
104	Cover Page Interactive Data File - the cover page iXBRL tags are embedded within the Inline XBRL document

\* Management contract or compensatory plan or arrangement.

+ Filed or furnished herewith

**ITEM 16. FORM 10-K SUMMARY**

None.



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.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ William P. Livek</u> William P. Livek	Chief Executive Officer and Executive Vice Chairman (Principal Executive Officer)	February 27, 2020
<u>/s/ Gregory A. Fink</u> Gregory A. Fink	Chief Financial Officer and Treasurer (Principal Financial Officer and Principal Accounting Officer)	February 27, 2020
<u>/s/ Brent D. Rosenthal</u> Brent D. Rosenthal	Non-Executive Chairman	February 27, 2020
<u>/s/ Joanne Bradford</u> Joanne Bradford	Director	February 27, 2020
<u>/s/ Irwin Gotlieb</u> Irwin Gotlieb	Director	February 27, 2020
<u>/s/ Jacques Kerrest</u> Jacques Kerrest	Director	February 27, 2020
<u>/s/ Kathleen Love</u> Kathleen Love	Director	February 27, 2020
<u>/s/ John K. Martin Jr.</u> John K. Martin Jr.	Director	February 27, 2020



**comscore**

**[FORM OF SENIOR SECURED CONVERTIBLE NOTE]**

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE CONVERTIBLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL SELECTED BY THE HOLDER, IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT, OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES. ANY TRANSFEREE OF THIS NOTE SHOULD CAREFULLY REVIEW THE TERMS OF THIS NOTE, INCLUDING SECTIONS 3(c)(iii) AND 18(a) HEREOF. THE PRINCIPAL AMOUNT REPRESENTED BY THIS NOTE AND, ACCORDINGLY, THE SECURITIES ISSUABLE UPON CONVERSION HEREOF MAY BE LESS THAN THE AMOUNT SET FORTH ON THE FACE HEREOF PURSUANT TO SECTION 3(c)(iii) OF THIS NOTE.

COMSCORE, INC.

**SENIOR SECURED CONVERTIBLE NOTE**

Issuance Date: January 16, 2018

Original Principal Amount: U.S. \$[●]

(Reflects the amendments dated May 17, 2018, August 8, 2018, November 13, 2018 and November 6, 2019)

**FOR VALUE RECEIVED**, comScore, Inc., a Delaware corporation (the "**Company**"), hereby promises to pay to [BUYER] or registered assigns (the "**Holder**") in cash and/or in shares of Common Stock (as defined below) the amount set out above as the Original Principal Amount (as reduced pursuant to the terms hereof pursuant to redemption, conversion or otherwise, the "**Principal**") when due, whether upon the Maturity Date (as defined below), acceleration, redemption or otherwise (in each case in accordance with the terms hereof) and to pay interest ("**Interest**") on any outstanding Principal at the applicable Interest Rate from the date set out above as the Issuance Date (the "**Issuance Date**") until the same becomes due and payable, whether upon an Interest Date (as defined below), the Maturity Date, acceleration, conversion, redemption or otherwise (in each case in accordance with the terms hereof). This Senior Secured Convertible Note (including all Senior Secured Convertible Notes issued in exchange, transfer or replacement hereof, this "**Note**") is one of an issue of Senior Secured Convertible Notes issued pursuant to the Securities Purchase Agreement on the Initial Closing Date (collectively, the "**Notes**")

and such other Senior Secured Convertible Notes, the "**Other Notes**"). Certain capitalized terms used herein are defined in Section 31.

(1) PAYMENTS OF PRINCIPAL; PREPAYMENT. On the Maturity Date, the Company shall pay to the Holder an amount in cash representing all outstanding Principal, any accrued and unpaid Interest and any accrued and unpaid Late Charges (as defined in Section 24(b)) on such Principal and Interest. The "**Maturity Date**" shall be January 16, 2022, as may be extended at the option of the Holder (i) in the event that, and for so long as, an Event of Default (as defined in Section 4(a)) shall have occurred and be continuing on the Maturity Date (as may be extended pursuant to this Section 1) or any event shall have occurred and be continuing on the Maturity Date (as may be extended pursuant to this Section 1) that with the passage of time and the failure to cure would result in an Event of Default and (ii) through the date that is ten (10) Business Days after the consummation of a Change of Control in the event that a Change of Control is publicly announced or a Change of Control Notice (as defined in Section 5(b)) is delivered prior to the Maturity Date. Other than as specifically permitted by this Note, the Company may not prepay any portion of the outstanding Principal, accrued and unpaid Interest or accrued and unpaid Late Charges on Principal and Interest, if any.

(2) INTEREST.

(a) Interest on this Note shall commence accruing on the Issuance Date at the Interest Rate and shall be computed on the basis of a 360-day year and twelve 30-day months and shall be payable in arrears for each Calendar Quarter on the first (1<sup>st</sup>) Business Day of each Calendar Quarter after the Issuance Date (each, an "**Interest Date**").

(b) Interest shall be payable on each Interest Date, to the record holder of this Note on the applicable Interest Date, in whole or in part, in shares of Common Stock ("**Interest Shares**") so long as there is no Equity Conditions Failure (other than as a result of the delivery of an Interest Blocker Notice (as defined below)) occurring on the applicable Interest Date; provided, however, that the Company may, at its option following written notice to each holder of the Notes and any Additional Notes on or prior to the applicable Interest Notice Due Date (the date such notice is delivered to the Holder and holders of Other Notes and Additional Notes, the "**Interest Notice Date**"), elect to pay Interest on any Interest Date in cash ("**Cash Interest**") or in a combination of Cash Interest and Interest Shares. Each Interest Election Notice shall specify the amount or percentage of Interest that the Company will pay in respect of the Interest Date as Cash Interest and Interest Shares which amounts or percentages, as applicable, when added together, must equal the applicable Interest (or 100% thereof, as applicable) due on such Interest Date. If the Company elects (or is deemed to have elected by operation of this Section 2) the payment of applicable Interest in Interest Shares, in whole or in part, and an Equity Conditions Failure (other than the delivery to the Company of an Interest Blocker Notice) occurs at any time prior to the applicable Interest Date that is expected to last through the applicable Interest Date (which is not waived in writing by the Holder), the Company shall provide the Holder a written notice to that effect by no later than the Trading Day immediately following the Company having knowledge of such Equity Conditions Failure, indicating that unless the Holder waives the Equity Conditions Failure in writing, the applicable portion of Interest as to which the Holder did not waive the Equity Conditions shall be

paid as Cash Interest. If any portion of Interest for a particular Interest Date shall be paid in Interest Shares, then on the applicable Interest Date, the Company shall issue to the Holder, such number of shares of Common Stock equal to (a) the amount of Interest payable on the applicable Interest Date in Interest Shares divided by (b) the Interest Conversion Price as in effect on the applicable Interest Date. All Interest Shares shall be fully paid and nonassessable shares of Common Stock (rounded to the nearest whole share in accordance with Section 3(a)). Except as expressly provided in this Section 2, the Company shall pay the applicable Interest in the same ratio of Interest Shares and Cash Interest on the Notes, the Other Notes and any Additional Notes. The Company shall pay any and all taxes that may be payable with respect to the issuance and delivery to the Holder of shares of Common Stock as Interest pursuant to this Section 2; provided, however, that the Holder shall be solely responsible for any transfer taxes if the Interest Shares are to be registered, issued or delivered in the name of a Person other than the Holder.

(c) Notwithstanding the foregoing, if (i) the Company elects (or is deemed to have elected by operation of this Section 2) to pay all or any portion of Interest due on any Interest Date in Interest Shares, (ii) the Company is permitted pursuant to this Section 2 to pay all or any portion of Interest due on such Interest Date in Interest Shares if not for the delivery to the Company of an Interest Blocker Notice and (iii) within two (2) Business Days following the applicable Interest Notice Date the Holder has delivered to the Company a written notice (an "**Interest Blocker Notice**") (A) stating that such payment of Interest in Interest Shares would result in a violation of Section 3(d), (B) specifying the portion of the applicable Interest with respect to which the payment in Interest Shares would result in a violation of Section 3(d) if such payment of Interest in Interest Shares were effected (such amount so specified is referred to herein as the "**Designated Interest Amount**") and (C) requesting the Company hold the Designated Interest Amount issuable to the Holder in abeyance for the Holder until such time or times as its right thereto would not result in the Holder and its other Attribution Parties exceeding the Maximum Percentage, at which time or times the Company shall promptly upon written notice from the Holder deliver such Interest Shares to the extent as if there had been no such limitation. Any Interest Shares held in abeyance pursuant to the provisions of this Section 2(c) shall satisfy the Company's requirement to pay the applicable Interest corresponding to the number of Interest Shares so held in abeyance until the Company receives a notice from the Holder instructing the Company that the Maximum Percentage no longer prevents the Holder from receiving such Interest Shares.

(d) Prior to the payment of Interest on an Interest Date, Interest on this Note shall accrue at the Interest Rate and be payable by way of inclusion of the Interest in the Conversion Amount (as defined in Section 3(b)(i)) on each Conversion Date (as defined in Section 3(c)(i)) in accordance with Section 3(b)(i) and/or on each Redemption Date.

(3) CONVERSION OF NOTES. At any time or times after the first (1<sup>st</sup>) Trading Day following the Pricing Date (as defined in Section 3(b)(ii)) (the "**Initial Convertibility Date**"), this Note shall be convertible into shares of Common Stock, on the terms and conditions set forth in this Section 3.

(a) Conversion Right. Subject to the provisions of Section 3(d), at any time or times on or after the Initial Convertibility Date, the Holder shall be entitled to convert all



or any portion of the outstanding and unpaid Conversion Amount into fully paid and nonassessable shares of Common Stock in accordance with Section 3(c), at the Conversion Rate (as defined below). The Company shall not issue any fraction of a share of Common Stock upon any conversion. If the issuance would result in the issuance of a fraction of a share of Common Stock, the Company shall round such fraction of a share of Common Stock to the nearest whole share. The Company shall pay any and all transfer, stamp and similar taxes that may be payable with respect to the issuance and delivery of Common Stock upon conversion of any Conversion Amount; provided, however, that the Holder shall be solely responsible for any transfer taxes if the shares of Common Stock registrable, issuable or deliverable pursuant to a Conversion Notice are to be registered, issued or delivered in the name of a Person other than the Holder.

(b) Conversion Rate. The number of shares of Common Stock issuable upon conversion of any Conversion Amount pursuant to Section 3(a) shall be determined by dividing (x) such Conversion Amount by (y) the Conversion Price (the "**Conversion Rate**").

(i) "**Conversion Amount**" means the sum of (A) the portion of the Principal to be converted, redeemed or otherwise with respect to which this determination is being made, (B) accrued and unpaid Interest with respect to such Principal and (C) accrued and unpaid Late Charges, if any, with respect to such Principal and Interest.

(ii) "**Conversion Price**" means, as of any Conversion Date or other date of determination, a price per share equal to the greater of: (A) 130% of the arithmetic average of the Weighted Average Price of the Common Stock on each Trading Day during the ten (10) consecutive Trading Days commencing on the later of (x) the Initial Closing Date and (y) the Public Announcement Date (the last date in such period, the "**Pricing Date**") (all such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction occurring during such period) and (B) \$28.00, subject to adjustment as provided herein and pursuant to Section 4(q) of the Securities Purchase Agreement.

(c) Mechanics of Conversion.

(i) Optional Conversion. To convert any Conversion Amount into shares of Common Stock on any date on or after the Initial Convertibility Date (a "**Conversion Date**"), the Holder shall (A) deliver to the Company on such date, a copy of an executed notice of conversion substantially in the form attached hereto as Exhibit I (the "**Conversion Notice**") and (B) if required by Section 3(c)(iii), but without delaying the Company's requirement to deliver shares of Common Stock on the applicable Share Delivery Date (as defined below), surrender this Note to a common carrier for delivery to the Company as soon as practicable on or following such date (or an indemnification undertaking with respect to this Note in the case of its loss, theft or destruction). No ink-original Conversion Notice shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Conversion Notice be required. On or before the first (1st) Business Day following the date of receipt of a Conversion Notice, the Company shall transmit a confirmation of receipt of such Conversion Notice to the Holder and the Company's transfer agent (the "**Transfer Agent**"). On or before the second (2nd) Trading Day following the

date of receipt of a Conversion Notice (a "**Share Delivery Date**"), the Company shall, (x) if the Transfer Agent is participating in the Depository Trust Company ("**DTC**") Fast Automated Securities Transfer Program, credit such aggregate number of shares of Common Stock to which the Holder shall be entitled to the Holder's or its designee's balance account with DTC through its Deposit Withdrawal At Custodian system or (y) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and deliver to the address as specified in the Conversion Notice, a certificate, registered in the name of the Holder or its designee, for the number of shares of Common Stock to which the Holder shall be entitled. If this Note is physically surrendered for conversion as required by Section 3(c)(iii) and the outstanding Principal of this Note is greater than the Principal portion of the Conversion Amount being converted, then the Company shall as soon as practicable and in no event later than three (3) Business Days after receipt of this Note and at its own expense, issue and deliver to the Holder a new Note (in accordance with Section 18(d)) representing the outstanding Principal not converted. The Person or Persons entitled to receive the shares of Common Stock issuable upon a conversion of this Note shall be treated for all purposes as the record holder or holders of such shares of Common Stock on the Conversion Date, irrespective of the date such shares of Common Stock are credited to the Holder's account with DTC or the date of delivery of the certificates evidencing such shares of Common Stock, as the case may be.

(ii) Company's Failure to Timely Convert. If the Company shall fail on or prior to the applicable Share Delivery Date to issue and deliver a certificate to the Holder (if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program), or credit the Holder's balance account with DTC (if the Transfer Agent is participating in the DTC Fast Automated Securities Transfer Program), for the number of shares of Common Stock to which the Holder is entitled upon the Holder's conversion of any Conversion Amount (a "**Conversion Failure**"), then the Holder, upon written notice to the Company, may void its Conversion Notice with respect to, and retain or have returned, as the case may be, any portion of this Note that has not been converted pursuant to such Conversion Notice; provided that the voiding of a Conversion Notice shall not affect the Company's obligations to make any payments which may have accrued prior to the date of such notice pursuant to this Section 3(c)(ii) or otherwise. In addition to the foregoing, if the Company shall fail on or prior to the applicable Share Delivery Date to issue and deliver a certificate to the Holder, if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, or credit the Holder's balance account with DTC, if the Transfer Agent is participating in the DTC Fast Automated Securities Transfer Program, for the number of shares of Common Stock to which the Holder is entitled upon the Holder's conversion of any Conversion Amount or on any date of the Company's obligation to deliver shares of Common Stock as contemplated pursuant to clause (y) below, and if after such Trading Day the Holder purchases (in an open market transaction or otherwise) Common Stock to deliver in satisfaction of a sale by the Holder of Common Stock issuable upon such conversion that the Holder anticipated receiving from the Company (a "**Buy-In**"), then the Company shall, within three (3) Trading Days after the Holder's request and in the Holder's discretion, either (x) pay cash to the Holder in an amount equal to the Holder's total purchase price (including brokerage commissions) for the shares of Common Stock so purchased (the

"**Buy-In Price**"), at which point the Company's obligation to issue and deliver such certificate or certificates or credit the Holder's balance account with DTC for the shares of Common Stock to which the Holder is otherwise entitled upon the Holder's conversion of the applicable Conversion Amount shall terminate, or (y) promptly honor its obligation to deliver to the Holder a certificate or certificates representing such shares of Common Stock or credit the Holder's balance account with DTC for such shares of Common Stock and pay cash to the Holder in an amount equal to the excess (if any) of the Buy-In Price over the product of (A) such number of shares of Common Stock, times (B) the Closing Sale Price of the Common Stock on the applicable Conversion Date. Nothing herein shall limit the Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon conversion of this Note as required pursuant to the terms hereof.

(iii) Registration; Book-Entry. The Company shall maintain a register (the "**Register**") for the recordation of the names and addresses of the holders of each Note and the Principal amount of the Notes (and stated interest thereon) held by such holders (the "**Registered Notes**"). The entries in the Register shall be conclusive and binding for all purposes absent manifest error. The Company and the holders of the Notes shall treat each Person whose name is recorded in the Register as the owner of a Note for all purposes, including, without limitation, the right to receive payments of Principal and Interest, if any, hereunder, notwithstanding notice to the contrary. A Registered Note may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register. Upon its receipt of a request to assign or sell all or part of any Registered Note by the Holder, in form and substance reasonably satisfactory to the Company, the Company shall record the information contained therein in the Register and issue one or more new Registered Notes in the same aggregate Principal amount as the Principal amount of the surrendered Registered Note to the designated assignee or transferee pursuant to Section 17. The Company shall be entitled to act and rely upon any such request without inquiry as to the genuineness thereof, and without liability of any type or nature arising therefrom. Notwithstanding anything to the contrary in this Section 3(c)(iii), the Holder may assign the Note or any portion thereof to an Affiliate of such Holder or a Related Fund of such Holder without delivering a request to assign or sell such Note to the Company and the recordation of such assignment or sale in the Register (a "**Related Party Assignment**"); provided, that (x) the Company may continue to deal solely with such assigning or selling Holder unless and until such Holder has delivered a request, in form and substance reasonably satisfactory to the Company, to assign or sell such Note or portion thereof to the Company for recordation in the Register; and (y) such assigning or selling Holder shall, acting solely for this purpose as a non-fiduciary agent of the Company, maintain a register (the "**Related Party Register**") comparable to the Register on behalf of the Company, and any such assignment or sale shall be effective upon recordation of such assignment or sale in the Related Party Register. Notwithstanding anything to the contrary set forth herein, upon conversion of any portion of this Note in accordance with the terms hereof, the Holder shall not be required to physically surrender this Note to the Company unless (A) the full Conversion Amount represented by this Note is being converted or (B) the Holder has provided the Company with prior written

notice (which notice may be included in a Conversion Notice) requesting reissuance of this Note upon physical surrender of this Note. The Holder and the Company shall maintain records showing the Principal, Interest and Late Charges, if any, converted and the dates of such conversions or shall use such other methods, reasonably satisfactory to the Holder and the Company, so as not to require physical surrender of this Note upon conversion except as provided above.

(iv) Pro Rata Conversion; Disputes. In the event that the Company receives a Conversion Notice relating to this Note and one or more holders of Other Notes or Additional Notes for the same Conversion Date and the Company can convert some, but not all, of such portions of this Note, the Other Notes and the Additional Notes submitted for conversion, the Company, subject to Section 3(d), shall convert from the Holder and each holder of Other Notes and Additional Notes electing to have this Note, the Other Notes or Additional Notes converted on such date a pro rata amount of such holder's portion of the Note, its Other Notes and/or Additional Notes submitted for conversion based on the Principal amount of this Note, the Other Notes and/or Additional Notes submitted for conversion on such date by such holder relative to the aggregate Principal amount of this Note and all Other Notes and Additional Notes submitted for conversion on such date. In the event of a dispute as to the number of shares of Common Stock issuable to the Holder in connection with a conversion of this Note, the Company shall issue to the Holder the number of shares of Common Stock not in dispute and such dispute shall be resolved in accordance with Section 23.

(d) Beneficial Ownership Limitation. The Company shall not deliver any shares of Common Stock pursuant to the terms and conditions of this Note, and the Holder shall not have the right to any shares otherwise issuable or otherwise deliverable pursuant to the terms and conditions of this Note and any such delivery shall be null and void and treated as if never made, to the extent that, immediately after giving effect to such issuance, the Holder together with its other Attribution Parties collectively would beneficially own in excess of the Maximum Percentage of the number of shares of Common Stock outstanding. For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by the Holder and its other Attribution Parties shall include the number of shares of Common Stock beneficially owned by the Holder and all of its other Attribution Parties plus the number of shares of Common Stock issuable pursuant to the terms of this Note with respect to which the determination of such sentence is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) conversion of the remaining, nonconverted portion of this Note beneficially owned by the Holder or any of its other Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any convertible notes or convertible preferred stock or warrants, including any Additional Notes and Warrants) beneficially owned by the Holder or any of its other Attribution Parties subject to a limitation on conversion or exercise analogous to the limitation contained in this Section 3(d). For purposes of this Section 3(d), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act. For purposes of determining the number of outstanding shares of Common Stock the Holder

may acquire pursuant to the terms of this Note without exceeding the Maximum Percentage, the Holder, absent other knowledge, may rely on the number of outstanding shares of Common Stock as reflected in (i) the Company's most recent Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other public filing with the SEC, as the case may be, (ii) a more recent public announcement by the Company or (iii) any other written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding (the "**Reported Outstanding Share Number**"). If the Company receives a Conversion Notice from the Holder at a time when the actual number of outstanding shares of Common Stock is less than the Reported Outstanding Share Number, the Company shall notify the Holder in writing of the number of shares of Common Stock then outstanding and, to the extent that such Conversion Notice would otherwise cause the Holder's beneficial ownership, as determined pursuant to this Section 3(d), to exceed the Maximum Percentage, the Holder shall, within one (1) Business Day thereafter, notify the Company of a reduced number of shares of Common Stock to be purchased pursuant to such Conversion Notice. The number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Note, by the Holder and any other Attribution Party since the date as of which the Reported Outstanding Share Number was reported. In the event that the issuance of shares of Common Stock to the Holder upon conversion of this Note would result in the Holder and its other Attribution Parties being deemed to beneficially own, in the aggregate, more than the Maximum Percentage of the number of outstanding shares of Common Stock, the number of shares by which the Holder's and its other Attribution Parties' aggregate beneficial ownership would exceed the Maximum Percentage (the "**Excess Shares**") shall be deemed null and void and any portion of the Conversion Amount so converted shall be reinstated, and the Holder shall not have the power to vote or to transfer the Excess Shares. Upon delivery of a written notice to the Company, the Holder may from time to time increase or decrease the Maximum Percentage to any other percentage not in excess of 9.99% as specified in such notice; provided that (i) any such increase in the Maximum Percentage will not be effective until the sixty-first (61<sup>st</sup>) day after such notice is delivered to the Company and (ii) any such increase or decrease will apply only to the Holder and its other Attribution Parties and not to any other holder of Notes that is not an Attribution Party of the Holder. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 3(d) to the extent necessary to correct this paragraph (or any portion of this paragraph) which may be defective or inconsistent with the intended beneficial ownership limitation contained in this Section 3(d) or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitation contained in this paragraph may not be waived and shall apply to a successor holder of this Note.

(4) RIGHTS UPON EVENT OF DEFAULT.

- (a) Event of Default. Each of the following events shall constitute an "**Event of Default**":

(i) the failure of the applicable Registration Statement required to be filed pursuant to the Registration Rights Agreement to be filed or declared effective within the applicable time periods specified in the Registration Rights Agreement, or, at any time while the applicable Registration Statement is required to be maintained effective pursuant to the terms of the Registration Rights Agreement, the effectiveness of the applicable Registration Statement lapses for any reason (including, without limitation, the issuance of a stop order) and such lapse continues for a period of greater than ten (10) consecutive Trading Days or for more than an aggregate of twenty (20) Trading Days in any 365-day period or such Registration Statement is unavailable to any holder of the Notes for sale of all of such holder's Registrable Securities in accordance with the terms of the Registration Rights Agreement (unless such unavailability is during an Allowable Grace Period (as defined in the Registration Rights Agreement));

(ii) (A) the suspension of the Common Stock from trading on an Eligible Market, or, on or after April 30, 2019, on a Qualified Market, for a period of more than five (5) consecutive Trading Days or for more than an aggregate of ten (10) Trading Days in any 365-day period or (B) the failure of the Common Stock to be listed or quoted for trading on an Eligible Market;

(iii) the failure of the Common Stock to be listed or quoted for trading on or after April 30, 2019, on a Qualified Market;

(iv) the Company's delivery of written notice to the Holder or any holder of the Other Notes or any Additional Notes, including by way of public announcement or through any of its agents, at any time, of its intention not to comply with a valid request for conversion of this Note, any Other Notes or any Additional Notes into shares of Common Stock that is validly tendered in accordance with the provisions of this Note, the Other Notes or any Additional Notes, as applicable, other than pursuant to Section 3(d) (and analogous provisions under the Other Notes and any Additional Notes);

(v) the Company's failure to pay to the Holder any amount of Principal, Interest, Late Charges or other amounts when and as due under this Note (including, without limitation, the Company's failure to pay any redemption amounts hereunder) or any other Transaction Document or any other agreement, document, certificate or other instrument delivered in connection with the transactions contemplated hereby and thereby to which the Holder is a party, except, in the case of a failure to pay any amounts other than Principal when and as due, in which case only if such failure continues for a period of at least an aggregate of two (2) Business Days;

(vi) any default under any Indebtedness in an aggregate principal amount of more than \$10,000,000 of the Company and/or any of its Subsidiaries other than with respect to this Note, any Other Notes or any Additional Notes, the effect of which default is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased

or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity;

(vii) the Company or any of its domestic Subsidiaries, pursuant to or within the meaning of Title 11, U.S. Code, or any similar Federal, foreign or state law for the relief of debtors (collectively, "**Bankruptcy Law**"), (A) commences a voluntary case, (B) consents to the entry of an order for relief against it in an involuntary case, (C) consents to the appointment of a receiver, trustee, assignee, liquidator or similar official (a "**Custodian**"), (D) makes a general assignment for the benefit of its creditors or (E) admits in writing that it is generally unable to pay its debts as they become due;

(viii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that (A) is for relief against the Company or any of its domestic Subsidiaries in an involuntary case, (B) appoints a Custodian of the Company or any of its domestic Subsidiaries or (C) orders the liquidation of the Company or any of its domestic Subsidiaries, and, in each case, continues undismissed or unstayed for sixty (60) days;

(ix) one or more judgments, orders or awards for the payment of money aggregating (above any insurance coverage or indemnity from a credit worthy party so long as such insurance provider has been notified of the claim and does not dispute coverage) in excess of \$10,000,000 are rendered against the Company or any of its Subsidiaries and which judgments, orders or awards are not, within sixty (60) days after the entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within sixty (60) days after the expiration of such stay;

(x) other than as specifically set forth in another clause of this Section 4(a), the Company or any of its Subsidiaries breaches any covenant in any Transaction Document, and such breach, if curable, continues for a period of at least an aggregate of thirty (30) calendar days after the earlier of (A) an authorized officer of the Company or such Subsidiary becoming aware of such failure and (B) receipt by an authorized officer of the Company or such Subsidiary of a notice from the Holder of such breach;

(xi) any representation, warranty, certification or statement of fact made or deemed made by the Company or any Subsidiary herein, or in any other Transaction Document, shall be incorrect or misleading in any material respect when made or deemed made;

(xii) any breach or failure in any respect to comply with Sections 14 or 15 of this Note;

(xiii) any material provision of any Security Document (as defined in the Securities Purchase Agreement) shall at any time for any reason (other than pursuant to the express terms thereof) cease to be valid and binding on or enforceable against the Company or any Subsidiary party thereto, or ceases to give the Collateral Agent the Liens purported to be created thereby or the validity or enforceability thereof shall be contested by the Company or any Subsidiary, or a proceeding shall be commenced by the Company

or any Subsidiary or any governmental authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof, or the Company or any Subsidiary shall deny in writing that it has any liability or obligation purported to be created under any Security Document;

(xiv) any material damage to, or loss, theft or destruction of, any Collateral or a material amount of property of the Company, whether or not insured, or any strike, lockout, labor dispute, embargo, condemnation, act of God or public enemy, or other casualty which causes, for more than fifteen (15) consecutive days, the cessation or substantial curtailment of revenue producing activities at any facility of the Company or any Subsidiary, if any such event or circumstance could reasonably be expected to have a Material Adverse Effect (as defined in the Securities Purchase Agreement);

(xv) a false or inaccurate certification (including a false or inaccurate deemed certification) by the Company that the Equity Conditions are satisfied or that there has been no Equity Conditions Failure or as to whether any Event of Default has occurred (in each case other than any Equity Conditions Failure arising solely as a result of the delivery to the Company of an Interest Blocker Notice);

(xvi) the Company's failure to file with the SEC any periodic or current reports due after the filing with the SEC of the Form 10-K (as defined in Section 15(b)) in accordance with the Company's requirements under the Exchange Act but only if such failure continues for a period of at least one (1) year;

(xvii) any Event of Default (as defined in the Other Notes) occurs with respect to any Other Notes;  
or

(xviii) any Event of Default (as defined in the Additional Notes) occurs with respect to any Additional Notes.

(b) Redemption Right. Upon the occurrence of an Event of Default with respect to this Note or any Other Note, the Company shall promptly deliver written notice thereof (an "**Event of Default Notice**") to the Holder. At any time after the earlier of the Holder's receipt of an Event of Default Notice and the Holder becoming aware of an Event of Default, the Holder may require the Company to redeem (an "**Event of Default Redemption**") all, but not less than all, of this Note by delivering written notice thereof (the "**Event of Default Redemption Notice**" and the date the Holder delivers an Event of Default Redemption Notice to the Company, an "**Event of Default Redemption Notice Date**") to the Company, which Event of Default Redemption Notice shall indicate that the Holder is electing to require the Company to redeem this Note. To the extent this Note is subject to redemption by the Company pursuant to this Section 4(b), this Note shall be redeemed by the Company in cash at a price equal to the greater of (i) the product of (x) the Redemption Premium and (y) the Conversion Amount being redeemed and (ii) solely if there is an Equity Conditions Failure (that is not waived in writing by the Holder) during the period from the applicable Event of Default Redemption Notice Date through and including the applicable Event of Default Redemption Date (as defined in Section 10(a)), the product of (x) the Conversion Rate with respect to the Conversion Amount being redeemed and (y) the quotient determined by dividing



(I) the greatest Closing Sale Price of the shares of Common Stock during the period beginning on the date immediately preceding such Event of Default and ending on the date the Holder delivers the Event of Default Redemption Notice, by (II) the lowest Conversion Price in effect during such period (the "**Event of Default Redemption Price**"). Redemptions required by this Section 4(b) shall be made in accordance with the provisions of Section 10. To the extent redemptions required by this Section 4(b) are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. Notwithstanding anything to the contrary in this Section 4, but subject to Section 3(d), until the Event of Default Redemption Price (together with any interest thereon) is paid in full, the Conversion Amount submitted for redemption under this Section 4(b) (together with any interest thereon) may be converted, in whole or in part, by the Holder into Common Stock pursuant to Section 3. Any such converted Conversion Amount shall reduce the Event of Default Redemption payment by an equivalent amount. The parties hereto agree that in the event of the Company's redemption of this Note under this Section 4(b), the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. Accordingly, any Event of Default redemption premium due under this Section 4(b) is intended by the parties to be, and shall be deemed, a reasonable estimate of the Holder's actual loss of its investment opportunity and not as a penalty.

(5) RIGHTS UPON FUNDAMENTAL TRANSACTION AND CHANGE OF CONTROL.

(a) Assumption and Corporate Events. Upon the consummation of any Fundamental Transaction, the Company shall cause any Successor Entity or Successor Entities to jointly and severally succeed to, and be added to the term "Company" under this Note (so that from and after the consummation of such Fundamental Transaction, each and every provision of this Note referring to the "Company" shall refer instead to each of the Company and the Successor Entity or Successor Entities, jointly and severally), and the Successor Entity or Successor Entities, jointly and severally with the Company, may exercise every right and power of the Company prior thereto and the Successor Entity or Successor Entities shall assume all of the obligations of the Company prior thereto under this Note with the same effect as if the Company and such Successor Entity or Successor Entities, jointly and severally, had been named as the Company in this Note. In addition to and not in substitution for any other rights hereunder, prior to the occurrence or consummation of any Fundamental Transaction pursuant to which holders of shares of Common Stock become entitled to receive securities, cash, assets or other property with respect to or in exchange for shares of Common Stock (a "**Corporate Event**"), the Company shall provide that it shall be a required condition to the occurrence or consummation of such Corporate Event that the Holder will have the right to receive upon conversion of this Note at any time after the occurrence or consummation of the Corporate Event, shares of Common Stock or capital stock of a Successor Entity or, if so elected by the Holder, in lieu of the shares of Common Stock (or other securities, cash, assets or other property) purchasable upon the conversion of this Note prior to such Corporate Event, such shares of stock, securities, cash, assets or any other property whatsoever (including warrants or other purchase or subscription rights and any shares of Common Stock) which the Holder would have been entitled to receive upon the occurrence or consummation of such Corporate Event or the record, eligibility or other determination date for the event resulting in such Corporate

Event, had this Note been converted immediately prior to such Corporate Event or the record, eligibility or other determination date for the event resulting in such Corporate Event (without regard to any limitations on conversion of this Note). The provisions of this Section 5(a) shall apply similarly and equally to successive Fundamental Transactions and Corporate Events.

(b) **Redemption Right.** As soon as practicable following the public announcement of the consummation of a Change of Control, the Company shall deliver written notice thereof to the Holder (a "**Change of Control Notice**"). At any time during the period beginning on the earlier to occur of (x) the Holder becoming aware of the consummation of a Change of Control and (y) the Holder's receipt of a Change of Control Notice and ending thirty five (35) Trading Days after the date of the consummation of such Change of Control, the Holder may require the Company to redeem (a "**Change of Control Redemption**") all or any portion of this Note by delivering written notice thereof ("**Change of Control Redemption Notice**" and the date the Holder delivers a Change of Control Redemption Notice to the Company, a "**Change of Control Redemption Notice Date**") to the Company, which Change of Control Redemption Notice shall indicate the Conversion Amount the Holder is electing to require the Company to redeem. The portion of this Note subject to redemption pursuant to this Section 5(b) shall be redeemed by the Company in cash at a price equal to the sum of (i) the greater of (x) 110% of the Conversion Amount being redeemed and (y) solely if (a) the applicable Change of Control is a Make-Whole Change of Control or (b) there is an Equity Conditions Failure (that is not waived in writing by the Holder) during the period from the applicable Change of Control Redemption Notice Date through and including the applicable Change of Control Redemption Date (as defined in Section 10(a)), the product of (I) the Conversion Amount being redeemed and (II) the quotient determined by dividing (A) the greatest Closing Sale Price of the shares of Common Stock during the period beginning on the date immediately preceding the earlier to occur of (1) the consummation of the Change of Control and (2) the public announcement of such Change of Control and ending on the date the Holder delivers the Change of Control Redemption Notice, by (B) the lowest Conversion Price in effect during such period, and (ii) if the applicable Change of Control is a Make-Whole Change of Control, the Make-Whole Change of Control Premium (the "**Change of Control Redemption Price**"). Redemptions required by this Section 5 shall be made in accordance with the provisions of Section 10 and shall have priority to payments to stockholders in connection with a Change of Control. To the extent redemptions required by this Section 5(b) are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. Notwithstanding anything to the contrary in this Section 5, but subject to Section 3(d), until the Change of Control Redemption Price (together with any interest thereon) is paid in full, the Conversion Amount submitted for redemption under this Section 5(b) (together with any interest thereon) may be converted, in whole or in part, by the Holder into Common Stock pursuant to Section 3. Any such converted Conversion Amount shall reduce the Conversion Amount submitted for redemption under this Section 5(b) by an equivalent amount. The parties hereto agree that in the event of the Company's redemption of any portion of the Note under this Section 5(b), the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. Accordingly, any Change of Control redemption premium due under this Section 5(b) is intended by the parties to be, and shall be deemed, a reasonable estimate of the Holder's actual loss of its investment opportunity and not as a penalty.

(c) Qualifying Change of Control Redemption Right. Notwithstanding any Holder's right to require a Change of Control Redemption, delivery of any Change of Control Redemption Notice or anything else to the contrary in the Notes, contemporaneously with, or within three (3) Business Days subsequent to, the consummation of a Qualifying Change of Control, the Company may redeem this Note in full in cash at a price equal to the sum of (i) the aggregate outstanding Principal amount of this Note as of the Qualifying Early Redemption Date (as defined in Section 10(a)), (ii) Interest accrued on such Principal amount as of the Qualifying Early Redemption Date, (iii) any other amounts owed pursuant to the terms of this Note, including, without limitation, any Late Charges, as of the Qualifying Early Redemption Date and (iv) 20% (the "**Qualifying Early Redemption Premium**") of the aggregate outstanding Principal amount of this Note as of the Qualifying Early Redemption Date (for the avoidance of doubt, the Qualifying Early Redemption Premium shall only be applied to the aggregate outstanding Principal amount of this Note as of the Qualifying Early Redemption Date) (the "**Qualifying Early Redemption Price**"). If the Company elects to redeem this Note in connection with a Qualifying Change of Control, the Company shall (i) be deemed by virtue of public announcement of such Qualifying Change of Control to have delivered an irrevocable notice thereof to the Holder (a "**Qualifying Early Redemption Notice**") unless the Company has provided earlier or contemporaneous written notice to the Holder that the Company does not elect to redeem this Note in connection with such Qualifying Change of Control and (ii) simultaneously take the same action with respect to all Other Notes and Additional Notes then outstanding. Redemptions required by this Section 5(c) shall be made in accordance with the provisions of Section 10 and shall have priority to payments to stockholders in connection with a Qualifying Change of Control. To the extent redemptions required by this Section 5(c) are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. Notwithstanding anything to the contrary in this Section 5, but subject to Section 3(d), until the Qualifying Early Redemption Price (together with any interest thereon) is paid in full, the Conversion Amount submitted for redemption under this Section 5(c) (together with any interest thereon) may be converted, in whole or in part, by the Holder into Common Stock of comScore, Inc. pursuant to Section 3 (for the avoidance of doubt, in the event any portion of this Note remains outstanding more than two (2) Business Days after the consummation of a Qualifying Change of Control, Section 5(a) shall apply and the Holder shall, among other things, be entitled to convert this Note into the capital stock of the Successor Entity in accordance with Section 5(a)). Any such converted Conversion Amount shall reduce the Conversion Amount subject to redemption under this Section 5(c) by an equivalent amount. The parties hereto agree that in the event of the Company's redemption of any portion of the Note under this Section 5(c), the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. Accordingly, any Change of Control redemption premium due under this Section 5(c) is intended by the parties to be, and shall be deemed, a reasonable estimate of the Holder's actual loss of its investment opportunity and not as a penalty. Upon the Company's request and at the Company's sole cost and expense, the Holder agrees to provide a customary payoff letter, in form and substance reasonably satisfactory to the Company and the Holder, confirming the payoff of all obligations under this Note and the release of all liens securing such obligations, which confirmations shall be contingent on the Holder's receipt of the payment in full of the applicable Qualifying Early Redemption Price,

and which payoff and release shall occur automatically upon such payment without further action by the Holder.

(6) ADJUSTMENTS TO THE CONVERSION PRICE.

(a) Adjustment of Conversion Price upon Subdivision or Combination of Common Stock or Stock Dividend. If the Company issues solely shares of Common Stock as a dividend or distribution on all or substantially all shares of the Common Stock, or if the Company effects a stock split or a stock combination of the Common Stock (in each case excluding an issuance solely pursuant to a Fundamental Transaction or other Corporate Event, as to which the provisions set forth in Section 5 will apply), then the Conversion Price will be adjusted based on the following formula:

$$CP_1 = CP_0 * \frac{OS_0}{OS_1}$$

where:

CP<sub>0</sub> = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such dividend or distribution, or immediately before the open of business on the effective date of such stock split or stock combination, as applicable;

CP<sub>1</sub> = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date or the open of business on such effective date, as applicable;

OS<sub>0</sub> = the number of shares of Common Stock outstanding immediately before the open of business on such Ex-Dividend Date or effective date, as applicable; and

OS<sub>1</sub> = the number of shares of Common Stock outstanding immediately after giving effect to such dividend, distribution, stock split or stock combination.

For the avoidance of doubt, pursuant to the definition of CP<sub>1</sub> above, any adjustment to the Conversion Price made pursuant to this Section 6(a) will become effective immediately after the open of business on such Ex-Dividend Date or the open of business on such effective date, as applicable. If any dividend, distribution, stock split or stock combination of the type described in this Section 6(a) is declared or announced, but not so paid or made, then the Conversion Price, if previously adjusted, will be readjusted, effective as of the date the Board of Directors of the Company determines not to pay such dividend or distribution or to effect such stock split or stock combination, to the Conversion Price that would then be in effect had such dividend, distribution, stock split or stock combination not been declared or announced.

(b) Rights, Options and Warrants. If the Company distributes, to all or substantially all holders of Common Stock, rights, options or warrants entitling such holders, for a period of not more than sixty (60) calendar days after the record date of such distribution, to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is publicly announced, then the Conversion Price will be decreased based on the following formula:

$$CP_1 = CP_0 * \frac{OS + Y}{OS + X}$$

where:

CP<sub>0</sub> = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such distribution;

CP<sub>1</sub> = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

OS = the number of shares of Common Stock outstanding immediately before the open of business on such Ex-Dividend Date;

X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = a number of shares of Common Stock obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

For the avoidance of doubt, any adjustment to the Conversion Price made pursuant to this Section 6(b) will be made successively whenever any such rights, options or warrants are issued and, pursuant to the definition of CP<sub>1</sub> above, will become effective immediately after the open of business on the Ex-Dividend Date for the applicable distribution. To the extent that shares

of Common Stock are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Price, if previously adjusted, will be readjusted effective as of such expiration date to the Conversion Price that would then be in effect had the decrease to the Conversion Price for such distribution been made on the basis of delivery of only the number of shares of Common Stock actually delivered upon exercise of such rights, option or warrants. To the extent such rights, options or warrants are not so distributed, the Conversion Price will be readjusted effective as of the date the Board of Directors of the Company determines not to distribute such rights, options or warrants, to the Conversion Price that would then be in effect had the Ex-Dividend Date for the distribution of such rights, options or warrants not occurred.

For purposes of this Section 6(b), in determining whether any rights, options or warrants entitle holders of Common Stock to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date of the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Board of Directors of the Company.

(c) Spin-Offs and Other Distributed Property.

(i) Distributions Other than Spin-Offs. If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Capital Stock of the Company or other securities, to all or substantially all holders of the Common Stock, excluding:

- (u) rights issued in the Rights Offering (as defined in the Securities Purchase Agreement);
- (v) dividends, distributions, rights, options or warrants for which an adjustment to the Conversion Price is required pursuant to Section 6(a) or 6(b);
- (w) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Price is required pursuant to Section 6(d);
- (x) rights issued or otherwise distributed pursuant to a stockholder rights plan, except to the extent provided in Section 6(g);
- (y) Spin-Offs for which an adjustment to the Conversion Price is required pursuant to Section 6(c)(ii); and
- (z) a distribution solely pursuant to a Corporate Event, as to which the provisions set forth in Section 5 will apply,

then the Conversion Price will be decreased based on the following formula:

$$CP_1 = \frac{CP_0 * SP - FMV}{SP}$$

where:

CR<sub>0</sub> = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such distribution;

CR<sub>1</sub> = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

SP = the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before such Ex-Dividend Date; and

FMV = the fair market value (determined in the good faith judgment of the Board of Directors of the Company), as of such Ex-Dividend Date, of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed per share of Common Stock pursuant to such distribution;

provided, however, that if FMV is equal to or greater than SP, or if the difference between FMV and SP is less than one dollar (\$1.00), then, in lieu of the foregoing adjustment to the Conversion Price, each

Holder will receive, at the same time and on the same terms as holders of Common Stock, the amount and kind of shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the principal amount of Notes held by such Holder on the record date for such distribution divided by the Conversion Price in effect on such record date.

For the avoidance of doubt, pursuant to the definition of CP<sub>1</sub> above, any adjustment to the Conversion Price made pursuant to this Section 6(c)(i) will become effective immediately after the open of business on the Ex-Dividend Date for the applicable distribution. To the extent such distribution is not so paid or made, or such rights, options or warrants are not exercised before their expiration (including as a result of being redeemed or terminated), the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to make or pay such distribution, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid or on the basis of the distribution of only such rights, options or warrants, if any, that were actually exercised, if at all. Subject to Section 6(g), if any such rights, options or warrants are exercisable only upon the occurrence of certain triggering events, then the Conversion Price will not be adjusted pursuant to this Section 6(c)(i) until the earliest of these triggering events occurs.

(ii) Spin-Offs. If the Company distributes or dividends shares of stock of any class or series, or similar equity interest, of or relating to an Affiliate, a Subsidiary or other business unit of the Company to all or substantially all holders of the Common Stock, and such stock or equity interest is listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a "**Spin-Off**"), then the Conversion Price will be increased based on the following formula:

$$CP_1 = CP_0 * \frac{MP}{MP + FMV}$$

where:

CP<sub>0</sub> = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such Spin-Off;

CP<sub>1</sub> = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

FMV = the average of the Closing Sale Prices of the stock or equity interests distributed per share of Common Stock in such Spin-Off over the ten (10) consecutive Trading Day period (the "**Spin-Off Valuation Period**") beginning on, and including, such Ex-Dividend



Date (such average to be determined as if references to Common Stock in the definitions of Closing Sale Price and Trading Day were instead references to the number or units of such stock or equity interests distributed per share of Common Stock in such Spin-Off); and

MP = the average of the Closing Sale Prices per share of Common Stock over the Spin-Off Valuation Period.

The adjustment to the Conversion Price pursuant to this Section 6(c)(ii) will be calculated as of the close of business on the last Trading Day of the Spin-Off Valuation Period but will be given effect immediately after the open of business on the Ex-Dividend Date for the Spin-Off, with retroactive effect. If this Note is converted and the Conversion Date occurs during the Spin-Off Valuation Period, then, in lieu of the foregoing adjustment to the Conversion Price, the Holder will receive, at the same time and on the same terms as holders of Common Stock, the number of shares of stock or other equity interests that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the principal amount of Notes held by such Holder on the record date for Spin-Off divided by the Conversion Price in effect on such record date.

To the extent any dividend or distribution of the type set forth in this Section 6(c)(ii) is declared but not made or paid, the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to make or pay such dividend or distribution, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(d) Cash Dividends or Distributions. If any cash dividend or distribution is made to all or substantially all holders of Common Stock, then the Conversion Price will be decreased based on the following formula:

$$CP_1 = CP_0 * \frac{SP}{SP - D}$$

where:

CP<sub>0</sub> = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such dividend or distribution;

CR<sub>1</sub> = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

SP = the Closing Sale Price per share of Common Stock on the Trading Day immediately before such Ex-Dividend Date; and

D = the cash amount distributed per share of Common Stock in such dividend or distribution;

provided, however, that if D is equal to or greater than SP, or if the difference between D and SP is less than one dollar (\$1.00), then, in lieu of the foregoing adjustment to the Conversion Price, the Holder will receive, at the same time and on the same terms as holders of Common Stock, the amount of cash that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the principal amount of Notes held by such Holder on the record date for such dividend or distribution divided by the Conversion Price in effect on such record date. For the avoidance of doubt, pursuant to the definition of CP<sub>1</sub> above, any adjustment to the Conversion Price made pursuant to this Section 6(d) will become effective immediately after the open of business on the Ex-Dividend Date for the applicable dividend or distribution.

To the extent any such dividend or distribution is declared but not made or paid, the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to make or pay such dividend or distribution, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(e) Tender Offers or Exchange Offers. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for shares of Common Stock, and the value (as determined as of the Expiration Time (as defined below) in the judgment of the Board of Directors of the Company) of the cash and other consideration paid per share of Common Stock in such tender or exchange offer exceeds the Closing Sale Price per share of Common Stock on the Trading Day immediately after the last date (the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Price will be decreased based on the following formula:

$$CP_1 = CP_0 * \frac{OS_0 \times SP}{AC + (SP \times OS_1)}$$

where:

$CP_0$  = the Conversion Price in effect immediately before the time (the "**Expiration Time**") such tender or exchange offer expires;

$CP_1$  = the Conversion Price in effect immediately after the Expiration Time;

AC = the aggregate value (as determined as of the Expiration Time in the judgment of the Board of Directors of the Company) of all cash and other consideration paid for shares of Common Stock purchased in such tender or exchange offer;

$OS_0$  = the number of shares of Common Stock outstanding immediately before the Expiration Time (before giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer);

$OS_1$  = the number of shares of Common Stock outstanding immediately after the Expiration Time (excluding all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer); and

SP = the average of the Closing Sale Prices of Common Stock over the ten (10) consecutive Trading Day period (the "**Tender/Exchange Offer Valuation Period**") beginning on, and including, the Trading Day immediately after the Expiration Date.

The adjustment to the Conversion Price pursuant to this Section 6(e) will be calculated as of the close of business on the last Trading Day of the Tender/Exchange Offer Valuation Period but will be given effect immediately after the Expiration Time, with retroactive effect. If this Note is converted and the Conversion Date occurs during the Tender/Exchange Offer Valuation Period, then, notwithstanding anything to the contrary in the Notes, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Tender/Exchange Offer Valuation Period. To the extent such tender or exchange offer is announced but not consummated (including as a result of the Company being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of shares of Common Stock in such tender or exchange offer are rescinded, the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to consummate such offer, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of shares of Common Stock, if any, actually made, and not rescinded, in such tender or exchange offer.

(f) No Adjustments in Certain Cases. Notwithstanding anything to the contrary in this Section 6, the Company will not be obligated to adjust the Conversion Price on account of a transaction or other event otherwise requiring an adjustment pursuant to this Section

6 (other than a stock dividend, distribution, split or combination of the type set forth in Section 6(a) or a tender or exchange offer of the type set forth in Section 6(e)) if each Holder participates, at the same time and on the same terms as holders of Common Stock, and solely by virtue of being a Holder of Notes, in such transaction or event without having to convert such Holder's Notes and as if such Holder held a number of shares of Common Stock equal to the quotient of (i) the aggregate principal amount (expressed in thousands) of Notes held by the Holder on such date; divided by (ii) the Conversion Price in effect on the related record date, effective date or Expiration Date, as applicable.

(g) Stockholder Rights Plans. If any shares of Common Stock are to be issued upon conversion of this Note and, at the time of such conversion, the Company has in effect any stockholder rights plan, then the Holder will be entitled to receive, in addition to, and concurrently with the delivery of, the consideration otherwise payable under this Note upon such conversion, the rights set forth in such stockholder rights plan, unless such rights have separated from the Common Stock at or prior to such time, in which case, and only in such case, the Conversion Price will be adjusted pursuant to Section 6(c)(1) on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such Section to all holders of the Common Stock, subject to readjustment in accordance with such Section if such rights expire, terminate or are redeemed.

(h) Voluntary Adjustment by Company. The Company may at any time during the term of this Note, with the prior written consent of the Required Holders, reduce the then current Conversion Price to any amount and for any period of time deemed appropriate by the Board of Directors of the Company.

(7) OPTIONAL REDEMPTION AT THE COMPANY'S ELECTION.

(a) General. At any time after January 16, 2021 (the "**Company Optional Trigger Date**"), so long as (i) the arithmetic average of the Weighted Average Prices of the Common Stock for any thirty (30) consecutive Trading Days occurring after the Company Optional Trigger Date (all such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction during such period) (a "**Company Optional Measuring Period**") equaled or exceeded one hundred forty percent (140%) of the Conversion Price on the Issuance Date (as adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction after the Subscription Date) and (ii) there has been no Equity Conditions Failure during the period beginning on the applicable Company Optional Redemption Notice Date (as defined below) through the applicable Company Optional Redemption Date (as defined below), the Company shall have the right to redeem all or any portion of the Conversion Amount then remaining outstanding under this Note, the Other Notes and the Additional Notes (a "**Company Optional Redemption Amount**") as designated in the applicable Company Optional Redemption Notice on the applicable Company Optional Redemption Date (each as defined below) (a "**Company Optional Redemption**"). The portion of this Note, the Other Notes and any Additional Notes subject to redemption pursuant to this Section 7(a) shall be redeemed by the Company on the applicable Company Optional Redemption Date in cash at a price equal to the 100% of the Conversion Amount to be redeemed (a "**Company Optional Redemption Price**").

The Company may exercise its right to require redemption under this Section 7 by delivering within not more than ten (10) Trading Days following the end of such Company Optional Measuring Period a written notice thereof to the Holder and all, but not less than all, of the holders of the Other Notes and any Additional Notes (a "**Company Optional Redemption Notice**" and the date all of the holders of the Notes received such notice is referred to as a "**Company Optional Redemption Notice Date**"). Each Company Optional Redemption Notice shall be irrevocable. Each Company Optional Redemption Notice shall (i) state the date on which the applicable Company Optional Redemption shall occur (a "**Company Optional Redemption Date**"), which date shall not be less than ten (10) Trading Days nor more than thirty (30) Trading Days following the applicable Company Optional Redemption Notice Date and (ii) state the aggregate Conversion Amount of the Notes which the Company has elected to redeem from the Holder and all of the holders of the Other Notes and any Additional Notes pursuant to this Section 7(a) (and analogous provisions under the Other Notes and any applicable Additional Notes) on the applicable Company Optional Redemption Date an Equity Conditions Failure (other than as a result of the receipt by the Company of an Interest Blocker Notice) occurs between the applicable Company Optional Redemption Notice Date and the applicable Company Optional Redemption Date and (iii) confirm that there has been no Equity Conditions Failure during the period beginning on the applicable Company Optional Redemption Date through the applicable Company Optional Redemption Notice Date. If the Company confirmed that there was no such Equity Conditions Failure as of the applicable Company Optional Redemption Notice Date but an Equity Conditions Failure occurs between the applicable Company Optional Redemption Notice Date and the applicable Company Optional Redemption Date (a "**Company Optional Redemption Interim Period**"), the Company shall provide the Holder a subsequent notice to that effect. If there is an Equity Conditions Failure (which is not waived in writing by the Holder) during such Company Optional Redemption Interim Period, then the applicable Company Optional Redemption shall be null and void with respect to all or any part designated by the Holder of the unconverted Company Optional Redemption Amount and the Holder shall be entitled to all the rights of a holder of this Note with respect to such amount of the applicable Company Optional Redemption Amount. Notwithstanding anything to the contrary in this Section 7, until the applicable Company Optional Redemption Price is paid, in full, the applicable Company Optional Redemption Amount may be converted, in whole or in part, by the Holder into shares of Common Stock pursuant to Section 3. All Conversion Amounts converted by the Holder after the applicable Company Optional Redemption Notice Date shall reduce the applicable Company Optional Redemption Amount of this Note required to be redeemed on the applicable Company Optional Redemption Date, unless the Holder otherwise indicates in the applicable Conversion Notice. Company Optional Redemptions made pursuant to this Section 7 shall be made in accordance with Section 10. To the extent redemptions required by this Section 7 are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. The parties hereto agree that in the event of the Company's redemption of any portion of the Note under this Section 7, the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. For the avoidance of doubt, any Conversion Amount that is subject to a Conversion Notice delivered to the Company may no longer be subject to a Company Optional Redemption even if the shares issuable upon such conversion have not been delivered on or prior to the applicable Company Optional Redemption Date.

(b) Pro Rata Redemption Requirement. If the Company elects to cause a Company Optional Redemption pursuant to Section 7(a), then it must simultaneously take the same action in the same proportion with respect to the Other Notes and any Additional Notes. If the Company elects to cause a Company Optional Redemption pursuant to Section 7(a) (or similar provisions under the Other Notes and the Additional Notes) with respect to less than all of the Conversion Amounts of the Notes and any Additional Notes then outstanding, then the Company shall require redemption of a Conversion Amount from each of the holders of the Notes and any Additional Notes equal to the product of (i) the aggregate Company Optional Redemption Amount of Notes and the Additional Notes which the Company has elected to cause to be redeemed pursuant to Section 7(a), multiplied by (ii) the fraction, the numerator of which is the sum of the aggregate Principal Amount of the Notes and any Additional Notes held by such holder and the denominator of which is the sum of the aggregate Principal Amount of the Notes and any Additional Notes held by all holders holding outstanding Notes and any Additional Notes (such fraction with respect to each holder is referred to as its "**Company Optional Redemption Allocation Percentage**", and such amount with respect to each holder is referred to as its "**Pro Rata Company Optional Redemption Amount**"). In the event that the initial holder of any Notes or Additional Notes shall sell or otherwise transfer any of such holder's Notes or any Additional Notes, the transferee shall be allocated a pro rata portion of such holder's Company Optional Redemption Allocation Percentage and Pro Rata Company Optional Redemption Amount.

(8) NONCIRCUMVENTION. The Company hereby covenants and agrees that the Company will not, by amendment of its Certificate of Incorporation, Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Note, and will at all times in good faith carry out all of the provisions of this Note and take all action as may be required to protect the rights of the Holder of this Note.

(9) RESERVATION OF AUTHORIZED SHARES.

(a) Reservation. The Company shall initially reserve out of its authorized and unissued shares of Common Stock a number of shares of Common Stock for each of this Note, the Other Notes and any Additional Notes equal to the sum of (i) 130% of the Conversion Rate with respect to the Conversion Amount of each such Note as of the Issuance Date and (ii) 130% of the maximum number of shares issuable as Interest Shares assuming all Interest through the Maturity Date is paid in Interest Shares at the maximum possible Interest Rate. So long as any of this Note, the Other Notes and the Additional Notes are outstanding, the Company shall take all action necessary to reserve and keep available out of its authorized and unissued Common Stock, solely for the purpose of effecting the conversion of this Note, the Other Notes and any Additional Notes, the number of shares of Common Stock specified above in this Section 9(a) as shall from time to time be necessary to effect the conversion of all of the Notes and any Additional Notes then outstanding; provided, that at no time shall the number of shares of Common Stock so reserved be less than the number of shares required to be reserved pursuant hereto (in each case, without regard to any limitations on conversions) (the "**Required Reserve Amount**"). The initial number of shares of Common Stock reserved for conversions of this Note, the Other Notes and the Additional Notes

and each increase in the number of shares so reserved shall be allocated pro rata among the Holder, the holders of the Other Notes and the holders of any Additional Notes based on the Principal amount of this Note and the Other Notes held by each holder at the Initial Closing (as defined in the Securities Purchase Agreement) or increase in the number of reserved shares, as the case may be (the "**Authorized Share Allocation**"). In the event that a holder shall sell or otherwise transfer this Note, or a portion thereof, or any of such holder's Other Notes or Additional Notes, each transferee shall be allocated a pro rata portion of such holder's Authorized Share Allocation. Any shares of Common Stock reserved and allocated to the portion of the Note held by any Person who ceases to hold any Notes shall be allocated to the portion of the Note held by the Holder and the remaining holders of Other Notes and the Additional Notes, pro rata based on the then-outstanding Principal amount of this Note, the Other Notes and any Additional Notes then held by such holders.

(b) **Insufficient Authorized Shares.** If at any time while any of the Notes remain outstanding the Company does not have a sufficient number of authorized and unreserved shares of Common Stock to satisfy its obligation to have reserved for issuance upon conversion of the outstanding Notes at least a number of shares of Common Stock equal to the Required Reserve Amount (an "**Authorized Share Failure**"), then the Company shall promptly take all action necessary to increase the Company's authorized shares of Common Stock to an amount sufficient to allow the Company to reserve the Required Reserve Amount for the Notes then outstanding. Without limiting the generality of the foregoing sentence, as soon as practicable after the date of the occurrence of an Authorized Share Failure, but in no event later than sixty (60) days after the occurrence of such Authorized Share Failure, the Company shall either (x) obtain the written consent of its stockholders for the approval of an increase in the number of authorized shares of Common Stock and provide each stockholder with an information statement with respect thereto or (y) file with the SEC a proxy statement for a meeting of its stockholders at which meeting the Company will seek the approval of its stockholders for an increase in the number of authorized shares of Common Stock. In connection with such meeting, the Company shall provide each stockholder with a proxy statement and shall use commercially reasonable efforts to solicit its stockholders' approval of such increase in authorized shares of Common Stock and to cause its Board of Directors to recommend to the stockholders that they approve such proposal. Notwithstanding the foregoing, if during any such time of an Authorized Share Failure, the Company is able to obtain the written consent of a majority of the shares of its issued and outstanding Common Stock to approve the increase in the number of authorized shares of Common Stock, the Company may satisfy this obligation by obtaining such consent and submitting for filing with the SEC an Information Statement on Schedule 14C. If, upon any conversion of this Note, the Company does not have sufficient authorized shares to deliver in satisfaction of such conversion, then unless the Holder elects to rescind such attempted conversion, the Holder may require the Company to pay to the Holder within three (3) Trading Days of the applicable attempted conversion, cash in an amount equal to the product of (i) the number of shares of Common Stock that the Company is unable to deliver pursuant to this Section 9, and (ii) the highest Closing Sale Price of the Common Stock during the period beginning on the applicable Conversion Date and ending on the date the Company makes the applicable cash payment.

(10) REDEMPTIONS.

(a) **Mechanics.** The Company shall deliver the applicable Event of Default Redemption Price to the Holder within three (3) Business Days after the Company's receipt of the Holder's Event of Default Redemption Notice (the "**Event of Default Redemption Date**"). If the Holder has submitted a Change of Control Redemption Notice in accordance with Section 5(b), the Company shall deliver the applicable Change of Control Redemption Price to the Holder (i) concurrently with the consummation of such Change of Control if such notice is received prior to the consummation of such Change of Control and (ii) within three (3) Business Days after the Company's receipt of such notice otherwise (such date, the "**Change of Control Redemption Date**"). If the Company has delivered a Qualifying Early Redemption Notice to the Holders in accordance with Section 5(c), the Company shall deliver the applicable Qualifying Early Redemption Price to the Holders concurrently with the consummation of such Qualifying Change of Control (such date, the "**Qualifying Early Redemption Date**"). The Company shall deliver the applicable Company Optional Redemption Price to the Holder on the applicable Company Optional Redemption Date. The Company shall pay the applicable Redemption Price to the Holder on the applicable due date. In the event of a redemption of less than all of the Conversion Amount of this Note and a surrender of this Note by the Holder, the Company shall promptly cause to be issued and delivered to the Holder a new Note (in accordance with Section 18(d)) representing the outstanding Principal which has not been redeemed and any accrued Interest on such Principal which shall be calculated as if no Redemption Notice has been delivered. In the event that the Company does not pay the applicable Redemption Price to the Holder within the time period required, at any time thereafter and until the Company pays such unpaid Redemption Price in full, the Holder shall have the option, in lieu of redemption, to require the Company to promptly return to the Holder all or any portion of this Note representing the Conversion Amount that was submitted for redemption and for which the applicable Redemption Price (together with any Late Charges thereon) has not been paid. Upon the Company's receipt of such notice, (x) the applicable Redemption Notice shall be null and void with respect to such Conversion Amount, (y) the Company shall immediately return this Note, or issue a new Note (in accordance with Section 18(d)) to the Holder representing such Conversion Amount not redeemed and (z) the Conversion Price of this Note or such new Note shall be adjusted to the Conversion Price as in effect on the date on which the applicable Redemption Notice is voided. The Holder's delivery of a notice voiding a Redemption Notice and exercise of its rights following such notice shall not affect the Company's obligations to make any payments of Late Charges which have accrued prior to the date of such notice with respect to the Conversion Amount subject to such notice.

(b) **Redemption by Other Holders.** Upon the Company's receipt of notice from any of the holders of the Other Notes or any Additional Notes for redemption or repayment as a result of an event or occurrence substantially similar to the events or occurrences described in Section 4(b) or Section 5(b) or pursuant to equivalent provisions set forth in the Other Notes or any Additional Notes (each, an "**Other Redemption Notice**"), the Company shall promptly provide notice of such request. If the Company receives a Redemption Notice and one or more Other Redemption Notices, during the seven (7) Business Day period beginning on and including the date which is three (3) Business Days prior to the Company's receipt of the Holder's Redemption Notice and ending on and including the date which is three (3) Business Days after the Company's receipt of the Holder's Redemption Notice and the Company is unable to redeem all principal, interest and other amounts designated in such Redemption Notice and such Other Redemption Notices received



during such seven (7) Business Day period, then the Company shall redeem a pro rata amount from the Holder and each holder of the Other Notes and the Additional Notes (including the Holder) based on the outstanding Principal amount of this Note, the Other Notes and any Additional Notes submitted for redemption pursuant to such Redemption Notice and such Other Redemption Notices received by the Company during such seven (7) Business Day period.

(11) VOTING RIGHTS. The Holder shall have no voting rights as the holder of this Note, except as required by law and as expressly provided in this Note.

(12) SECURITY. This Note, the Other Notes and any Additional Notes are secured to the extent and in the manner set forth in the Security Documents.

(13) RANK. All payments due under this Note (a) shall rank *pari passu* with all Other Notes, Additional Notes, Rights Offering Notes, if any, Backstop Commitment Notes, if any, and Indebtedness described in clause (iii) of the definition of Permitted Indebtedness, if any, and (b) shall be senior to all other Indebtedness of the Company and its Subsidiaries.

(14) NEGATIVE COVENANTS.

(a) Until all of the Notes and the Additional Notes have been converted, redeemed or otherwise satisfied in accordance with their terms, the Company shall not, and the Company shall not permit any of its Subsidiaries without the prior written consent of the Required Holders to, directly or indirectly:

(i) incur or guarantee, assume or suffer to exist any Indebtedness, other than Permitted Indebtedness; or

(ii) allow or suffer to exist any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in any property or assets (including accounts and contract rights) owned by the Company or any of its Subsidiaries (collectively, "**Liens**") other than Permitted Liens.

(b) Solely in the event that the Company does not at the applicable time of determination satisfy the Qualifying Conditions, the Company shall not, and the Company shall not permit any of its Subsidiaries without the prior written consent of the Required Holders to, directly or indirectly:

(i) Redeem or repurchase any Equity Interests or other Junior Claims, or declare or pay any dividend or other distributions of assets (or rights to acquire assets) to any or all holders of Equity Interests or other Junior Claims, by way of return of capital or otherwise (including without limitation, any distribution of cash, stock or other securities, property, Options, evidence of Indebtedness or any other assets by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) of the Company or any of its Subsidiaries (any of the foregoing, a "**Restricted Payment**"), in each case other than:

(1) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Indebtedness made by exchange for, or out of the proceeds of the substantially concurrent sale of, Refinancing Indebtedness;

(2) each Subsidiary may declare and make Restricted Payments to Persons that own Equity Interests in such Subsidiary, ratably according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made;

(3) the Company and each Subsidiary may declare and make dividend payments or other distributions payable solely in Equity Interests of such Person;

(4) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Equity Interest of the Company or a Subsidiary made by exchange for or out of the proceeds of the substantially concurrent sale of Equity Interests of the Company;

(5) a Restricted Payment to pay for the repurchase, retirement or other acquisition or retirement for value of Equity Interests of the Company held by or on behalf of any future, present or former employee, director, manager or consultant of the Company or any of its Subsidiaries (or permitted transferees, assigns, estates, trusts or heirs of such employee, director, manager or consultant) either pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or upon the termination of such employee, director, manager or consultant's employment, directorship or manager position; provided that the aggregate amount of Restricted Payments made under this clause (5) do not exceed in any calendar year an amount equal to \$1,000,000;

(6) purchases, repurchases, redemptions, defeasances or other acquisitions or retirements of Equity Interests deemed to occur upon the exercise of stock options, warrants or other rights in respect thereof if such Equity Interests represents a portion of the exercise price thereof; and

(7) additional Restricted Payments in an amount not to exceed \$5,000,000 during any fiscal year or \$10,000,000 in the aggregate prior to the Maturity Date.

(15) AFFIRMATIVE COVENANTS.

(a) By no later than April 30, 2019, the Company shall have filed with the SEC one or more Annual Reports on Form 10-K containing its audited financial statements for the fiscal years ended December 31, 2015, 2016 and 2017 in accordance with the applicable requirements of the Exchange Act, the rules and regulations thereunder and the SEC's instructions to Annual Reports on Form 10-K (the "**Form 10-K**").

(b) From and after the date the Company files the Form 10-K, on or before the date that the Company is required to file any Quarterly Report on Form 10-Q or Annual Report on Form 10-K, the Company shall publicly disclose Consolidated EBITDA with respect to the most recent completed financial period as to which such report relates.

(c) The Company shall maintain on deposit cash and/or cash equivalents (as defined in GAAP) in an aggregate amount equal to:

(i) not less than \$40,000,000 from and after the Initial Closing Date to and excluding the earlier to occur of (x) the consummation of the Rights Offering (as defined in the Securities Purchase Agreement) and (y) the Maturity Date (such earlier date, the “**Cash Measuring Date**”); provided, however, that, upon execution of the Qualifying Change of Control Documentation, such amount shall be reduced on a dollar for dollar basis for each dollar of Cash Interest paid to the Holder and the holders of the Other Notes and the Additional Notes from and after the execution of the Qualifying Change of Control Documentation until the consummation of the applicable Qualifying Change of Control or the termination of the related Qualifying Change of Control Documentation in accordance with its terms; provided, further, that in no event will such amount be reduced pursuant to the immediately preceding proviso by more than \$20,000,000; provided, further, that in the event that:

(x) such Qualifying Change of Control is consummated and the Holder does not receive the payment in full of the applicable Qualifying Early Redemption Price within two (2) Business Days of consummation of such Qualifying Change of Control, then on and after such consummation; or

(y) such Qualifying Change of Control is terminated in accordance with the terms of the related Qualifying Change of Control Documentation (other than in a circumstance constituting a Superior Proposal Termination (as defined below)), then on and after the shorter of (I) the ninetieth (90th) day after such termination and (II) the first date after such termination when the Company consummates a financing that enables it to maintain on deposit cash and/or cash equivalents (as defined in GAAP) in an aggregate amount equal to \$40,000,000,

in each such case, such amount shall be restored to \$40,000,000;

(ii) solely if the Cash Measuring Date is determined by clause (x) of such definition:

(1) not less than \$75,000,000 from and after the Cash Measuring Date through and excluding January 1, 2020; provided, however, that such amount shall be not less than \$55,000,000 for the period, if any, from and after the Cash Measuring Date to and excluding the earlier to occur of (a) the date the Company files the 2019 Q2 10-Q and (b) August 9, 2019; and

(2) not less than \$50,000,000 from and after January 1, 2020 through and including the Maturity Date.

(d) The Company shall deliver a Final Make-Whole Table (as defined in Section 31(oo)) to the Holder on or prior to the date that is five (5) Business Days following the Pricing Date.

(16) VOTE TO ISSUE, OR CHANGE THE TERMS OF, NOTES. The affirmative vote of the Required Holders at a meeting duly called for such purpose or the written consent without a meeting of the Required Holders shall be required for any change or amendment or waiver of any provision to this Note, any of the Other Notes or any Additional Notes. Any change, amendment or waiver by the Company and the Required Holders shall be binding on the Holder of this Note and all holders of the Other Notes and the Additional Notes.

(17) TRANSFER. This Note and any shares of Common Stock issued upon conversion of this Note may be offered, sold, assigned or transferred by the Holder without the consent of the Company, subject only to the provisions of Section 2(g) of the Securities Purchase Agreement.

(18) REISSUANCE OF THIS NOTE.

(a) Transfer. If this Note is to be transferred, the Holder shall surrender this Note to the Company, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Note (in accordance with Section 18(d) and subject to Section 3(c)(iii)), registered as the Holder may request, representing the outstanding Principal being transferred by the Holder and, if less than the entire outstanding Principal is being transferred, a new Note (in accordance with Section 18(d)) to the Holder representing the outstanding Principal not being transferred. The Holder and any assignee, by acceptance of this Note, acknowledge and agree that, by reason of the provisions of Section 3(c)(iii) following conversion or redemption of any portion of this Note, the outstanding Principal represented by this Note may be less than the Principal stated on the face of this Note.

(b) Lost, Stolen or Mutilated Note. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Note, and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary form and, in the case of mutilation, upon surrender and cancellation of this Note, the Company shall execute and deliver to the Holder a new Note (in accordance with Section 18(d)) representing the outstanding Principal.

(c) Note Exchangeable for Different Denominations. This Note is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, for a new Note or Notes (in accordance with Section 18(d)) representing in the aggregate the outstanding Principal of this Note, and each such new Note will represent such portion of such outstanding Principal as is designated by the Holder at the time of such surrender.

(d) Issuance of New Notes. Whenever the Company is required to issue a new Note pursuant to the terms of this Note, such new Note (i) shall be of like tenor with this Note, (ii) shall represent, as indicated on the face of such new Note, the Principal remaining outstanding (or in the case of a new Note being issued pursuant to Section 18(a) or Section 18(c), the Principal designated by the Holder which, when added to the principal represented by the other new Notes issued in connection with such issuance, does not exceed the Principal remaining outstanding under this Note immediately prior to such issuance of new Notes), (iii) shall have an issuance date, as indicated on the face of such new Note, which is the same as the Issuance Date

of this Note, (iv) shall have the same rights and conditions as this Note, and (v) shall represent accrued and unpaid Interest and Late Charges, if any, on the Principal and Interest of this Note, from the Issuance Date.

(19) REMEDIES, CHARACTERIZATIONS, OTHER OBLIGATIONS, BREACHES AND INJUNCTIVE RELIEF. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note and any of the other Transaction Documents at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note. Amounts set forth or provided for herein with respect to payments, conversion, redemption and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach, the Holder shall be entitled, in addition to all other available remedies, to an injunction restraining such breach, without the necessity of showing economic loss and without any bond or other security being required, to the fullest extent enforceable under applicable law.

(20) PAYMENT OF COLLECTION, ENFORCEMENT AND OTHER COSTS. If (a) this Note is placed in the hands of an attorney for collection or enforcement or is collected or enforced through any legal proceeding or the Holder otherwise takes action to collect amounts due under this Note or to enforce the provisions of this Note or (b) there occurs any bankruptcy, reorganization, receivership of the Company or other proceedings affecting Company creditors' rights and involving a claim under this Note, then the Company shall pay the costs incurred by the Holder for such collection, enforcement or action or in connection with such bankruptcy, reorganization, receivership or other proceeding, including, but not limited to, actual and reasonable attorneys' fees and disbursements.

(21) CONSTRUCTION; HEADINGS. This Note shall be deemed to be jointly drafted by the Company and all the Buyers and shall not be construed against any person as the drafter hereof. The headings of this Note are for convenience of reference and shall not form part of, or affect the interpretation of, this Note.

(22) FAILURE OR INDULGENCE NOT WAIVER. No failure or delay on the part of the Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege.

(23) DISPUTE RESOLUTION. In the case of a dispute as to the determination of the Closing Bid Price, the Closing Sale Price or the Weighted Average Price or the arithmetic calculation of the Conversion Rate, the Conversion Price or any Redemption Price, the Company shall submit the disputed determinations or arithmetic calculations within two (2) Business Days of receipt, or deemed receipt, of the Conversion Notice or Redemption Notice or other event giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable

to agree upon such determination or calculation within three (3) Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two (2) Business Days submit (a) the disputed determination of the Closing Bid Price, the Closing Sale Price or the Weighted Average Price to an independent, reputable investment bank selected by the Holder and approved by the Company, such approval not to be unreasonably withheld, conditioned or delayed, or (b) the disputed arithmetic calculation of the Conversion Rate, Conversion Price or any Redemption Price to an independent, outside accountant, selected by the Holder and approved by the Company, such approval not to be unreasonably withheld, conditioned or delayed. The Company, at the Company's expense, shall cause the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than ten (10) Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

(24) NOTICES; PAYMENTS.

(a) Notices. Whenever notice is required to be given under this Note, unless otherwise provided herein, such notice shall be given in accordance with Section 9(f) of the Securities Purchase Agreement. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Note, including in reasonable detail a description of such action and the reason therefore. Without limiting the generality of the foregoing, the Company shall give written notice to the Holder (i) immediately upon any adjustment of the Conversion Price, setting forth in reasonable detail, and certifying, the calculation of such adjustment and (ii) at least ten (10) days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the Common Stock, (B) with respect to any pro rata subscription offer to holders of Common Stock or (C) for determining rights to vote with respect to any Fundamental Transaction, dissolution or liquidation, provided in each case that such information shall have been made known to the public prior to or in conjunction with such notice being provided to the Holder.

(b) Payments. Whenever any payment of cash is to be made by the Company to any Person pursuant to this Note, such payment shall be made in lawful money of the United States of America via wire transfer of immediately available funds to an account so designated by the Holder; provided, that the Holder, upon timely written notice to the Company, may elect to receive a payment of cash by a check drawn on the account of the Company and sent via overnight courier service to such Person at such address as previously provided to the Company in writing (which address, in the case of each of the Buyers, shall initially be as set forth on the Schedule of Buyers attached to the Securities Purchase Agreement. Whenever any amount expressed to be due by the terms of this Note is due on any day which is not a Business Day, the same shall instead be due on the next succeeding day which is a Business Day. Any amount of Principal or other amounts due under the Transaction Documents which is not paid when due shall result in a late charge being incurred and payable by the Company in an amount equal to interest on such amount at the rate of eighteen percent (18.0%) per annum from the date such amount was due until the same is paid in full ("**Late Charge**").

(25) CANCELLATION. After all Principal, any accrued Interest and any other amounts at any time owed on this Note have been paid in full, this Note shall automatically be deemed canceled, shall be surrendered to the Company for cancellation and shall not be reissued.

(26) WAIVER OF NOTICE. To the extent permitted by law, the Company hereby waives demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Note.

(27) GOVERNING LAW; JURISDICTION; JURY TRIAL. All questions concerning the construction, validity, enforcement and interpretation of this Note shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. The Company hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. The Company hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to the Company at the address set forth in Section 9(f) of the Securities Purchase Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof to the fullest extent enforceable under applicable law. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Nothing contained herein shall be deemed or operate to preclude the Holder from bringing suit or taking other legal action against the Company in any other jurisdiction to collect on the Company's obligations to the Holder, to realize on any collateral or any other security for such obligations, or to enforce a judgment or other court ruling in favor of the Holder. **THE COMPANY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS NOTE OR ANY TRANSACTION CONTEMPLATED HEREBY.**

(28) SEVERABILITY. If any provision of this Note is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Note so long as this Note as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the Company or the Holder hereof or the practical realization of the benefits that would otherwise be conferred upon the Company or the Holder hereof. The Company and the Holders will endeavor in good faith negotiations to replace the

prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

(29) DISCLOSURE. From and after the filing of the Form 10-K and provided that, at the applicable time of determination, no individual affiliated with the Holder serving on the Board of Directors of the Company was appointed thereto, including pursuant to Section 1(a) of the September Agreement, the Company will not provide to the Holder any information that constitutes material non-public information of or relating to the Company or its Subsidiaries without the prior written consent of the Holder. If and to the extent the Company does provide any such information, or the Holder otherwise comes into possession of material non-public information relating to the Company or its Subsidiaries as a result of the receipt or delivery of any notice in accordance with the terms hereof, the Company will comply with its obligations under Regulation FD under the Exchange Act. In the absence of any disclosure by the Company pursuant thereto, the Holder shall be allowed to presume that all matters relating thereto do not constitute material non-public information relating to the Company or its Subsidiaries.

(30) USURY. This Note is subject to the express condition that at no time shall the Company be obligated or required to pay interest hereunder at a rate or in an amount which could subject the Holder to either civil or criminal liability as a result of being in excess of the maximum interest rate or amount which the Company is permitted by applicable law to contract or agree to pay. If by the terms of this Note, the Company is at any time required or obligated to pay interest hereunder at a rate or in an amount in excess of such maximum rate or amount, the rate or amount of interest under this Note shall be deemed to be immediately reduced to such maximum rate or amount and the interest payable shall be computed at such maximum rate or be in such maximum amount and all prior interest payments in excess of such maximum rate or amount shall be applied and shall be deemed to have been payments in reduction of the principal balance of this Note.

(31) CERTAIN DEFINITIONS. For purposes of this Note, the following terms shall have the following meanings:

(a) "**Acquired EBITDA**" means with respect to any Acquired Entity or Business (any of the foregoing, a "Pro Forma Entity") for any period, the amount for such period of Consolidated EBITDA of such Pro Forma Entity (determined as if references to the Company and its Subsidiaries in the definition of the term "Consolidated EBITDA" were references to such Pro Forma Entity and its Subsidiaries which will become Subsidiaries), all as determined on a consolidated basis for such Pro Forma Entity.

(b) "**Additional Closing Date**" shall have the meaning set forth in the Securities Purchase Agreement.

(c) "**Additional Notes**" means all Additional Notes (as defined in the Securities Purchase Agreement), if any, issued by the Company pursuant to the Securities Purchase Agreement on an Additional Closing Date.



(d) "**Affiliate**" means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person, it being understood for purposes of this definition that "control" of a Person means the power directly or indirectly either to vote 10% or more of the stock having ordinary voting power for the election of directors of such Person or direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

(e) "**Attribution Parties**" means, collectively, the following Persons: (i) any investment vehicle, including, any funds, feeder funds or managed accounts, currently, or from time to time after the Issuance Date, directly or indirectly managed or advised by the Holder's investment manager or any of its Affiliates or principals, (ii) any direct or indirect Affiliates of the Holder or any of the foregoing, (iii) any Person acting or who could be deemed to be acting as a Group together with the Holder or any of the foregoing and (iv) any other Person whose beneficial ownership of the Company's Common Stock would or could be aggregated with the Holder's and its Attribution Parties for purposes of Section 13(d) of the Exchange Act. For clarity, the purpose of the foregoing is to subject collectively the Holder and its Attribution Parties to the Maximum Percentage.

(f) "**Backstop Commitment Notes**" any Notes issued in connection with the Buyer's backstop commitment of the Rights Offering (as defined in the Securities Purchase Agreement) as contemplated in Section 1(e) of the Securities Purchase Agreement.

(g) "**Bloomberg**" means Bloomberg Financial Markets.

(h) "**Business Day**" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed.

(i) "**Buyer**" shall have the meaning ascribed to such term in the Securities Purchase Agreement.

(j) "**Calendar Quarter**" means each of: the period beginning on and including January 1 and ending on and including the next occurring March 31; the period beginning on and including April 1 and ending on and including the next occurring June 30; the period beginning on and including July 1 and ending on and including the next occurring September 30; and the period beginning on and including October 1 and ending on and including the next occurring December 31.

(k) "**Capital Stock**" means, for any entity, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that entity.

(l) "**Change of Control**" means any Fundamental Transaction other than (i) any reorganization, recapitalization or reclassification of the Common Stock in which holders of the Company's voting power immediately prior to such reorganization, recapitalization or reclassification continue after such reorganization, recapitalization or reclassification to hold

publicly traded securities and, directly or indirectly, are, in all material respects, the holders of a majority of the voting power of the surviving entity (or entities with the authority or voting power to elect the members of the Board of Directors (or their equivalent if other than a corporation) of such entity or entities) after such reorganization, recapitalization or reclassification or (ii) pursuant to a migratory merger effected solely for the purpose of changing the jurisdiction of incorporation of the Company.

(m) "**Closing Bid Price**" and "**Closing Sale Price**" means, for any security as of any date, the last closing bid price and last closing trade price, respectively, for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing bid price or the closing trade price, as the case may be, then the last bid price or last trade price, respectively, of such security prior to 4:00:00 p.m., New York Time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last closing bid price or last trade price, respectively, of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, or if the foregoing do not apply, the last closing bid price or last trade price, respectively, of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no closing bid price or last trade price, respectively, is reported for such security by Bloomberg, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the OTC Link or "pink sheets" by OTC Markets Group Inc. (formerly Pink OTC Markets Inc.). If the Closing Bid Price or the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Bid Price or the Closing Sale Price, as the case may be, of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 23. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction occurring during the applicable calculation period.

(n) "**Common Stock**" means (i) shares of Common Stock, par value \$0.001 per share of the Company, and (ii) any share capital into which such Common Stock shall be changed or any share capital resulting from a reclassification of such Common Stock.

(o) "**Consolidated EBITDA**" means, for any period, the Consolidated Net Income for such period plus:

(i) without duplication and to the extent already deducted (and not added back) in arriving at such Consolidated Net Income (or, as applicable, to the extent not already included in Consolidated Net Income), the sum of the following amounts for such period:

(1) total interest expense and, to the extent not reflected in such total interest expense, any losses on swap obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, net of interest income and gains on such swap obligations or such derivative instruments, and bank and letter of credit fees and costs of surety bonds in connection with financing activities,

- (2) provision for taxes based on income, profits or capital gains, including federal, foreign, state, franchise, excise and similar taxes paid or accrued during such period (including in respect of repatriated funds),
- (3) depreciation and amortization (including amortization of intangible assets established through purchase accounting and amortization of deferred financing fees or costs),
- (4) non-cash charges (excluding any non-cash charges which consists of or requires an accrual of, or reserve for, potential cash charges in any future period),
- (5) extraordinary losses in accordance with GAAP,
- (6) unusual or non-recurring charges (including litigation and investigation-related costs and expenses, costs associated with tax projects/audits and professional, consulting or other fees) incurred in connection with the Company's pending audit or any of the legal proceedings listed on Schedule 3(r) of the Securities Purchase Agreement,
- (7) restructuring charges, accruals or reserves (including restructuring costs related to acquisitions after the Initial Closing),
- (8) losses on asset sales, disposals or abandonments (other than asset sales, disposals or abandonments in the ordinary course of business),
- (9) the amount of any net losses from discontinued operations in accordance with GAAP,
- (10) any expenses, charges or losses that are covered by indemnification or other reimbursement provisions in connection with any Investment, acquisition or any sale, conveyance, transfer or other disposition of assets, to the extent actually reimbursed, or, so long as the Company has received notification from the applicable carrier that it intends to indemnify or reimburse such expenses, charges or losses and that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within such 365 days), such expenses, charges or losses,
- (11) to the extent covered by insurance and actually reimbursed, or, so long as the Company has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within such 365 days), expenses, charges or losses with respect to liability or casualty event or business interruption,

(12) fees, costs and expenses incurred in connection with the transactions contemplated by the Transaction Documents (including, without limitation, the Rights Offering);

(13) any fees and expenses incurred during such period, or any amortization thereof for such period, in connection with any acquisition, investment, asset disposition, issuance or repayment of debt, issuance of equity securities, refinancing transaction or amendment or other modification of any debt instrument (in each case, including any such transaction consummated prior to the Initial Closing and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction,

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(ii) without duplication and to the extent included in arriving at such Consolidated Net Income (or, as applicable, to the extent not already included in Consolidated Net Income), the sum of the following amounts for such period:

(1) extraordinary gains in accordance with GAAP and unusual or non-recurring gains,

(2) non-cash gains,

(3) gains on asset sales, disposals or abandonments (other than asset sales, disposals or abandonments in the ordinary course of business), and

(4) the amount of any net income from discontinued operations in accordance with GAAP,

in each case, as determined on a consolidated basis for the Company and its Subsidiaries in accordance with GAAP, provided that, to the extent included in Consolidated Net Income,

(1) there shall be excluded in determining Consolidated EBITDA, without duplication, any net unrealized gains and losses relating to mark-to-market of amounts denominated in foreign currencies resulting from the application of FASB ASC 830;

(2) there shall be included in determining Consolidated EBITDA for any period, without duplication, the Acquired EBITDA of any Person, property, business or asset acquired by the Company or any Subsidiary of the Company during such period to the extent not subsequently sold, transferred or otherwise disposed of (but not including the Acquired EBITDA of any related Person, property, business or assets to the extent not so acquired) (each such Person, property, business or asset acquired, including pursuant to a transaction consummated prior to the Initial Closing, and not subsequently so disposed of, an "**Acquired Entity or Business**"), in each case based on the Acquired EBITDA of such Pro Forma Entity for such period (including the portion

thereof occurring prior to such acquisition or conversion) determined on a historical Pro Forma Basis;

(3) there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset sold, transferred or otherwise disposed of, closed or classified as discontinued operations by the Company or any Subsidiary of the Company during such period (each such Person, property, business or asset so sold, transferred or otherwise disposed of, closed or classified, a "**Sold Entity or Business**"), in each case based on the Disposed EBITDA of such Sold Entity or Business for such period (including the portion thereof occurring prior to such sale, transfer, disposition, closure, classification or conversion) determined on a historical Pro Forma Basis; and

(4) there shall be excluded in determining Consolidated EBITDA for any period the cumulative effect of a change in accounting principles during such period to the extent included in Consolidated Net Income.

(p) "**Consolidated Net Income**" means, for any period, the net income (loss) of the Company and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.

(q) "**Contingent Obligation**" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any Indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto.

(r) "**Conversion Premium**" means the quotient obtained by dividing (x) the Conversion Price in effect as of the applicable date of determination, by (y) the arithmetic average of the ten (10) Weighted Average Prices of the Common Stock on each Trading Day during the ten (10) consecutive Trading Days immediately preceding the applicable date of determination. All such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction during such period.

(s) "**Convertible Securities**" means any stock or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for shares of Common Stock.

(t) "**Disposed EBITDA**" means with respect to any Sold Entity or Business for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business (determined as if references to the Company and its Subsidiaries in the definition of the term "Consolidated EBITDA" (and in the component financial definitions used therein) were references to such Sold Entity or Business and its Subsidiaries), all as determined on a consolidated basis for such Sold Entity or Business.

(u) **"Eligible Market"** means the Principal Market, The New York Stock Exchange, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the NYSE American, the OTC QX, the OTC QB or the OTC Pink.

(v) **"Equity Conditions"** means each of the following conditions: (i) either (x) one or more Registration Statements covering all of the Interest Shares to be issued on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, shall be effective and available for the resale of such shares, in accordance with the terms of the Registration Rights Agreement or (y) all Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions, shall be eligible for sale without restriction or limitation pursuant to Rule 144 and without the need for registration under any applicable federal or state securities laws; (ii) the Company shall have no knowledge of any fact that would cause (x) the applicable Registration Statements required pursuant to the Registration Rights Agreement not to be effective and available for the resale of the Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions, in accordance with the terms of the Registration Rights Agreement or (y) the Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions, not being eligible for sale without restriction or limitation pursuant to Rule 144 and without the requirement to be in compliance with Rule 144(c)(1) (or any successor thereto) promulgated under the Securities Act and any applicable state securities laws; (iii) the Interest Shares issuable on the applicable Interest Date requiring the satisfaction of the Equity Conditions may be issued in full without violating Section 3(d) hereof; (iv) the Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions may be issued in full without violating the rules or regulations of the Principal Market; (v) the Common Stock is designated for quotation on the Principal Market and shall not have been suspended from trading on such exchange or market; and (vi) if the event requiring satisfaction of the Equity Conditions is a Company Optional Redemption, an Event of Default Redemption or a Change of Control Redemption, from and after the applicable Company Optional Redemption Notice, Event of Default Notice or Change of Control Notice, as applicable, the Company shall have delivered shares of Common Stock pursuant to the terms of this Note to the Holder on a timely basis as set forth in Section 3(c) hereof.

(w) **"Equity Conditions Failure"** means that on the applicable date of determination through the applicable date of determination, the Equity Conditions have not each been satisfied (or waived in writing by the Holder).

(x) **"Equity Interests"** means (a) all shares of capital stock (whether denominated as common capital stock or preferred capital stock), equity interests, beneficial,

partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting and (b) all securities convertible into or exchangeable for any of the foregoing and all warrants, Options or other rights to purchase, subscribe for or otherwise acquire any of the foregoing, whether or not presently convertible, exchangeable or exercisable.

(y) "**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

(z) "**Ex-Dividend Date**" means the first date on which shares of the Common Stock trade on the applicable Eligible Market, regular way, without the right to receive the issuance, dividend or distribution in question, from the Company or, if applicable, from the seller of Common Stock on such Eligible Market (in the form of due bills or otherwise) as determined by such Eligible Market.

(aa) "**Fundamental Transaction**" means (A) that the Company shall, directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions, (i) consolidate or merge with or into (whether or not the Company is the surviving corporation) another Subject Entity, or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its "significant subsidiaries" (as defined in Rule 1-02 of Regulation S-X), taken as a whole, to one or more Subject Entities, or (iii) make, or allow one or more Subject Entities to make, or allow the Company to be subject to or have its Common Stock be subject to or party to one or more Subject Entities making, a purchase, tender or exchange offer that is accepted by the holders of greater than either (x) 50% of the outstanding shares of Common Stock, (y) 50% of the outstanding shares of Common Stock calculated as if any shares of Common Stock held by all Subject Entities making or party to, or Affiliated with any Subject Entities making or party to, such purchase, tender or exchange offer were not outstanding; or (z) such number of shares of Common Stock such that all Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such purchase, tender or exchange offer, become collectively the beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of greater than 50% of the outstanding shares of Common Stock, or (iv) consummate a share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with one or more Subject Entities whereby such Subject Entities, individually or in the aggregate, acquire, either (x) greater than 50% of the outstanding shares of Common Stock, (y) greater than 50% of the outstanding shares of Common Stock calculated as if any shares of Common Stock held by all the Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such stock purchase agreement or other business combination were not outstanding; or (z) such number of shares of Common Stock such that the Subject Entities become collectively the beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of greater than 50% of the outstanding shares of Common Stock, or (v) reorganize, recapitalize or reclassify its Common Stock, (B) that the Company shall, directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions allow any Subject Entity individually or the Subject Entities in the aggregate to be or become the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, whether through

acquisition, purchase, assignment, conveyance, tender, tender offer, exchange, reduction in outstanding shares of Common Stock, merger, consolidation, business combination, reorganization, recapitalization, spin-off, scheme of arrangement, reorganization, recapitalization or reclassification or otherwise in any manner whatsoever, of either (x) greater than 50% of the aggregate ordinary voting power represented by issued and outstanding Common Stock, (y) greater than 50% of the aggregate ordinary voting power represented by issued and outstanding Common Stock not held by all such Subject Entities as of the Subscription Date calculated as if any shares of Common Stock held by all such Subject Entities were not outstanding, or (z) a percentage of the aggregate ordinary voting power represented by issued and outstanding shares of Common Stock or other equity securities of the Company sufficient to allow such Subject Entities to effect a statutory short form merger or other transaction requiring other stockholders of the Company to surrender their shares of Common Stock without approval of the stockholders of the Company or (C) directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions, the issuance of or the entering into any other instrument or transaction structured in a manner to circumvent, or that circumvents, the intent of this definition in which case this definition shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this definition to the extent necessary to correct this definition or any portion of this definition which may be defective or inconsistent with the intended treatment of such instrument or transaction.

(bb) "**GAAP**" means United States generally accepted accounting principles, consistently applied, as in effect on the Subscription Date.

(cc) "**Grace Period**" shall have the meaning ascribed to such term in the Registration Rights Agreement.

(dd) "**Group**" means a "group" as that term is used in Section 13(d) of the Exchange Act and as defined in Rule 13d-5 thereunder.

(ee) "**Indebtedness**" of any Person means, without duplication (i) all indebtedness for borrowed money, (ii) all obligations issued, undertaken or assumed as the deferred purchase price of property or services, including (without limitation) "capital leases" in accordance with GAAP (other than trade payables entered into in the ordinary course of business), (iii) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (iv) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (v) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (vi) all monetary obligations under any leasing or similar arrangement which, in connection with GAAP, consistently applied for the periods covered thereby, is classified as a capital lease, (vii) all indebtedness referred to in clauses (i) through (vi) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any mortgage, deed of trust, lien, pledge, charge, security interest or other encumbrance of any nature whatsoever in or upon any property or assets (including accounts and contract rights) with respect to any asset



or property owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, (with the amount of such indebtedness, in the case where the Person has not assumed or become liable for the payment of such indebtedness) equal to the lesser of (x) the outstanding principal amount of such indebtedness and (y) the fair market value of the assets securing such indebtedness) and (viii) all Contingent Obligations in respect of indebtedness of others of the kinds referred to in clauses (i) through (vii) above.

(ff) **"Initial Closing Date"** shall have the meaning set forth in the Securities Purchase Agreement.

(gg) **"Interest Conversion Price"** means as of any Interest Date, that price which shall be the arithmetic average of the Weighted Average Prices of the Common Stock on each Trading Day during the ten (10) consecutive Trading Days immediately preceding the applicable Interest Date. All such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction occurring during such period.

(hh) **"Interest Notice Due Date"** means the fifteenth (15<sup>th</sup>) Trading Day prior to the applicable Interest Date.

(ii) **"Interest Reset Date"** means each of (i) January 30, 2019, (ii) January 30, 2020, (iii) February 1, 2021 (each of the foregoing (i) through (iii), an **"Anniversary Interest Reset Date"**) and (iv) any applicable Event of Default Redemption Notice Date.

(jj) **"Interest Rate"** means:

<b>If the Conversion Premium (as of January 30, 2018 for the second column and as of the applicable Interest Reset Date for the third column) is:</b>	<b>Then the Interest Rate (which shall be determined on January 30, 2018) from the Initial Issuance Date through the first Interest Reset Date shall be:</b>	<b>And the Interest Rate from the applicable Interest Reset Date until the next subsequent Interest Reset Date shall be:</b>
1.0 or less	6.0%	4.0%
1.05	6.0%	4.3%
1.10	6.0%	4.7%
1.15	6.0%	5.0%
1.20	6.0%	5.3%
1.25	6.0%	5.7%
1.30	6.0%	6.0%
1.35	8.0%	8.0%
1.40	10.0%	10.0%
1.45 or higher	12.0%	12.0%

If the Conversion Premium is between two Conversion Premium amounts in the table above, the Interest Rate will be determined by straight-line interpolation between the Interest Rates set forth for the higher and lower Conversion Premium amounts.

Upon a 10-K Filing Failure (as defined below), any applicable Interest Rate then in effect shall automatically be increased by an additional 200 bps (e.g. from 4.7% to 6.7%). Such increased Interest Rate shall continue in effect until the next Anniversary Interest Reset Date. Upon the next Anniversary Interest Reset Date, the Interest Rate will adjust according to table above; provided that if the Company has not effected the 10-K Filing Remedy (as defined below) by such date, then the reset Interest Rate will be further increased by 200 bps and will continue in effect until the next Anniversary Interest Reset Date, at which time this mechanism will be repeated. For the avoidance of doubt, on any Anniversary Interest Reset Date where there is no 10-K Filing Failure and where any applicable 10-K Filing Remedy has been effected, the reset Interest Rate will be determined according to the table above without adding 200 bps. For purposes hereof, (i) the "**10-K Filing Failure**" means that the Company fails on or prior to each April 30 while this Note is outstanding to have filed the Form 10-K and any subsequent required periodic or current reports required to be filed by the Company prior to each such date under the Exchange Act (including audited financial statements for the fiscal years ended prior to each such date) and (ii) a "**10-K Filing Remedy**" means the Company shall have filed with the SEC the Form 10-K and all subsequent required periodic and current reports required to be filed under the Exchange Act be filed by the Company prior to such date and there shall not exist any Event of Default.

In the event the Interest Rate shall be increased pursuant to Section 4(q) of the Securities Purchase Agreement, each applicable Interest Rate amount set forth in the table above shall be adjusted by the same amount as the Interest Rate is adjusted as mutually agreed upon by the Company and the Holder. Such further Interest Rate adjustments will then be according to the table as increased.

(kk) "**Junior Claims**" means any Indebtedness or securities of the Company or any of its Subsidiaries of any class junior in rank to the Notes and the Additional Notes in respect of the preferences as to distributions and payments upon a Liquidation Event, including, without limitation, any Equity Securities of the Company or any of its Subsidiaries.

(ll) "**Lead Investor**" means Starboard Value and Opportunity Master Fund Ltd.

(mm) "**Liquidation Event**" means the voluntary or involuntary liquidation, dissolution or winding up of the Company or such Subsidiaries the assets of which constitute all or substantially all of the assets of the business of the Company and its Subsidiaries taken as a whole, in a single transaction or series of transactions, or adoption of any plan for the same.

(nn) "**Make-Whole Change of Control**" means any Change of Control in which more than ten percent (10%) of the consideration received or to be received by the holders of Common Stock (excluding cash payments for fractional shares or pursuant to dissenters rights), in connection with such transaction or event, consists of cash.

(oo) **"Make-Whole Change of Control Premium"** means a cash amount per \$1,000 principal amount of Notes being redeemed in a Make-Whole Change of Control determined by multiplying the applicable Make-Whole Stock Price (as adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction occurring after the Subscription Date) by the amount set forth in a table to be mutually agreed upon by the Company and the Holder which table shall be determined based on the assumptions and methodology set forth on Schedule 31(oo) attached hereto and shall be in the format set forth below and shall be deemed an integral part of this Note for all purposes hereof (the **"Final Make-Whole Table"**), with such amount corresponding to the date of the Make-Whole Change of Control occurring after the date in the first column but prior to the date, if any, on the immediately following row of the first column of the tables set forth in Schedule 31(oo) attached hereto or in the Final Make-Whole Table:

Change of Control Redemption Date	Make-Whole Stock Price									
	\$20.00	\$25.00	\$28.50	\$30.00	\$35.00	\$37.05	\$40.00	\$45.00	\$50.00	\$55.00
January 5, 2018										
January 7, 2019										
January 7, 2020										
January 7, 2021										
January 5, 2022										

The exact Make-Whole Stock Price and Change of Control Redemption Date may not be set forth in Schedule 31(oo) attached hereto or in the Final Make-Whole Table, in which case, if the Make-Whole Stock Price is between two such amounts in the Final Make-Whole Table or the Change of Control Redemption Date is between two Change of Control Redemption Dates in the Final Make-Whole Table, the applicable value will be determined by straight-line interpolation between the applicable value set forth for the higher and lower Make-Whole Stock Prices and the earlier and later Change of Control Redemption Dates, as applicable, based on a 365-day year.

In the event the Interest Rate and/or Conversion Price shall be adjusted pursuant to Section 4(q) of the Securities Purchase Agreement, each Make-Whole Stock Price set forth in the Final Make-Whole Table shall be adjusted to reflect such adjustment(s) as mutually agreed upon by the Company and the Holder based on the same assumptions and methodology used to determine the Final Make-Whole Table, after which such adjusted Final Make-Whole Table shall be deemed an integral part of this Note for all purposes hereof.

(pp) "**Make-Whole Stock Price**" means, for any Make-Whole Change of Control: (A) if the holders of Common Stock receive only cash in consideration for their shares of Common Stock in such Make-Whole Change of Control, the amount of cash paid per share of Common Stock in such Make-Whole Change of Control; and (B) in all other cases, the arithmetic average of the Closing Sale Prices for the five (5) consecutive Trading Days ending on, and including, the Trading Day immediately before the effective date of such Make-Whole Change of Control (all such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction during such period).

(qq) "**Maximum Percentage**" means, initially, 4.99%, which may be increased or decreased in accordance with the provisions of Section 3(d); provided, however, that upon receipt by the Holder of a Company Optional Redemption Notice, then unless the Holder elects a lower Maximum Percentage in accordance with the provisions of Section 3(d), the Maximum Percentage shall immediately and automatically, without any further action by the Holder, be set at 9.99%.

(rr) "**Options**" means any rights, warrants or options to subscribe for or purchase shares of Common Stock or Convertible Securities.

(ss) "**Parent Entity**" of a Person means an entity that, directly or indirectly, controls the applicable Person, including such entity whose common capital stock or equivalent equity security is quoted or listed on an Eligible Market (or, if so elected by the Required Holders, any other market, exchange or quotation system), or, if there is more than one such Person or such entity, the Person or entity designated by the Required Holders or in the absence of such designation, such Person or entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.

(tt) "**Permitted Indebtedness**" means (i) Indebtedness evidenced by this Note, the Other Notes, the Additional Notes, the Rights Offering Notes, if any, and Backstop Commitment Notes, if any, (ii) unsecured Indebtedness incurred by the Company that is made expressly subordinate in right of payment to the Indebtedness evidenced by this Note, as reflected in a written agreement acceptable to the Required Holders and approved by the Required Holders in writing, and which Indebtedness does not provide at any time for (a) the payment, prepayment, repayment, repurchase or defeasance, directly or indirectly, of any principal or premium, if any, thereon until ninety-one (91) days after the Maturity Date or later and (b) total interest and fees at a rate in excess of 12.00% per annum, (iii) Indebtedness in an aggregate outstanding principal amount not to exceed \$50,000,000 incurred under a revolving credit facility; (iv) Indebtedness with respect to capital leases in an aggregate principal amount not to exceed \$40,000,000, (v) Indebtedness secured by Permitted Liens described in clauses (iv) of the definition of Permitted Liens, (vi) existing Indebtedness described on Schedule 31(tt) attached hereto as in effect on the Subscription Date, and any refinancings and extensions thereof, provided that (A) the principal amount plus unpaid accrued interest and premium thereon and applicable discounts, fees, commissions and expenses thereunder shall not be increased, (B) the maturity thereof is not earlier than ninety (90) days after the Maturity Date, (C) if the Indebtedness being refinanced or extended is subordinated in right of payment to this Note, the Other Notes and the Additional Notes or any

guarantees thereof, such refinanced or extended Indebtedness shall be subordinated in right of payment to this Note, the Other Notes, any Additional Notes and any guarantees thereof on terms at least as favorable to the Holder as those contained in the documentation governing the Indebtedness being refinanced or extended, (D) no refinanced or extended Indebtedness shall have different obligors, or greater guarantees or security than, the Indebtedness being refinanced or extended and (E) if the Indebtedness being refinanced or extended is secured by any Collateral, such refinanced or extended Indebtedness may be secured by such Collateral on terms relating to such Collateral not materially less favorable to this Note, the Other Notes and any Additional Notes than those contained in the documentation (including any intercreditor agreement) governing the Indebtedness being refinanced or extended, (any such Indebtedness, "**Refinancing Indebtedness**"), (vii) intercompany Indebtedness among the Company and any Subsidiaries, (viii) Indebtedness arising under swap or interest rate contracts entered into in the ordinary course of business, (ix) Contingent Obligations in respect of Indebtedness otherwise permitted hereunder, (x) direct or Contingent Obligations arising under surety bonds, letters of credit and similar instruments (including any related indemnity agreement) entered into in the ordinary course of business and consistent with past practice, (xi) Indebtedness in respect of cash management agreements entered into in the ordinary course of business, (xii) Indebtedness of foreign Subsidiaries not exceeding \$10,000,000 in the aggregate at any time outstanding, (xiii) Indebtedness under corporate credit cards in an aggregate outstanding principal amount not to exceed \$3,000,000, (xiv) Indebtedness of Persons acquired in an acquisition, provided that (x) such Indebtedness existed prior to such acquisition and was not incurred in anticipation of such acquisition and (b) after giving effect to such acquisition, the Total Net Leverage Ratio is equal to or less than immediately prior to such acquisition and (xv) additional Indebtedness in an aggregate principal amount not to exceed \$5,000,000.

(uu) "**Permitted Liens**" means (i) any Lien for taxes not yet due or delinquent or being contested in good faith by appropriate proceedings for which adequate reserves have been established in accordance with GAAP, (ii) any statutory Lien arising in the ordinary course of business by operation of law with respect to a liability that is not yet more than sixty (60) days overdue or delinquent, (iii) any Lien created by operation of law, such as materialmen's liens, mechanics' liens and other similar liens, arising in the ordinary course of business with respect to a liability that is not yet due or delinquent or that are being contested in good faith by appropriate proceedings, (iv) Liens (A) upon or in any equipment acquired or held by the Company or any of its Subsidiaries to secure the purchase price of such equipment or Indebtedness incurred solely for the purpose of financing the acquisition or lease of such equipment, or (B) existing on such equipment at the time of its acquisition, provided that the Lien is confined solely to the property so acquired and improvements thereon, and the proceeds of such equipment, (v) Liens incurred in connection with the extension, renewal or refinancing of the Indebtedness secured by Liens of the type described in clause (iv) above, provided that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the Indebtedness being extended, renewed or refinanced does not increase, (vi) leases or subleases and licenses and sublicenses granted to others in the ordinary course of the Company's business, not interfering in any material respect with the business of the Company and its Subsidiaries taken as a whole, (vii) Liens in favor of customs and revenue authorities arising as a matter of law to secure payments of custom duties in connection with the importation of goods, (viii) Liens arising from judgments,

decrees or attachments in circumstances not constituting an Event of Default under Section 4(a)(ix); (ix) Liens securing Permitted Indebtedness described in clause (iv) of the definition of Permitted Indebtedness, (x) Liens securing existing Indebtedness described on Schedule 31(tt) attached hereto as in effect on the Subscription Date, and Liens securing any refinancings and extensions thereof provided that any collateral securing such refinancings or extensions is not broader than the collateral that is subject to the Liens being refinanced or extended, (xi) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, (xii) deposits to secure performance of bids, trade contracts and leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature in the ordinary course of business, (xiii) normal and customary rights of setoff upon deposits of cash in favor of banks or other depository institutions, (xiv) Liens deemed to exist in connection with investments in repurchase agreements in the ordinary course of business, (xv) Liens arising on any real property as a result of eminent domain, condemnation or similar proceeding with respect to such real property, (xvi) Liens on any cash deposits in connection with any letter of intent or purchase agreement relating to an acquisition, (xvii) customary rights of first refusal, "tag-along" and "drag-along" rights with respect to any equity interests in any joint venture, (xviii) Liens on assets of foreign Subsidiaries securing obligations of foreign Subsidiaries not exceeding \$10,000,000 in the aggregate at any time outstanding, (xix) Liens arising under the Transaction Documents, (xx) additional Liens securing obligations not exceeding \$5,000,000 in the aggregate at any time outstanding, and (xxi) Liens securing Permitted Indebtedness described in clause (iii) of the definition of Permitted Indebtedness, provided that such Liens are subject to an intercreditor agreement in form and substance reasonably satisfactory to the Required Holders.

(vv) **"Person"** means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and a government or any department or agency thereof.

(ww) **"Post-Acquisition Period"** shall mean, with respect to any Specified Transaction, the period beginning on the date such Specified Transaction is consummated and ending on the last day of the 18th month immediately following the date on which such Specified Transaction is consummated.

(xx) **"Principal Market"** means the OTC Markets, or, if the OTC Markets is not the principal trading market for the Common Stock, then the principal Eligible Market on which the Common Stock is then traded.

(yy) **"Pro Forma Basis," "Pro Forma Compliance" and "Pro Forma Effect"** means, with respect to compliance with any test or covenant hereunder, that all Specified Transactions and the following transactions in connection therewith shall be deemed to have occurred as of the first day of the applicable period of measurement in such test or covenant: (a) income statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction, (i) in the case of a sale, transfer or other disposition of all or substantially all equity interests in any Subsidiary of the Company or any division, product line, or facility used for operations of the Company or any of its Subsidiaries, shall be excluded, and (ii) in the case of a permitted acquisition or investment described in the definition of the term "Specified

Transaction," shall be included, (b) any retirement or repayment of Indebtedness and (c) any Indebtedness incurred or assumed by the Company or any of its Subsidiaries in connection therewith and if such Indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness as at the relevant date of determination.

(zz) "**Public Announcement Date**" means (i) the Trading Day on which the Company first publicly announces on or prior to 9:30 a.m. New York time certain historical metrics agreed to in writing by the Company and the Lead Investor, including, among other metrics, the number of shares of Common Stock outstanding as of December 31, 2017, in connection with the Initial Closing Date (the "**Public Announcement**") or (ii) in case the Company makes the Public Announcement after 9:30 a.m. New York time, the first (1<sup>st</sup>) Trading Day immediately following the Public Announcement.

((l) "**Qualified Market**" means the Principal Market, The New York Stock Exchange, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the NYSE American.

(aaa) "**Qualifying Change of Control**" means a Change of Control pursuant to Qualifying Change of Control Documentation.

(bbb) "**Qualifying Change of Control Documentation**" means definitive documentation (as the same may be amended in accordance with its terms) providing for a Change of Control transaction, which documentation is initially entered into no later than August 5, 2020; provided that if such documentation is terminated in accordance with its terms and in connection with such termination the Company enters into definitive documentation providing for a different Change of Control transaction (a "**Superior Proposal Termination**"), such subsequent documentation shall be deemed to constitute Qualifying Change of Control Documentation.

(ccc) "**Qualifying Conditions**" means that both at the time of and immediately after the applicable proposed action or omission to take any action, by the Company or any of its Subsidiary, each of the following conditions are satisfied (or waived in writing by the Holder): (x) no Equity Conditions Failure has occurred, (ii) the Total Net Leverage Ratio is less than or equal to 3:1 and (iii) the Form 10-K has been filed with the SEC.

(ddd) "**Redemption Dates**" means, collectively, the Event of Default Redemption Dates, the Change of Control Redemption Dates, the Company Optional Redemption Dates and the Qualifying Early Redemption Date, each of the foregoing, individually, a Redemption Date.

(eee) "**Redemption Notices**" means, collectively, the Event of Default Redemption Notices, the Change of Control Redemption Notices, the Company Optional Redemption Notices and the Qualifying Early Redemption Notice, each of the foregoing, individually, a Redemption Notice.

(fff) "**Redemption Premium**" means (i) in the event of an Event of Default set forth in Section 4(a)(iii) and any Event of Default occurring at a time the Common Stock is not listed on a Qualified Market, 110% and (ii) in all other events, 100%.

(ggg) "**Redemption Prices**" means, collectively, the Event of Default Redemption Prices, the Change of Control Redemption Prices, the Company Optional Redemption Prices and the Qualifying Early Redemption Price, each of the foregoing, individually, a Redemption Price.

(hhh) "**Registrable Securities**" shall have the meaning ascribed to such term in the Registration Rights Agreement.

(iii) "**Registration Rights Agreement**" means that certain registration rights agreement dated as of the Subscription Date by and among the Company and the Buyers relating to, among other things, the registration for resale of the shares of Common Stock issuable upon conversion of this Note, the Other Notes and any Additional Notes and upon any exercise of the Warrants.

(jjj) "**Registration Statement**" shall have the meaning ascribed to such term in the Registration Rights Agreement.

(kkk) "**Related Fund**" means, with respect to any Person, a fund or account managed by such Person or an Affiliate of such Person.

(lll) "**Required Holders**" means the holders of Notes of Additional Notes representing at least a majority of the aggregate principal amount of the Notes and Additional Notes then outstanding.

(mmm) "**Rights Offering Notes**" shall have the meaning ascribed to such term in the Securities Purchase Agreement.

(nnn) "**SEC**" means the United States Securities and Exchange Commission.

(ooo) "**Securities Act**" means the Securities Act of 1933, as amended.

(ppp) "**Securities Purchase Agreement**" means that certain securities purchase agreement dated as of the Subscription Date by and among the Company and the Buyers of the Notes pursuant to which the Company issued the Notes, the Additional Notes and Warrants.

(qqq) "**September Agreement**" means that certain Agreement, dated as of September 28, 2017 by and among the Company, Starboard Value LP and the other parties signatory thereto.

(rrr) "**Specified Transaction**" means, with respect to any period, any investment, sale, transfer or other disposition of assets or property, incurrence or repayment of



indebtedness, restricted payment, or other event that by the terms hereof requires such test or covenant to be calculated on a "Pro Forma Basis" or to be given "Pro Forma Effect."

(sss) "**Subject Entity**" means any Person, Persons or Group or any Affiliate or associate of any such Person, Persons or Group.

(ttt) "**Subscription Date**" means January 16, 2018.

(uuu) "**Subsidiary**" shall have the meaning set forth in the Securities Purchase Agreement.

(vvv) "**Successor Entity**" means one or more Person or Persons (or, if so elected by the Required Holders, the Company or Parent Entity) formed by, resulting from or surviving any Fundamental Transaction or one or more Person or Persons (or, if so elected by the Required Holders, the Company or the Parent Entity) with which such Fundamental Transaction shall have been entered into.

(www) "**Total Debt**" shall mean, on any date of determination, the total Indebtedness of the Company and its Subsidiaries at such time (excluding Indebtedness of the type described in clause (iii) of the definition of such term, except to the extent of any unreimbursed drawings thereunder).

(xxx) "**Total Net Debt**" shall mean, on any date of determination, (a) Total Debt *minus* (b) unrestricted cash and cash equivalents (as defined in GAAP).

(yyy) "**Total Net Leverage Ratio**" shall mean on any date of determination, the ratio of Total Net Debt on such date to Consolidated EBITDA for the period of four consecutive fiscal quarters most recently ended on or prior to such date. Each calculation of the Total Net Leverage Ratio hereunder shall be made on a Pro Forma Basis.

(zzz) "**Trading Day**" means any day on which the Common Stock is traded on the Principal Market, or, if the Principal Market is not the principal trading market for the Common Stock on such day, then on the principal securities exchange or securities market on which the Common Stock is then traded; provided that "Trading Day" shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York Time).

(lll) "**Transaction Documents**" shall have the meaning set forth in the Securities Purchase Agreement.

(aaa) "**Warrants**" has the meaning ascribed to such term in the Securities Purchase Agreement, and shall include all warrants issued in exchange therefor or replacement thereof.

(bbbb) **"Weighted Average Price"** means, for any security as of any date, the dollar volume-weighted average price for such security on the Principal Market during the period beginning at 9:30:01 a.m., New York Time (or such other time as the Principal Market publicly announces is the official open of trading), and ending at 4:00:00 p.m., New York Time (or such other time as the Principal Market publicly announces is the official close of trading) as reported by Bloomberg through its "Volume at Price" functions, or, if the foregoing does not apply, the dollar volume-weighted average price of such security in the over-the-counter market on the electronic bulletin board for such security during the period beginning at 9:30:01 a.m., New York Time (or such other time as such market publicly announces is the official open of trading), and ending at 4:00:00 p.m., New York Time (or such other time as such market publicly announces is the official close of trading) as reported by Bloomberg, or, if no dollar volume-weighted average price is reported for such security by Bloomberg for such hours, the average of the highest Closing Bid Price and the lowest closing ask price of any of the market makers for such security as reported in the OTC Link or "pink sheets" by OTC Markets Group Inc. (formerly Pink OTC Markets Inc.). If the Weighted Average Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Weighted Average Price of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 23. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction occurring during the applicable calculation period.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed as of the Issuance Date set out above.

**comScore, Inc.**

By:

Name:

Title:

Schedule 31(tt)

Permitted Indebtedness

**comScore Inc:**

Banc of America Leasing and Capital  
Master Lease Agreement dated December 12, 2006  
Lease Schedule #24 (3/31/15) - #27 (12/31/15)  
\$2,720,000

Dell Financial Services  
Master Lease Agreement dated August 3, 2012  
Lease Schedule #9 (2/1/15) – Lease Schedule #19 (1/1/17)  
\$5,320,000

Bank of America, N.A  
Letters of Credit (Office Lease Security Deposit)  
\$3,475,000

**comScore BV:**

Dell Financial Services  
European Master Lease Agreement dated July 23, 2012  
Lease Schedule #3 (8/1/15)  
\$155,000

Schedule 31(oo)

Make-Whole Change of Control Premium

Example 1:

Initial Coupon                    6%  
Initial Conversion Premium      30%

<u>Date</u>	<u>\$ 20.00</u>	<u>\$ 25.00</u>	<u>\$ 28.50</u>	<u>\$ 30.00</u>	<u>\$ 35.00</u>	<u>\$ 37.05</u>	<u>\$ 40.00</u>	<u>\$ 45.00</u>	<u>\$ 50.00</u>	<u>\$ 55.00</u>
1/5/2018	1.17	2.22	3.54	4.09	5.87	6.56	5.52	4.23	3.32	2.67
1/7/2019	1.04	1.77	2.96	3.48	5.19	5.88	4.84	3.58	2.73	2.13
1/7/2020	1.12	1.39	2.35	2.80	4.36	5.02	3.96	2.72	1.92	1.40
1/7/2021	1.51	1.16	1.75	2.07	3.37	3.95	2.81	1.47	0.59	0.00
1/5/2022	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Example 2:

Initial Coupon                    10%  
Initial Conversion Premium      40%

<u>Date</u>	<u>\$ 20.00</u>	<u>\$ 25.00</u>	<u>\$ 28.50</u>	<u>\$ 30.00</u>	<u>\$ 35.00</u>	<u>\$ 37.05</u>	<u>\$ 40.00</u>	<u>\$ 45.00</u>	<u>\$ 50.00</u>	<u>\$ 55.00</u>
1/5/2018	3.07	4.02	4.84	5.21	6.48	7.00	7.68	6.08	4.95	4.13
1/7/2019	2.45	3.19	3.92	4.26	5.50	6.02	6.71	5.15	4.08	3.32
1/7/2020	2.05	2.42	2.98	3.27	4.38	4.88	5.55	4.00	2.98	2.29
1/7/2021	2.08	1.84	2.08	2.28	3.18	3.62	4.23	2.62	1.53	0.76
1/5/2022	0.46	0.37	0.33	0.31	0.26	0.25	0.23	0.21	0.19	0.17

**EXHIBIT I**

**COMSCORE, INC.**

**CONVERSION NOTICE**

Reference is made to the Senior Secured Convertible Note (the "**Note**") issued to the undersigned by comScore, Inc., a Delaware corporation (the "**Company**"). In accordance with and pursuant to the Note, the undersigned hereby elects to convert the Conversion Amount (as defined in the Note) below into shares of Common Stock, par value \$0.001 per share (the "**Common Stock**"), of the Company, as of the date specified below.

Date of Conversion: \_\_\_\_\_

Aggregate Conversion Amount to be converted: \_\_\_\_\_

Please confirm the following information:

Conversion Price: \_\_\_\_\_

Number of shares of Common Stock to be issued: \_\_\_\_\_

Please issue the Common Stock into which the Note is being converted in the following name and to the following address:

Issue to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Facsimile Number and Electronic Mail: \_\_\_\_\_

Authorization: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Account Number: \_\_\_\_\_  
(if electronic book entry transfer)

Transaction Code Number: \_\_\_\_\_  
(if electronic book entry transfer)

## **ACKNOWLEDGMENT**

The Company hereby acknowledges this Conversion Notice and hereby directs American Stock Transfer & Trust Company to issue the above indicated number of shares of Common Stock in accordance with the Transfer Agent Instructions dated January \_\_, 2018 from the Company and acknowledged and agreed to by American Stock Transfer & Trust Company.

**comScore, Inc.**

By:

Name:

Title:

**[FORM OF SENIOR SECURED CONVERTIBLE NOTE]**

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE CONVERTIBLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL SELECTED BY THE HOLDER, IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT, OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES. ANY TRANSFEREE OF THIS NOTE SHOULD CAREFULLY REVIEW THE TERMS OF THIS NOTE, INCLUDING SECTIONS 3(c)(iii) AND 18(a) HEREOF. THE PRINCIPAL AMOUNT REPRESENTED BY THIS NOTE AND, ACCORDINGLY, THE SECURITIES ISSUABLE UPON CONVERSION HEREOF MAY BE LESS THAN THE AMOUNT SET FORTH ON THE FACE HEREOF PURSUANT TO SECTION 3(c)(iii) OF THIS NOTE.

COMSCORE, INC.

**SENIOR SECURED CONVERTIBLE NOTE**

Issuance Date: May 17, 2018    Original Principal Amount: U.S. \$[●]

(Reflects the amendments dated May 17, 2018, August 8, 2018, November 13, 2018 and November 6, 2019)

**FOR VALUE RECEIVED**, comScore, Inc., a Delaware corporation (the "**Company**"), hereby promises to pay to [BUYER] or registered assigns (the "**Holder**") in cash and/or in shares of Common Stock (as defined below) the amount set out above as the Original Principal Amount (as reduced pursuant to the terms hereof pursuant to redemption, conversion or otherwise, the "**Principal**") when due, whether upon the Maturity Date (as defined below), acceleration, redemption or otherwise (in each case in accordance with the terms hereof) and to pay interest ("**Interest**") on any outstanding Principal at the applicable Interest Rate from the date set out above as the Issuance Date (the "**Issuance Date**") until the same becomes due and payable, whether upon an Interest Date (as defined below), the Maturity Date, acceleration, conversion, redemption or otherwise (in each case in accordance with the terms hereof). This Senior Secured Convertible Note (including all Senior Secured Convertible Notes issued in exchange, transfer or replacement hereof, this "**Note**") is one of an issue of Senior Secured Convertible Notes issued pursuant to the Securities Purchase Agreement on the Additional Closing Date (collectively, the "**Notes**" and such other Senior Secured Convertible Notes, the "**Other Notes**"). Certain capitalized terms used herein are defined in Section 31.



(1) PAYMENTS OF PRINCIPAL; PREPAYMENT. On the Maturity Date, the Company shall pay to the Holder an amount in cash representing all outstanding Principal, any accrued and unpaid Interest and any accrued and unpaid Late Charges (as defined in Section 24(b)) on such Principal and Interest. The "**Maturity Date**" shall be January 16, 2022, as may be extended at the option of the Holder (i) in the event that, and for so long as, an Event of Default (as defined in Section 4(a)) shall have occurred and be continuing on the Maturity Date (as may be extended pursuant to this Section 1) or any event shall have occurred and be continuing on the Maturity Date (as may be extended pursuant to this Section 1) that with the passage of time and the failure to cure would result in an Event of Default and (ii) through the date that is ten (10) Business Days after the consummation of a Change of Control in the event that a Change of Control is publicly announced or a Change of Control Notice (as defined in Section 5(b)) is delivered prior to the Maturity Date. Other than as specifically permitted by this Note, the Company may not prepay any portion of the outstanding Principal, accrued and unpaid Interest or accrued and unpaid Late Charges on Principal and Interest, if any.

(2) INTEREST.

(a) Interest on this Note shall commence accruing on the Issuance Date at the Interest Rate and shall be computed on the basis of a 360-day year and twelve 30-day months and shall be payable in arrears for each Calendar Quarter on the first (1st) Business Day of each Calendar Quarter after the Issuance Date (each, an "**Interest Date**").

(b) Interest shall be payable on each Interest Date, to the record holder of this Note on the applicable Interest Date, in whole or in part, in shares of Common Stock ("**Interest Shares**") so long as there is no Equity Conditions Failure (other than as a result of the delivery of an Interest Blocker Notice (as defined below)) occurring on the applicable Interest Date; provided, however, that the Company may, at its option following written notice to each holder of the Notes and any Additional Notes on or prior to the applicable Interest Notice Due Date (the date such notice is delivered to the Holder and holders of Other Notes and Additional Notes, the "**Interest Notice Date**"), elect to pay Interest on any Interest Date in cash ("**Cash Interest**") or in a combination of Cash Interest and Interest Shares. Each Interest Election Notice shall specify the amount or percentage of Interest that the Company will pay in respect of the Interest Date as Cash Interest and Interest Shares which amounts or percentages, as applicable, when added together, must equal the applicable Interest (or 100% thereof, as applicable) due on such Interest Date. If the Company elects (or is deemed to have elected by operation of this Section 2) the payment of applicable Interest in Interest Shares, in whole or in part, and an Equity Conditions Failure (other than the delivery to the Company of an Interest Blocker Notice) occurs at any time prior to the applicable Interest Date that is expected to last through the applicable Interest Date (which is not waived in writing by the Holder), the Company shall provide the Holder a written notice to that effect by no later than the Trading Day immediately following the Company having knowledge of such Equity Conditions Failure, indicating that unless the Holder waives the Equity Conditions Failure in writing, the applicable portion of Interest as to which the Holder did not waive the Equity Conditions shall be paid as Cash Interest. If any portion of Interest for a particular Interest Date shall be paid in Interest Shares, then on the applicable Interest Date, the Company shall issue to the Holder, such number of shares of Common Stock equal to (a) the amount of Interest payable on the applicable Interest Date in Interest

Shares divided by (b) the Interest Conversion Price as in effect on the applicable Interest Date. All Interest Shares shall be fully paid and nonassessable shares of Common Stock (rounded to the nearest whole share in accordance with Section 3(a)). Except as expressly provided in this Section 2, the Company shall pay the applicable Interest in the same ratio of Interest Shares and Cash Interest on the Notes, the Other Notes and any Additional Notes. The Company shall pay any and all taxes that may be payable with respect to the issuance and delivery to the Holder of shares of Common Stock as Interest pursuant to this Section 2; provided, however, that the Holder shall be solely responsible for any transfer taxes if the Interest Shares are to be registered, issued or delivered in the name of a Person other than the Holder.

(c) Notwithstanding the foregoing, if (i) the Company elects (or is deemed to have elected by operation of this Section 2) to pay all or any portion of Interest due on any Interest Date in Interest Shares, (ii) the Company is permitted pursuant to this Section 2 to pay all or any portion of Interest due on such Interest Date in Interest Shares if not for the delivery to the Company of an Interest Blocker Notice and (iii) within two (2) Business Days following the applicable Interest Notice Date the Holder has delivered to the Company a written notice (an "**Interest Blocker Notice**") (A) stating that such payment of Interest in Interest Shares would result in a violation of Section 3(d), (B) specifying the portion of the applicable Interest with respect to which the payment in Interest Shares would result in a violation of Section 3(d) if such payment of Interest in Interest Shares were effected (such amount so specified is referred to herein as the "**Designated Interest Amount**") and (C) requesting the Company hold the Designated Interest Amount issuable to the Holder in abeyance for the Holder until such time or times as its right thereto would not result in the Holder and its other Attribution Parties exceeding the Maximum Percentage, at which time or times the Company shall promptly upon written notice from the Holder deliver such Interest Shares to the extent as if there had been no such limitation. Any Interest Shares held in abeyance pursuant to the provisions of this Section 2(c) shall satisfy the Company's requirement to pay the applicable Interest corresponding to the number of Interest Shares so held in abeyance until the Company receives a notice from the Holder instructing the Company that the Maximum Percentage no longer prevents the Holder from receiving such Interest Shares.

(d) Prior to the payment of Interest on an Interest Date, Interest on this Note shall accrue at the Interest Rate and be payable by way of inclusion of the Interest in the Conversion Amount (as defined in Section 3(b)(i)) on each Conversion Date (as defined in Section 3(c)(i)) in accordance with Section 3(b)(i) and/or on each Redemption Date.

(3) CONVERSION OF NOTES. At any time or times after the first (1st) Trading Day following the Pricing Date (as defined in Section 3(b)(ii)) (the "**Initial Convertibility Date**"), this Note shall be convertible into shares of Common Stock, on the terms and conditions set forth in this Section 3.

(a) **Conversion Right**. Subject to the provisions of Section 3(d), at any time or times on or after the Initial Convertibility Date, the Holder shall be entitled to convert all or any portion of the outstanding and unpaid Conversion Amount into fully paid and nonassessable shares of Common Stock in accordance with Section 3(c), at the Conversion Rate (as defined below). The Company shall not issue any fraction of a share of Common Stock upon any conversion. If the

issuance would result in the issuance of a fraction of a share of Common Stock, the Company shall round such fraction of a share of Common Stock to the nearest whole share. The Company shall pay any and all transfer, stamp and similar taxes that may be payable with respect to the issuance and delivery of Common Stock upon conversion of any Conversion Amount; provided, however, that the Holder shall be solely responsible for any transfer taxes if the shares of Common Stock registrable, issuable or deliverable pursuant to a Conversion Notice are to be registered, issued or delivered in the name of a Person other than the Holder.

(b) **Conversion Rate.** The number of shares of Common Stock issuable upon conversion of any Conversion Amount pursuant to Section 3(a) shall be determined by dividing (x) such Conversion Amount by (y) the Conversion Price (the "**Conversion Rate**").

(i) "**Conversion Amount**" means the sum of (A) the portion of the Principal to be converted, redeemed or otherwise with respect to which this determination is being made, (B) accrued and unpaid Interest with respect to such Principal and (C) accrued and unpaid Late Charges, if any, with respect to such Principal and Interest.

(ii) "**Conversion Price**" means, as of any Conversion Date or other date of determination, a price per share equal to the greater of: (A) 130% of the arithmetic average of the Weighted Average Price of the Common Stock on each Trading Day during the ten (10) consecutive Trading Days commencing on the later of (x) the Initial Closing Date and (y) the Public Announcement Date (the last date in such period, the "**Pricing Date**") (all such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction occurring during such period) and (B) \$28.00, subject to adjustment as provided herein.

(c) **Mechanics of Conversion.**

(i) **Optional Conversion.** To convert any Conversion Amount into shares of Common Stock on any date on or after the Initial Convertibility Date (a "**Conversion Date**"), the Holder shall (A) deliver to the Company on such date, a copy of an executed notice of conversion substantially in the form attached hereto as Exhibit I (the "**Conversion Notice**") and (B) if required by Section 3(c)(iii), but without delaying the Company's requirement to deliver shares of Common Stock on the applicable Share Delivery Date (as defined below), surrender this Note to a common carrier for delivery to the Company as soon as practicable on or following such date (or an indemnification undertaking with respect to this Note in the case of its loss, theft or destruction). No ink- original Conversion Notice shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Conversion Notice be required. On or before the first (1st) Business Day following the date of receipt of a Conversion Notice, the Company shall transmit a confirmation of receipt of such Conversion Notice to the Holder and the Company's transfer agent (the "**Transfer Agent**"). On or before the second (2nd) Trading Day following the date of receipt of a Conversion Notice (a "**Share Delivery Date**"), the Company shall, (x) if the Transfer Agent is participating in the Depository Trust Company ("**DTC**") Fast Automated Securities Transfer Program, credit such aggregate number of shares of Common Stock to which the Holder shall be entitled to the Holder's or its designee's balance account with DTC through its Deposit Withdrawal At Custodian system or (y) if the Transfer Agent is not participating in the DTC

Fast Automated Securities Transfer Program, issue and deliver to the address as specified in the Conversion Notice, a certificate, registered in the name of the Holder or its designee, for the number of shares of Common Stock to which the Holder shall be entitled. If this Note is physically surrendered for conversion as required by Section 3(c)(iii) and the outstanding Principal of this Note is greater than the Principal portion of the Conversion Amount being converted, then the Company shall as soon as practicable and in no event later than three (3) Business Days after receipt of this Note and at its own expense, issue and deliver to the Holder a new Note (in accordance with Section 18(d)) representing the outstanding Principal not converted. The Person or Persons entitled to receive the shares of Common Stock issuable upon a conversion of this Note shall be treated for all purposes as the record holder or holders of such shares of Common Stock on the Conversion Date, irrespective of the date such shares of Common Stock are credited to the Holder's account with DTC or the date of delivery of the certificates evidencing such shares of Common Stock, as the case may be.

(ii) **Company's Failure to Timely Convert.** If the Company shall fail on or prior to the applicable Share Delivery Date to issue and deliver a certificate to the Holder (if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program), or credit the Holder's balance account with DTC (if the Transfer Agent is participating in the DTC Fast Automated Securities Transfer Program), for the number of shares of Common Stock to which the Holder is entitled upon the Holder's conversion of any Conversion Amount (a "**Conversion Failure**"), then the Holder, upon written notice to the Company, may void its Conversion Notice with respect to, and retain or have returned, as the case may be, any portion of this Note that has not been converted pursuant to such Conversion Notice; provided that the voiding of a Conversion Notice shall not affect the Company's obligations to make any payments which may have accrued prior to the date of such notice pursuant to this Section 3(c)(ii) or otherwise. In addition to the foregoing, if the Company shall fail on or prior to the applicable Share Delivery Date to issue and deliver a certificate to the Holder, if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, or credit the Holder's balance account with DTC, if the Transfer Agent is participating in the DTC Fast Automated Securities Transfer Program, for the number of shares of Common Stock to which the Holder is entitled upon the Holder's conversion of any Conversion Amount or on any date of the Company's obligation to deliver shares of Common Stock as contemplated pursuant to clause (y) below, and if after such Trading Day the Holder purchases (in an open market transaction or otherwise) Common Stock to deliver in satisfaction of a sale by the Holder of Common Stock issuable upon such conversion that the Holder anticipated receiving from the Company (a "**Buy-In**"), then the Company shall, within three (3) Trading Days after the Holder's request and in the Holder's discretion, either (x) pay cash to the Holder in an amount equal to the Holder's total purchase price (including brokerage commissions) for the shares of Common Stock so purchased (the "**Buy-In Price**"), at which point the Company's obligation to issue and deliver such certificate or certificates or credit the Holder's balance account with DTC for the shares of Common Stock to which the Holder is otherwise entitled upon the Holder's conversion of the applicable Conversion Amount shall terminate, or (y) promptly honor its obligation to deliver to the Holder a certificate or certificates representing such shares of Common Stock or credit the Holder's balance account with DTC for such shares of Common Stock and pay cash to the Holder in an amount equal to the excess (if any) of the Buy-In Price over the product of (A) such number of shares of Common Stock, times (B) the Closing Sale Price of the Common Stock

on the applicable Conversion Date. Nothing herein shall limit the Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon conversion of this Note as required pursuant to the terms hereof.

(iii) **Registration; Book-Entry.** The Company shall maintain a register (the "**Register**") for the recordation of the names and addresses of the holders of each Note and the Principal amount of the Notes (and stated interest thereon) held by such holders (the "**Registered Notes**"). The entries in the Register shall be conclusive and binding for all purposes absent manifest error. The Company and the holders of the Notes shall treat each Person whose name is recorded in the Register as the owner of a Note for all purposes, including, without limitation, the right to receive payments of Principal and Interest, if any, hereunder, notwithstanding notice to the contrary. A Registered Note may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register. Upon its receipt of a request to assign or sell all or part of any Registered Note by the Holder, in form and substance reasonably satisfactory to the Company, the Company shall record the information contained therein in the Register and issue one or more new Registered Notes in the same aggregate Principal amount as the Principal amount of the surrendered Registered Note to the designated assignee or transferee pursuant to Section 17. The Company shall be entitled to act and rely upon any such request without inquiry as to the genuineness thereof, and without liability of any type or nature arising therefrom. Notwithstanding anything to the contrary in this Section 3(c)(iii), the Holder may assign the Note or any portion thereof to an Affiliate of such Holder or a Related Fund of such Holder without delivering a request to assign or sell such Note to the Company and the recordation of such assignment or sale in the Register (a "**Related Party Assignment**"); provided, that (x) the Company may continue to deal solely with such assigning or selling Holder unless and until such Holder has delivered a request, in form and substance reasonably satisfactory to the Company, to assign or sell such Note or portion thereof to the Company for recordation in the Register; and (y) such assigning or selling Holder shall, acting solely for this purpose as a non-fiduciary agent of the Company, maintain a register (the "**Related Party Register**") comparable to the Register on behalf of the Company, and any such assignment or sale shall be effective upon recordation of such assignment or sale in the Related Party Register. Notwithstanding anything to the contrary set forth herein, upon conversion of any portion of this Note in accordance with the terms hereof, the Holder shall not be required to physically surrender this Note to the Company unless (A) the full Conversion Amount represented by this Note is being converted or (B) the Holder has provided the Company with prior written notice (which notice may be included in a Conversion Notice) requesting reissuance of this Note upon physical surrender of this Note. The Holder and the Company shall maintain records showing the Principal, Interest and Late Charges, if any, converted and the dates of such conversions or shall use such other methods, reasonably satisfactory to the Holder and the Company, so as not to require physical surrender of this Note upon conversion except as provided above.

(iv) **Pro Rata Conversion; Disputes.** In the event that the Company receives a Conversion Notice relating to this Note and one or more holders of Other Notes or Additional Notes for the same Conversion Date and the Company can convert some, but not all, of such portions of this Note, the Other Notes and the Additional Notes submitted for conversion, the Company, subject to Section 3(d), shall convert from the Holder and each holder of Other Notes

and Additional Notes electing to have this Note, the Other Notes or Additional Notes converted on such date a pro rata amount of such holder's portion of the Note, its Other Notes and/or Additional Notes submitted for conversion based on the Principal amount of this Note, the Other Notes and/or Additional Notes submitted for conversion on such date by such holder relative to the aggregate Principal amount of this Note and all Other Notes and Additional Notes submitted for conversion on such date. In the event of a dispute as to the number of shares of Common Stock issuable to the Holder in connection with a conversion of this Note, the Company shall issue to the Holder the number of shares of Common Stock not in dispute and such dispute shall be resolved in accordance with Section 23.

(d) **Beneficial Ownership Limitation.** The Company shall not deliver any shares of Common Stock pursuant to the terms and conditions of this Note, and the Holder shall not have the right to any shares otherwise issuable or otherwise deliverable pursuant to the terms and conditions of this Note and any such delivery shall be null and void and treated as if never made, to the extent that, immediately after giving effect to such issuance, the Holder together with its other Attribution Parties collectively would beneficially own in excess of the Maximum Percentage of the number of shares of Common Stock outstanding. For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by the Holder and its other Attribution Parties shall include the number of shares of Common Stock beneficially owned by the Holder and all of its other Attribution Parties plus the number of shares of Common Stock issuable pursuant to the terms of this Note with respect to which the determination of such sentence is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) conversion of the remaining, nonconverted portion of this Note beneficially owned by the Holder or any of its other Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any convertible notes or convertible preferred stock or warrants, including any Additional Notes and Warrants) beneficially owned by the Holder or any of its other Attribution Parties subject to a limitation on conversion or exercise analogous to the limitation contained in this Section 3(d). For purposes of this Section 3(d), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act. For purposes of determining the number of outstanding shares of Common Stock the Holder may acquire pursuant to the terms of this Note without exceeding the Maximum Percentage, the Holder, absent other knowledge, may rely on the number of outstanding shares of Common Stock as reflected in (i) the Company's most recent Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other public filing with the SEC, as the case may be, (ii) a more recent public announcement by the Company or (iii) any other written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding (the "**Reported Outstanding Share Number**"). If the Company receives a Conversion Notice from the Holder at a time when the actual number of outstanding shares of Common Stock is less than the Reported Outstanding Share Number, the Company shall notify the Holder in writing of the number of shares of Common Stock then outstanding and, to the extent that such Conversion Notice would otherwise cause the Holder's beneficial ownership, as determined pursuant to this Section 3(d), to exceed the Maximum Percentage, the Holder shall, within one (1) Business Day thereafter, notify the Company of a reduced number of shares of Common Stock to be purchased pursuant to such Conversion Notice. The number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the

Company, including this Note, by the Holder and any other Attribution Party since the date as of which the Reported Outstanding Share Number was reported. In the event that the issuance of shares of Common Stock to the Holder upon conversion of this Note would result in the Holder and its other Attribution Parties being deemed to beneficially own, in the aggregate, more than the Maximum Percentage of the number of outstanding shares of Common Stock, the number of shares by which the Holder's and its other Attribution Parties' aggregate beneficial ownership would exceed the Maximum Percentage (the "**Excess Shares**") shall be deemed null and void and any portion of the Conversion Amount so converted shall be reinstated, and the Holder shall not have the power to vote or to transfer the Excess Shares. Upon delivery of a written notice to the Company, the Holder may from time to time increase or decrease the Maximum Percentage to any other percentage not in excess of 9.99% as specified in such notice; provided that (i) any such increase in the Maximum Percentage will not be effective until the sixty-first (61st) day after such notice is delivered to the Company and (ii) any such increase or decrease will apply only to the Holder and its other Attribution Parties and not to any other holder of Notes that is not an Attribution Party of the Holder. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 3(d) to the extent necessary to correct this paragraph (or any portion of this paragraph) which may be defective or inconsistent with the intended beneficial ownership limitation contained in this Section 3(d) or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitation contained in this paragraph may not be waived and shall apply to a successor holder of this Note.

(4) RIGHTS UPON EVENT OF DEFAULT.

(a) Event of Default. Each of the following events shall constitute an "**Event of Default**":

(i) the failure of the applicable Registration Statement required to be filed pursuant to the Registration Rights Agreement to be filed or declared effective within the applicable time periods specified in the Registration Rights Agreement, or, at any time while the applicable Registration Statement is required to be maintained effective pursuant to the terms of the Registration Rights Agreement, the effectiveness of the applicable Registration Statement lapses for any reason (including, without limitation, the issuance of a stop order) and such lapse continues for a period of greater than ten (10) consecutive Trading Days or for more than an aggregate of twenty (20) Trading Days in any 365-day period or such Registration Statement is unavailable to any holder of the Notes for sale of all of such holder's Registrable Securities in accordance with the terms of the Registration Rights Agreement (unless such unavailability is during an Allowable Grace Period (as defined in the Registration Rights Agreement));

(ii) (A) the suspension of the Common Stock from trading on an Eligible Market, or, on or after April 30, 2019, on a Qualified Market, for a period of more than five (5) consecutive Trading Days or for more than an aggregate of ten (10) Trading Days in any 365-day period or (B) the failure of the Common Stock to be listed or quoted for trading on an Eligible Market;

(iii) the failure of the Common Stock to be listed or quoted for trading on or after April 30, 2019, on a Qualified Market;

(iv) the Company's delivery of written notice to the Holder or any holder of the Other Notes or any Additional Notes, including by way of public announcement or through any of its agents, at any time, of its intention not to comply with a valid request for conversion of this Note, any Other Notes or any Additional Notes into shares of Common Stock that is validly tendered in accordance with the provisions of this Note, the Other Notes or any Additional Notes, as applicable, other than pursuant to Section 3(d) (and analogous provisions under the Other Notes and any Additional Notes);

(v) the Company's failure to pay to the Holder any amount of Principal, Interest, Late Charges or other amounts when and as due under this Note (including, without limitation, the Company's failure to pay any redemption amounts hereunder) or any other Transaction Document or any other agreement, document, certificate or other instrument delivered in connection with the transactions contemplated hereby and thereby to which the Holder is a party, except, in the case of a failure to pay any amounts other than Principal when and as due, in which case only if such failure continues for a period of at least an aggregate of two (2) Business Days;

(vi) any default under any Indebtedness in an aggregate principal amount of more than \$10,000,000 of the Company and/or any of its Subsidiaries other than with respect to this Note, any Other Notes or any Additional Notes, the effect of which default is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity;

(vii) the Company or any of its domestic Subsidiaries, pursuant to or within the meaning of Title 11, U.S. Code, or any similar Federal, foreign or state law for the relief of debtors (collectively, "**Bankruptcy Law**"), (A) commences a voluntary case, (B) consents to the entry of an order for relief against it in an involuntary case, (C) consents to the appointment of a receiver, trustee, assignee, liquidator or similar official (a "**Custodian**"), (D) makes a general assignment for the benefit of its creditors or (E) admits in writing that it is generally unable to pay its debts as they become due;

(viii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that (A) is for relief against the Company or any of its domestic Subsidiaries in an involuntary case, (B) appoints a Custodian of the Company or any of its domestic Subsidiaries or (C) orders the liquidation of the Company or any of its domestic Subsidiaries, and, in each case, continues undismissed or unstayed for sixty (60) days;

(ix) one or more judgments, orders or awards for the payment of money aggregating (above any insurance coverage or indemnity from a credit worthy party so long as such insurance provider has been notified of the claim and does not dispute coverage) in excess of \$10,000,000 are rendered against the Company or any of its Subsidiaries and which judgments, orders or awards are not, within sixty (60) days after the entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within sixty (60) days after the expiration of such stay;



(x) other than as specifically set forth in another clause of this Section 4(a), the Company or any of its Subsidiaries breaches any covenant in any Transaction Document, and such breach, if curable, continues for a period of at least an aggregate of thirty (30) calendar days after the earlier of (A) an authorized officer of the Company or such Subsidiary becoming aware of such failure and (B) receipt by an authorized officer of the Company or such Subsidiary of a notice from the Holder of such breach;

(xi) any representation, warranty, certification or statement of fact made or deemed made by the Company or any Subsidiary herein, or in any other Transaction Document, shall be incorrect or misleading in any material respect when made or deemed made;

(xii) any breach or failure in any respect to comply with Sections 14 or 15 of this Note;

(xiii) any material provision of any Security Document (as defined in the Securities Purchase Agreement) shall at any time for any reason (other than pursuant to the express terms thereof) cease to be valid and binding on or enforceable against the Company or any Subsidiary party thereto, or ceases to give the Collateral Agent the Liens purported to be created thereby or the validity or enforceability thereof shall be contested by the Company or any Subsidiary, or a proceeding shall be commenced by the Company or any Subsidiary or any governmental authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof, or the Company or any Subsidiary shall deny in writing that it has any liability or obligation purported to be created under any Security Document;

(xiv) any material damage to, or loss, theft or destruction of, any Collateral or a material amount of property of the Company, whether or not insured, or any strike, lockout, labor dispute, embargo, condemnation, act of God or public enemy, or other casualty which causes, for more than fifteen (15) consecutive days, the cessation or substantial curtailment of revenue producing activities at any facility of the Company or any Subsidiary, if any such event or circumstance could reasonably be expected to have a Material Adverse Effect (as defined in the Securities Purchase Agreement);

(xv) a false or inaccurate certification (including a false or inaccurate deemed certification) by the Company that the Equity Conditions are satisfied or that there has been no Equity Conditions Failure or as to whether any Event of Default has occurred (in each case other than any Equity Conditions Failure arising solely as a result of the delivery to the Company of an Interest Blocker Notice);

(xvi) the Company's failure to file with the SEC any periodic or current reports due after the filing with the SEC of the Form 10-K (as defined in Section 15(b)) in accordance with the Company's requirements under the Exchange Act but only if such failure continues for a period of at least one (1) year;

(xvii) any Event of Default (as defined in the Other Notes) occurs with respect to any Other Notes;

or

(xviii) any Event of Default (as defined in the Additional Notes) occurs with respect to any Additional Notes.

(b) **Redemption Right.** Upon the occurrence of an Event of Default with respect to this Note or any Other Note, the Company shall promptly deliver written notice thereof (an "**Event of Default Notice**") to the Holder. At any time after the earlier of the Holder's receipt of an Event of Default Notice and the Holder becoming aware of an Event of Default, the Holder may require the Company to redeem (an "**Event of Default Redemption**") all, but not less than all, of this Note by delivering written notice thereof (the "**Event of Default Redemption Notice**" and the date the Holder delivers an Event of Default Redemption Notice to the Company, an "**Event of Default Redemption Notice Date**") to the Company, which Event of Default Redemption Notice shall indicate that the Holder is electing to require the Company to redeem this Note. To the extent this Note is subject to redemption by the Company pursuant to this Section 4(b), this Note shall be redeemed by the Company in cash at a price equal to the greater of (i) the product of (x) the Redemption Premium and (y) the Conversion Amount being redeemed and (ii) solely if there is an Equity Conditions Failure (that is not waived in writing by the Holder) during the period from the applicable Event of Default Redemption Notice Date through and including the applicable Event of Default Redemption Date (as defined in Section 10(a)), the product of (x) the Conversion Rate with respect to the Conversion Amount being redeemed and (y) the quotient determined by dividing (I) the greatest Closing Sale Price of the shares of Common Stock during the period beginning on the date immediately preceding such Event of Default and ending on the date the Holder delivers the Event of Default Redemption Notice, by (II) the lowest Conversion Price in effect during such period (the "**Event of Default Redemption Price**"). Redemptions required by this Section 4(b) shall be made in accordance with the provisions of Section 10. To the extent redemptions required by this Section 4(b) are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. Notwithstanding anything to the contrary in this Section 4, but subject to Section 3(d), until the Event of Default Redemption Price (together with any interest thereon) is paid in full, the Conversion Amount submitted for redemption under this Section 4(b) (together with any interest thereon) may be converted, in whole or in part, by the Holder into Common Stock pursuant to Section 3. Any such converted Conversion Amount shall reduce the Event of Default Redemption payment by an equivalent amount. The parties hereto agree that in the event of the Company's redemption of this Note under this Section 4(b), the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. Accordingly, any Event of Default redemption premium due under this Section 4(b) is intended by the parties to be, and shall be deemed, a reasonable estimate of the Holder's actual loss of its investment opportunity and not as a penalty.

(5) RIGHTS UPON FUNDAMENTAL TRANSACTION AND CHANGE OF CONTROL.

(a) **Assumption and Corporate Events.** Upon the consummation of any Fundamental Transaction, the Company shall cause any Successor Entity or Successor Entities to jointly and severally succeed to, and be added to the term "Company" under this Note (so that from and after the consummation of such Fundamental Transaction, each and every provision of this

Note referring to the "Company" shall refer instead to each of the Company and the Successor Entity or Successor Entities, jointly and severally), and the Successor Entity or Successor Entities, jointly and severally with the Company, may exercise every right and power of the Company prior thereto and the Successor Entity or Successor Entities shall assume all of the obligations of the Company prior thereto under this Note with the same effect as if the Company and such Successor Entity or Successor Entities, jointly and severally, had been named as the Company in this Note. In addition to and not in substitution for any other rights hereunder, prior to the occurrence or consummation of any Fundamental Transaction pursuant to which holders of shares of Common Stock become entitled to receive securities, cash, assets or other property with respect to or in exchange for shares of Common Stock (a "**Corporate Event**"), the Company shall provide that it shall be a required condition to the occurrence or consummation of such Corporate Event that the Holder will have the right to receive upon conversion of this Note at any time after the occurrence or consummation of the Corporate Event, shares of Common Stock or capital stock of a Successor Entity or, if so elected by the Holder, in lieu of the shares of Common Stock (or other securities, cash, assets or other property) purchasable upon the conversion of this Note prior to such Corporate Event, such shares of stock, securities, cash, assets or any other property whatsoever (including warrants or other purchase or subscription rights and any shares of Common Stock) which the Holder would have been entitled to receive upon the occurrence or consummation of such Corporate Event or the record, eligibility or other determination date for the event resulting in such Corporate Event, had this Note been converted immediately prior to such Corporate Event or the record, eligibility or other determination date for the event resulting in such Corporate Event (without regard to any limitations on conversion of this Note). The provisions of this Section 5(a) shall apply similarly and equally to successive Fundamental Transactions and Corporate Events.

(b) **Redemption Right.** As soon as practicable following the public announcement of the consummation of a Change of Control, the Company shall deliver written notice thereof to the Holder (a "**Change of Control Notice**"). At any time during the period beginning on the earlier to occur of (x) the Holder becoming aware of the consummation of a Change of Control and (y) the Holder's receipt of a Change of Control Notice and ending thirty five (35) Trading Days after the date of the consummation of such Change of Control, the Holder may require the Company to redeem (a "**Change of Control Redemption**") all or any portion of this Note by delivering written notice thereof ("**Change of Control Redemption Notice**" and the date the Holder delivers a Change of Control Redemption Notice to the Company, a "**Change of Control Redemption Notice Date**") to the Company, which Change of Control Redemption Notice shall indicate the Conversion Amount the Holder is electing to require the Company to redeem. The portion of this Note subject to redemption pursuant to this Section 5(b) shall be redeemed by the Company in cash at a price equal to the sum of (i) the greater of (x) 110% of the Conversion Amount being redeemed and (y) solely if (a) the applicable Change of Control is a Make-Whole Change of Control or (b) there is an Equity Conditions Failure (that is not waived in writing by the Holder) during the period from the applicable Change of Control Redemption Notice Date through and including the applicable Change of Control Redemption Date (as defined in Section 10(a)), the product of (I) the Conversion Amount being redeemed and (II) the quotient determined by dividing (A) the greatest Closing Sale Price of the shares of Common Stock during the period beginning on the date immediately preceding the earlier to occur of (1) the consummation of the Change of Control and (2) the public announcement of such Change of Control and ending on the date the

Holder delivers the Change of Control Redemption Notice, by (B) the lowest Conversion Price in effect during such period, and (ii) if the applicable Change of Control is a Make-Whole Change of Control, the Make-Whole Change of Control Premium (the "**Change of Control Redemption Price**"). Redemptions required by this Section 5 shall be made in accordance with the provisions of Section 10 and shall have priority to payments to stockholders in connection with a Change of Control. To the extent redemptions required by this Section 5(b) are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. Notwithstanding anything to the contrary in this Section 5, but subject to Section 3(d), until the Change of Control Redemption Price (together with any interest thereon) is paid in full, the Conversion Amount submitted for redemption under this Section 5(b) (together with any interest thereon) may be converted, in whole or in part, by the Holder into Common Stock pursuant to Section 3. Any such converted Conversion Amount shall reduce the Conversion Amount submitted for redemption under this Section 5(b) by an equivalent amount. The parties hereto agree that in the event of the Company's redemption of any portion of the Note under this Section 5(b), the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. Accordingly, any Change of Control redemption premium due under this Section 5(b) is intended by the parties to be, and shall be deemed, a reasonable estimate of the Holder's actual loss of its investment opportunity and not as a penalty.

(c) Qualifying Change of Control Redemption Right. Notwithstanding any Holder's right to require a Change of Control Redemption, delivery of any Change of Control Redemption Notice or anything else to the contrary in the Notes, contemporaneously with, or within three (3) Business Days subsequent to, the consummation of a Qualifying Change of Control, the Company may redeem this Note in full in cash at a price equal to the sum of (i) the aggregate outstanding Principal amount of this Note as of the Qualifying Early Redemption Date (as defined in Section 10(a)), (ii) Interest accrued on such Principal amount as of the Qualifying Early Redemption Date, (iii) any other amounts owed pursuant to the terms of this Note, including, without limitation, any Late Charges, as of the Qualifying Early Redemption Date and (iv) 20% (the "**Qualifying Early Redemption Premium**") of the aggregate outstanding Principal amount of this Note as of the Qualifying Early Redemption Date (for the avoidance of doubt, the Qualifying Early Redemption Premium shall only be applied to the aggregate outstanding Principal amount of this Note as of the Qualifying Early Redemption Date) (the "**Qualifying Early Redemption Price**"). If the Company elects to redeem this Note in connection with a Qualifying Change of Control, the Company shall (i) be deemed by virtue of public announcement of such Qualifying Change of Control to have delivered an irrevocable notice thereof to the Holder (a "**Qualifying Early Redemption Notice**") unless the Company has provided earlier or contemporaneous written notice to the Holder that the Company does not elect to redeem this Note in connection with such Qualifying Change of Control and (ii) simultaneously take the same action with respect to all Other Notes and Additional Notes then outstanding. Redemptions required by this Section 5(c) shall be made in accordance with the provisions of Section 10 and shall have priority to payments to stockholders in connection with a Qualifying Change of Control. To the extent redemptions required by this Section 5(c) are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. Notwithstanding anything to the contrary in this Section 5, but subject to Section 3(d), until the

Qualifying Early Redemption Price (together with any interest thereon) is paid in full, the Conversion Amount submitted for redemption under this Section 5(c) (together with any interest thereon) may be converted, in whole or in part, by the Holder into Common Stock of comScore, Inc. pursuant to Section 3 (for the avoidance of doubt, in the event any portion of this Note remains outstanding more than two (2) Business Days after the consummation of a Qualifying Change of Control, Section 5(a) shall apply and the Holder shall, among other things, be entitled to convert this Note into the capital stock of the Successor Entity in accordance with Section 5(a)). Any such converted Conversion Amount shall reduce the Conversion Amount subject to redemption under this Section 5(c) by an equivalent amount. The parties hereto agree that in the event of the Company's redemption of any portion of the Note under this Section 5(c), the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. Accordingly, any Change of Control redemption premium due under this Section 5(c) is intended by the parties to be, and shall be deemed, a reasonable estimate of the Holder's actual loss of its investment opportunity and not as a penalty. Upon the Company's request and at the Company's sole cost and expense, the Holder agrees to provide a customary payoff letter, in form and substance reasonably satisfactory to the Company and the Holder, confirming the payoff of all obligations under this Note and the release of all liens securing such obligations, which confirmations shall be contingent on the Holder's receipt of the payment in full of the applicable Qualifying Early Redemption Price, and which payoff and release shall occur automatically upon such payment without further action by the Holder.

(6) ADJUSTMENTS TO THE CONVERSION PRICE.

(a) Adjustment of Conversion Price upon Subdivision or Combination of Common Stock or Stock Dividend. If the Company issues solely shares of Common Stock as a dividend or distribution on all or substantially all shares of the Common Stock, or if the Company effects a stock split or a stock combination of the Common Stock (in each case excluding an issuance solely pursuant to a Fundamental Transaction or other Corporate Event, as to which the provisions set forth in Section 5 will apply), then the Conversion Price will be adjusted based on the following formula:

$$CP1 = CP0 * \frac{OS0}{OS1}$$

OS1

where:

CP0 = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such dividend or distribution, or immediately before the open of business on the effective date of such stock split or stock combination, as applicable;

CP1 = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date or the open of business on such effective date, as applicable;

OS0 = the number of shares of Common Stock outstanding immediately before the open of business on such Ex-Dividend Date or effective date, as applicable; and

OS1 = the number of shares of Common Stock outstanding immediately after giving effect to such dividend, distribution, stock split or stock combination.

For the avoidance of doubt, pursuant to the definition of CP1 above, any adjustment to the Conversion Price made pursuant to this Section 6(a) will become effective immediately after the open of business on such Ex-Dividend Date or the open of business on such effective date, as applicable. If any dividend, distribution, stock split or stock combination of the type described in this Section 6(a) is declared or announced, but not so paid or made, then the Conversion Price, if previously adjusted, will be readjusted, effective as of the date the Board of Directors of the Company determines not to pay such dividend or distribution or to effect such stock split or stock combination, to the Conversion Price that would then be in effect had such dividend, distribution, stock split or stock combination not been declared or announced.

(b) Rights, Options and Warrants. If the Company distributes, to all or substantially all holders of Common Stock, rights, options or warrants entitling such holders, for a period of not more than sixty (60) calendar days after the record date of such distribution, to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is publicly announced, then the Conversion Price will be decreased based on the following formula:

$$CP1 = CP0 * \frac{OS + Y}{OS + X}$$

$$OS + X$$

where:

CP0 = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such distribution;

CP1 = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

OS = the number of shares of Common Stock outstanding immediately before the open of business on such Ex-Dividend Date;

X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = a number of shares of Common Stock obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

For the avoidance of doubt, any adjustment to the Conversion Price made pursuant to this Section 6(b) will be made successively whenever any such rights, options or warrants are issued and, pursuant to the definition of CP1 above, will become effective immediately after the open of business on the Ex-Dividend Date for the applicable distribution. To the extent that shares of Common Stock are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Price, if previously adjusted, will be readjusted effective as of such expiration date to the Conversion Price that would then be in effect had the decrease to the Conversion Price for such distribution been made on the basis of delivery of only the number of shares of Common Stock actually delivered upon exercise of such rights, option or warrants. To the extent such rights, options or warrants are not so distributed, the Conversion Price will be readjusted effective as of the date the Board of Directors of the Company determines not to distribute such rights, options or warrants, to the Conversion Price that would then be in effect had the Ex- Dividend Date for the distribution of such rights, options or warrants not occurred.

For purposes of this Section 6(b), in determining whether any rights, options or warrants entitle holders of Common Stock to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date of the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Board of Directors of the Company.

(c) Spin-Offs and Other Distributed Property.

(i) Distributions Other than Spin-Offs. If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Capital Stock of the Company or other securities, to all or substantially all holders of the Common Stock, excluding:

(u) rights issued in the Rights Offering (as defined in the Securities Purchase Agreement);

- (v) dividends, distributions, rights, options or warrants for which an adjustment to the Conversion Price is required pursuant to Section 6(a) or 6(b);
- (w) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Price is required pursuant to Section 6(d);
- (x) rights issued or otherwise distributed pursuant to a stockholder rights plan, except to the extent provided in Section 6(g);
- (y) Spin-Offs for which an adjustment to the Conversion Price is required pursuant to Section 6(c)(ii); and
- (z) a distribution solely pursuant to a Corporate Event, as to which the provisions set forth in Section 5 will apply,

then the Conversion Price will be decreased based on the following formula:

$$CP1 = \frac{CP0 * SP - FMV}{SP}$$

SP

where:

CR0 = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such distribution;

CR1 = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

SP = the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before such Ex-Dividend Date; and

FMV = the fair market value (determined in the good faith judgment of the Board of Directors of the Company), as of such Ex-Dividend Date, of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed per share of Common Stock pursuant to such distribution;



provided, however, that if FMV is equal to or greater than SP, or if the difference between FMV and SP is less than one dollar (\$1.00), then, in lieu of the foregoing adjustment to the Conversion Price, each Holder will receive, at the same time and on the same terms as holders of Common Stock, the amount and kind of shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the principal amount of Notes held by such Holder on the record date for such distribution divided by the Conversion Price in effect on such record date.

For the avoidance of doubt, pursuant to the definition of CP1 above, any adjustment to the Conversion Price made pursuant to this Section 6(c)(i) will become effective immediately after the open of business on the Ex-Dividend Date for the applicable distribution. To the extent such distribution is not so paid or made, or such rights, options or warrants are not exercised before their expiration (including as a result of being redeemed or terminated), the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to make or pay such distribution, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid or on the basis of the distribution of only such rights, options or warrants, if any, that were actually exercised, if at all. Subject to Section 6(g), if any such rights, options or warrants are exercisable only upon the occurrence of certain triggering events, then the Conversion Price will not be adjusted pursuant to this Section 6(c)(i) until the earliest of these triggering events occurs.

(ii) Spin-Offs. If the Company distributes or dividends shares of stock of any class or series, or similar equity interest, of or relating to an Affiliate, a Subsidiary or other business unit of the Company to all or substantially all holders of the Common Stock, and such stock or equity interest is listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a "**Spin-Off**"), then the Conversion Price will be increased based on the following formula:

$$CP1 = CP0 * \frac{MP}{MP + FMV}$$

$$MP + FMV$$

where:

CP0 = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such Spin-Off;

CP1 = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

FMV = the average of the Closing Sale Prices of the stock or equity interests distributed per share of Common Stock in such Spin-Off over the ten (10) consecutive Trading Day period (the "**Spin-Off Valuation Period**") beginning on, and including, such Ex-Dividend Date (such average to be determined as if references to Common Stock in the definitions of Closing Sale Price and Trading Day were instead references to the number or units of such stock or equity interests distributed per share of Common Stock in such Spin-Off); and

MP = the average of the Closing Sale Prices per share of Common Stock over the Spin-Off Valuation Period.

The adjustment to the Conversion Price pursuant to this Section 6(c)(ii) will be calculated as of the close of business on the last Trading Day of the Spin-Off Valuation Period but will be given effect immediately after the open of business on the Ex-Dividend Date for the Spin-Off, with retroactive effect. If this Note is converted and the Conversion Date occurs during the Spin-Off Valuation Period, then, in lieu of the foregoing adjustment to the Conversion Price, the Holder will receive, at the same time and on the same terms as holders of Common Stock, the number of shares of stock or other equity interests that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the principal amount of Notes held by such Holder on the record date for Spin-Off divided by the Conversion Price in effect on such record date.

To the extent any dividend or distribution of the type set forth in this Section 6(c)(ii) is declared but not made or paid, the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to make or pay such dividend or distribution, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(d) Cash Dividends or Distributions. If any cash dividend or distribution is made to all or substantially all holders of Common Stock, then the Conversion Price will be decreased based on the following formula:

$$CP1 = CP0 * \frac{SP}{SP - D}$$

where:

CP0 = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such dividend or distribution;

CR1 = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

SP = the Closing Sale Price per share of Common Stock on the Trading Day immediately before such Ex-Dividend Date; and

D = the cash amount distributed per share of Common Stock in such dividend or distribution;

provided, however, that if D is equal to or greater than SP, or if the difference between D and SP is less than one dollar (\$1.00), then, in lieu of the foregoing adjustment to the Conversion Price, the Holder will receive, at the same time and on the same terms as holders of Common Stock, the amount of cash that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the principal amount of Notes held by such Holder on the record date for such dividend or distribution divided by the Conversion Price in effect on such record date. For the avoidance of doubt, pursuant to the definition of CP1 above, any adjustment to the Conversion Price made pursuant to this Section 6(d) will become effective immediately after the open of business on the Ex-Dividend Date for the applicable dividend or distribution.

To the extent any such dividend or distribution is declared but not made or paid, the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to make or pay such dividend or distribution, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(e) **Tender Offers or Exchange Offers.** If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for shares of Common Stock, and the value (as determined as of the Expiration Time (as defined below) in the judgment of the Board of Directors of the Company) of the cash and other consideration paid per share of Common Stock in such tender or exchange offer exceeds the Closing Sale Price per share of Common Stock on the Trading Day immediately after the last date (the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Price will be decreased based on the following formula:

$$CP1 = CP0 * \frac{OS0 \times SP}{$$

$$AC + (SP \times OS1)$$

where:

CP0 = the Conversion Price in effect immediately before the time (the "**Expiration Time**") such tender or exchange offer expires;

CP1 = the Conversion Price in effect immediately after the Expiration Time;

AC = the aggregate value (as determined as of the Expiration Time in the judgment of the Board of Directors of the Company) of all cash and other consideration paid for shares of Common Stock purchased in such tender or exchange offer;

OS0 = the number of shares of Common Stock outstanding immediately before the Expiration Time (before giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer);

OS1 = the number of shares of Common Stock outstanding immediately after the Expiration Time (excluding all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer); and

SP = the average of the Closing Sale Prices of Common Stock over the ten (10) consecutive Trading Day period (the "**Tender/Exchange Offer Valuation Period**") beginning on, and including, the Trading Day immediately after the Expiration Date.

The adjustment to the Conversion Price pursuant to this Section 6(e) will be calculated as of the close of business on the last Trading Day of the Tender/Exchange Offer Valuation Period but will be given effect immediately after the Expiration Time, with retroactive effect. If this Note is converted and the Conversion Date occurs during the Tender/Exchange Offer Valuation Period, then, notwithstanding anything to the contrary in the Notes, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Tender/Exchange Offer Valuation Period. To the extent such tender or exchange offer is announced but not consummated (including as a result of the Company being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of shares of Common Stock in such tender or exchange offer are rescinded, the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to consummate such offer, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of shares of Common Stock, if any, actually made, and not rescinded, in such tender or exchange offer.

(f) **No Adjustments in Certain Cases.** Notwithstanding anything to the contrary in this Section 6, the Company will not be obligated to adjust the Conversion Price on account of a transaction or other event otherwise requiring an adjustment pursuant to this Section 6 (other than a stock dividend, distribution, split or combination of the type set forth in Section 6(a))

or a tender or exchange offer of the type set forth in Section 6(e)) if each Holder participates, at the same time and on the same terms as holders of Common Stock, and solely by virtue of being a Holder of Notes, in such transaction or event without having to convert such Holder's Notes and as if such Holder held a number of shares of Common Stock equal to the quotient of (i) the aggregate principal amount (expressed in thousands) of Notes held by the Holder on such date; divided by (ii) the Conversion Price in effect on the related record date, effective date or Expiration Date, as applicable.

(g) **Stockholder Rights Plans.** If any shares of Common Stock are to be issued upon conversion of this Note and, at the time of such conversion, the Company has in effect any stockholder rights plan, then the Holder will be entitled to receive, in addition to, and concurrently with the delivery of, the consideration otherwise payable under this Note upon such conversion, the rights set forth in such stockholder rights plan, unless such rights have separated from the Common Stock at or prior to such time, in which case, and only in such case, the Conversion Price will be adjusted pursuant to Section 6(c)(1) on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such Section to all holders of the Common Stock, subject to readjustment in accordance with such Section if such rights expire, terminate or are redeemed.

(h) **Voluntary Adjustment by Company.** The Company may at any time during the term of this Note, with the prior written consent of the Required Holders, reduce the then current Conversion Price to any amount and for any period of time deemed appropriate by the Board of Directors of the Company.

(7) OPTIONAL REDEMPTION AT THE COMPANY'S ELECTION.

(a) **General.** At any time after January 16, 2021 (the "**Company Optional Trigger Date**"), so long as (i) the arithmetic average of the Weighted Average Prices of the Common Stock for any thirty (30) consecutive Trading Days occurring after the Company Optional Trigger Date (all such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction during such period) (a "**Company Optional Measuring Period**") equaled or exceeded one hundred forty percent (140%) of the Conversion Price on the Issuance Date (as adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction after the Subscription Date) and (ii) there has been no Equity Conditions Failure during the period beginning on the applicable Company Optional Redemption Notice Date (as defined below) through the applicable Company Optional Redemption Date (as defined below), the Company shall have the right to redeem all or any portion of the Conversion Amount then remaining outstanding under this Note, the Other Notes and the Additional Notes (a "**Company Optional Redemption Amount**") as designated in the applicable Company Optional Redemption Notice on the applicable Company Optional Redemption Date (each as defined below) (a "**Company Optional Redemption**"). The portion of this Note, the Other Notes and any Additional Notes subject to redemption pursuant to this Section 7(a) shall be redeemed by the Company on the applicable Company Optional Redemption Date in cash at a price equal to the 100% of the Conversion Amount to be redeemed (a "**Company Optional Redemption Price**"). The Company may exercise its right to require redemption under this Section 7 by delivering within

not more than ten (10) Trading Days following the end of such Company Optional Measuring Period a written notice thereof to the Holder and all, but not less than all, of the holders of the Other Notes and any Additional Notes (a "**Company Optional Redemption Notice**" and the date all of the holders of the Notes received such notice is referred to as a "**Company Optional Redemption Notice Date**"). Each Company Optional Redemption Notice shall be irrevocable. Each Company Optional Redemption Notice shall (i) state the date on which the applicable Company Optional Redemption shall occur (a "**Company Optional Redemption Date**"), which date shall not be less than ten (10) Trading Days nor more than thirty (30) Trading Days following the applicable Company Optional Redemption Notice Date and (ii) state the aggregate Conversion Amount of the Notes which the Company has elected to redeem from the Holder and all of the holders of the Other Notes and any Additional Notes pursuant to this Section 7(a) (and analogous provisions under the Other Notes and any applicable Additional Notes) on the applicable Company Optional Redemption Date an Equity Conditions Failure (other than as a result of the receipt by the Company of an Interest Blocker Notice) occurs between the applicable Company Optional Redemption Notice Date and the applicable Company Optional Redemption Date and (iii) confirm that there has been no Equity Conditions Failure during the period beginning on the applicable Company Optional Redemption Date through the applicable Company Optional Redemption Notice Date. If the Company confirmed that there was no such Equity Conditions Failure as of the applicable Company Optional Redemption Notice Date but an Equity Conditions Failure occurs between the applicable Company Optional Redemption Notice Date and the applicable Company Optional Redemption Date (a "**Company Optional Redemption Interim Period**"), the Company shall provide the Holder a subsequent notice to that effect. If there is an Equity Conditions Failure (which is not waived in writing by the Holder) during such Company Optional Redemption Interim Period, then the applicable Company Optional Redemption shall be null and void with respect to all or any part designated by the Holder of the unconverted Company Optional Redemption Amount and the Holder shall be entitled to all the rights of a holder of this Note with respect to such amount of the applicable Company Optional Redemption Amount. Notwithstanding anything to the contrary in this Section 7, until the applicable Company Optional Redemption Price is paid, in full, the applicable Company Optional Redemption Amount may be converted, in whole or in part, by the Holder into shares of Common Stock pursuant to Section 3. All Conversion Amounts converted by the Holder after the applicable Company Optional Redemption Notice Date shall reduce the applicable Company Optional Redemption Amount of this Note required to be redeemed on the applicable Company Optional Redemption Date, unless the Holder otherwise indicates in the applicable Conversion Notice. Company Optional Redemptions made pursuant to this Section 7 shall be made in accordance with Section 10. To the extent redemptions required by this Section 7 are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. The parties hereto agree that in the event of the Company's redemption of any portion of the Note under this Section 7, the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. For the avoidance of doubt, any Conversion Amount that is subject to a Conversion Notice delivered to the Company may no longer be subject to a Company Optional Redemption even if the shares issuable upon such conversion have not been delivered on or prior to the applicable Company Optional Redemption Date.

(b) **Pro Rata Redemption Requirement.** If the Company elects to cause a Company Optional Redemption pursuant to Section 7(a), then it must simultaneously take the same action in the same proportion with respect to the Other Notes and any Additional Notes. If the Company elects to cause a Company Optional Redemption pursuant to Section 7(a) (or similar provisions under the Other Notes and the Additional Notes) with respect to less than all of the Conversion Amounts of the Notes and any Additional Notes then outstanding, then the Company shall require redemption of a Conversion Amount from each of the holders of the Notes and any Additional Notes equal to the product of (i) the aggregate Company Optional Redemption Amount of Notes and the Additional Notes which the Company has elected to cause to be redeemed pursuant to Section 7(a), multiplied by (ii) the fraction, the numerator of which is the sum of the aggregate Principal Amount of the Notes and any Additional Notes held by such holder and the denominator of which is the sum of the aggregate Principal Amount of the Notes and any Additional Notes held by all holders holding outstanding Notes and any Additional Notes (such fraction with respect to each holder is referred to as its "**Company Optional Redemption Allocation Percentage**", and such amount with respect to each holder is referred to as its "**Pro Rata Company Optional Redemption Amount**"). In the event that the initial holder of any Notes or Additional Notes shall sell or otherwise transfer any of such holder's Notes or any Additional Notes, the transferee shall be allocated a pro rata portion of such holder's Company Optional Redemption Allocation Percentage and Pro Rata Company Optional Redemption Amount.

(8) **NONCIRCUMVENTION.** The Company hereby covenants and agrees that the Company will not, by amendment of its Certificate of Incorporation, Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Note, and will at all times in good faith carry out all of the provisions of this Note and take all action as may be required to protect the rights of the Holder of this Note.

(9) **RESERVATION OF AUTHORIZED SHARES.**

(a) **Reservation.** The Company shall initially reserve out of its authorized and unissued shares of Common Stock a number of shares of Common Stock for each of this Note, the Other Notes and any Additional Notes equal to the sum of (i) 130% of the Conversion Rate with respect to the Conversion Amount of each such Note as of the Issuance Date and (ii) 130% of the maximum number of shares issuable as Interest Shares assuming all Interest through the Maturity Date is paid in Interest Shares at the maximum possible Interest Rate. So long as any of this Note, the Other Notes and the Additional Notes are outstanding, the Company shall take all action necessary to reserve and keep available out of its authorized and unissued Common Stock, solely for the purpose of effecting the conversion of this Note, the Other Notes and any Additional Notes, the number of shares of Common Stock specified above in this Section 9(a) as shall from time to time be necessary to effect the conversion of all of the Notes and any Additional Notes then outstanding; provided, that at no time shall the number of shares of Common Stock so reserved be less than the number of shares required to be reserved pursuant hereto (in each case, without regard to any limitations on conversions) (the "**Required Reserve Amount**"). The initial number of shares of Common Stock reserved for conversions of this Note, the Other Notes and the Additional Notes

and each increase in the number of shares so reserved shall be allocated pro rata among the Holder, the holders of the Other Notes and the holders of any Additional Notes based on the Principal amount of this Note and the Other Notes held by each holder at the Initial Closing (as defined in the Securities Purchase Agreement) or increase in the number of reserved shares, as the case may be (the "**Authorized Share Allocation**"). In the event that a holder shall sell or otherwise transfer this Note, or a portion thereof, or any of such holder's Other Notes or Additional Notes, each transferee shall be allocated a pro rata portion of such holder's Authorized Share Allocation. Any shares of Common Stock reserved and allocated to the portion of the Note held by any Person who ceases to hold any Notes shall be allocated to the portion of the Note held by the Holder and the remaining holders of Other Notes and the Additional Notes, pro rata based on the then- outstanding Principal amount of this Note, the Other Notes and any Additional Notes then held by such holders.

(b) **Insufficient Authorized Shares.** If at any time while any of the Notes remain outstanding the Company does not have a sufficient number of authorized and unreserved shares of Common Stock to satisfy its obligation to have reserved for issuance upon conversion of the outstanding Notes at least a number of shares of Common Stock equal to the Required Reserve Amount (an "**Authorized Share Failure**"), then the Company shall promptly take all action necessary to increase the Company's authorized shares of Common Stock to an amount sufficient to allow the Company to reserve the Required Reserve Amount for the Notes then outstanding. Without limiting the generality of the foregoing sentence, as soon as practicable after the date of the occurrence of an Authorized Share Failure, but in no event later than sixty (60) days after the occurrence of such Authorized Share Failure, the Company shall either (x) obtain the written consent of its stockholders for the approval of an increase in the number of authorized shares of Common Stock and provide each stockholder with an information statement with respect thereto or (y) file with the SEC a proxy statement for a meeting of its stockholders at which meeting the Company will seek the approval of its stockholders for an increase in the number of authorized shares of Common Stock. In connection with such meeting, the Company shall provide each stockholder with a proxy statement and shall use commercially reasonable efforts to solicit its stockholders' approval of such increase in authorized shares of Common Stock and to cause its Board of Directors to recommend to the stockholders that they approve such proposal. Notwithstanding the foregoing, if during any such time of an Authorized Share Failure, the Company is able to obtain the written consent of a majority of the shares of its issued and outstanding Common Stock to approve the increase in the number of authorized shares of Common Stock, the Company may satisfy this obligation by obtaining such consent and submitting for filing with the SEC an Information Statement on Schedule 14C. If, upon any conversion of this Note, the Company does not have sufficient authorized shares to deliver in satisfaction of such conversion, then unless the Holder elects to rescind such attempted conversion, the Holder may require the Company to pay to the Holder within three (3) Trading Days of the applicable attempted conversion, cash in an amount equal to the product of (i) the number of shares of Common Stock that the Company is unable to deliver pursuant to this Section 9, and (ii) the highest Closing Sale Price of the Common Stock during the period beginning on the applicable Conversion Date and ending on the date the Company makes the applicable cash payment.

(10) REDEMPTIONS.



(a) **Mechanics.** The Company shall deliver the applicable Event of Default Redemption Price to the Holder within three (3) Business Days after the Company's receipt of the Holder's Event of Default Redemption Notice (the "**Event of Default Redemption Date**"). If the Holder has submitted a Change of Control Redemption Notice in accordance with Section 5(b), the Company shall deliver the applicable Change of Control Redemption Price to the Holder (i) concurrently with the consummation of such Change of Control if such notice is received prior to the consummation of such Change of Control and (ii) within three (3) Business Days after the Company's receipt of such notice otherwise (such date, the "**Change of Control Redemption Date**"). If the Company has delivered a Qualifying Early Redemption Notice to the Holders in accordance with Section 5(c), the Company shall deliver the applicable Qualifying Early Redemption Price to the Holders concurrently with the consummation of such Qualifying Change of Control (such date, the "**Qualifying Early Redemption Date**"). The Company shall deliver the applicable Company Optional Redemption Price to the Holder on the applicable Company Optional Redemption Date. The Company shall pay the applicable Redemption Price to the Holder on the applicable due date. In the event of a redemption of less than all of the Conversion Amount of this Note and a surrender of this Note by the Holder, the Company shall promptly cause to be issued and delivered to the Holder a new Note (in accordance with Section 18(d)) representing the outstanding Principal which has not been redeemed and any accrued Interest on such Principal which shall be calculated as if no Redemption Notice has been delivered. In the event that the Company does not pay the applicable Redemption Price to the Holder within the time period required, at any time thereafter and until the Company pays such unpaid Redemption Price in full, the Holder shall have the option, in lieu of redemption, to require the Company to promptly return to the Holder all or any portion of this Note representing the Conversion Amount that was submitted for redemption and for which the applicable Redemption Price (together with any Late Charges thereon) has not been paid. Upon the Company's receipt of such notice, (x) the applicable Redemption Notice shall be null and void with respect to such Conversion Amount, (y) the Company shall immediately return this Note, or issue a new Note (in accordance with Section 18(d)) to the Holder representing such Conversion Amount not redeemed and (z) the Conversion Price of this Note or such new Note shall be adjusted to the Conversion Price as in effect on the date on which the applicable Redemption Notice is voided. The Holder's delivery of a notice voiding a Redemption Notice and exercise of its rights following such notice shall not affect the Company's obligations to make any payments of Late Charges which have accrued prior to the date of such notice with respect to the Conversion Amount subject to such notice.

(b) **Redemption by Other Holders.** Upon the Company's receipt of notice from any of the holders of the Other Notes or any Additional Notes for redemption or repayment as a result of an event or occurrence substantially similar to the events or occurrences described in Section 4(b) or Section 5(b) or pursuant to equivalent provisions set forth in the Other Notes or any Additional Notes (each, an "**Other Redemption Notice**"), the Company shall promptly provide notice of such request. If the Company receives a Redemption Notice and one or more Other Redemption Notices, during the seven (7) Business Day period beginning on and including the date which is three (3) Business Days prior to the Company's receipt of the Holder's Redemption Notice and ending on and including the date which is three (3) Business Days after the Company's receipt of the Holder's Redemption Notice and the Company is unable to redeem all principal, interest and other amounts designated in such Redemption Notice and such Other Redemption Notices received

during such seven (7) Business Day period, then the Company shall redeem a pro rata amount from the Holder and each holder of the Other Notes and the Additional Notes (including the Holder) based on the outstanding Principal amount of this Note, the Other Notes and any Additional Notes submitted for redemption pursuant to such Redemption Notice and such Other Redemption Notices received by the Company during such seven (7) Business Day period.

(11) VOTING RIGHTS. The Holder shall have no voting rights as the holder of this Note, except as required by law and as expressly provided in this Note.

(12) SECURITY. This Note, the Other Notes and any Additional Notes are secured to the extent and in the manner set forth in the Security Documents.

(13) RANK. All payments due under this Note (a) shall rank *pari passu* with all Other Notes, Additional Notes, Rights Offering Notes, if any, Backstop Commitment Notes, if any, and Indebtedness described in clause (iii) of the definition of Permitted Indebtedness, if any, and (b) shall be senior to all other Indebtedness of the Company and its Subsidiaries.

(14) NEGATIVE COVENANTS.

(a) Until all of the Notes and the Additional Notes have been converted, redeemed or otherwise satisfied in accordance with their terms, the Company shall not, and the Company shall not permit any of its Subsidiaries without the prior written consent of the Required Holders to, directly or indirectly:

(i) incur or guarantee, assume or suffer to exist any Indebtedness, other than Permitted Indebtedness; or

(ii) allow or suffer to exist any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in any property or assets (including accounts and contract rights) owned by the Company or any of its Subsidiaries (collectively, "**Liens**") other than Permitted Liens.

(b) Solely in the event that the Company does not at the applicable time of determination satisfy the Qualifying Conditions, the Company shall not, and the Company shall not permit any of its Subsidiaries without the prior written consent of the Required Holders to, directly or indirectly:

(i) Redeem or repurchase any Equity Interests or other Junior Claims, or declare or pay any dividend or other distributions of assets (or rights to acquire assets) to any or all holders of Equity Interests or other Junior Claims, by way of return of capital or otherwise (including without limitation, any distribution of cash, stock or other securities, property, Options, evidence of Indebtedness or any other assets by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) of the Company or any of its Subsidiaries (any of the foregoing, a "**Restricted Payment**"), in each case other than:

(1) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Indebtedness made by exchange for, or out of the proceeds of the substantially concurrent sale of, Refinancing Indebtedness;

(2) each Subsidiary may declare and make Restricted Payments to Persons that own Equity Interests in such Subsidiary, ratably according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made;

(3) the Company and each Subsidiary may declare and make dividend payments or other distributions payable solely in Equity Interests of such Person;

(4) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Equity Interest of the Company or a Subsidiary made by exchange for or out of the proceeds of the substantially concurrent sale of Equity Interests of the Company;

(5) a Restricted Payment to pay for the repurchase, retirement or other acquisition or retirement for value of Equity Interests of the Company held by or on behalf of any future, present or former employee, director, manager or consultant of the Company or any of its Subsidiaries (or permitted transferees, assigns, estates, trusts or heirs of such employee, director, manager or consultant) either pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or upon the termination of such employee, director, manager or consultant's employment, directorship or manager position; provided that the aggregate amount of Restricted Payments made under this clause (5) do not exceed in any calendar year an amount equal to \$1,000,000;

(6) purchases, repurchases, redemptions, defeasances or other acquisitions or retirements of Equity Interests deemed to occur upon the exercise of stock options, warrants or other rights in respect thereof if such Equity Interests represents a portion of the exercise price thereof; and

(7) additional Restricted Payments in an amount not to exceed \$5,000,000 during any fiscal year or \$10,000,000 in the aggregate prior to the Maturity Date.

(15) AFFIRMATIVE COVENANTS.

(a) By no later than April 30, 2019, the Company shall have filed with the SEC one or more Annual Reports on Form 10-K containing its audited financial statements for the fiscal years ended December 31, 2015, 2016 and 2017 in accordance with the applicable requirements of the Exchange Act, the rules and regulations thereunder and the SEC's instructions to Annual Reports on Form 10-K (the "**Form 10-K**").

(b) From and after the date the Company files the Form 10-K, on or before the date that the Company is required to file any Quarterly Report on Form 10-Q or Annual Report on Form 10-K, the Company shall publicly disclose Consolidated EBITDA with respect to the most recent completed financial period as to which such report relates.

(c) The Company shall maintain on deposit cash and/or cash equivalents (as defined in GAAP) in an aggregate amount equal to:

(i) not less than \$40,000,000 from and after the Initial Closing Date to and excluding the earlier to occur of (x) the consummation of the Rights Offering (as defined in the Securities Purchase Agreement) and (y) the Maturity Date (such earlier date, the “**Cash Measuring Date**”); provided, however, that, upon execution of the Qualifying Change of Control Documentation, such amount shall be reduced on a dollar for dollar basis for each dollar of Cash Interest paid to the Holder and the holders of the Other Notes and the Additional Notes from and after the execution of the Qualifying Change of Control Documentation until the consummation of the applicable Qualifying Change of Control or the termination of the related Qualifying Change of Control Documentation in accordance with its terms; provided, further, that in no event will such amount be reduced pursuant to the immediately preceding proviso by more than \$20,000,000; provided, further, that in the event that:

(x) such Qualifying Change of Control is consummated and the Holder does not receive the payment in full of the applicable Qualifying Early Redemption Price within two (2) Business Days of consummation of such Qualifying Change of Control, then on and after such consummation; or

(y) such Qualifying Change of Control is terminated in accordance with the terms of the related Qualifying Change of Control Documentation (other than in a circumstance constituting a Superior Proposal Termination (as defined below)), then on and after the shorter of (I) the ninetieth (90th) day after such termination and (II) the first date after such termination when the Company consummates a financing that enables it to maintain on deposit cash and/or cash equivalents (as defined in GAAP) in an aggregate amount equal to \$40,000,000,

in each such case, such amount shall be restored to \$40,000,000;

(ii) solely if the Cash Measuring Date is determined by clause (x) of such definition:

(1) not less than \$75,000,000 from and after the Cash Measuring Date through and excluding January 1, 2020; provided, however, that such amount shall be not less than \$55,000,000 for the period, if any, from and after the Cash Measuring Date to and excluding the earlier to occur of (a) the date the Company files the 2019 Q2 10-Q and (b) August 9, 2019; and

(2) not less than \$50,000,000 from and after January 1, 2020 through and including the Maturity Date.

(16) VOTE TO ISSUE, OR CHANGE THE TERMS OF, NOTES. The affirmative vote of the Required Holders at a meeting duly called for such purpose or the written consent without a meeting of the Required Holders shall be required for any change or amendment or waiver of any provision to this Note, any of the Other Notes or any Additional Notes. Any change, amendment or waiver by the Company and the Required Holders shall be binding on the Holder of this Note and all holders of the Other Notes and the Additional Notes.

(17) TRANSFER. This Note and any shares of Common Stock issued upon conversion of this Note may be offered, sold, assigned or transferred by the Holder without the consent of the Company, subject only to the provisions of Section 2(g) of the Securities Purchase Agreement.

(18) REISSUANCE OF THIS NOTE.

(a) Transfer. If this Note is to be transferred, the Holder shall surrender this Note to the Company, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Note (in accordance with Section 18(d) and subject to Section 3(c)(iii)), registered as the Holder may request, representing the outstanding Principal being transferred by the Holder and, if less than the entire outstanding Principal is being transferred, a new Note (in accordance with Section 18(d)) to the Holder representing the outstanding Principal not being transferred. The Holder and any assignee, by acceptance of this Note, acknowledge and agree that, by reason of the provisions of Section 3(c)(iii) following conversion or redemption of any portion of this Note, the outstanding Principal represented by this Note may be less than the Principal stated on the face of this Note.

(b) Lost, Stolen or Mutilated Note. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Note, and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary form and, in the case of mutilation, upon surrender and cancellation of this Note, the Company shall execute and deliver to the Holder a new Note (in accordance with Section 18(d)) representing the outstanding Principal.

(c) Note Exchangeable for Different Denominations. This Note is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, for a new Note or Notes (in accordance with Section 18(d)) representing in the aggregate the outstanding Principal of this Note, and each such new Note will represent such portion of such outstanding Principal as is designated by the Holder at the time of such surrender.

(d) Issuance of New Notes. Whenever the Company is required to issue a new Note pursuant to the terms of this Note, such new Note (i) shall be of like tenor with this Note, (ii) shall represent, as indicated on the face of such new Note, the Principal remaining outstanding (or in the case of a new Note being issued pursuant to Section 18(a) or Section 18(c), the Principal designated by the Holder which, when added to the principal represented by the other new Notes issued in connection with such issuance, does not exceed the Principal remaining outstanding under this Note immediately prior to such issuance of new Notes), (iii) shall have an issuance date, as indicated on the face of such new Note, which is the same as the Issuance Date of this Note, (iv) shall have the same rights and conditions as this Note, and (v) shall represent accrued and unpaid Interest and Late Charges, if any, on the Principal and Interest of this Note, from the Issuance Date.

(19) REMEDIES, CHARACTERIZATIONS, OTHER OBLIGATIONS, BREACHES AND INJUNCTIVE RELIEF. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note and any of the other Transaction

Documents at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note. Amounts set forth or provided for herein with respect to payments, conversion, redemption and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach, the Holder shall be entitled, in addition to all other available remedies, to an injunction restraining such breach, without the necessity of showing economic loss and without any bond or other security being required, to the fullest extent enforceable under applicable law.

(20) PAYMENT OF COLLECTION, ENFORCEMENT AND OTHER COSTS. If (a) this Note is placed in the hands of an attorney for collection or enforcement or is collected or enforced through any legal proceeding or the Holder otherwise takes action to collect amounts due under this Note or to enforce the provisions of this Note or (b) there occurs any bankruptcy, reorganization, receivership of the Company or other proceedings affecting Company creditors' rights and involving a claim under this Note, then the Company shall pay the costs incurred by the Holder for such collection, enforcement or action or in connection with such bankruptcy, reorganization, receivership or other proceeding, including, but not limited to, actual and reasonable attorneys' fees and disbursements.

(21) CONSTRUCTION; HEADINGS. This Note shall be deemed to be jointly drafted by the Company and all the Buyers and shall not be construed against any person as the drafter hereof. The headings of this Note are for convenience of reference and shall not form part of, or affect the interpretation of, this Note.

(22) FAILURE OR INDULGENCE NOT WAIVER. No failure or delay on the part of the Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege.

(23) DISPUTE RESOLUTION. In the case of a dispute as to the determination of the Closing Bid Price, the Closing Sale Price or the Weighted Average Price or the arithmetic calculation of the Conversion Rate, the Conversion Price or any Redemption Price, the Company shall submit the disputed determinations or arithmetic calculations within two (2) Business Days of receipt, or deemed receipt, of the Conversion Notice or Redemption Notice or other event giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation within three (3) Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two (2) Business Days submit (a) the disputed determination of the Closing Bid Price, the Closing Sale Price or the Weighted Average Price to an independent, reputable investment bank selected by the Holder and approved by the Company, such approval not to be unreasonably withheld, conditioned or delayed, or (b) the disputed arithmetic calculation of the Conversion Rate, Conversion

Price or any Redemption Price to an independent, outside accountant, selected by the Holder and approved by the Company, such approval not to be unreasonably withheld, conditioned or delayed. The Company, at the Company's expense, shall cause the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than ten (10) Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

(24) NOTICES; PAYMENTS.

(a) Notices. Whenever notice is required to be given under this Note, unless otherwise provided herein, such notice shall be given in accordance with Section 9(f) of the Securities Purchase Agreement. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Note, including in reasonable detail a description of such action and the reason therefore. Without limiting the generality of the foregoing, the Company shall give written notice to the Holder (i) immediately upon any adjustment of the Conversion Price, setting forth in reasonable detail, and certifying, the calculation of such adjustment and (ii) at least ten (10) days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the Common Stock, (B) with respect to any pro rata subscription offer to holders of Common Stock or (C) for determining rights to vote with respect to any Fundamental Transaction, dissolution or liquidation, provided in each case that such information shall have been made known to the public prior to or in conjunction with such notice being provided to the Holder.

(b) Payments. Whenever any payment of cash is to be made by the Company to any Person pursuant to this Note, such payment shall be made in lawful money of the United States of America via wire transfer of immediately available funds to an account so designated by the Holder; provided, that the Holder, upon timely written notice to the Company, may elect to receive a payment of cash by a check drawn on the account of the Company and sent via overnight courier service to such Person at such address as previously provided to the Company in writing (which address, in the case of each of the Buyers, shall initially be as set forth on the Schedule of Buyers attached to the Securities Purchase Agreement. Whenever any amount expressed to be due by the terms of this Note is due on any day which is not a Business Day, the same shall instead be due on the next succeeding day which is a Business Day. Any amount of Principal or other amounts due under the Transaction Documents which is not paid when due shall result in a late charge being incurred and payable by the Company in an amount equal to interest on such amount at the rate of eighteen percent (18.0%) per annum from the date such amount was due until the same is paid in full ("**Late Charge**").

(25) CANCELLATION. After all Principal, any accrued Interest and any other amounts at any time owed on this Note have been paid in full, this Note shall automatically be deemed canceled, shall be surrendered to the Company for cancellation and shall not be reissued.

(26) WAIVER OF NOTICE. To the extent permitted by law, the Company hereby waives demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Note.

(27) GOVERNING LAW; JURISDICTION; JURY TRIAL. All questions concerning the construction, validity, enforcement and interpretation of this Note shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. The Company hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. The Company hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to the Company at the address set forth in Section 9(f) of the Securities Purchase Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof to the fullest extent enforceable under applicable law. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Nothing contained herein shall be deemed or operate to preclude the Holder from bringing suit or taking other legal action against the Company in any other jurisdiction to collect on the Company's obligations to the Holder, to realize on any collateral or any other security for such obligations, or to enforce a judgment or other court ruling in favor of the Holder. **THE COMPANY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS NOTE OR ANY TRANSACTION CONTEMPLATED HEREBY.**

(28) SEVERABILITY. If any provision of this Note is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Note so long as this Note as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the Company or the Holder hereof or the practical realization of the benefits that would otherwise be conferred upon the Company or the Holder hereof. The Company and the Holders will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

(29) DISCLOSURE. From and after the filing of the Form 10-K and provided that, at the applicable time of determination, no individual affiliated with the Holder serving on the Board of Directors of the Company was appointed thereto, including pursuant to Section 1(a) of the September Agreement, the Company will not provide to the Holder any information that constitutes material non-public information of or relating to the Company or its Subsidiaries without the prior written consent of the Holder. If and to the extent the Company does provide any such



information, or the Holder otherwise comes into possession of material non-public information relating to the Company or its Subsidiaries as a result of the receipt or delivery of any notice in accordance with the terms hereof, the Company will comply with its obligations under Regulation FD under the Exchange Act. In the absence of any disclosure by the Company pursuant thereto, the Holder shall be allowed to presume that all matters relating thereto do not constitute material non-public information relating to the Company or its Subsidiaries.

(30) **USURY.** This Note is subject to the express condition that at no time shall the Company be obligated or required to pay interest hereunder at a rate or in an amount which could subject the Holder to either civil or criminal liability as a result of being in excess of the maximum interest rate or amount which the Company is permitted by applicable law to contract or agree to pay. If by the terms of this Note, the Company is at any time required or obligated to pay interest hereunder at a rate or in an amount in excess of such maximum rate or amount, the rate or amount of interest under this Note shall be deemed to be immediately reduced to such maximum rate or amount and the interest payable shall be computed at such maximum rate or be in such maximum amount and all prior interest payments in excess of such maximum rate or amount shall be applied and shall be deemed to have been payments in reduction of the principal balance of this Note.

(31) **CERTAIN DEFINITIONS.** For purposes of this Note, the following terms shall have the following meanings:

(a) "**Acquired EBITDA**" means with respect to any Acquired Entity or Business (any of the foregoing, a "Pro Forma Entity") for any period, the amount for such period of Consolidated EBITDA of such Pro Forma Entity (determined as if references to the Company and its Subsidiaries in the definition of the term "Consolidated EBITDA" were references to such Pro Forma Entity and its Subsidiaries which will become Subsidiaries), all as determined on a consolidated basis for such Pro Forma Entity.

(b) "**Additional Closing Date**" shall have the meaning set forth in the Securities Purchase Agreement.

(c) "**Additional Notes**" means all Initial Notes issued by the Company pursuant to the Securities Purchase Agreement on the Initial Closing Date.

(d) "**Affiliate**" means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person, it being understood for purposes of this definition that "control" of a Person means the power directly or indirectly either to vote 10% or more of the stock having ordinary voting power for the election of directors of such Person or direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

(e) "**Attribution Parties**" means, collectively, the following Persons: (i) any investment vehicle, including, any funds, feeder funds or managed accounts, currently, or from time to time after the Issuance Date, directly or indirectly managed or advised by the Holder's investment manager or any of its Affiliates or principals, (ii) any direct or indirect Affiliates of the

Holder or any of the foregoing, (iii) any Person acting or who could be deemed to be acting as a Group together with the Holder or any of the foregoing and (iv) any other Person whose beneficial ownership of the Company's Common Stock would or could be aggregated with the Holder's and its Attribution Parties for purposes of Section 13(d) of the Exchange Act. For clarity, the purpose of the foregoing is to subject collectively the Holder and its Attribution Parties to the Maximum Percentage.

(f) "**Backstop Commitment Notes**" any Notes issued in connection with the Buyer's backstop commitment of the Rights Offering (as defined in the Securities Purchase Agreement) as contemplated in Section 1(e) of the Securities Purchase Agreement.

(g) "**Bloomberg**" means Bloomberg Financial Markets.

(h) "**Business Day**" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed.

(i) "**Buyer**" shall have the meaning ascribed to such term in the Securities Purchase Agreement.

(j) "**Calendar Quarter**" means each of: the period beginning on and including January 1 and ending on and including the next occurring March 31; the period beginning on and including April 1 and ending on and including the next occurring June 30; the period beginning on and including July 1 and ending on and including the next occurring September 30; and the period beginning on and including October 1 and ending on and including the next occurring December 31.

(k) "**Capital Stock**" means, for any entity, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that entity.

(l) "**Change of Control**" means any Fundamental Transaction other than (i) any reorganization, recapitalization or reclassification of the Common Stock in which holders of the Company's voting power immediately prior to such reorganization, recapitalization or reclassification continue after such reorganization, recapitalization or reclassification to hold publicly traded securities and, directly or indirectly, are, in all material respects, the holders of a majority of the voting power of the surviving entity (or entities with the authority or voting power to elect the members of the Board of Directors (or their equivalent if other than a corporation) of such entity or entities) after such reorganization, recapitalization or reclassification or (ii) pursuant to a migratory merger effected solely for the purpose of changing the jurisdiction of incorporation of the Company.

(m) "**Closing Bid Price**" and "**Closing Sale Price**" means, for any security as of any date, the last closing bid price and last closing trade price, respectively, for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing bid price or the closing trade

price, as the case may be, then the last bid price or last trade price, respectively, of such security prior to 4:00:00 p.m., New York Time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last closing bid price or last trade price, respectively, of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, or if the foregoing do not apply, the last closing bid price or last trade price, respectively, of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no closing bid price or last trade price, respectively, is reported for such security by Bloomberg, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the OTC Link or "pink sheets" by OTC Markets Group Inc. (formerly Pink OTC Markets Inc.). If the Closing Bid Price or the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Bid Price or the Closing Sale Price, as the case may be, of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 23. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction occurring during the applicable calculation period.

(n) "**Common Stock**" means (i) shares of Common Stock, par value \$0.001 per share of the Company, and (ii) any share capital into which such Common Stock shall be changed or any share capital resulting from a reclassification of such Common Stock.

(o) "**Consolidated EBITDA**" means, for any period, the Consolidated Net Income for such period plus:

(i) without duplication and to the extent already deducted (and not added back) in arriving at such Consolidated Net Income (or, as applicable, to the extent not already included in Consolidated Net Income), the sum of the following amounts for such period:

(1) total interest expense and, to the extent not reflected in such total interest expense, any losses on swap obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, net of interest income and gains on such swap obligations or such derivative instruments, and bank and letter of credit fees and costs of surety bonds in connection with financing activities,

(2) provision for taxes based on income, profits or capital gains, including federal, foreign, state, franchise, excise and similar taxes paid or accrued during such period (including in respect of repatriated funds),

(3) depreciation and amortization (including amortization of intangible assets established through purchase accounting and amortization of deferred financing fees or costs),

(4) non-cash charges (excluding any non-cash charges which consists of or requires an accrual of, or reserve for, potential cash charges in any future period),

- (5) extraordinary losses in accordance with GAAP,
- (6) unusual or non-recurring charges (including litigation and investigation-related costs and expenses, costs associated with tax projects/audits and professional, consulting or other fees) incurred in connection with the Company's pending audit or any of the legal proceedings listed on Schedule 3(r) of the Securities Purchase Agreement,
- (7) restructuring charges, accruals or reserves (including restructuring costs related to acquisitions after the Initial Closing),
- (8) losses on asset sales, disposals or abandonments (other than asset sales, disposals or abandonments in the ordinary course of business),
- (9) the amount of any net losses from discontinued operations in accordance with GAAP,
- (10) any expenses, charges or losses that are covered by indemnification or other reimbursement provisions in connection with any Investment, acquisition or any sale, conveyance, transfer or other disposition of assets, to the extent actually reimbursed, or, so long as the Company has received notification from the applicable carrier that it intends to indemnify or reimburse such expenses, charges or losses and that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within such 365 days), such expenses, charges or losses,
- (11) to the extent covered by insurance and actually reimbursed, or, so long as the Company has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within such 365 days), expenses, charges or losses with respect to liability or casualty event or business interruption,
- (12) fees, costs and expenses incurred in connection with the transactions contemplated by the Transaction Documents (including, without limitation, the Rights Offering);
- (13) any fees and expenses incurred during such period, or any amortization thereof for such period, in connection with any acquisition, investment, asset disposition, issuance or repayment of debt, issuance of equity securities, refinancing transaction or amendment or other modification of any debt instrument (in each case, including any such transaction consummated prior to the Initial Closing and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction,

*less*

(ii) without duplication and to the extent included in arriving at such Consolidated Net Income (or, as applicable, to the extent not already included in Consolidated Net Income), the sum of the following amounts for such period:

(1) extraordinary gains in accordance with GAAP and unusual or non-recurring gains,

(2) non-cash gains,

(3) gains on asset sales, disposals or abandonments (other than asset sales, disposals or abandonments in the ordinary course of business), and

(4) the amount of any net income from discontinued operations in accordance with GAAP,

in each case, as determined on a consolidated basis for the Company and its Subsidiaries in accordance with GAAP, provided that, to the extent included in Consolidated Net Income,

(1) there shall be excluded in determining Consolidated EBITDA, without duplication, any net unrealized gains and losses relating to mark-to-market of amounts denominated in foreign currencies resulting from the application of FASB ASC 830;

(2) there shall be included in determining Consolidated EBITDA for any period, without duplication, the Acquired EBITDA of any Person, property, business or asset acquired by the Company or any Subsidiary of the Company during such period to the extent not subsequently sold, transferred or otherwise disposed of (but not including the Acquired EBITDA of any related Person, property, business or assets to the extent not so acquired) (each such Person, property, business or asset acquired, including pursuant to a transaction consummated prior to the Initial Closing, and not subsequently so disposed of, an "**Acquired Entity or Business**"), in each case based on the Acquired EBITDA of such Pro Forma Entity for such period (including the portion thereof occurring prior to such acquisition or conversion) determined on a historical Pro Forma Basis;

(3) there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset sold, transferred or otherwise disposed of, closed or classified as discontinued operations by the Company or any Subsidiary of the Company during such period (each such Person, property, business or asset so sold, transferred or otherwise disposed of, closed or classified, a "**Sold Entity or Business**"), in each case based on the Disposed EBITDA of such Sold Entity or Business for such period (including the portion thereof occurring prior to such sale, transfer, disposition, closure, classification or conversion) determined on a historical Pro Forma Basis; and

(4) there shall be excluded in determining Consolidated EBITDA for any period the cumulative effect of a change in accounting principles during such period to the extent included in Consolidated Net Income.

(p) "**Consolidated Net Income**" means, for any period, the net income (loss) of the Company and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.

(q) "**Contingent Obligation**" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any Indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto.

(r) "**Conversion Premium**" means the quotient obtained by dividing (x) the Conversion Price in effect as of the applicable date of determination, by (y) the arithmetic average of the ten (10) Weighted Average Prices of the Common Stock on each Trading Day during the ten (10) consecutive Trading Days immediately preceding the applicable date of determination. All such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction during such period.

(s) "**Convertible Securities**" means any stock or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for shares of Common Stock.

(t) "**Disposed EBITDA**" means with respect to any Sold Entity or Business for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business (determined as if references to the Company and its Subsidiaries in the definition of the term "Consolidated EBITDA" (and in the component financial definitions used therein) were references to such Sold Entity or Business and its Subsidiaries), all as determined on a consolidated basis for such Sold Entity or Business.

(u) "**Eligible Market**" means the Principal Market, The New York Stock Exchange, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the NYSE American, the OTC QX, the OTC QB or the OTC Pink.

(v) "**Equity Conditions**" means each of the following conditions: (i) either (x) one or more Registration Statements covering all of the Interest Shares to be issued on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, shall be effective and available for the resale of such shares, in accordance with the terms of the Registration Rights Agreement or (y) all Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the

Equity Conditions, shall be eligible for sale without restriction or limitation pursuant to Rule 144 and without the need for registration under any applicable federal or state securities laws; (ii) the Company shall have no knowledge of any fact that would cause (x) the applicable Registration Statements required pursuant to the Registration Rights Agreement not to be effective and available for the resale of the Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions, in accordance with the terms of the Registration Rights Agreement or (y) the Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions, not being eligible for sale without restriction or limitation pursuant to Rule 144 and without the requirement to be in compliance with Rule 144(c)(1) (or any successor thereto) promulgated under the Securities Act and any applicable state securities laws; (iii) the Interest Shares issuable on the applicable Interest Date requiring the satisfaction of the Equity Conditions may be issued in full without violating Section 3(d) hereof; (iv) the Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions may be issued in full without violating the rules or regulations of the Principal Market; (v) the Common Stock is designated for quotation on the Principal Market and shall not have been suspended from trading on such exchange or market; and (vi) if the event requiring satisfaction of the Equity Conditions is a Company Optional Redemption, an Event of Default Redemption or a Change of Control Redemption, from and after the applicable Company Optional Redemption Notice, Event of Default Notice or Change of Control Notice, as applicable, the Company shall have delivered shares of Common Stock pursuant to the terms of this Note to the Holder on a timely basis as set forth in Section 3(c) hereof.

(w) "**Equity Conditions Failure**" means that on the applicable date of determination through the applicable date of determination, the Equity Conditions have not each been satisfied (or waived in writing by the Holder).

(x) "**Equity Interests**" means (a) all shares of capital stock (whether denominated as common capital stock or preferred capital stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting and (b) all securities convertible into or exchangeable for any of the foregoing and all warrants, Options or other rights to purchase, subscribe for or otherwise acquire any of the foregoing, whether or not presently convertible, exchangeable or exercisable.

(y) "**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

(z) "**Ex-Dividend Date**" means the first date on which shares of the Common Stock trade on the applicable Eligible Market, regular way, without the right to receive

the issuance, dividend or distribution in question, from the Company or, if applicable, from the seller of Common Stock on such Eligible Market (in the form of due bills or otherwise) as determined by such Eligible Market.

(aa) **"Fundamental Transaction"** means (A) that the Company shall, directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions, (i) consolidate or merge with or into (whether or not the Company is the surviving corporation) another Subject Entity, or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its "significant subsidiaries" (as defined in Rule 1-02 of Regulation S-X), taken as a whole, to one or more Subject Entities, or (iii) make, or allow one or more Subject Entities to make, or allow the Company to be subject to or have its Common Stock be subject to or party to one or more Subject Entities making, a purchase, tender or exchange offer that is accepted by the holders of greater than either (x) 50% of the outstanding shares of Common Stock, (y) 50% of the outstanding shares of Common Stock calculated as if any shares of Common Stock held by all Subject Entities making or party to, or Affiliated with any Subject Entities making or party to, such purchase, tender or exchange offer were not outstanding; or (z) such number of shares of Common Stock such that all Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such purchase, tender or exchange offer, become collectively the beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of greater than 50% of the outstanding shares of Common Stock, or (iv) consummate a share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with one or more Subject Entities whereby such Subject Entities, individually or in the aggregate, acquire, either (x) greater than 50% of the outstanding shares of Common Stock, (y) greater than 50% of the outstanding shares of Common Stock calculated as if any shares of Common Stock held by all the Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such stock purchase agreement or other business combination were not outstanding; or (z) such number of shares of Common Stock such that the Subject Entities become collectively the beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of greater than 50% of the outstanding shares of Common Stock, or (v) reorganize, recapitalize or reclassify its Common Stock, (B) that the Company shall, directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions allow any Subject Entity individually or the Subject Entities in the aggregate to be or become the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, whether through acquisition, purchase, assignment, conveyance, tender, tender offer, exchange, reduction in outstanding shares of Common Stock, merger, consolidation, business combination, reorganization, recapitalization, spin-off, scheme of arrangement, reorganization, recapitalization or reclassification or otherwise in any manner whatsoever, of either (x) greater than 50% of the aggregate ordinary voting power represented by issued and outstanding Common Stock, (y) greater than 50% of the aggregate ordinary voting power represented by issued and outstanding Common Stock not held by all such Subject Entities as of the Subscription Date calculated as if any shares of Common Stock held by all such Subject Entities were not outstanding, or (z) a percentage of the aggregate ordinary voting power represented by issued and outstanding shares of Common Stock or other equity securities of the Company sufficient to allow such Subject Entities to effect a statutory short form merger or other transaction requiring other stockholders of the Company to surrender their shares of Common Stock without approval of the stockholders of the Company or (C) directly or indirectly,



including through Subsidiaries, Affiliates or otherwise, in one or more related transactions, the issuance of or the entering into any other instrument or transaction structured in a manner to circumvent, or that circumvents, the intent of this definition in which case this definition shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this definition to the extent necessary to correct this definition or any portion of this definition which may be defective or inconsistent with the intended treatment of such instrument or transaction.

(bb) "**GAAP**" means United States generally accepted accounting principles, consistently applied, as in effect on the Subscription Date.

(cc) "**Grace Period**" shall have the meaning ascribed to such term in the Registration Rights Agreement.

(dd) "**Group**" means a "group" as that term is used in Section 13(d) of the Exchange Act and as defined in Rule 13d-5 thereunder.

(ee) "**Indebtedness**" of any Person means, without duplication (i) all indebtedness for borrowed money, (ii) all obligations issued, undertaken or assumed as the deferred purchase price of property or services, including (without limitation) "capital leases" in accordance with GAAP (other than trade payables entered into in the ordinary course of business), (iii) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (iv) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (v) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (vi) all monetary obligations under any leasing or similar arrangement which, in connection with GAAP, consistently applied for the periods covered thereby, is classified as a capital lease, (vii) all indebtedness referred to in clauses (i) through (vi) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any mortgage, deed of trust, lien, pledge, charge, security interest or other encumbrance of any nature whatsoever in or upon any property or assets (including accounts and contract rights) with respect to any asset or property owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, (with the amount of such indebtedness, in the case where the Person has not assumed or become liable for the payment of such indebtedness) equal to the lesser of (x) the outstanding principal amount of such indebtedness and (y) the fair market value of the assets securing such indebtedness) and (viii) all Contingent Obligations in respect of indebtedness of others of the kinds referred to in clauses (i) through (vii) above.

(ff) "**Initial Closing Date**" shall have the meaning set forth in the Securities Purchase Agreement.

(gg) "**Interest Conversion Price**" means as of any Interest Date, that price which shall be the arithmetic average of the Weighted Average Prices of the Common Stock on

each Trading Day during the ten (10) consecutive Trading Days immediately preceding the applicable Interest Date. All such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction occurring during such period.

(hh) **"Interest Notice Due Date"** means the fifteenth (15th) Trading Day prior to the applicable Interest Date.

(ii) **"Interest Reset Date"** means each of (i) January 30, 2019, (ii) January 30, 2020, (iii) February 1, 2021 (each of the foregoing (i) through (iii), an **"Anniversary Interest Reset Date"**) and (iv) any applicable Event of Default Redemption Notice Date.

(jj) "Interest Rate" means:

<b>If the Conversion Premium</b>	<b>Then the Interest Rate</b>	<b>And the Interest Rate from</b>
<b>(as of January 30, 2018 for</b>	<b>(which shall be determined</b>	<b>the applicable Interest Reset</b>
<b>the second column and as of</b>	<b>on January 30, 2018) from</b>	<b>Date until the next</b>
<b>the applicable Interest Reset</b>	<b>the Issuance Date</b>	<b>subsequent Interest Reset</b>
<b>Date for the third column)</b>	<b>through the first Interest</b>	<b>Date shall be:</b>
<b>is:</b>	<b>Reset Date shall be:</b>	
1.0 or less	6.0%	4.0%
1.05	6.0%	4.3%

1.10	6.0%	4.7%
1.15	6.0%	5.0%
1.20	6.0%	5.3%
1.25	6.0%	5.7%
1.30	6.0%	6.0%
1.35	8.0%	8.0%
1.40	10.0%	10.0%

If the Conversion Premium is between two Conversion Premium amounts in the table above, the Interest Rate will be determined by straight-line interpolation between the Interest Rates set forth for the higher and lower Conversion Premium amounts.

Upon a 10-K Filing Failure (as defined below), any applicable Interest Rate then in effect shall automatically be increased by an additional 200 bps (e.g. from 4.7% to 6.7%). Such increased Interest Rate shall continue in effect until the next Anniversary Interest Reset Date. Upon the next Anniversary Interest Reset Date, the Interest Rate will adjust according to table above; provided that if the Company has not effected the 10-K Filing Remedy (as defined below) by such date, then the reset Interest Rate will be further increased by 200 bps and will continue in effect until the next Anniversary Interest Reset Date, at which time this mechanism will be repeated. For the avoidance of doubt, on any Anniversary Interest Reset Date where there is no 10-K Filing Failure and where any applicable 10-K Filing Remedy has been effected, the reset Interest Rate will be determined according to the table above without adding 200 bps. For purposes hereof, (i) the "**10-K Filing Failure**" means that the Company fails on or prior to each April 30 while this Note is outstanding to have filed the Form 10-K and any subsequent required periodic or current reports required to be filed by the Company prior to each such date under the Exchange Act (including audited financial statements for the fiscal years ended prior to each such date) and (ii) a "**10-K Filing Remedy**" means the Company shall have filed with the SEC the Form 10-K and all subsequent required periodic and current reports required to be filed under the Exchange Act be filed by the Company prior to such date and there shall not exist any Event of Default.

(kk) "**Junior Claims**" means any Indebtedness or securities of the Company or any of its Subsidiaries of any class junior in rank to the Notes and the Additional Notes in respect of the preferences as to distributions and payments upon a Liquidation Event, including, without limitation, any Equity Securities of the Company or any of its Subsidiaries.

(ll) "**Lead Investor**" means Starboard Value and Opportunity Master Fund Ltd.

(mm) "**Liquidation Event**" means the voluntary or involuntary liquidation, dissolution or winding up of the Company or such Subsidiaries the assets of which constitute all or substantially all of the assets of the business of the Company and its Subsidiaries

taken as a whole, in a single transaction or series of transactions, or adoption of any plan for the same.

(nn) "**Make-Whole Change of Control**" means any Change of Control in which more than ten percent (10%) of the consideration received or to be received by the holders of Common Stock (excluding cash payments for fractional shares or pursuant to dissenters rights), in connection with such transaction or event, consists of cash.

(oo) "**Make-Whole Change of Control Premium**" means a cash amount per \$1,000 principal amount of Notes being redeemed in a Make-Whole Change of Control determined by multiplying the applicable Make-Whole Stock Price (as adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction occurring after the Subscription Date) by the amount set forth in the table below (the "**Final Make-Whole Table**"), with such amount corresponding to the date of the Make-Whole Change of Control occurring after the date in the first column but prior to the date, if any, on the immediately following row of the first column of the Final Make-Whole Table:

**Make-Whole Stock Price**

<b>Date</b>	<b>\$ 20.00</b>	<b>\$ 23.62</b>	<b>\$ 25.00</b>	<b>\$ 28.50</b>	<b>\$ 30.00</b>	<b>\$ 31.29</b>	<b>\$ 35.00</b>	<b>\$ 37.05</b>	<b>\$ 40.00</b>	<b>\$ 45.00</b>	<b>\$ 50.00</b>	<b>\$ 55.00</b>
January 5, 2018	5.32	6.19	6.20	7.44	7.67	8.65	6.79	6.00	5.08	3.95	2.89	2.10
January 7, 2019	4.21	5.10	5.21	6.49	7.15	7.71	5.87	5.10	4.23	3.17	2.26	1.62
January 7, 2020	3.21	3.96	4.13	5.34	5.96	6.50	4.64	3.89	3.06	2.11	1.40	0.94
January 7, 2021	2.37	2.82	3.01	4.06	4.60	5.07	3.09	2.28	1.36	0.00	0.00	0.00
January 5, 2022	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

The exact Make-Whole Stock Price and Change of Control Redemption Date may not be set forth in the Final Make-Whole Table, in which case, if the Make-Whole Stock Price is between two such amounts in the Final Make-Whole Table or the Change of Control Redemption Date is between two Change of Control Redemption Dates in the Final Make-Whole Table, the applicable value will be determined by straight-line interpolation between the applicable value set forth for the higher and lower Make-Whole Stock Prices and the earlier and later Change of Control Redemption Dates, as applicable, based on a 365-day year.

(pp) "**Make-Whole Stock Price**" means, for any Make-Whole Change of Control: (A) if the holders of Common Stock receive only cash in consideration for their shares of Common Stock in such Make-Whole Change of Control, the amount of cash paid per share of

Common Stock in such Make-Whole Change of Control; and (B) in all other cases, the arithmetic average of the Closing Sale Prices for the five (5) consecutive Trading Days ending on, and including, the Trading Day immediately before the effective date of such Make-Whole Change of Control (all such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction during such period).

(qq) "**Maximum Percentage**" means, initially, 4.99%, which may be increased or decreased in accordance with the provisions of Section 3(d); provided, however, that upon receipt by the Holder of a Company Optional Redemption Notice, then unless the Holder elects a lower Maximum Percentage in accordance with the provisions of Section 3(d), the Maximum Percentage shall immediately and automatically, without any further action by the Holder, be set at 9.99%.

(rr) "**Options**" means any rights, warrants or options to subscribe for or purchase shares of Common Stock or Convertible Securities.

(ss) "**Parent Entity**" of a Person means an entity that, directly or indirectly, controls the applicable Person, including such entity whose common capital stock or equivalent equity security is quoted or listed on an Eligible Market (or, if so elected by the Required Holders, any other market, exchange or quotation system), or, if there is more than one such Person or such entity, the Person or entity designated by the Required Holders or in the absence of such designation, such Person or entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.

(tt) "**Permitted Indebtedness**" means (i) Indebtedness evidenced by this Note, the Other Notes, the Additional Notes, the Rights Offering Notes, if any, and Backstop Commitment Notes, if any, (ii) unsecured Indebtedness incurred by the Company that is made expressly subordinate in right of payment to the Indebtedness evidenced by this Note, as reflected in a written agreement acceptable to the Required Holders and approved by the Required Holders in writing, and which Indebtedness does not provide at any time for (a) the payment, prepayment, repayment, repurchase or defeasance, directly or indirectly, of any principal or premium, if any, thereon until ninety-one (91) days after the Maturity Date or later and (b) total interest and fees at a rate in excess of 12.00% per annum, (iii) Indebtedness in an aggregate outstanding principal amount not to exceed \$50,000,000 incurred under a revolving credit facility; (iv) Indebtedness with respect to capital leases in an aggregate principal amount not to exceed \$40,000,000, (v) Indebtedness secured by Permitted Liens described in clauses (iv) of the definition of Permitted Liens, (vi) existing Indebtedness described on Schedule 31(tt) attached hereto as in effect on the Subscription Date, and any refinancings and extensions thereof, provided that (A) the principal amount plus unpaid accrued interest and premium thereon and applicable discounts, fees, commissions and expenses thereunder shall not be increased, (B) the maturity thereof is not earlier than ninety (90) days after the Maturity Date, (C) if the Indebtedness being refinanced or extended is subordinated in right of payment to this Note, the Other Notes and the Additional Notes or any guarantees thereof, such refinanced or extended Indebtedness shall be subordinated in right of payment to this Note, the Other Notes, any Additional Notes and any guarantees thereof on terms at least as favorable to the Holder as those contained in the documentation governing the

Indebtedness being refinanced or extended, (D) no refinanced or extended Indebtedness shall have different obligors, or greater guarantees or security than, the Indebtedness being refinanced or extended and (E) if the Indebtedness being refinanced or extended is secured by any Collateral, such refinanced or extended Indebtedness may be secured by such Collateral on terms relating to such Collateral not materially less favorable to this Note, the Other Notes and any Additional Notes than those contained in the documentation (including any intercreditor agreement) governing the Indebtedness being refinanced or extended, (any such Indebtedness, "**Refinancing Indebtedness**"), (vii) intercompany Indebtedness among the Company and any Subsidiaries, (viii) Indebtedness arising under swap or interest rate contracts entered into in the ordinary course of business, (ix) Contingent Obligations in respect of Indebtedness otherwise permitted hereunder, (x) direct or Contingent Obligations arising under surety bonds, letters of credit and similar instruments (including any related indemnity agreement) entered into in the ordinary course of business and consistent with past practice, (xi) Indebtedness in respect of cash management agreements entered into in the ordinary course of business, (xii) Indebtedness of foreign Subsidiaries not exceeding \$10,000,000 in the aggregate at any time outstanding, (xiii) Indebtedness under corporate credit cards in an aggregate outstanding principal amount not to exceed \$3,000,000, (xiv) Indebtedness of Persons acquired in an acquisition, provided that (x) such Indebtedness existed prior to such acquisition and was not incurred in anticipation of such acquisition and (b) after giving effect to such acquisition, the Total Net Leverage Ratio is equal to or less than immediately prior to such acquisition and (xv) additional Indebtedness in an aggregate principal amount not to exceed \$5,000,000.

(uu) "**Permitted Liens**" means (i) any Lien for taxes not yet due or delinquent or being contested in good faith by appropriate proceedings for which adequate reserves have been established in accordance with GAAP, (ii) any statutory Lien arising in the ordinary course of business by operation of law with respect to a liability that is not yet more than sixty (60) days overdue or delinquent, (iii) any Lien created by operation of law, such as materialmen's liens, mechanics' liens and other similar liens, arising in the ordinary course of business with respect to a liability that is not yet due or delinquent or that are being contested in good faith by appropriate proceedings, (iv) Liens (A) upon or in any equipment acquired or held by the Company or any of its Subsidiaries to secure the purchase price of such equipment or Indebtedness incurred solely for the purpose of financing the acquisition or lease of such equipment, or (B) existing on such equipment at the time of its acquisition, provided that the Lien is confined solely to the property so acquired and improvements thereon, and the proceeds of such equipment, (v) Liens incurred in connection with the extension, renewal or refinancing of the Indebtedness secured by Liens of the type described in clause (iv) above, provided that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the Indebtedness being extended, renewed or refinanced does not increase, (vi) leases or subleases and licenses and sublicenses granted to others in the ordinary course of the Company's business, not interfering in any material respect with the business of the Company and its Subsidiaries taken as a whole, (vii) Liens in favor of customs and revenue authorities arising as a matter of law to secure payments of custom duties in connection with the importation of goods, (viii) Liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default under Section 4(a)(ix); (ix) Liens securing Permitted Indebtedness described in clause (iv) of the definition of Permitted Indebtedness, (x) Liens securing existing Indebtedness described on Schedule 31(tt) attached hereto

as in effect on the Subscription Date, and Liens securing any refinancings and extensions thereof provided that any collateral securing such refinancings or extensions is not broader than the collateral that is subject to the Liens being refinanced or extended, (xi) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, (xii) deposits to secure performance of bids, trade contracts and leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature in the ordinary course of business, (xiii) normal and customary rights of setoff upon deposits of cash in favor of banks or other depository institutions, (xiv) Liens deemed to exist in connection with investments in repurchase agreements in the ordinary course of business, (xv) Liens arising on any real property as a result of eminent domain, condemnation or similar proceeding with respect to such real property, (xvi) Liens on any cash deposits in connection with any letter of intent or purchase agreement relating to an acquisition, (xvii) customary rights of first refusal, "tag-along" and "drag-along" rights with respect to any equity interests in any joint venture, (xviii) Liens on assets of foreign Subsidiaries securing obligations of foreign Subsidiaries not exceeding \$10,000,000 in the aggregate at any time outstanding, (xix) Liens arising under the Transaction Documents, (xx) additional Liens securing obligations not exceeding \$5,000,000 in the aggregate at any time outstanding, and (xxi) Liens securing Permitted Indebtedness described in clause (iii) of the definition of Permitted Indebtedness, provided that such Liens are subject to an intercreditor agreement in form and substance reasonably satisfactory to the Required Holders.

(vv) "**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and a government or any department or agency thereof.

(ww) **Intentionally omitted.**

(xx) "**Principal Market**" means the OTC Markets, or, if the OTC Markets is not the principal trading market for the Common Stock, then the principal Eligible Market on which the Common Stock is then traded.

(yy) "**Pro Forma Basis**," "**Pro Forma Compliance**" and "**Pro Forma Effect**" means, with respect to compliance with any test or covenant hereunder, that all Specified Transactions and the following transactions in connection therewith shall be deemed to have occurred as of the first day of the applicable period of measurement in such test or covenant: (a) income statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction, (i) in the case of a sale, transfer or other disposition of all or substantially all equity interests in any Subsidiary of the Company or any division, product line, or facility used for operations of the Company or any of its Subsidiaries, shall be excluded, and (ii) in the case of a permitted acquisition or investment described in the definition of the term "Specified Transaction," shall be included, (b) any retirement or repayment of Indebtedness and (c) any Indebtedness incurred or assumed by the Company or any of its Subsidiaries in connection therewith and if such Indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness as at the relevant date of determination.



(zz) "**Public Announcement Date**" means (i) the Trading Day on which the Company first publicly announces on or prior to 9:30 a.m. New York time certain historical metrics agreed to in writing by the Company and the Lead Investor, including, among other metrics, the number of shares of Common Stock outstanding as of December 31, 2017, in connection with the Initial Closing Date (the "**Public Announcement**") or (ii) in case the Company makes the Public Announcement after 9:30 a.m. New York time, the first (1st) Trading Day immediately following the Public Announcement.

(ll) "**Qualified Market**" means the Principal Market, The New York Stock Exchange, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the NYSE American.

(aaa) "**Qualifying Change of Control**" means a Change of Control pursuant to Qualifying Change of Control Documentation.

(bbb) "**Qualifying Change of Control Documentation**" means definitive documentation (as the same may be amended in accordance with its terms) providing for a Change of Control transaction, which documentation is initially entered into no later than August 5, 2020; provided that if such documentation is terminated in accordance with its terms and in connection with such termination the Company enters into definitive documentation providing for a different Change of Control transaction (a "**Superior Proposal Termination**"), such subsequent documentation shall be deemed to constitute Qualifying Change of Control Documentation.

(ccc) "**Qualifying Conditions**" means that both at the time of and immediately after the applicable proposed action or omission to take any action, by the Company or any of its Subsidiary, each of the following conditions are satisfied (or waived in writing by the Holder): (x) no Equity Conditions Failure has occurred, (ii) the Total Net Leverage Ratio is less than or equal to 3:1 and (iii) the Form 10-K has been filed with the SEC.

(ddd) "**Redemption Dates**" means, collectively, the Event of Default Redemption Dates, the Change of Control Redemption Dates, the Company Optional Redemption Dates and the Qualifying Early Redemption Date, each of the foregoing, individually, a Redemption Date.

(eee) "**Redemption Notices**" means, collectively, the Event of Default Redemption Notices, the Change of Control Redemption Notices, the Company Optional Redemption Notices and the Qualifying Early Redemption Notice, each of the foregoing, individually, a Redemption Notice.

(fff) "**Redemption Premium**" means (i) in the event of an Event of Default set forth in Section 4(a)(iii) and any Event of Default occurring at a time the Common Stock is not listed on a Qualified Market, 110% and (ii) in all other events, 100%.

(ggg) "**Redemption Prices**" means, collectively, the Event of Default Redemption Prices, the Change of Control Redemption Prices, the Company Optional Redemption

Prices and the Qualifying Early Redemption Price, each of the foregoing, individually, a Redemption Price.

(hhh) "**Registrable Securities**" shall have the meaning ascribed to such term in the Registration Rights Agreement.

(iii) "**Registration Rights Agreement**" means that certain registration rights agreement dated as of the Subscription Date by and among the Company and the Buyers relating to, among other things, the registration for resale of the shares of Common Stock issuable upon conversion of this Note, the Other Notes and any Additional Notes and upon any exercise of the Warrants.

(jjj) "**Registration Statement**" shall have the meaning ascribed to such term in the Registration Rights Agreement.

(kkk) "**Related Fund**" means, with respect to any Person, a fund or account managed by such Person or an Affiliate of such Person.

(lll) "**Required Holders**" means the holders of Notes of Additional Notes representing at least a majority of the aggregate principal amount of the Notes and Additional Notes then outstanding.

(mmm) "**Rights Offering Notes**" shall have the meaning ascribed to such term in the Securities Purchase Agreement.

(nnn) "**SEC**" means the United States Securities and Exchange Commission.

(ooo) "**Securities Act**" means the Securities Act of 1933, as amended.

(ppp) "**Securities Purchase Agreement**" means that certain securities purchase agreement dated as of the Subscription Date by and among the Company and the Buyers of the Notes pursuant to which the Company issued the Notes, the Additional Notes and Warrants.

(qqq) "**September Agreement**" means that certain Agreement, dated as of September 28, 2017 by and among the Company, Starboard Value LP and the other parties signatory thereto.

(rrr) "**Specified Transaction**" means, with respect to any period, any investment, sale, transfer or other disposition of assets or property, incurrence or repayment of indebtedness, restricted payment, or other event that by the terms hereof requires such test or covenant to be calculated on a "Pro Forma Basis" or to be given "Pro Forma Effect."

(sss) "**Subject Entity**" means any Person, Persons or Group or any Affiliate or associate of any such Person, Persons or Group.

(ttt) "**Subscription Date**" means January 16, 2018.

(uuu) "**Subsidiary**" shall have the meaning set forth in the Securities Purchase Agreement.

(vvv) "**Successor Entity**" means one or more Person or Persons (or, if so elected by the Required Holders, the Company or Parent Entity) formed by, resulting from or surviving any Fundamental Transaction or one or more Person or Persons (or, if so elected by the Required Holders, the Company or the Parent Entity) with which such Fundamental Transaction shall have been entered into.

(www) "**Total Debt**" shall mean, on any date of determination, the total Indebtedness of the Company and its Subsidiaries at such time (excluding Indebtedness of the type described in clause (iii) of the definition of such term, except to the extent of any unreimbursed drawings thereunder).

(xxx) "**Total Net Debt**" shall mean, on any date of determination, (a) Total Debt *minus* (b) unrestricted cash and cash equivalents (as defined in GAAP).

(yyy) "**Total Net Leverage Ratio**" shall mean on any date of determination, the ratio of Total Net Debt on such date to Consolidated EBITDA for the period of four consecutive fiscal quarters most recently ended on or prior to such date. Each calculation of the Total Net Leverage Ratio hereunder shall be made on a Pro Forma Basis.

(zzz) "**Trading Day**" means any day on which the Common Stock is traded on the Principal Market, or, if the Principal Market is not the principal trading market for the Common Stock on such day, then on the principal securities exchange or securities market on which the Common Stock is then traded; provided that "Trading Day" shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York Time).

([[[) "**Transaction Documents**" shall have the meaning set forth in the Securities Purchase Agreement.

(aaaa) "**Warrants**" has the meaning ascribed to such term in the Securities Purchase Agreement, and shall include all warrants issued in exchange therefor or replacement thereof.

(bbbb) "**Weighted Average Price**" means, for any security as of any date, the dollar volume-weighted average price for such security on the Principal Market during the period beginning at 9:30:01 a.m., New York Time (or such other time as the Principal Market publicly announces is the official open of trading), and ending at 4:00:00 p.m., New York Time (or such other time as the Principal Market publicly announces is the official close of trading) as reported by Bloomberg through its "Volume at Price" functions, or, if the foregoing does not apply, the dollar volume-weighted average price of such security in the over-the-counter market on the electronic bulletin board for such security during the period beginning at 9:30:01 a.m., New York Time (or

such other time as such market publicly announces is the official open of trading), and ending at 4:00:00 p.m., New York Time (or such other time as such market publicly announces is the official close of trading) as reported by Bloomberg, or, if no dollar volume-weighted average price is reported for such security by Bloomberg for such hours, the average of the highest Closing Bid Price and the lowest closing ask price of any of the market makers for such security as reported in the OTC Link or "pink sheets" by OTC Markets Group Inc. (formerly Pink OTC Markets Inc.). If the Weighted Average Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Weighted Average Price of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 23. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction occurring during the applicable calculation period.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed as of the Issuance Date set out above.

**COMSCORE, INC.**

By: \_\_\_\_\_  
Name:  
Title:

*[Signature Page to Note]*

Schedule 31(tt)

Permitted Indebtedness

**comScore Inc:**

Banc of America Leasing and Capital  
Master Lease Agreement dated December 12, 2006  
Lease Schedule #24 (3/31/15) - #27 (12/31/15)  
\$2,720,000

Dell Financial Services  
Master Lease Agreement dated August 3, 2012  
Lease Schedule #9 (2/1/15) – Lease Schedule #19 (1/1/17)  
\$5,320,000

Bank of America, N.A  
Letters of Credit (Office Lease Security Deposit)  
\$3,475,000

**comScore BV:**

Dell Financial Services  
European Master Lease Agreement dated July 23, 2012  
Lease Schedule #3 (8/1/15)  
\$155,000

**EXHIBIT I**

**COMSCORE, INC.**

**CONVERSION NOTICE**

Reference is made to the Senior Secured Convertible Note (the "**Note**") issued to the undersigned by comScore, Inc., a Delaware corporation (the "**Company**"). In accordance with and pursuant to the Note, the undersigned hereby elects to convert the Conversion Amount (as defined in the Note) below into shares of Common Stock, par value \$0.001 per share (the "**Common Stock**"), of the Company, as of the date specified below.

Date of Conversion: \_\_

Aggregate Conversion Amount to be converted: \_\_

Please confirm the following information:

Conversion Price: \_\_

Number of shares of Common Stock to be issued:

Please issue the Common Stock into which the Note is being converted in the following name and to the following address:

Issue to: \_\_

—

—

Facsimile Number and Electronic Mail: \_\_

Authorization: \_\_

By: \_\_

Title: \_\_

Dated: \_\_

Account Number: \_\_  
(if electronic book entry transfer)

Transaction Code Number: \_\_  
(if electronic book entry transfer)

**ACKNOWLEDGMENT**

The Company hereby acknowledges this Conversion Notice and hereby directs American Stock Transfer & Trust Company to issue the above indicated number of shares of Common Stock in accordance with the Transfer Agent Instructions dated January \_\_, 2018 from the Company and acknowledged and agreed to by American Stock Transfer & Trust Company.

**COMSCORE, INC.**

By: \_\_\_\_\_

Name:

Title:



## DESCRIPTION OF SECURITIES

The following is a summary of the material terms of our securities registered under Section 12 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). The summary is subject to and qualified in its entirety by reference to our amended and restated certificate of incorporation and bylaws, each of which is incorporated by reference as an exhibit to the Annual Report on Form 10-K of which this exhibit is a part. The following also summarizes certain provisions of the Delaware General Corporation Law (the “DGCL”) and is subject to and qualified in its entirety by reference to the DGCL.

### General

Our authorized capital stock consists of 150,000,000 shares of common stock, par value \$0.001 per share, and 5,000,000 shares of preferred stock, par value \$0.001 per share, all of which shares of preferred stock are undesignated.

### Common Stock

Each holder of our common stock is entitled to one vote for each share on all matters to be voted upon by the stockholders, and there are no cumulative rights. Subject to any preferential rights of any outstanding preferred stock, holders of our common stock are entitled to receive ratably the dividends, if any, as may be declared from time to time by the board of directors out of funds legally available therefor. If there is a liquidation, dissolution or winding up of our company, holders of our common stock would be entitled to share in our assets remaining after the payment of liabilities and any preferential rights of any outstanding preferred stock.

In all matters, other than the election of directors and except as otherwise required by law, the affirmative vote of the majority of shares present or represented by proxy at a meeting and entitled to vote on the subject matter shall be the act of the stockholders. Directors are elected by a plurality of the votes of the shares present in person or represented by proxy and entitled to vote on the election of directors.

Holders of our common stock have no preemptive or conversion rights or other subscription rights, and there are no redemption or sinking fund provisions applicable to the common stock. The outstanding shares of common stock are fully paid and non-assessable. The rights, preferences and privileges of the holders of our common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of preferred stock that we may designate and issue in the future.

Our common stock is listed on the Nasdaq Global Select Market under the symbol SCOR. The transfer agent and registrar for the common stock is American Stock Transfer & Trust Company, LLC. Its address is 59 Maiden Lane, Plaza Level, New York, NY 10038, and its telephone number is (800) 937-5449.

### Warrants

In June 2019, we issued warrants, including Series A and Series B-2 Warrants, to CVI Investments, Inc. (“CVI”) in connection with a private placement that closed on June 26, 2019 (the “Closing Date”).

The Series A Warrants are exercisable for a period of five years from the Closing Date and are currently exercisable into 5,457,026 shares of common stock. The exercise price for the Series A Warrants is \$12.00.

The Series B-2 Warrants are exercisable by the holders at any time prior to the twelve-month anniversary of the Closing Date, as adjusted pursuant to the terms of the Series B-2 Warrants. The Series B-2 Warrants provide the holders the right to purchase an aggregate of up to 1,121,076 shares of common stock at an exercise price of \$8.92.

If all of the Series B-2 Warrants have not been exercised prior to their expiration date, we will have the right, subject to prior notice to the holders and certain equity, volume and other conditions, to force the exercise of any unexercised portion of the Series B-2 Warrants by such holders. The forced exercise price for the Series B-2 Warrants,

if applicable, will be 85.0% of the VWAP of our common stock on the date immediately preceding the expiration date of the Series B-2 Warrants.

The exercise prices for the Series A and Series B-2 Warrants are subject to anti-dilution adjustment in certain circumstances. In addition, if and to the extent the exercise of any warrants would, together with the issuances of common stock to CVI on the Closing Date and the shares issued pursuant to the exercise of any other warrants, result in the issuance of 20.0% or more of our outstanding common stock on the Closing Date, then we intend to, in lieu of issuing such shares, settle the obligation to issue such shares in cash. CVI may not exercise such warrants to the extent (but only to the extent) it or any of its affiliates would beneficially own a number of shares of our common stock which would exceed 4.99%. CVI has the right, in its discretion, to raise this threshold up to 9.99% with 60 days' notice to us.

### **Applicable Forum, Venue, and Jurisdiction**

Our bylaws establish the Court of Chancery in the State of Delaware as the exclusive forum for any derivative action or proceeding brought by or on behalf of the company, any action asserting a breach of fiduciary duty by a director, officer or employee of the company to the company or its stockholders, any action asserting a claim under the DGCL, our amended and restated certificate of incorporation or bylaws, or any action asserting a claim governed by the internal affairs doctrine unless otherwise agreed to by us.

However, the exclusive forum provision would not apply to suits brought to enforce any liability or duty created by the Securities Act of 1933, as amended, or the Exchange Act, or any other claim for which the federal courts have exclusive jurisdiction. To the extent any such claims may be based upon federal law claims, Section 27 of the Exchange Act creates exclusive federal jurisdiction over all suits brought to enforce any duty or liability created by the Exchange Act or the rules and regulations thereunder. Furthermore, Section 22 of the Securities Act creates concurrent jurisdiction for the federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder.

### **Effect of Certain Provisions of our Amended and Restated Certificate of Incorporation and Bylaws and the Delaware Anti-Takeover Statute**

Some provisions of Delaware law and our amended and restated certificate of incorporation and bylaws contain provisions that could make the following transactions more difficult:

- acquisition of us by means of a tender offer;
- acquisition of us by means of a proxy contest or otherwise; or
- removal of our incumbent officers and directors

These provisions, summarized below, are expected to discourage coercive takeover practices and inadequate takeover bids and to promote stability in our management. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with our board of directors.

#### *Amended and Restated Certificate of Incorporation and Bylaws*

Our amended and restated certificate of incorporation and our bylaws provide for the following:

- *Undesignated Preferred Stock.* The ability to authorize undesignated preferred stock makes it possible for our board of directors to issue one or more series of preferred stock with voting or other rights or preferences that could impede the success of any attempt to change control of the company. These and other provisions may have the effect of deferring hostile takeovers or delaying changes in control or management of us.

- *Stockholder Meetings.* Our charter documents provide that a special meeting of stockholders may be called only by resolution adopted by the board of directors, the chairman of the board of directors or the chief executive officer.
- *Requirements for Advance Notification of Stockholder Nominations and Proposals.* Our bylaws establish advance notice procedures with respect to stockholder proposals and the nomination of candidates for election as directors, other than nominations made by or at the direction of the board of directors or a committee of the board of directors.
- *Board Classification.* Our board of directors is divided into three classes. The directors in each class serve for a three-year term, one class being elected each year by our stockholders. This system of electing and removing directors may tend to discourage a third party from making a tender offer or otherwise attempting to obtain control of us, because it generally makes it more difficult for stockholders to replace a majority of the directors.
- *Limits on Ability of Stockholders to Act by Written Consent.* We have provided in our certificate of incorporation that our stockholders may not act by written consent. This limit on the ability of our stockholders to act by written consent may lengthen the amount of time required to take stockholder actions. As a result, a holder controlling a majority of our capital stock would not be able to amend our bylaws or remove directors without holding a meeting of our stockholders called in accordance with our bylaws.
- *Amendment of Certificate of Incorporation and Bylaws.* The amendment of the above provisions of our amended and restated certificate of incorporation and bylaws requires approval by holders of at least two-thirds of our outstanding capital stock entitled to vote generally in the election of directors.

#### *Delaware Anti-Takeover Statute*

We are subject to Section 203 of the DGCL, which prohibits a Delaware corporation from engaging in any business combination with any interested stockholder for a period of three years after the date that such stockholder became an interested stockholder, with the following exceptions:

- before such date, the board of directors of the corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;
- upon completion of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction began, excluding for purposes of determining the voting stock outstanding (but not the outstanding voting stock owned by the interested stockholder) those shares owned (i) by persons who are directors and also officers and (ii) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- on or after such date, the business combination is approved by the board of directors and authorized at an annual or special meeting of the stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested stockholder.

In general, Section 203 defines business combination to include the following:

- any merger or consolidation involving the corporation and the interested stockholder;
- any sale, lease, exchange, mortgage, transfer, pledge or other disposition of 10% or more of either the assets or outstanding stock of the corporation involving the interested stockholder;
- subject to certain exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;

- any transaction involving the corporation that has the effect of increasing the proportionate share of the stock of any class or series of the corporation beneficially owned by the interested stockholder; or
- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits by or through the corporation.

In general, Section 203 defines interested stockholder as an entity or person who, together with affiliates and associates, beneficially owns, or within three years prior to the determination of interested stockholder status did own, 15% or more of the outstanding voting stock of the corporation.

SEPARATION AND GENERAL RELEASE AGREEMENT

This Separation and General Release Agreement (“Agreement”) is made as of the 5th day of November, 2019, (the “Signature Date”) between comScore, Inc. (“Company”), a Delaware corporation, and Joseph Rostock (“Executive”).

WHEREAS, Company employed Executive as Chief Information and Technology Officer;

WHEREAS, Executive and Company are parties to that certain Change of Control and Severance Agreement effective as of September 7, 2018, (the “Severance Agreement”);

WHEREAS, Executive and Company have come to the mutual decision that it is in their respective best interests that Executive’s employment with Company be terminated, and Executive and Company desire to set forth the terms of Executive’s separation from the Company; and

WHEREAS, the Company wishes to have the opportunity to retain Executive for a period of time, as set forth below, for the purpose of transitioning his duties prior to his separation from employment.

THEREFORE, in consideration of the mutual promises contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the undersigned, intending to be legally bound, state and agree as provided below.

1. **Separation.** Executive and Company mutually agree that Executive has resigned from his position as Chief Information and Technology Officer as of November 5, 2019 (the “Resignation Date”). The Parties further agree that Executive shall remain employed with the Company through December 31, 2019 (the “Separation Date”) in order to provide transitional support. Effective as of the Resignation Date, Executive is also deemed to have resigned from all other elected, appointed or otherwise held positions within the Company or from any organization in which he represents the Company. Executive further agrees to execute promptly upon request by the Company any additional documents to effect the provisions of this Section 1 .

2. **Payments, Benefits and Perquisites.** Provided that Executive does not revoke and complies with (and continues to comply with) all terms of this Agreement, including but not limited to his obligations under Paragraphs 6, 7, 8 and 18 of this Agreement, and fulfills all obligations thereunder, Executive will be entitled to the following benefits set forth in parts

(a), (c), and (f) of this Paragraph 2. In addition, the Executive will receive or be eligible for the pay or benefits described in parts (b), (d) and (e) of this Paragraph 2. Subject to the provisions set forth in this Paragraph 2:

- a. The Company will continue to pay Executive his annual base salary of \$375,000.00 less applicable taxes and withholdings as required by law (“Severance Payments”), in accordance with the Company’s current normal payroll cycle, beginning on the first pay period after the Separation Date and continuing for a period of 12 months, unless Executive has materially breached any provision of this Agreement.
- b. The Company will pay Executive for all accrued salary and all accrued and unused paid time off earned through the Separation Date, subject to standard payroll deductions and withholdings, on the Company’s ordinary payroll date next-following the Separation Date.
- c. The Company agrees that Executive will be eligible to receive an annual bonus in connection with the Short-Term Incentive Plan, if any such bonus is awarded, at the same rate and at the same time as is awarded to other similarly situated executives.
- d. Executive’s health insurance will terminate on the last day of the month in which the Separation Date occurs. If eligible, Executive may thereafter elect to continue Executive’s health benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (“COBRA”) or state insurance laws, if applicable, at Executive’s own expense (or, if Executive enters into this Agreement, at the Company’s expense as provided in paragraph 2(g) below). Notice of Executive’s COBRA rights will be sent to Executive under separate cover. Executive’s rights to elect such coverage are not contingent upon his entering into this Agreement.
- e. Executive agrees that, within 10 days following the Separation Date, Executive will submit Executive’s final documented expense reimbursement statement reflecting all business expenses he incurred through the Separation Date, if any, for which Executive seeks reimbursement. The Company will reimburse Executive for these expenses pursuant to its regular business practice.
- f. If Executive elects continuation coverage pursuant to COBRA within the period prescribed pursuant to COBRA for Executive and Executive’s eligible

dependents, and for so long as Executive has not yet elected replacement coverage, then the Company will pay the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Executive's termination) for a period of 12 months following the Separation Date. Executive agrees to notify Company when he has elected replacement coverage.

- g. Executive expressly understands and acknowledges that the Company agrees to provide the above-stated payments and benefits in parts (a), (c) and (f) of this Paragraph 2 in exchange for Executive's compliance with the terms set out in this Agreement. Executive further acknowledges and agrees that he is not entitled to receive payment of any of the benefits set forth in parts (a), (c), or (f) of this Paragraph 2 absent execution of this Agreement. Executive understands and agrees that the Company shall not provide any of the consideration set forth in this Agreement (including without limitation the payments or additional benefits listed in this Paragraph 2) until after the Separation Date. If Executive materially fails to comply with any of his obligations under this Agreement during the term for payment described above, Executive understands and acknowledges that the Company may cease making any of the above described payments and benefits. Executive also acknowledges that if any payments are made to him under the terms of this Agreement, but are suspended as a result of a material breach by Executive of any provision of this Agreement, including but not limited to his continuing obligations under Paragraphs 6, 7, 8 and 18, then the payments made to Executive are satisfactory and adequate consideration for the covenants and releases made by Executive herein.

3. **Other Compensation or Benefits.** Executive acknowledges that, except as expressly provided in this Agreement, Executive is not entitled to and will not receive any additional compensation, severance, or benefits from the Company after the Separation Date other than vested compensation or benefits under the Company's employee benefit plans in accordance with the respective terms thereof. Executive acknowledges that he is not entitled to any stock options, restricted stock, restricted stock units or other equity awards from the Company.

4. **Compensation Clawback.** Executive acknowledges and agrees that, in addition to any other rights the Company may have, if the Company is required to claw back any incentive or other compensation pursuant to the Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, any regulations promulgated thereunder, or any other laws or regulations that may apply to Executive whether in effect now or in the future, the Company shall be entitled to cease any Severance Payments, and apply those Severance Payment amounts

toward any such claw back. Nothing in this Agreement shall prevent Executive from commencing an action to challenge a termination of his Severance Payments if he believes (i) the Company was not required to claw back his Severance Payments or (ii) the Company terminated the Severance Payments in breach of this Agreement. In addition, nothing in this Agreement shall prevent or waive Executive's ability or right to contest or defend against any claim made against him for disgorgement, penalties, fines, forfeiture, or the return of any compensation or benefits of any kind in any government inquiry or proceeding or in any litigation brought against the Company or the Executive.

5. **Return of Company Property.** Executive agrees to return all Company Property that Executive has in his possession to the Company no later than ten (10) business days following the Separation Date. Executive further agrees not to retain any Company documents or any copies thereof except as provided below. "Company Property" shall include, but not be limited to: Company files; manuals; notes; drawings; records; business plans and forecasts; financial information; specifications; computer-recorded information; tangible property (including, but not limited to: computers; smart phones; cell phones; PDAs); credit cards; entry cards; identification badges and keys; and any materials of any kind that contain or embody any proprietary or confidential information of the Company (and all reproductions thereof). Notwithstanding the foregoing, (a) Executive and his counsel may retain copies of documents relating to this Agreement, his employment relationship with the Company, and his benefits, compensation and equity interests; and (b) Executive's counsel (and any experts engaged by such counsel) may retain any Company documents provided to such counsel by the Company, by the Executive or by counsel for any party for the purpose of assisting in their defense of Executive in any government inquiries or proceedings or in any litigation brought against the Company or Executive (the "permitted purposes") and any copies thereof, provided that Executive's counsel and experts use such Company documents only for the permitted purposes, maintain the confidentiality of such Company documents (including, if they must be filed in court, filing them-I under seal if possible), and return them to the Company when they are no longer needed for the permitted purposes (or, in the case of Company documents reflecting Executive's attorneys' work product or attorney-client communications between Executive and his attorneys, certifying their destruction when they are no longer legally required to be maintained), and provided further that Executive and his counsel return to the Company promptly upon request, and share with no other party without the Company's express written consent, any Company documents containing the Company's attorney-client privileged information or attorney work product of the Company's counsel.

6. **Proprietary Information and Noncompetition Obligations.** Executive acknowledges his continuing obligations under the At-Will Employment, Confidential Information, Invention Assignment and Arbitration Agreement executed by Executive (the



“Confidentiality Agreement”), a copy of which is attached hereto as *Exhibit A*, including but not limited to, Executive’s obligations related to confidentiality and noninterference with personnel relations. Notwithstanding anything herein or in Exhibit A to the contrary, Executive shall not be held liable under this Agreement, Exhibit A or any other agreement or any federal or state trade secret law for making any confidential disclosure of a Company trade secret or other confidential information to a government official or an attorney for purposes of reporting a suspected violation of law or regulation, or in a court filing under seal.

7. **Reaffirmation of Release.** On the Separation Date or within 21 days thereafter, Executive shall execute the Release Agreement that is attached as Exhibit C (the “Confirming Release”), and return his executed Confirming Release to the Company pursuant to the Notice provision set forth in Section 21 below, so that it is received by Company no later than 21 days after the Separation Date. Executive acknowledges and agrees that this provides sufficient time to consider the Confirming Release, and he has knowingly and voluntarily waived any longer period of time to consider the Confirming Release that was set forth in the Severance Agreement.

8. **Cooperation.** Executive is permitted to cooperate fully and truthfully with any government authority conducting an investigation into any potential violation of any law or regulation. Nothing in this Agreement is intended to or shall prohibit Executive from providing such cooperation. Executive also agrees to provide reasonable cooperation and assistance to the Company and/or its Board of Directors or any committees thereof in any formal or informal investigation into or litigation involving matters which Executive has relevant knowledge to the extent reasonably requested. Executive agrees and acknowledges that such assistance and cooperation may include, but not be limited to, providing all relevant information and documents reasonably available to Executive about matters on which he worked. Executive agrees to make himself reasonably available to the Company or its representatives at a mutually agreeable time for interviews and meetings regarding any matter relating to his employment or matters on which he worked while employed at the Company as may be reasonably requested. The Company shall reimburse Executive for the reasonable expenses he incurs in the course of cooperating with such Company requests.

9. **Release of All Claims.** Except as otherwise set forth in this Agreement, Executive hereby releases, acquits and discharges the Company and its affiliates, and their officers, directors, agents, servants, employees, attorneys, shareholders, successors and assigns (collectively, the “Released Parties”), of and from any and all claims, liabilities, demands, causes of action, costs, expenses, attorneys’ fees, damages, indemnities (except those indemnification rights excluded below) and obligations of every kind and nature, in law, equity or otherwise, known or unknown, suspected or unsuspected, disclosed and undisclosed, arising

out of or in any way related to any and all agreements, events, acts or conduct executed or occurring at any time prior to and including the date on which Executive executes this Agreement, including but not limited to: all such claims and demands directly or indirectly arising out of or in any way connected with Executive's employment with the Company or the termination of that employment; claims or demands related to salary, incentive payments, commissions, stock, stock options, or any other ownership interests in the Company, vacation pay, fringe benefits, expense reimbursements, severance pay, or any other form of compensation (including under the Severance Agreement); claims pursuant to federal, state or local law, statute or cause of action including, but not limited to, the federal Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act, as amended (the "ADEA"); the federal Americans with Disabilities Act of 1990, as amended; tort law; contract law; wrongful discharge; discrimination; harassment; fraud; defamation; emotional distress; and breach of the implied covenant of implied good faith and fair dealing.

EXECUTIVE HEREBY ACKNOWLEDGES AND AGREES THAT  
THIS RELEASE IS A **GENERAL** RELEASE AND THAT BY  
SIGNING THIS AGREEMENT, EXECUTIVE IS EXPRESSLY WAIVING ALL RIGHTS FOR ALL KNOWN AND  
UNKNOWN CLAIMS.

Nothing in this Agreement shall be construed to prohibit Executive from commencing, instituting, participating, providing truthful information, or otherwise assisting in any investigation or proceeding conducted by the Equal Employment Opportunity Commission, the National Labor Relations Board, the Securities and Exchange Commission or any other government agency; provided, however, that by signing this Agreement, Executive agrees to waive and release any right Executive may have to recover monetary relief or compensation from the Released Parties in connection with any such proceeding or investigation. For the avoidance of doubt, nothing herein prevents Executive from receiving any whistleblower or similar award. Further, this release shall not be deemed to affect a release of any claim that may not be released by law, including rights to unemployment or workers compensation, and rights to vested benefits governed by ERISA, nor shall it be deemed to affect a release of any right to enforce the terms of this Agreement or any rights Executive may have to indemnification under the Indemnification Agreement (attached hereto as *Exhibit B*), the Company's By-Laws or applicable law.

Executive understands that this Agreement: (i) does not preclude him from challenging the validity of this Agreement, including the waiver and release provisions, under the ADEA; and (ii) does not waive any rights or claims which first arise after the Signature Date.

Executive represents and warrants that Executive has not previously filed or joined in any claim released herein.

10. **Waiver and Release Acknowledgement.** Executive acknowledges that Executive is knowingly and voluntarily making the above waiver and release. Executive also acknowledges that the consideration given for the waiver and the release in the preceding paragraphs hereof is in addition to anything of value to which Executive was already entitled. Executive further acknowledges that:

- a. Executive has been and is advised to consult an attorney regarding this Agreement prior to executing it and that he has been given sufficient time to do so;
- b. Executive has received full and adequate consideration for this Agreement, including the waiver and release herein; and
- c. Executive fully understands and acknowledges the significance and consequences of this Agreement and represents by his signature that the terms of this Agreement are fully understood and voluntarily accepted by him. This Agreement has been individually negotiated by Executive and is not part of a group exit incentive or other group employment termination program.

11. **Acknowledgment Regarding the Age Discrimination in Employment Act and, specifically, 29 U.S.C. 626(f).** Executive understands that as part of this Agreement, he voluntarily and knowingly waives rights or claims under the ADEA, and acknowledges that the knowing and voluntary waiver of his claims is in accordance with the ADEA, and, specifically, 29 U.S.C. 6260.

12. **Acceptance and Revocation.** This Agreement was presented to Executive for review and consideration on November 5, 2019 (“Review Date”). Executive understands that he has had at least twenty-one (21) days from the Review Date within which to decide whether to sign this Agreement and return it to Company. Executive agrees and understands that any changes to this Agreement that may be negotiated between Executive and Company, whether material or immaterial, will not restart the time Executive has to consider and sign the Agreement.

Executive understands that he may sign and return the Agreement at any time before the expiration of the twenty-one (21) day period, Executive further understands that he has seven (7) days after signing this Agreement to revoke it in writing submitted to Carol DiBattiste, General Counsel & Chief Compliance, Privacy and People Officer, at

cdibattiste@comscore.com (“Revocation Period”). This Agreement shall not become effective until (1) Executive has signed the Agreement, and (2) the Revocation Period has expired without Company having received written notice of a revocation (“Effective Date”).

13. **Enforcement.** Except as otherwise provided herein, if any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

14. **Costs.** The parties intend that each shall bear its own costs, if any, that may have been incurred relating to this Agreement.

15. **No Admission of Liability.** This Agreement is not an admission of liability by any party.

16. **Notice.** In the event that any notice is to be given to any party under this Agreement, it shall be given by certified mail, return receipt requested, and addressed to the party as follows:

To Company:                      comScore, Inc.  
    Attention: General Counsel  
    11950 Democracy Drive, Suite 600  
    Reston, VA 20190

To Executive:                      Joseph Rostock  
    \_\_\_\_\_  
    \_\_\_\_\_

17. **Continuing Obligations.** The parties agree that the terms of the Confidentiality Agreement, attached hereto as *Exhibit A*, and the Indemnification Agreement, attached hereto as *Exhibit B*, continue in full force and effect. For the avoidance of doubt, nothing herein alters: (i) Executive’s rights or obligations with respect to indemnification as set forth in the Company’s By-Laws or applicable law; or (ii) Executive’s obligations and the Company’s rights under the Confidentiality Agreement as stated above in Paragraph 6.

18. **Section 409A.** It is intended that all amounts or benefits provided under this Agreement comply with or be exempt from Section 409A of the Internal Revenue Code of 1986, as amended (the “Code”), and treasury regulations relating thereto, so as not to subject Executive to the payment of any interest and tax penalty which may be imposed under Section 409A of the Code, and this Agreement shall be interpreted, construed, and administered accordingly; provided, however, that the Company and the other Released Parties shall not be responsible

for any taxes, penalties, interest or other losses or expenses incurred by Executive due to any failure to comply with Section 409A of the Code. In furtherance thereof, the terms of this Agreement, to the extent necessary, may be modified to be exempt from and so comply with Section 409A of the Code. Each payment under this Agreement as a result of the separation of Executive's service shall be considered a separate payment for purposes of Section 409A of the Code.

19. **Miscellaneous.** This Agreement, along with Exhibit A and Exhibit B, constitutes the full and entire understanding and agreement between the parties regarding the subjects hereof. For the avoidance of doubt, Executive acknowledges and agrees that the Company's entry into this Agreement (and its willingness to make available the consideration set forth in Section 2(a), (c), and (f) above) has resulted in the full and final satisfaction of any and all rights that Executive ever could have pursuant to the Severance Agreement, and Executive shall not be entitled to any payments pursuant to the Severance Agreement, as: (i) neither the Company nor its affiliates shall be deemed to have any further obligations under the Severance Agreement; and (ii) Executive's sole right to, and eligibility for, severance pay is set forth herein. This Agreement is entered into without reliance on any promise or representation, written or oral, other than those expressly contained herein, and it supersedes any other such promises, warranties or representations. This Agreement may not be modified or amended except in writing signed by both Executive and a duly authorized officer of the Company. This Agreement shall bind the heirs, personal representatives, successors and assigns of both Executive and the Company, and inure to the benefit of both Executive and the Company, their heirs, successors and assigns. Executive represents and warrants that Executive has not previously assigned or transferred, or purported to assign or transfer, to any person or entity, any of the claims released herein and Executive agrees to indemnify and hold harmless the Released Parties from any claim, demand, debt, obligation, liability, cost, expense, right of action or cause of action based on, arising out of or in assignment. If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, this determination will not affect any other provision of this Agreement and the provision in question shall be modified by the court so as to be rendered enforceable. This Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia, without reference to its choice of law rules. This Agreement may be signed electronically and in counterparts.

The undersigned state that they have carefully read this Agreement, that they know and understand its terms, and they sign it freely.

*Signatures on Following Page*

November 5, 2019

COMPANY:

COMSCORE, INC.

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Carol DiBattiste

General Counsel & Chief Compliance, Privacy and People Officer

EXECUTIVE:

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Joseph Rostock

**EXHIBIT A**

(At-Will Employment, Confidential Information, Invention Assignment and Arbitration Agreement)

**EXHIBIT B**

(Indemnification Agreement)



**EXHIBIT C****CONFIRMING RELEASE AGREEMENT**

This Confirming Release Agreement (the “**Confirming Release**”) is that certain Confirming Release referenced in Section 7 of the Separation and General Release Agreement (the “**Separation Agreement**”), entered into by and between comScore, Inc., a Delaware corporation (the “**Company**”), and Joseph Rostock (“**Executive**”). Unless sooner revoked by Executive pursuant to the terms of Section 5 below, Executive’s acceptance of this Confirming Release becomes irrevocable and this Confirming Release becomes effective on the eighth day after Executive signs it. Capitalized terms used herein that are not otherwise defined have the meanings assigned to them in the Separation Agreement. In signing below, Executive agrees as follows:

- 1. Release of Claims.** (a) For good and valuable consideration, including the Company’s agreement to provide the consideration set forth in Section 2(a), (c), and (e) of the Separation Agreement (and any portion thereof), Executive hereby forever releases, discharges and acquits the Company, its present and former subsidiaries and other affiliates, and each of the foregoing entities’ respective past, present and future subsidiaries, affiliates, stockholders, members, partners, directors, officers, managers, employees, agents, attorneys, heirs, predecessors, successors and representatives in their personal and representative capacities, as well as all employee benefit plans maintained by the Company or any of its affiliates and all fiduciaries and administrators of any such plans, in their personal and representative capacities (collectively, the “**Confirming Released Parties**”), from liability for, and Executive hereby waives, any and all claims, damages, or causes of action of any kind related to Executive’s employment with any Confirming Released Party, the termination of such employment, ownership of the Company and any other acts or omissions related to any matter on or prior to the time that Executive executes this Confirming Release, whether arising under federal or state laws or the laws of any other jurisdiction, including (i) any alleged violation through such date of: (A) any federal, state or local anti-discrimination or anti-retaliation law, including the Age Discrimination in Employment Act of 1967 (including as amended by the Older Workers Benefit Protection Act), Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, Sections 1981 through 1988 of Title 42 of the United States Code, and the Americans with Disabilities Act of 1990; (B) the Executive Retirement Income Security Act of 1974 (“**ERISA**”); (C) the Immigration Reform Control Act; (D) the National Labor Relations Act; (E) the Occupational Safety and Health Act; (F) the Family and Medical Leave Act of 1993; (G) any federal, state or local wage and hour law; (H) the Securities Act of 1933; (I) the Securities

Exchange Act of 1934; (J) the Investment Advisers Act of 1940; (K) the Investment Company Act of 1940; (L) the Private Securities Litigation Reform Act of 1995; (M) the Sarbanes-Oxley Act of 2002; (N) the Wall Street Reform and Consumer Protection Act of 2010; (O) any applicable state employment and securities laws; (P) any other local, state or federal law, regulation, ordinance or orders which may have afforded any legal or equitable causes of action of any nature; or (Q) any public policy, contract, tort, or common law claim or claim for defamation, emotional distress, fraud or misrepresentation of any kind; (ii) any allegation for costs, fees, or other expenses including attorneys' fees incurred in, or with respect to, a Further Released Claim; (iii) any and all rights, benefits, or claims Executive may have under any employment contract (including the Severance Agreement), incentive or compensation plan or agreement or under any other benefit plan, program or practice; and (iv) any claim for compensation, damages or benefits of any kind not expressly set forth in the Separation Agreement (collectively, the "**Further Released Claims**"). This Confirming Release is not intended to indicate that any such claims exist or that, if they do exist, they are meritorious. Rather, Executive is simply agreeing that any and all potential claims of this nature that Executive may have against any of the Confirming Released Parties, regardless of whether they actually exist, are expressly settled, compromised and waived.

**THIS RELEASE INCLUDES MATTERS ATTRIBUTABLE TO THE SOLE OR PARTIAL NEGLIGENCE (WHETHER GROSS OR SIMPLE) OR OTHER FAULT, INCLUDING STRICT LIABILITY, OF ANY OF THE RELEASED PARTIES.**

- (b) In no event shall the Further Released Claims include (i) any claim that arises after Executive signs this Confirming Release, (ii) any claim to vested benefits under an employee benefit plan that is subject to ERISA or (iii) any claim to indemnification under the Indemnification Agreement that arises after Executive signs this Confirming Release. Further notwithstanding this release of liability, *nothing in this Confirming Release prevents Executive from filing any non-legally waivable claim (including a challenge to the validity of this Confirming Release) with any Governmental Agencies or participating in any investigation or proceeding conducted by any Governmental Agency or cooperating with such an agency or providing documents or other information to a Governmental Agency*; however, Executive understands and agrees that, to the extent permitted by law, Executive is waiving any and all rights to recover any monetary or personal relief from a Confirming Released Party as a result of such Governmental Agency proceeding or subsequent legal actions. Further notwithstanding this release of liability, nothing in this Confirming Release limits Executive's right to receive an award for information provided to a Governmental Agency.

- 2. Representations and Warranties Regarding Claims.** Executive hereby represents and warrants that, as of the date on which he signs this Confirming Release, he has not filed any claims, complaints, charges, or lawsuits against any of the Confirming Released Parties with any governmental agency or with any state or federal court or arbitrator for, or with respect to, a matter, claim, or incident that occurred or arose out of one or more occurrences that took place on or prior to the date on which Executive signs this Confirming Release. Executive hereby further represents and warrants that he has not made any assignment, sale, delivery, transfer, or conveyance of any rights Executive has asserted or may have against any of the Confirming Released Parties with respect to any Further Released Claim.
- 3. Satisfaction of Severance Obligations; Receipt of Leaves, Bonuses, and Other Compensation.** Executive acknowledges and agrees that, with the exception of any base salary earned by him in the pay period that immediately preceded the Separation Date (if such base salary has not been paid as of the time that Executive executes this Confirming Release), any reasonable business expenses incurred by Executive in accordance with the Company's applicable procedures and policies regarding reimbursable business expenses for which he has not been reimbursed prior to the Separation date, and any sums to which he may be entitled following the date that he signs this Confirming Release pursuant to Section 2(a), (c), and (e) of the Separation Agreement, he has been paid in full all bonuses, been provided all benefits, and otherwise received all wages, compensation, and other sums that he has been owed by each Confirming Released Party. Executive further acknowledges and agrees that he has received or has waived all leaves (paid and unpaid) that he has been entitled to receive from each Confirming Released Party.
- 4. Executive's Acknowledgments.** By executing and delivering this Confirming Release, Executive expressly acknowledges that:
- (a) Executive has carefully read this Confirming Release and has had sufficient time (and at least 21 days) to consider it;
  - (b) Executive is receiving, pursuant to the Separation Agreement and his execution of this Confirming Release, consideration in addition to anything of value to which Executive is already entitled;
  - (c) Executive has been advised, and hereby is advised in writing, to discuss this Confirming Release with an attorney of Executive's choice and Executive has had an adequate opportunity to do so prior to executing this Confirming Release;
  - (d) Executive fully understands the final and binding effect of this Confirming Release; the only promises made to Executive to sign this Confirming Release are those contained

herein and in the Separation Agreement; and Executive is signing this Confirming Release knowingly, voluntarily and of Executive's own free will, and Executive understands and agrees to each of the terms of this Confirming Release; and

(e) The only matters relied upon by Executive and causing Executive to sign this Confirming Release are the provisions set forth in writing within the four corners of this Confirming Release and the Separation Agreement (and, to the extent referenced therein, the NDA).

- 5. Revocation Right.** Notwithstanding the initial effectiveness of this Confirming Release, Executive may revoke the delivery (and therefore the effectiveness) of this Confirming Release within the seven-day period beginning on the date Executive executes this Confirming Release (such seven day period being referred to herein as the "**Confirming Release Revocation Period**"). To be effective, such revocation must be in writing signed by Executive and must be received by the Company, care of Carol DiBattiste at 11950 Democracy Drive, Suite 600, Reston, Virginia 20190 (e-mail: cdibattiste@comscore.com) so that it is received by Carol DiBattiste before 11:59 p.m. EST, on the last day of the Confirming Release Revocation Period. If an effective revocation is delivered in the foregoing manner and timeframe, then no consideration shall be provided to Executive pursuant to Section 2(a), (c), and (e) of the Separation Agreement, and the release of claims set forth in Section 1 of this Confirming Release shall be of no force or effect, and all remaining provisions of the Separation Agreement and this Confirming Release shall remain in full force and effect.
- 6. Return of Property.** Executive represents and warrants that Executive has returned to the Company all property belonging to the Company or any other Released Party, including all documents, computer files and other electronically stored information, client materials and other materials provided to Executive by the Company or any other Released Party in the course of his employment, and Executive further represents and warrants that Executive has not maintained a copy of any such materials in any form.

EXECUTIVE HAS CAREFULLY READ THIS CONFIRMING RELEASE, FULLY UNDERSTANDS HIS AGREEMENT, AND SIGNS IT AS HIS OWN FREE ACT.

---

Joseph Rostock

---

Date

**COMSCORE, INC.****CHANGE OF CONTROL AND SEVERANCE AGREEMENT**

This Change of Control and Severance Agreement (the “Agreement”) is made and entered into by and between **William Livek** (“Executive”) and comScore, Inc., a Delaware corporation (the “Company”), effective as of the date of closing of the Company’s acquisition of Rentrak Corporation (the “Effective Date”).

RECITALS

1. The Compensation Committee of the Board of Directors of the Company (the “Committee”) believes that it is in the best interests of the Company and its stockholders to assure that the Company will have the continued dedication and objectivity of Executive, to provide Executive with an incentive to continue his/her employment, and to motivate Executive to maximize the value of the Company for the benefit of its stockholders.

2. The Committee believes that it is imperative to provide Executive with certain severance benefits upon Executive’s termination of employment under certain circumstances. These benefits will provide Executive with enhanced financial security and incentive and encouragement to remain with the Company.

3. Certain capitalized terms used in the Agreement are defined in Section 6 below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Term of Agreement. This Agreement will have an initial term of three (3) years commencing on the Effective Date (the “Initial Term”). On the third anniversary of the Effective Date, this Agreement will renew automatically for additional three (3) year terms (each an “Additional Term” and together with the Initial Term, the “Term”), unless either party provides the other party with written notice of non-renewal at least sixty (60) days prior to the date of automatic renewal; provided, however, that if the Company enters into a definitive agreement to be acquired and the transactions contemplated thereby would result in the occurrence of a Change of Control if consummated, then the Company will no longer be permitted to provide Executive with written notice to not renew this Agreement, and if the Change of Control is consummated, the Agreement will continue in effect through the longer of the date that is twelve (12) months following the effective date of the Change of Control or the remainder of the Term then in effect (for purposes of clarification, it will be possible for the Term of the Agreement to automatically extend after the Company enters into the definitive agreement, but before the Change of Control is consummated). If the definitive agreement is terminated without the transactions contemplated thereby having been

consummated and at the time of such termination there is at least twelve (12) months remaining in the Term, the Agreement will continue in effect for the remainder of the Term then in effect, but if there is less than twelve (12) months remaining in the Term then in effect, the Agreement will automatically extend for an additional three (3) years from the date the definitive agreement is terminated. If Executive becomes entitled to benefits under Section 3 during the term of this Agreement, the Agreement will not terminate until all of the obligations of the parties hereto with respect to this Agreement have been satisfied.

2. At-Will Employment. The Company and Executive acknowledge that Executive's employment is and will continue to be at-will, as defined under applicable law. If Executive's employment terminates for any reason, Executive will not be entitled to any payments, benefits, damages, awards or compensation other than as provided by this Agreement, the payment of accrued but unpaid wages or other compensation, as required by law, as may otherwise be available in accordance with the Company's established employee plans, and any unreimbursed reimbursable expenses, and this Agreement supersedes all prior agreements or arrangements relating to the same.

3. Severance Benefits.

(a) Termination without Cause or Resignation for Good Reason Prior to a Change of Control. If the Company terminates Executive's employment with the Company without Cause or if Executive resigns from such employment for Good Reason, and such termination occurs prior to a Change of Control, then subject to Section 4, Executive will receive the following:

(i) Accrued Compensation. The Company will pay Executive all accrued but unpaid vacation, expense reimbursements, wages, and other benefits due to Executive under any Company-provided plans, policies, and arrangements.

(ii) Severance Payment. Executive will be paid continuing payments of severance pay at a rate equal to Executive's annual base salary, as then in effect, for two years from the date of such termination of employment, to be paid periodically in accordance with the Company's normal payroll policies.

(iii) Continued Executive Benefits. If Executive elects continuation coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") within the time period prescribed pursuant to COBRA for Executive and Executive's eligible dependents, then the Company will reimburse Executive for the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Executive's termination) until the earlier of (A) a period coincident with the severance benefit period set forth above (two years) from the date of termination, or (B) the date upon which Executive and/or Executive's eligible dependents become covered under similar plans. The reimbursements will be made by the Company to Executive consistent with the Company's normal expense reimbursement policy. Notwithstanding the foregoing, should the Company determine in its sole discretion that it cannot provide the above

COBRA benefits without potentially violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company will in lieu thereof provide to the Executive a taxable monthly payment for the same period in an amount equal to the monthly COBRA premium Executive would be required to pay to continue his or her group health coverage in effect on the date of his or her termination of employment (which amount will be based on the premium for the first month of COBRA coverage), which payments will be made regardless of whether the Executive elects COBRA continuation coverage.

(b) Termination without Cause or Resignation for Good Reason in Connection with a Change of Control. If the Company terminates Executive's employment with the Company without Cause or if Executive resigns from such employment for Good Reason, and such termination occurs on or within twelve (12) months after a Change of Control, then subject to Section 4, Executive will receive the following:

(i) Accrued Compensation. The Company will pay Executive all accrued but unpaid vacation, expense reimbursements, wages, and other benefits due to Executive under any Company-provided plans, policies, and arrangements.

(ii) Severance Payment. Executive will receive a lump sum payment (less applicable withholding taxes) equal to two years of Executive's annual base salary as in effect immediately prior to Executive's termination date or, if greater, at the level in effect immediately prior to the Change of Control.

(iii) Continued Executive Benefits. If Executive elects continuation coverage pursuant to the COBRA within the time period prescribed pursuant to COBRA for Executive and Executive's eligible dependents, then the Company will reimburse Executive for the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Executive's termination) until the earlier of (A) a period coincident of two years from the date of termination, or (B) the date upon which Executive and/or Executive's eligible dependents become covered under similar plans. The reimbursements will be made by the Company to Executive consistent with the Company's normal expense reimbursement policy. Notwithstanding the foregoing, should the Company determine in its sole discretion that it cannot provide the above COBRA benefits without potentially violating applicable law (including, without limitation, Section 2716 of the Public Health Service Act), the Company will in lieu thereof provide to the Executive a taxable monthly payment for the same period in an amount equal to the monthly COBRA premium Executive would be required to pay to continue his or her group health coverage in effect on the date of his or her termination of employment (which amount will be based on the premium for the first month of COBRA coverage), which payments will be made regardless of whether the Executive elects COBRA continuation coverage.

(iv) Vesting Acceleration of Equity Awards. One hundred percent (100%) of Executive's then outstanding and unvested Equity Awards as of the date of the Change of Control

will become vested in full and otherwise will remain subject to the terms and conditions of the applicable Equity Award agreement.

(c) Vesting Acceleration of Equity Awards Following Change of Control. If Executive remains employed by or continues to provide services to the Company through the one-year anniversary of a Change of Control, one hundred percent (100%) of Executive's then outstanding and unvested Equity Awards as of the date of the Change of Control will become vested in full and otherwise will remain subject to the terms and conditions of the applicable Equity Award agreement.

(d) Voluntary Resignation; Termination for Cause. If Executive's employment with the Company terminates (i) voluntarily by Executive (other than for Good Reason during the period that is on or within twelve (12) months after a Change of Control) or (ii) for Cause by the Company, then Executive will not be entitled to receive severance or other benefits except for those (if any) as may then be established under the Company's then existing severance and benefits plans and practices or pursuant to other written agreements with the Company.

(e) Disability; Death. If the Company terminates Executive's employment as a result of Executive's Disability, or Executive's employment terminates due to his or her death, then Executive will not be entitled to receive any other severance or other benefits, except for those (if any) as may then be established under the Company's then existing written severance and benefits plans and practices or pursuant to other written agreements with the Company.

(f) Exclusive Remedy. In the event of a termination of Executive's employment as set forth in Section 3(a) and (b) of this Agreement, the provisions of Section 3 are intended to be and are exclusive and in lieu of any other rights or remedies to which Executive or the Company otherwise may be entitled, whether at law, tort or contract, in equity, or under this Agreement (other than the payment of accrued but unpaid wages, as required by law, and any unreimbursed reimbursable expenses). Executive will be entitled to no benefits, compensation or other payments or rights upon a termination of employment other than those benefits expressly set forth in Section 3 of this Agreement.

#### 4. Conditions to Receipt of Severance

(a) Release of Claims Agreement. The receipt of any severance payments or benefits pursuant to this Agreement is subject to Executive signing and not revoking a separation agreement and release of claims in a form acceptable to the Company (the "Release"), which must become effective and irrevocable no later than the sixtieth (60<sup>th</sup>) day following Executive's termination of employment (the "Release Deadline"). If the Release does not become effective and irrevocable by the Release Deadline, Executive will forfeit any right to severance payments or benefits under this Agreement. In no event will severance payments or benefits be paid or provided until the Release actually becomes effective and irrevocable. Except as required by Section 4(c),



any severance payments or benefits under this Agreement will be paid, or, in the case of installments, will commence, in the first payroll following the effective date of the Release, but not later than fourteen (14) days following the effective date of the Release.

(b) Confidential Information and Invention Assignment Agreements. Executive's receipt of any payments or benefits under Section 3 will be subject to Executive continuing to comply with the terms of the At Will Employment, Confidential Information, Invention Assignment and Arbitration Agreement most recently entered into, between the Company and Executive, as such agreement may be amended from time to time.

(c) Section 409A.

(i) Notwithstanding anything to the contrary in this Agreement, no severance pay or benefits to be paid or provided to Executive, if any, pursuant to this Agreement that, when considered together with any other severance payments or separation benefits, are considered deferred compensation under Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), and the final regulations and any guidance promulgated thereunder ("Section 409A") (together, the "Deferred Payments") will be paid or otherwise provided until Executive has a "separation from service" within the meaning of Section 409A. Similarly, no severance payable to Executive, if any, pursuant to this Agreement that otherwise would be exempt from Section 409A pursuant to Treasury Regulation Section 1.409A-1(b)(9) will be payable until Executive has a "separation from service" within the meaning of Section 409A.

(ii) It is intended that none of the severance payments under this Agreement will constitute "Deferred Payments" but rather will be exempt from Section 409A as a payment that would fall within the "short-term deferral period" as described in Section 4(c)(iv) below or resulting from an involuntary separation from service as described in Section 4(c)(v) below. However, any severance payments or benefits under this Agreement that would be considered Deferred Payments will be paid on, or, in the case of installments, will not commence until, the sixtieth (60th) day following Executive's separation from service, or, if later, such time as required by Section 4(c)(iii). Except as required by Section 4(c)(iii), any installment payments that would have been made to Executive during the sixty (60) day period immediately following Executive's separation from service but for the preceding sentence will (60<sup>th</sup>) be paid to Executive on the sixtieth (60 ) day following Executive's separation from service and the remaining payments shall be made as provided in this Agreement.

(iii) Notwithstanding anything to the contrary in this Agreement, if Executive is a "specified employee" within the meaning of Section 409A at the time of Executive's termination (other than due to death), then the Deferred Payments, if any, that are payable within the first six (6) months following Executive's separation from service, 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 separation from service. All subsequent Deferred Payments, 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 Executive's separation from service, but before the six (6) month anniversary of the separation from service, 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 Payments 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 a separate payment under Section 1.409A-2(b)(2) of the Treasury Regulations.

(iv) Any amount paid under this Agreement that satisfies the requirements of the "short-term deferral" rule set forth in Section 1.409A-1(b)(4) of the Treasury Regulations will not constitute Deferred Payments for purposes of clause (i) above.

(v) Any amount paid under this Agreement that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A1(b)(9)(iii) of the Treasury Regulations that does not exceed the Section 409A Limit (as defined below) will not constitute Deferred Payments for purposes of clause (i) above.

(vi) The foregoing provisions are intended to comply with the requirements of Section 409A so that none of the severance payments and benefits to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to so comply. The Company and Executive agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition before actual payment to Executive under Section 409A.

5. 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 5, would be subject to the excise tax imposed by Section 4999 of the Code, then Executive's benefits under Section 3 will be either:

(a) delivered in full, or

(b) delivered as to such lesser extent which would result in no portion of such 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 benefits, notwithstanding that all or some portion of such benefits may be taxable under Section 4999 of the Code. If a reduction in severance and other benefits constituting "parachute payments" is necessary so that benefits are delivered to a lesser extent, reduction will occur in the following order: (i) reduction of cash payments; (ii) cancellation of awards granted "contingent on

a change in ownership or control” (within the meaning of Code Section 280G), (iii) cancellation of accelerated vesting of equity awards; (iv) reduction of employee benefits. In the event that acceleration of vesting of equity award compensation is to be reduced, such acceleration of vesting will be cancelled in the reverse order of the date of grant of Executive’s equity awards.

Unless the Company and Executive otherwise agree in writing, any determination required under this Section 5 will be made in writing by the Company’s independent public accountants immediately prior to a Change of Control or such other person or entity to which the parties mutually agree (the “Accountants”), whose determination will be conclusive and binding upon Executive and the Company. For purposes of making the calculations required by this Section 5, 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 will furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make a determination under this Section. The Company will bear all costs the Accountants may incur in connection with any calculations contemplated by this Section 5.

6. Definition of Terms. The following terms referred to in this Agreement will have the following meanings:

(a) Cause. “Cause” will mean:

(i) Executive’s indictment, plea of nolo contendere or conviction, of any felony or of any crime involving dishonesty by Executive;

(ii) a material breach by Executive of Executive’s duties or of a Company policy; or

(iii) a commission of any act of dishonesty, embezzlement, theft, fraud or misconduct by Executive with respect to the Company, any of which in the good faith and reasonable determination of the Board or the Compensation Committee of the Board (the “Compensation Committee”) is materially detrimental to the Company, its business or its reputation.

(b) Change of Control. “Change of Control” will mean the occurrence of any of the following events:

(i) Change in Ownership of the Company. A change in the ownership of the Company which occurs on the date that any one person, or more than one person acting as a group (“Person”), acquires ownership of the stock of the Company that, together with the stock held by such Person, constitutes more than 50% of the total voting power of the stock of the Company, except that any change in the ownership of the stock of the Company as a result of a private financing of the Company that is approved by the Board of Directors (the “Board”) will not be considered a Change of Control; or

(ii) Change in Effective Control of the Company. A change in the effective control of the Company which occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election. For purposes of this clause (ii), if any Person is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Change of Control; or

(iii) Change in Ownership of a Substantial Portion of the Company's Assets. A change in the ownership of a substantial portion of the Company's assets which occurs on the date that any Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than 50% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions. For purposes of this subsection 6(b)(iii), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets.

For these purposes, persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the Company.

Notwithstanding the foregoing provisions of this definition, a transaction will not be deemed a Change of Control unless the transaction qualifies as a change in control event within the meaning of Section 409A.

(c) Disability. "Disability" will mean that Executive is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months. Termination resulting from Disability may only be effected after at least thirty (30) days' written notice by the Company of its intention to terminate Executive's employment. In the event that Executive resumes the performance of substantially all of his or her duties hereunder before the termination of his or her employment becomes effective, the notice of intent to terminate will automatically be deemed to have been revoked.

(d) Equity Awards. "Equity Awards" will mean an Executive's then unvested outstanding stock options, stock appreciation rights, restricted stock units and other Company equity compensation awards.

(e) Good Reason. "Good Reason" will mean Executive's termination of employment within ninety (90) days following the expiration of any cure period (discussed below) following the occurrence of one or more of the following, without Executive's consent:

(i) A material diminution in the Executive's base compensation (unless such reduction is done as part of a reduction program effective for all of the Company's senior level executives);

(ii) A material reduction of Executive's authority or responsibilities, relative to Executive's authority or responsibilities in effect immediately prior to such reduction, or, following a Change of Control, a change in the Executive's reporting position. Any change which results in Executive's ceasing to serve as the Executive Vice Chairman and President of a publicly held company (other than as the result of his voluntary resignation not at the request of the successor or its parent) will be deemed to constitute a material change or reduction in Executive's authority and responsibilities constituting grounds for a Good Reason termination; or

(iii) the relocation of Executive's primary workplace to a location more than fifty (50) miles away from Executive's workplace in effect immediately prior to such relocation.

In addition, in order for a voluntary termination to be considered a termination for "Good Reason," Executive must provide written notice to the Company of the existence of one or more of the above conditions within ninety (90) days of its initial existence and the Company must be provided at least thirty (30) days from the notice to remedy the condition.

(f) Section 409A Limit. "Section 409A Limit" will mean the lesser of two (2) times: (i) Executive's annualized compensation based upon the annual rate of pay paid to Executive during the Executive's taxable year preceding the Executive's taxable year of Executive's termination of employment as determined under, and with such adjustments as are set forth in, Treasury Regulation 1.409A-1(b)(9)(iii)(A)(1) and any Internal Revenue Service guidance issued with respect thereto; or (ii) 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.

## 7. Successors.

(a) The Company's Successors. Any successor to the Company (whether direct or indirect and whether by purchase, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets will assume the obligations under this Agreement and agree expressly to perform the obligations under this Agreement in the same manner and to the same extent as the Company would be required to perform such obligations in the absence of a succession. For all purposes under this Agreement, the term "Company" will include any successor to the Company's business and/or assets which executes and delivers the assumption agreement described in this Section 7 or which becomes bound by the terms of this Agreement by operation of law.

(b) Executive's Successors. The terms of this Agreement and all rights of Executive hereunder will inure to the benefit of, and be enforceable by, Executive's personal or

legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

8. Notice.

(a) General. Notices and all other communications contemplated by this Agreement will be in writing and will be deemed to have been duly given when sent electronically or personally delivered when mailed by U.S. registered or certified mail, return receipt requested and postage prepaid or when delivered by a private courier service such as UPS, DHL or Federal Express that has tracking capability. In the case of Executive, notices will be sent to the e-mail address or addressed to Executive at the home address, in either case which Executive most recently communicated to the Company in writing. In the case of the Company, electronic notices will be sent to the e-mail address of the Chief Executive Officer and the General Counsel and mailed notices will be addressed to its corporate headquarters, and all notices will be directed to the attention of its Chief Executive Officer and General Counsel.

(b) Notice of Termination. Any termination by the Company for Cause or by Executive for Good Reason will be communicated by a notice of termination to the other party hereto given in accordance with Section 8 of this Agreement. Such notice will indicate the specific termination provision in this Agreement relied upon, will set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination under the provision so indicated, and will specify the termination date (which will be not more than ninety (90) days after the giving of such notice).

9. Miscellaneous Provisions.

(a) No Duty to Mitigate. Executive will not be required to mitigate the amount of any payment contemplated by this Agreement, nor will any such payment be reduced by any earnings that Executive may receive from any other source.

(b) Waiver. No provision of this Agreement will be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by Executive and by an authorized officer of the Company (other than Executive). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party will be considered a waiver of any other condition or provision or of the same condition or provision at another time.

(c) Headings. All captions and section headings used in this Agreement are for convenient reference only and do not form a part of this Agreement.

(d) Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto and supersedes in their entirety all prior representations, understandings, undertakings or agreements (whether oral or written and whether expressed or implied) of the parties with respect

to the subject matter hereof. 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 and which specifically mention this Agreement.

(e) Choice of Law. The validity, interpretation, construction and performance of this Agreement will be governed by the laws of the Commonwealth of Virginia (with the exception of its conflict of laws provisions). Any claims or legal actions by one party against the other arising out of the relationship between the parties contemplated herein (whether or not arising under this Agreement) will be commenced or maintained in any state or federal court located in the jurisdiction where Executive resides, and Executive and the Company hereby submit to the jurisdiction and venue of any such court

(f) Severability. The invalidity or unenforceability of any provision or provisions of this Agreement will not affect the validity or enforceability of any other provision hereof, which will remain in full force and effect.

(g) Withholding. All payments made pursuant to this Agreement will be subject to withholding of applicable income, employment and other taxes.

(h) Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

*[Signature Page to Follow]*

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by its duly authorized officer, as of the day and year set forth below.

COMPANY

COMSCORE, INC.

By: \_\_\_\_\_  
Name: Christiana Lin  
Title: EVP, General Counsel Chief Privacy Officer  
Date: September 28, 2015

EXECUTIVE

By: \_\_\_\_\_  
Name: William Livek  
Date: September 28, 2015



## COMSCORE, INC.

**Stock Option Grant Notice**

Pursuant to the terms and conditions of the comScore, Inc. 2018 Equity and Incentive Compensation Plan, as may be amended from time to time (the “**Plan**”), comScore, Inc., a Delaware corporation (the “**Company**”), hereby grants to the individual listed below (“**you**” or the “**Grantee**”) the right and option to purchase all or any part of the number of shares of Common Stock set forth below (“**Option**”) on the terms and conditions set forth herein (this “**Grant Notice**”) and in the Stock Option Agreement attached hereto as Exhibit A (the “**Agreement**”) and the Plan, each of which is incorporated herein by reference. Capitalized terms used but not defined herein shall have the meanings set forth in the Plan.

**Type of Option:** Non-Qualified Stock Option

**Grantee:**

**Date of Grant:**

**Total Number of Shares Subject to this Option:**

**Exercise Price:**

**Expiration Date:**

**Vesting Schedule:** Subject to the Agreement, the Plan and the other terms and conditions set forth herein, this Option shall vest and become exercisable in accordance with the following schedule, so long as you remain in continuous service with the Company or a Subsidiary from the Date of Grant through each such vesting date:

[Notwithstanding the foregoing, this Option shall immediately become fully vested if, within one year following a Change in Control your service relationship with the Company or a Subsidiary is terminated (i) by the Company without Cause (as defined in your Change of Control and Severance Agreement with the Company (the “**COC/Severance Agreement**”)) or (ii) by you for Good Reason (as defined in the COC/Severance Agreement).]

By your signature below, you agree to be bound by the terms and conditions of the Plan, the Agreement and this Grant Notice. You acknowledge that you have reviewed the Agreement, the Plan and this Grant Notice in their entirety and fully understand all provisions of the Agreement, the Plan and this Grant Notice. You hereby agree to accept as binding, conclusive and final all decisions or interpretations of the Committee regarding any questions or determinations that arise under the Agreement, the Plan or this Grant Notice. This Grant Notice may be executed in one or more counterparts (including electronic and facsimile counterparts), each of which shall be deemed to be an original, but all of which together shall constitute one and the same agreement.

IN ORDER TO RECEIVE THE BENEFITS OF THE AGREEMENT AND THIS GRANT NOTICE, AND FOR THE AWARD TO BE EFFECTIVE, GRANTEE MUST ACCEPT THE AWARD IN THE COMPANY'S ONLINE EQUITY ADMINISTRATION SYSTEM. IF GRANTEE FAILS TO SATISFY THE ACCEPTANCE REQUIREMENT WITHIN 90 DAYS AFTER THE DATE OF GRANT, THEN (1) THE AGREEMENT AND THIS GRANT NOTICE WILL BE OF NO FORCE OR EFFECT AND THE OPTION GRANTED HEREIN WILL BE AUTOMATICALLY FORFEITED TO THE COMPANY WITHOUT CONSIDERATION, AND (2) NEITHER GRANTEE NOR THE COMPANY WILL HAVE ANY FUTURE RIGHTS OR OBLIGATIONS UNDER THIS AGREEMENT.

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the Company has caused this Grant Notice to be executed by an officer thereunto duly authorized, and the Grantee has executed this Grant Notice, effective for all purposes as provided above.

**COMSCORE, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**GRANTEE**

Name: \_\_\_\_\_

SIGNATURE PAGE TO  
STOCK OPTION GRANT NOTICE

**EXHIBIT A****Stock Option Agreement**

This Stock Option Agreement (together with the Grant Notice to which this Agreement is attached, this “**Agreement**”) is made as of the Date of Grant set forth in the Grant Notice to which this Agreement is attached by and between comScore, Inc., a Delaware corporation (the “**Company**”), and [●] (the “**Grantee**”). Capitalized terms used but not specifically defined herein shall have the meanings specified in the Plan or the Grant Notice.

1. **Award.** Effective as of the Date of Grant set forth in the Grant Notice (the “**Date of Grant**”), the Company hereby irrevocably grants to the Grantee the right and option (“**Option**”) to purchase all or any part of an aggregate of the number of shares of Common Stock set forth in the Grant Notice on the terms and conditions set forth herein and in the Plan, which Plan is incorporated herein by reference as a part of this Agreement. In the event of any conflict between the terms of this Agreement and the Plan, the Plan shall control. This Option constitutes an Option Right under the Plan and shall be treated as an option that is not intended to be an Incentive Stock Option.

2. **Exercise Price.** The exercise price of each share of Common Stock subject to this Option shall be the exercise price set forth in the Grant Notice (the “**Exercise Price**”), which has been determined to be not less than the Market Value per Share on the Date of Grant. For all purposes of this Agreement, the Market Value per Share shall be determined in accordance with the provisions of the Plan.

3. **Exercise of Option.**

(a) Subject to the earlier expiration of this Option as provided herein, this Option may be exercised, by (i) providing written notice to the Company in the form prescribed by the Committee from time to time at any time and from time to time after the Date of Grant, which notice shall be delivered to the Company in the form, and in the manner, designated by the Committee from time to time, and (ii) paying the Exercise Price in full in a manner permitted by **Section 3(d)**; provided, however, that this Option shall not be exercisable for more than the percentage of the aggregate number of shares of Common Stock subject to this Option with respect to which this Option has become vested and exercisable pursuant to the vesting schedule set forth in the Grant Notice or as provided in this **Section 3**.

(b) This Option may be exercised only while the Grantee remains an employee or other service provider of the Company or a Subsidiary and will terminate and cease to be exercisable upon a termination of the Grantee’s continuous service with the Company or a Subsidiary, except that:

(i) **Termination Due to Death or Disability.** Upon a termination of the Grantee’s service with the Company or a Subsidiary due to the Grantee’s death or Disability (as defined in the [Grantee’s Change of Control and Severance Agreement with the Company (the “**COC/Severance Agreement**”)]), then the portion of this Option that is vested may be

exercised by the Grantee (or the Grantee's estate or the person who acquires this Option by will or the laws of descent and distribution or otherwise by reason of the death of the Grantee) at any time during the period ending on the earlier to occur of (A) the date that is one year following the date of such termination or (B) the Expiration Date set forth in the Grant Notice (the "**Expiration Date**").

(ii) Termination Without Cause or Resignation. Upon a termination of the Grantee's service with the Company or a Subsidiary (A) by the Company or a Subsidiary without Cause (as defined in the COC/Severance Agreement) or (B) by the Grantee, then the portion of this Option that is vested may be exercised by the Grantee (or the Grantee's estate or the person who acquires this Option by will or the laws of descent and distribution or otherwise by reason of the death of the Grantee) at any time during the period ending on the earlier to occur of (x) the date that is 90 days following the date of such termination or (y) the Expiration Date.

(iii) Termination for Cause. Upon a termination of the Grantee's service with the Company or a Subsidiary by the Company or a Subsidiary for Cause, then this Option shall immediately terminate and cease to be exercisable as of the date of such termination.

(iv) Extension of Exercisability. If the exercise of this Option within the applicable time periods set forth above is prevented by the provisions of **Section 8**, this Option will remain exercisable until 30 days after the date the Grantee is notified by the Company that this Option is exercisable, but in any event no later than the Expiration Date. If a sale of shares acquired upon the exercise of this Option would subject the Grantee to suit under Section 16(b) of the Exchange Act, then this Option will remain exercisable until the earliest to occur of (A) the 30th day following the date on which a sale of such shares by the Grantee would no longer be subject to such suit or (B) the Expiration Date set forth in the Grant Notice. The Company makes no representation as to the tax consequences of any such delayed exercise. The Grantee should consult with the Grantee's own tax advisor as to the tax consequences of any such delayed exercise.

(c) This Option shall not be exercisable in any event after the Expiration Date set forth in the Grant Notice.

(d) The Exercise Price for the shares of Common Stock as to which this Option is exercised shall be paid in full at the time of exercise (i) in cash (including check, bank draft or money order payable to the order of the Company or wire transfer of immediately available funds), (ii) if permitted by the Committee in its sole discretion, by delivering or constructively tendering to the Company shares of Common Stock having a Market Value per Share equal to the Exercise Price (provided such shares used for this purpose must have been held by the Grantee for such minimum period of time as may be established from time to time by the Committee to avoid adverse accounting consequences), (iii) if permitted by the Committee in its sole discretion, through a "cashless exercise" in accordance with a Company-established policy or program for the same, (iv) if permitted by the Committee in its sole discretion, by "net issuance exercise" pursuant to which the Company reduces the number of shares of Common Stock otherwise deliverable upon

exercise of this Option by a number of shares with an aggregate Market Value per Share equal to the aggregate Exercise Price at the time of exercise or (v) any combination of the foregoing. No fraction of a share of Common Stock shall be issued by the Company upon exercise of an Option or accepted by the Company in payment of the exercise price thereof; rather, the Grantee shall provide a cash payment for such amount as is necessary to effect the issuance and acceptance of only whole shares of Common Stock.

**4. Service Relationship.** For purposes of this Agreement, “continuous service” (or substantially similar terms) means the absence of any interruption or termination of the Grantee’s service as an Employee, Director or consultant to the Company or a Subsidiary. Continuous service shall not be considered interrupted or terminated in the case of transfers between locations of the Company and its Subsidiaries. Further, continuous service shall not be considered interrupted or terminated in the case of the Grantee’s cessation of service as an Employee, Director or consultant to the Company or a Subsidiary (each, a “**Participant Class**”) so long as the Grantee continues serving in another Participant Class. Without limiting the scope of the preceding sentence, it is expressly provided that the Grantee shall be considered to have terminated service with the Company (a) when the Grantee ceases to be in the service of any of the Company, a Subsidiary, or a corporation or other entity (or a parent or subsidiary of such corporation or other entity) assuming or substituting a new option for this Option or (b) at the time of the termination of the “Subsidiary” status under the Plan of the corporation or other entity that engages the Grantee.

**5. Rights as a Stockholder.**

(a) The Grantee shall have no rights of ownership in the Common Stock underlying this Option (including no rights to receive dividends) and no right to vote the Common Stock underlying this Option until the date on which the Common Stock underlying this Option is issued or transferred to the Grantee pursuant to **Section 3** above.

(b) The obligations of the Company under this Agreement will be merely that of an unfunded and unsecured promise of the Company to deliver Common Stock in the future, and the rights of the Grantee will be no greater than that of an unsecured general creditor. No assets of the Company will be held or set aside as security for the obligations of the Company under this Agreement.

**6. Adjustments.** This Option and the number of shares of Common Stock underlying this Option, and the other terms and conditions of the grant evidenced by this Agreement, are subject to mandatory adjustment, including as provided in Section 11 of the Plan.

**7. Withholding Taxes.**

(a) To the extent that the Company is required to withhold federal, state, local or foreign taxes or other amounts in connection with the delivery to the Grantee of Common Stock or any other payment to the Grantee or any other payment or vesting event under this Agreement, the Grantee agrees that the Grantee will satisfy such requirement in a manner determined by the Committee prior to any payment to the Grantee, including a “sell to cover” transaction through a bank or broker. It shall be a condition to the obligation of the Company to make any such delivery

or payment that the Grantee has satisfied such requirement in the form or manner specified by the Company. In no event will the market value of the Common Stock to be withheld, sold and/or delivered pursuant to this **Section 7** to satisfy applicable withholding taxes exceed the maximum amount of taxes or other amounts that could be required to be withheld without creating adverse accounting treatment for the Company with respect to this award, as determined by the Committee.

(b) The Grantee acknowledges that there may be adverse tax consequences upon the receipt, vesting or exercise of this award or disposition of the underlying shares and that the Grantee has been advised, and hereby is advised, to consult a tax advisor. The Grantee represents that the Grantee is in no manner relying on the Board, the Committee, the Company or a Subsidiary or any of their respective managers, directors, officers, employees or authorized representatives (including attorneys, accountants, consultants, bankers, lenders, prospective lenders and financial representatives) for tax advice or an assessment of such tax consequences.

**8. Compliance with Law.** The Company shall make reasonable efforts to comply with all applicable federal and state securities laws and the requirements of any stock exchange or market system upon which the Common Stock may then be listed; provided, however, notwithstanding any other provision of the Plan and this Agreement, the Company shall not be obligated to issue any Common Stock pursuant to this Agreement if the issuance thereof would result in a violation of any such law.

**9. Acknowledgements Regarding Section 409A of the Code.** The Grantee understands that if the Exercise Price of the Common Stock under this Option is less than the fair market value of the Company's common stock on the Date of Grant of this Option, then the Grantee may incur adverse tax consequences under Section 409A of the Code. The Grantee acknowledges and agrees that (a) the Grantee is not relying upon any determination by the Company, any Subsidiary or any of their respective employees, directors, managers, officers, attorneys or agents (collectively, the "Company Parties") of the fair market value on the Date of Grant of this Option, (b) the Grantee is not relying upon any written or oral statement or representation of any of the Company Parties regarding the tax effects associated with the Grantee's execution of this Agreement and the Grantee's receipt, holding and exercise of this Option, and (c) in deciding to enter into this Agreement, the Grantee is relying on the Grantee's own judgment and the judgment of the professionals of the Grantee's choice with whom the Grantee has consulted. The Grantee hereby releases, acquits and forever discharges the Company Parties from all actions, causes of actions, suits, debts, obligations, liabilities, claims, damages, losses, costs and expenses of any nature whatsoever, known or unknown, on account of, arising out of, or in any way related to the tax effects associated with the Grantee's execution of this Agreement and the Grantee's receipt, holding and exercise of this Option.

**10. Headings; References; Interpretation.** Headings are for convenience only and are not deemed to be part of this Agreement. The words "hereof," "herein" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole, and not to any particular provision of this Agreement. All references herein to Sections shall, unless the context requires a different construction, be deemed to be references to the Sections of this Agreement. The word "or" as used herein is not exclusive and is deemed to have the meaning "and/or." All references to "including" shall be construed as meaning "including without limitation."

Unless the context requires otherwise, all references herein to a law, agreement, instrument or other document shall be deemed to refer to such law, agreement, instrument or other document as amended, supplemented, modified and restated from time to time to the extent permitted by the provisions thereof. All references to “dollars” or “\$” in this Agreement refer to United States dollars. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa. Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against any party hereto, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by each of the parties hereto and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the parties hereto. Any reference in this Agreement to Section 409A of the Code will also include any proposed, temporary or final regulations, or any other guidance, promulgated with respect to such Section by the U.S. Department of the Treasury or the Internal Revenue Service.

11. **No Right to Future Awards or Employment.** The grant of the Option under this Agreement to the Grantee is a voluntary, discretionary award being made on a one-time basis and it does not constitute a commitment to make any future awards. The grant of this Option and any payments made hereunder will not be considered salary or other compensation for purposes of any severance pay or similar allowance, except as otherwise required by law. Nothing contained in this Agreement shall confer upon the Grantee any right to be employed or remain employed by the Company or any of its Subsidiaries, nor limit or affect in any manner the right of the Company or any of its Subsidiaries to terminate the employment or adjust the compensation of the Grantee.

12. **Relation to Other Benefits.** Any economic or other benefit to the Grantee under this Agreement or the Plan shall not be taken into account in determining any benefits to which the Grantee may be entitled under any profit-sharing, retirement or other benefit or compensation plan maintained by the Company or any of its Subsidiaries and shall not affect the amount of any life insurance coverage available to any beneficiary under any life insurance plan covering employees of the Company or any of its Subsidiaries.

13. **Entire Agreement; Amendment.** This Agreement constitutes the entire agreement of the parties with regard to the subject matter hereof, and contains all the covenants, promises, representations, warranties and agreements between the parties with respect to this Option; provided, however, that the terms of this Agreement shall not modify and shall be subject to the terms and conditions of any employment, consulting and/or severance agreement between the Company (or a Subsidiary or other entity) and the Grantee in effect as of the date a determination is to be made under this Agreement. Without limiting the scope of the preceding sentence, except as provided therein, all prior understandings and agreements, if any, among the parties hereto relating to the subject matter hereof are hereby null and void and of no further force and effect. Any amendment to the Plan shall be deemed to be an amendment to this Agreement to the extent that the amendment is applicable hereto, and the Committee has the right to amend, alter, suspend, discontinue or cancel this Option, prospectively or retroactively; provided, however, that (a) no amendment shall adversely affect the rights of the Grantee under this Agreement without the Grantee’s written consent, and (b) the Grantee’s consent shall not be required to an amendment that is deemed necessary by the



Company to ensure compliance with Section 409A of the Code or Section 10D of the Exchange Act.

**14. Severability and Waiver.** In the event that one or more of the provisions of this Agreement shall be invalidated for any reason by a court of competent jurisdiction, any provision so invalidated shall be deemed to be separable from the other provisions hereof, and the remaining provisions hereof shall continue to be valid and fully enforceable. Waiver by any party of any breach of this Agreement or failure to exercise any right hereunder shall not be deemed to be a waiver of any other breach or right. The failure of any party to take action by reason of such breach or to exercise any such right shall not deprive the party of the right to take action at any time while or after such breach or condition giving rise to such rights continues.

**15. Relation to Plan.** This Agreement is subject to the terms and conditions of the Plan. In the event of any inconsistency between the provisions of this Agreement and the Plan, the Plan shall govern. The Committee acting pursuant to the Plan, as constituted from time to time, shall, except as expressly provided otherwise herein or in the Plan, have the right to determine any questions which arise in connection with this Agreement.

**16. Electronic Delivery.** The Company may, in its sole discretion, deliver any documents related to this Option and the Grantee's participation in the Plan, or future awards that may be granted under the Plan, by electronic means or request the Grantee's consent to participate in the Plan by electronic means. The Grantee hereby consents to receive such documents by electronic delivery and, if requested, agrees to participate in the Plan through an online or electronic system established and maintained by the Company or another third party designated by the Company.

**17. Governing Law.** This Agreement shall be governed by and construed with the internal substantive laws of the State of Delaware, without giving effect to any principle of law that would result in the application of the law of any other jurisdiction.

**18. Successors and Assigns.** Without limiting **Section 21** hereof, the provisions of this Agreement shall inure to the benefit of, and be binding upon, the successors, administrators, heirs, legal representatives and assigns of the Grantee, and the successors and assigns of the Company.

**19. Acknowledgement.** The Grantee acknowledges that the Grantee (a) has received a copy of the Plan, (b) has had an opportunity to review the terms of this Agreement and the Plan, (c) understands the terms and conditions of this Agreement and the Plan and (d) agrees to such terms and conditions.

**20. Counterparts.** The Grant Notice may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same agreement. Delivery of an executed counterpart of the Grant Notice by facsimile or in electronic format shall be effective as delivery of a manually executed counterpart of the Grant Notice.

21. **Restrictions on Transfer of Option.** Subject to Section 15 of the Plan, this Option shall not be transferable by the Grantee other than by will or pursuant to the laws of descent and distribution, and this Option shall be exercisable, during the Grantee's lifetime, only by the Grantee.

22. **Company Recoupment of Awards.** Notwithstanding anything in this Agreement to the contrary, the Grantee acknowledges and agrees that this Agreement and the award described herein are subject to the terms and conditions of the Company's clawback policy (if any) as may be in effect from time to time specifically to implement Section 10D of the Exchange Act and any applicable rules or regulations promulgated thereunder (including applicable rules and regulations of any national securities exchange on which the Common Stock may be traded).

23. **Notices.** All notices and other communications under this Agreement shall be in writing and shall be delivered to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

If to the Company, unless otherwise designated by the Company in a written notice to the Grantee (or other holder):

comScore, Inc.  
Attn: General Counsel  
11950 Democracy Drive, Suite 600  
Reston, Virginia 20190

If to the Grantee, at the Grantee's last known address on file with the Company.

Any notice that is delivered personally or by overnight courier or telecopier in the manner provided herein shall be deemed to have been duly given to the Grantee when it is mailed by the Company or, if such notice is not mailed to the Grantee, upon receipt by the Grantee. Any notice that is addressed and mailed in the manner herein provided shall be conclusively presumed to have been given to the party to whom it is addressed at the close of business, local time of the recipient, on the fourth day after the day it is so placed in the mail.

[Remainder of Page Intentionally Blank]

## COMSCORE, INC.

**Deferred Stock Units Award Agreement**

This DEFERRED STOCK UNITS AWARD AGREEMENT (this “**Agreement**”) is made as of [●] (the “**Date of Grant**”), by and between comScore, Inc., a Delaware corporation (the “**Company**”), and [●] (the “**Grantee**”).

1. **Certain Definitions.** Capitalized terms used, but not otherwise defined, in this Agreement will have the meanings given to such terms in the comScore, Inc. 2018 Equity and Incentive Compensation Plan (the “**Plan**”).

2. **Grant of DSUs.** Subject to and upon the terms, conditions and restrictions set forth in this Agreement and in the Plan, pursuant to authorization under a resolution of the Committee, the Company has granted to the Grantee as the Date of Grant [●] deferred stock units (“**DSUs**”), which shall constitute an award of Restricted Stock Units under the Plan. Each DSU shall represent the right of the Grantee to receive one share of Common Stock subject to and upon the terms and conditions of this Agreement. The DSUs covered by this Agreement are fully vested and nonforfeitable.

3. **Restrictions on Transfer of DSUs.** Subject to Section 15 of the Plan, neither the DSUs evidenced hereby nor any interest therein or in the shares of Common Stock underlying such DSUs shall be transferable prior to payment to the Grantee pursuant to **Section 4** hereof other than by will or pursuant to the laws of descent and distribution.

4. **Form and Time of Payment of DSUs.**

(a) Payment for the DSUs shall be made in the form of Common Stock. The DSUs will become payable upon the earlier to occur of the following:

(i) The Grantee’s “separation from service” with the Company and its Subsidiaries within the meaning of Section 409A(a)(2)(A)(i) of the Code; or

(ii) The occurrence of a Change in Control, so long as such Change in Control qualifies as a “change in control event” within the meaning of Section 409A(a)(2)(A)(v) of the Code.

The date of settlement of the DSUs that become payable pursuant to this **Section 4(a)** shall be (A) as soon as administratively practicable following (but no later than 30 days following) the date that is six months following the Grantee’s separation from service if the DSUs become payable pursuant to clause (i) above, or (B) the date of the occurrence of the Change in Control, if the DSUs become payable pursuant to clause (ii) above.

(b) The Company’s obligations to the Grantee with respect to the DSUs will be satisfied in full upon the issuance or transfer of Common Stock corresponding to such DSUs.

5. **Dividend Equivalents; Voting and Other Rights.**

(a) The Grantee shall have no rights of ownership in the Common Stock underlying the DSUs and no right to vote the Common Stock underlying the DSUs until the date on which the Common Stock underlying the DSUs is issued or transferred to the Grantee pursuant to **Section 4** above.

(b) From and after the Date of Grant and until the time when the DSUs are paid in accordance with **Section 4** hereof, on the date that the Company pays a cash dividend (if any) to holders of Common Stock generally, the Grantee shall be credited with cash per DSU equal to the amount of such dividend. Any amounts credited pursuant to the immediately preceding sentence shall be subject to the same applicable terms and conditions (including payment) as apply to the DSUs based on which the dividend equivalents were credited, and such amounts shall be paid in cash at the same time as the DSUs to which they relate are settled.

(c) The obligations of the Company under this Agreement will be merely that of an unfunded and unsecured promise of the Company to deliver Common Stock in the future, and the rights of the Grantee will be no greater than that of an unsecured general creditor. No assets of the Company will be held or set aside as security for the obligations of the Company under this Agreement.

6. **Adjustments.** The DSUs and the number of shares of Common Stock issuable for each DSU, and the other terms and conditions of the grant evidenced by this Agreement, are subject to mandatory adjustment, including as provided in Section 11 of the Plan.

7. **Withholding Taxes.** To the extent that the Company is required to withhold federal, state, local or foreign taxes or other amounts in connection with the delivery to the Grantee of Common Stock or any other payment to the Grantee or any other payment event under this Agreement, the Grantee agrees that the Grantee will satisfy such requirement in a manner determined by the Committee prior to any payment to the Grantee, including but not limited to a “sell to cover” transaction through a bank or broker. It shall be a condition to the obligation of the Company to make any such delivery or payment that the Grantee has satisfied such requirement in the form or manner specified by the Company. In no event will the market value of the Common Stock to be withheld, sold and/or delivered pursuant to this **Section 7** to satisfy applicable withholding taxes exceed the maximum amount of taxes or other amounts that could be required to be withheld without creating adverse accounting treatment for the Company with respect to the award of DSUs covered by this Agreement, as determined by the Committee.

8. **Compliance with Law.** The Company shall make reasonable efforts to comply with all applicable federal and state securities laws; provided, however, notwithstanding any other provision of the Plan and this Agreement, the Company shall not be obligated to issue any Common Stock pursuant to this Agreement if the issuance thereof would result in a violation of any such law.

9. **Compliance with or Exemption from Section 409A of the Code.** To the extent applicable, it is intended that this Agreement and the Plan comply with the provisions of Section 409A of the Code. This Agreement and the Plan shall be administered in a manner consistent with this intent, and any provision that would cause this Agreement or the Plan to fail to satisfy Section 409A of the Code shall have no force or effect until amended to comply with Section 409A of the

Code (which amendment may be retroactive to the extent permitted by Section 409A of the Code and may be made by the Company without the consent of the Grantee). Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement comply with Section 409A of the Code, and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest, or other expenses that may be incurred by the Grantee on account of non-compliance with Section 409A of the Code.

10. **Interpretation.** Any reference in this Agreement to Section 409A of the Code will also include any proposed, temporary or final regulations, or any other guidance, promulgated with respect to such Section by the U.S. Department of the Treasury or the Internal Revenue Service.

11. **No Right to Future Awards or Employment.** The grant of the DSUs under this Agreement to the Grantee is a voluntary, discretionary award being made on a one-time basis and it does not constitute a commitment to make any future awards. The grant of the DSUs and any payments made hereunder will not be considered salary or other compensation for purposes of any severance pay or similar allowance, except as otherwise required by law. Nothing contained in this Agreement shall confer upon the Grantee any right to be employed or remain employed by the Company or any of its Subsidiaries, nor limit or affect in any manner the right of the Company or any of its Subsidiaries to terminate the employment or adjust the compensation of the Grantee.

12. **Relation to Other Benefits.** Any economic or other benefit to the Grantee under this Agreement or the Plan shall not be taken into account in determining any benefits to which the Grantee may be entitled under any profit-sharing, retirement or other benefit or compensation plan maintained by the Company or any of its Subsidiaries and shall not affect the amount of any life insurance coverage available to any beneficiary under any life insurance plan covering employees of the Company or any of its Subsidiaries.

13. **Entire Agreement; Amendments.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and contains all the covenants, promises, representations, warranties and agreements between the parties with respect to the grant of the DSUs. Without limiting the scope of the preceding sentence, all prior understandings and agreements among the parties hereto relating to the subject matter hereof are hereby null and void and of no further force and effect. Any amendment to the Plan shall be deemed to be an amendment to this Agreement to the extent that the amendment is applicable hereto, and the Committee has the right to amend, alter, suspend, discontinue or cancel the DSUs, prospectively or retroactively; provided, however, that (a) no amendment shall adversely affect the rights of the Grantee under this Agreement without the Grantee's written consent, and (b) the Grantee's consent shall not be required to an amendment that is deemed necessary by the Company to ensure compliance with Section 409A of the Code or Section 10D of the Exchange Act.

14. **Severability and Waiver.** In the event that one or more of the provisions of this Agreement shall be invalidated for any reason by a court of competent jurisdiction, any provision so invalidated shall be deemed to be separable from the other provisions hereof, and the remaining provisions hereof shall continue to be valid and fully enforceable. Waiver by any party of any breach of this Agreement or failure to exercise any right hereunder shall not be deemed to be a

waiver of any other breach or right. The failure of any party to take action by reason of such breach or to exercise any such right shall not deprive the party of the right to take action at any time while or after such breach or condition giving rise to such right continues.

15. **Relation to Plan.** This Agreement is subject to the terms and conditions of the Plan. In the event of any inconsistency between the provisions of this Agreement and the Plan, the Plan shall govern. The Committee acting pursuant to the Plan, as constituted from time to time, shall, except as expressly provided otherwise herein or in the Plan, have the right to determine any questions which arise in connection with this Agreement, and the resolution of any such questions by the Committee shall be final and binding on the Grantee and the Company.

16. **Electronic Delivery.** The Company may, in its sole discretion, deliver any documents related to the DSUs and the Grantee's participation in the Plan, or future awards that may be granted under the Plan, by electronic means or request the Grantee's consent to participate in the Plan by electronic means. The Grantee hereby consents to receive such documents by electronic delivery and, if requested, agrees to participate in the Plan through an online or electronic system established and maintained by the Company or another third party designated by the Company.

17. **Governing Law.** This Agreement shall be governed by and construed with the internal substantive laws of the State of Delaware, without giving effect to any principle of law that would result in the application of the law of any other jurisdiction.

18. **Successors and Assigns.** Without limiting **Section 3** hereof, the provisions of this Agreement shall inure to the benefit of, and be binding upon, the successors, administrators, heirs, legal representatives and assigns of the Grantee, and the successors and assigns of the Company.

19. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Delivery of an executed counterpart of the Agreement by facsimile or in electronic format shall be effective as delivery of a manually executed counterpart of the Agreement.

20. **Acknowledgement.** The Grantee acknowledges that the Grantee (a) has received a copy of the Plan, (b) has had an opportunity to review the terms of this Agreement and the Plan, (c) understands the terms and conditions of this Agreement and the Plan and (d) agrees to such terms and conditions.

21. **Company Recoupment of Awards.** Notwithstanding anything in this Agreement to the contrary, the Grantee acknowledges and agrees that this Agreement and the award described herein are subject to the terms and conditions of the Company's clawback policy (if any) as may be in effect from time to time specifically to implement Section 10D of the Exchange Act and any applicable rules or regulations promulgated thereunder (including applicable rules and regulations of any national securities exchange on which the Common Stock may be traded).

IN ORDER TO RECEIVE THE BENEFITS OF THIS AGREEMENT, AND FOR THE AWARD TO BE EFFECTIVE, GRANTEE MUST ACCEPT THE AWARD IN THE COMPANY'S ONLINE

EQUITY ADMINISTRATION SYSTEM. IF GRANTEE FAILS TO SATISFY THE ACCEPTANCE REQUIREMENT WITHIN 90 DAYS AFTER THE DATE OF GRANT, THEN (1) THIS AGREEMENT WILL BE OF NO FORCE OR EFFECT AND THE AWARD GRANTED HEREIN WILL BE AUTOMATICALLY FORFEITED TO THE COMPANY WITHOUT CONSIDERATION, AND (2) NEITHER GRANTEE NOR THE COMPANY WILL HAVE ANY FUTURE RIGHTS OR OBLIGATIONS UNDER THIS AGREEMENT.

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the Company has caused this Agreement to be executed by an officer thereunto duly authorized, and the Grantee has executed this Agreement, effective for all purposes as provided above.

**COMSCORE, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**GRANTEE**

Name: \_\_\_\_\_

SIGNATURE PAGE TO  
DEFERRED STOCK UNITS AWARD AGREEMENT



## COMSCORE, INC.

**Performance Restricted Stock Units Award Agreement**

This PERFORMANCE RESTRICTED STOCK UNITS AWARD AGREEMENT (this “**Agreement**”) is made as of [●] (the “**Date of Grant**”), by and between comScore, Inc., a Delaware corporation (the “**Company**”), and [●] (the “**Grantee**”).

1. **Certain Definitions.** Capitalized terms used, but not otherwise defined, in this Agreement will have the meanings given to such terms in the comScore, Inc. 2018 Equity and Incentive Compensation Plan (the “**Plan**”).

2. **Grant of PRSUs.** Subject to and upon the terms, conditions and restrictions set forth in this Agreement and in the Plan, pursuant to authorization under a resolution of the Committee, the Company has granted to the Grantee as of the Date of Grant [●] performance-based Restricted Stock Units (“**PRSUs**”), which shall constitute an award of Performance Shares under the Plan. Subject to the degree of attainment of the performance goals established for these PRSUs as set forth in **Sections 5(a)** and **5(b)**, the Grantee may earn up to a maximum of 100% of the PRSUs. Each earned PRSU shall then represent the right of the Grantee to receive one share of Common Stock subject to and upon the terms and conditions of this Agreement.

3. **Payment of PRSUs.** The PRSUs will become payable in accordance with the provisions of **Section 6** of this Agreement if the Restriction Period lapses and Grantee’s right to receive payment for the PRSUs becomes nonforfeitable (“**Vest**,” “**Vesting**” or “**Vested**”) in accordance with **Section 5** of this Agreement.

4. **Restrictions on Transfer of PRSUs.** Subject to Section 15 of the Plan, neither the PRSUs evidenced hereby nor any interest therein or in the shares of Common Stock underlying such PRSUs shall be transferable prior to payment to the Grantee pursuant to **Section 6** hereof other than by will or pursuant to the laws of descent and distribution.

5. **Earning and Vesting of PRSUs.**

(a) **Performance Periods.** Subject to the terms and conditions of this Agreement, a number of PRSUs determined in accordance with **Section 5(b)** shall Vest on [●] (each such date, a “**Vesting Date**” and each [●] period ending on each Vesting Date, a “**Performance Period**”) to the extent that the Stock-Price Hurdle (as defined below) is achieved during such Performance Period, subject to the Grantee’s continuous service with the Company or a Subsidiary through the applicable Vesting Date. For purposes of this Agreement, “continuous service” (or substantially similar terms) means the absence of any interruption or termination of the Grantee’s service as an Employee, Director or consultant to the Company or a Subsidiary. Continuous service shall not be considered interrupted or terminated in the case of transfers between locations of the Company and its Subsidiaries. Further, continuous service shall not be considered interrupted or terminated in the case of the Grantee’s cessation of service as an Employee, Director or consultant to the Company or a Subsidiary (each, a “**Participant Class**”), so long as the Grantee continues serving in another Participant Class.

(b) **Performance Goals.** A number of PRSUs will be earned based on achievement of the Stock-Price Hurdle during each applicable Performance Period as follows:

Stock-Price Hurdle	Percentage of PRSUs That Vest
[●]	[●]

Following each Vesting Date, the Committee shall determine whether and to what extent the Stock-Price Hurdle goals have been satisfied as of such time for the applicable Performance Period and shall determine the number of PRSUs that shall become Vested under this Agreement. As used herein, “**Stock-Price Hurdle**” means the highest Market Value per Share that is maintained during any period of 65 consecutive trading days that fall within the applicable Performance Period. For purposes of this Agreement, any Stock-Price Hurdle that is achieved during a period of 65 consecutive trading days that commences in one Performance Period and ends in another Performance Period will be deemed to have been achieved in the later Performance Period. Further, following achievement of any Stock-Price Hurdle during one Performance Period, the number of PRSUs earned with respect to such Stock-Price Hurdle cannot subsequently be earned upon achievement of the same Stock-Price Hurdle during any subsequent Performance Period.

(c) **Change in Control.** Notwithstanding Sections 5(a) or 5(b), if at any time before the PRSUs have become fully Vested or forfeited, a Change in Control occurs, then on the date of such Change in Control, the PRSUs shall become Vested (to the extent they have not already become Vested) by applying the per share price paid in connection with the Change in Control as the “Stock-Price Hurdle” for purposes of determining attainment of the performance goals described in Section 5(b). Any PRSUs that do not become Vested as of such time shall be immediately forfeited.

(d) **Certain Terminations of Employment.** Notwithstanding Section 5(a), upon the termination of the Grantee’s service with the Company at any time before the PRSUs have become fully Vested or forfeited (i) by the Company without Cause (as defined in the Grantee’s Change of Control and Severance Agreement with the Company (the “**COC/Severance Agreement**”)), (ii) by the Grantee, or (iii) as a result of the Grantee’s death or Disability (as defined in the COC/Severance Agreement), the PRSUs shall become Vested (to the extent they have not already become Vested) based on achievement, if any, of the Stock-Price Hurdle during the period beginning on the most recent Vesting Date preceding the date of such termination and ending on the date of such termination. Any PRSUs that do not become Vested as of such time shall be immediately forfeited.

(e) **Forfeiture.** Any PRSUs that have not Vested or become forfeited pursuant to Section 5 as of the end of the tenth anniversary of the Date of Grant will be forfeited automatically and without further notice after the end of such tenth anniversary (or earlier, with respect to all PRSUs covered under this Agreement that have not previously become Vested, if, and on such date that, the Grantee ceases to be in continuous service with the Company or a Subsidiary prior to the tenth anniversary of the Date of Grant for any reason).

6. **Form and Time of Payment of PRSUs.**

(a) [Payment for the PRSUs, after and to the extent they have become nonforfeitable (“***Vested PRSUs***”), shall be made in the form of Common Stock. To the extent the PRSUs are Vested PRSUs on the dates set forth in clauses (i) and (ii) below and to the extent such Vested PRSUs have not previously been settled, the PRSUs will become payable upon the earlier to occur of the following:

(i) The Grantee’s “separation from service” with the Company and its Subsidiaries within the meaning of Section 409A(a)(2)(A)(i) of the Code; or

(ii) The occurrence of a Change in Control, so long as such Change in Control qualifies as a “change in control event” within the meaning of Section 409A(a)(2)(A)(v) of the Code.

Subject to **Section 6(b)** below, the date of settlement of the Vested PRSUs that become payable pursuant to this **Section 6(a)** shall be (A) as soon as administratively practicable following (but no later than 30 days following) the date of the Grantee’s separation from service, if the Vested PRSUs become payable pursuant to clause (i) above, or (B) the date of the occurrence of the Change in Control, if the Vested PRSUs become payable pursuant to clause (ii) above.

(b) If the PRSUs become payable on the Grantee’s “separation from service” with the Company and its Subsidiaries within the meaning of Section 409A(a)(2)(A)(i) of the Code and the Grantee is a “specified employee” as determined pursuant to procedures adopted by the Company in compliance with Section 409A of the Code, then, to the extent necessary to comply with Section 409A of the Code, payment for the PRSUs shall be made on the first payroll date that occurs on or after the date six months and one day following the date of the Grantee’s “separation from service.” Notwithstanding the foregoing, if the Grantee dies following the Grantee’s “separation from service,” but before the six-month anniversary of the “separation from service,” then any payment delayed in accordance with this **Section 6(b)** will be payable as soon as administratively practicable after the date of the Grantee’s death.] [(a) Payment for the PRSUs, after and to the extent they have Vested, shall be made in the form of shares of Common Stock. Payment of Vested PRSUs that Vest on or prior to [●] shall be made (i) on the first March 10 following the Vesting Date if the PRSUs vest in accordance with **Section 5(a)**, (ii) as soon as practicable following the date that such PRSUs Vest if the PRSUs Vest in accordance with **Section 5(c)**, but no later than March 15 of the calendar year following the calendar year in which the Change in Control occurs, and (iii) on the first March 10 following the end of the then-applicable Performance Period if the PRSUs vest in accordance with **Section 5(d)**. Payment of Vested PRSUs that Vest during the Performance Period ending on [●] shall be made on [●]. If the date of settlement referenced in this **Section 6(a)** is not a trading day, then such settlement date shall be deemed to mean the first trading date after such date. For the avoidance of doubt, the PRSUs shall in all events be paid no later than required to satisfy the short-term deferral exemption under Section 409A of the Code.]

[(b)][(c)] The Company’s obligations to the Grantee with respect to the PRSUs will be satisfied in full upon the issuance or transfer of Common Stock corresponding to any such earned PRSUs.

7. **Dividend Equivalents; Voting and Other Rights.**

(a) The Grantee shall have no rights of ownership in the Common Stock underlying the PRSUs and no right to vote the Common Stock underlying the PRSUs until the date on which the Common Stock underlying the PRSUs is issued or transferred to the Grantee pursuant to **Section 6** above.

(b) From and after the Date of Grant and until the earlier of (i) the time when the PRSUs Vest and are paid in accordance with **Section 6** hereof or (ii) the time when the Grantee's right to receive Common Stock in payment of the PRSUs is forfeited in accordance with **Section 5** hereof, on the date that the Company pays a cash dividend (if any) to holders of Common Stock generally, the Grantee shall be credited with cash per PRSU equal to the amount of such dividend. Any amounts credited pursuant to the immediately preceding sentence shall be subject to the same applicable terms and conditions (including Vesting, payment and forfeitability) as apply to the PRSUs based on which the dividend equivalents were credited, and such amounts shall be paid in cash at the same time as the PRSUs to which they relate are settled.

(c) The obligations of the Company under this Agreement will be merely that of an unfunded and unsecured promise of the Company to deliver Common Stock in the future, and the rights of the Grantee will be no greater than that of an unsecured general creditor. No assets of the Company will be held or set aside as security for the obligations of the Company under this Agreement.

8. **Adjustments.** The PRSUs and the number of shares of Common Stock issuable for each PRSU and the other terms and conditions of the grant evidenced by this Agreement are subject to mandatory adjustment, including as provided in Section 11 of the Plan.

9. **Withholding Taxes.** To the extent that the Company is required to withhold federal, state, local or foreign taxes or other amounts in connection with the delivery to the Grantee of Common Stock or any other payment to the Grantee or any other payment or vesting event under this Agreement, the Grantee agrees that the Grantee will satisfy such requirement in a manner determined by the Committee prior to any payment to the Grantee, including but not limited to a "sell to cover" transaction through a bank or broker. It shall be a condition to the obligation of the Company to make any such delivery or payment that the Grantee has satisfied such requirement in the form or manner specified by the Company. In no event will the market value of the Common Stock to be withheld, sold and/or delivered pursuant to this **Section 9** to satisfy applicable withholding taxes exceed the maximum amount of taxes or other amounts that could be required to be withheld without creating adverse accounting treatment for the Company with respect to the award of PRSUs covered by this Agreement, as determined by the Committee.

10. **Compliance with Law.** The Company shall make reasonable efforts to comply with all applicable federal and state securities laws; provided, however, notwithstanding any other provision of the Plan and this Agreement, the Company shall not be obligated to issue any Common Stock pursuant to this Agreement if the issuance thereof would result in a violation of any such law.

11. **Compliance with or Exemption from Section 409A of the Code.** To the extent applicable, it is intended that this Agreement and the Plan comply with or be exempt from the provisions of Section 409A of the Code. This Agreement and the Plan shall be administered in a manner consistent with this intent, and any provision that would cause this Agreement or the Plan to fail to satisfy Section 409A of the Code shall have no force or effect until amended to comply with or be exempt from Section 409A of the Code (which amendment may be retroactive to the extent permitted by Section 409A of the Code and may be made by the Company without the consent of the Grantee). Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement comply with Section 409A of the Code, and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest, or other expenses that may be incurred by the Grantee on account of non-compliance with Section 409A of the Code.

12. **Interpretation.** Any reference in this Agreement to Section 409A of the Code will also include any proposed, temporary or final regulations, or any other guidance, promulgated with respect to such Section by the U.S. Department of the Treasury or the Internal Revenue Service.

13. **No Right to Future Awards or Employment.** The grant of the PRSUs under this Agreement to the Grantee is a voluntary, discretionary award being made on a one-time basis and it does not constitute a commitment to make any future awards. The grant of the PRSUs and any payments made hereunder will not be considered salary or other compensation for purposes of any severance pay or similar allowance, except as otherwise required by law. Nothing contained in this Agreement shall confer upon the Grantee any right to be employed or remain employed by the Company or any of its Subsidiaries, nor limit or affect in any manner the right of the Company or any of its Subsidiaries to terminate the employment or adjust the compensation of the Grantee.

14. **Relation to Other Benefits.** Any economic or other benefit to the Grantee under this Agreement or the Plan shall not be taken into account in determining any benefits to which the Grantee may be entitled under any profit-sharing, retirement or other benefit or compensation plan maintained by the Company or any of its Subsidiaries and shall not affect the amount of any life insurance coverage available to any beneficiary under any life insurance plan covering employees of the Company or any of its Subsidiaries.

15. **Entire Agreement; Amendments.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and contains all the covenants, promises, representations, warranties and agreements between the parties with respect to the grant of the PRSUs; provided, however, that the terms of this Agreement shall not modify the application of the COC/Severance Agreement to the Grantee's other awards under the Plan. Without limiting the scope of the preceding sentence, except as provided therein, all prior understandings and agreements, if any, among the parties hereto relating to the subject matter hereof are hereby null and void and of no further force and effect. Any amendment to the Plan shall be deemed to be an amendment to this Agreement to the extent that the amendment is applicable hereto, and the Committee has the right to amend, alter, suspend, discontinue or cancel the PRSUs, prospectively or retroactively; provided, however, that (a) no amendment shall adversely affect the rights of the Grantee under this Agreement without the Grantee's written consent, and (b) the Grantee's consent shall not be

required to an amendment that is deemed necessary by the Company to ensure compliance with Section 409A of the Code or Section 10D of the Exchange Act.

16. **Severability and Waiver.** In the event that one or more of the provisions of this Agreement shall be invalidated for any reason by a court of competent jurisdiction, any provision so invalidated shall be deemed to be separable from the other provisions hereof, and the remaining provisions hereof shall continue to be valid and fully enforceable. Waiver by any party of any breach of this Agreement or failure to exercise any right hereunder shall not be deemed to be a waiver of any other breach or right. The failure of any party to take action by reason of such breach or to exercise any such right shall not deprive the party of the right to take action at any time while or after such breach or condition giving rise to such right continues.

17. **Relation to Plan.** This Agreement is subject to the terms and conditions of the Plan. In the event of any inconsistency between the provisions of this Agreement and the Plan, the Plan shall govern. The Committee acting pursuant to the Plan, as constituted from time to time, shall, except as expressly provided otherwise herein or in the Plan, have the right to determine any questions which arise in connection with this Agreement, and the resolution of any such questions by the Committee shall be final and binding on the Grantee and the Company.

18. **Electronic Delivery.** The Company may, in its sole discretion, deliver any documents related to the PRSUs and the Grantee's participation in the Plan, or future awards that may be granted under the Plan, by electronic means or request the Grantee's consent to participate in the Plan by electronic means. The Grantee hereby consents to receive such documents by electronic delivery and, if requested, agrees to participate in the Plan through an online or electronic system established and maintained by the Company or another third party designated by the Company.

19. **Governing Law.** This Agreement shall be governed by and construed with the internal substantive laws of the State of Delaware, without giving effect to any principle of law that would result in the application of the law of any other jurisdiction.

20. **Successors and Assigns.** Without limiting **Section 4** hereof, the provisions of this Agreement shall inure to the benefit of, and be binding upon, the successors, administrators, heirs, legal representatives and assigns of the Grantee, and the successors and assigns of the Company.

21. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Delivery of an executed counterpart of the Agreement by facsimile or in electronic format shall be effective as delivery of a manually executed counterpart of the Agreement.

22. **Acknowledgement.** The Grantee acknowledges that the Grantee (a) has received a copy of the Plan, (b) has had an opportunity to review the terms of this Agreement and the Plan, (c) understands the terms and conditions of this Agreement and the Plan and (d) agrees to such terms and conditions.

23. **Company Recoupment of Awards.** Notwithstanding anything in this Agreement to the contrary, the Grantee acknowledges and agrees that this Agreement and the award described herein are subject to the terms and conditions of the Company's clawback policy (if any) as may be in effect from time to time specifically to implement Section 10D of the Exchange Act and any applicable rules or regulations promulgated thereunder (including applicable rules and regulations of any national securities exchange on which the Common Stock may be traded).

IN ORDER TO RECEIVE THE BENEFITS OF THIS AGREEMENT, AND FOR THE AWARD TO BE EFFECTIVE, GRANTEE MUST ACCEPT THE AWARD IN THE COMPANY'S ONLINE EQUITY ADMINISTRATION SYSTEM. IF GRANTEE FAILS TO SATISFY THE ACCEPTANCE REQUIREMENT WITHIN 90 DAYS AFTER THE DATE OF GRANT, THEN (1) THIS AGREEMENT WILL BE OF NO FORCE OR EFFECT AND THE AWARD GRANTED HEREIN WILL BE AUTOMATICALLY FORFEITED TO THE COMPANY WITHOUT CONSIDERATION, AND (2) NEITHER GRANTEE NOR THE COMPANY WILL HAVE ANY FUTURE RIGHTS OR OBLIGATIONS UNDER THIS AGREEMENT.

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the Company has caused this Agreement to be executed by an officer thereunto duly authorized, and the Grantee has executed this Agreement, effective for all purposes as provided above.

**COMSCORE, INC.**

By: \_\_\_\_\_

Name:

Title:

**GRANTEE**

Name: \_\_\_\_\_

## COMSCORE, INC.

**Restricted Stock Units Award Agreement**

This RESTRICTED STOCK UNITS AWARD AGREEMENT (this “**Agreement**”) is made as of [●] (the “**Date of Grant**”), by and between comScore, Inc., a Delaware corporation (the “**Company**”), and [●] (the “**Grantee**”).

1. **Certain Definitions.** Capitalized terms used, but not otherwise defined, in this Agreement will have the meanings given to such terms in the comScore, Inc. 2018 Equity and Incentive Compensation Plan (the “**Plan**”).

2. **Grant of RSUs.** Subject to and upon the terms, conditions and restrictions set forth in this Agreement and in the Plan, pursuant to authorization under a resolution of the Committee, the Company has granted to the Grantee as of the Date of Grant [●] Restricted Stock Units (“**RSUs**”). Each RSU shall represent the right of the Grantee to receive one share of Common Stock subject to and upon the terms and conditions of this Agreement.

3. **Restrictions on Transfer of RSUs.** Subject to Section 15 of the Plan, neither the RSUs evidenced hereby nor any interest therein or in the Common Stock underlying such RSUs shall be transferable prior to payment to the Grantee pursuant to **Section 5** hereof other than by will or pursuant to the laws of descent and distribution.

4. **Vesting of RSUs.** The RSUs covered by this Agreement shall become nonforfeitable and payable to the Grantee pursuant to **Section 5** hereof on [●], so long as the Grantee remains in continuous service with the Company or a Subsidiary until each such date (the period from the Date of Grant until the last such vesting date, the “**Vesting Period**”). Subject to the terms of the Plan, [and except as otherwise provided in any employment, severance, change in control or similar agreement between the Grantee and the Company or any Subsidiary], RSUs that do not so become nonforfeitable will be forfeited, including if the Grantee ceases to be in continuous service with the Company or a Subsidiary prior to the end of the Vesting Period. For purposes of this Agreement, “continuous service” (or substantially similar terms) means the absence of any interruption or termination of the Grantee’s service as an Employee, Director or consultant to the Company or a Subsidiary. Continuous service shall not be considered interrupted or terminated in the case of transfers between locations of the Company and its Subsidiaries. Further, continuous service shall not be considered interrupted or terminated in the case of the Grantee’s cessation of service as an Employee, Director or consultant to the Company or a Subsidiary (each, a “**Participant Class**”), so long as the Grantee continues serving in another Participant Class. [Notwithstanding the foregoing, provided that any of the RSUs covered by this Agreement have not yet become vested pursuant to the above schedule, any such unvested RSUs shall immediately become fully vested if, within one year following a Change in Control, the Grantee’s service relationship with the Company is terminated (i) by the Company without Cause (as defined in the Grantee’s Change of Control and Severance Agreement with the Company (the “**COC/Severance Agreement**”)) or (ii) by the Grantee for Good Reason (as defined in the COC/Severance Agreement), and any such termination date shall be treated as a Vesting Date for purposes of this Agreement.]



5. **Form and Time of Payment of RSUs.**

(a) [Payment for the RSUs, after and to the extent they have become nonforfeitable (“**Vested RSUs**”), shall be made in the form of Common Stock. To the extent the RSUs are Vested RSUs on the dates set forth in clauses (i) and (ii) below and to the extent such Vested RSUs have not previously been settled, the Vested RSUs will become payable upon the earlier to occur of the following:

(i) The Grantee’s “separation from service” with the Company and its Subsidiaries within the meaning of Section 409A(a)(2)(A)(i) of the Code; or

(ii) The occurrence of a Change in Control, so long as such Change in Control qualifies as a “change in control event” within the meaning of Section 409A(a)(2)(A)(v) of the Code and occurs on or following the applicable Vesting Date relating to such RSUs.

Subject to **Section 5(b)** below, the date of settlement of the Vested RSUs that become payable pursuant to this **Section 5(a)** shall be (A) as soon as administratively practicable following (but no later than 30 days following) the date of the Grantee’s separation from service if the Vested RSUs become payable pursuant to clause (i) above, or (B) the date of the occurrence of the Change in Control, if the Vested RSUs become payable pursuant to clause (ii) above.

(b) If the RSUs become payable on the Grantee’s “separation from service” with the Company and its Subsidiaries within the meaning of Section 409A(a)(2)(A)(i) of the Code and the Grantee is a “specified employee” as determined pursuant to procedures adopted by the Company in compliance with Section 409A of the Code, then, to the extent necessary to comply with Section 409A of the Code, payment for the RSUs shall be made on the first payroll date that occurs on or after the date six months and one day following the date of the Grantee’s “separation from service.” Notwithstanding the foregoing, if the Grantee dies following the Grantee’s “separation from service,” but before the six-month anniversary of the “separation from service,” then any payment delayed in accordance with this **Section 5(b)** will be payable as soon as administratively practicable after the date of the Grantee’s death.] [(a) Payment for the RSUs, after and to the extent they have become nonforfeitable, shall be made in the form of Common Stock. Payment shall be made as soon as administratively practicable following the date that the RSUs become nonforfeitable pursuant to **Section 4** hereof (but, unless the Grantee enters into a deferral arrangement in accordance with procedures established by the Company, in no event later than required to satisfy the short-term deferral exemption under Section 409A of the Code).]

[(b)][(c)] The Company’s obligations to the Grantee with respect to the RSUs will be satisfied in full upon the issuance or transfer of Common Stock corresponding to such RSUs.

6. **Dividend Equivalents; Voting and Other Rights.**

(a) The Grantee shall have no rights of ownership in the Common Stock underlying the RSUs and no right to vote the Common Stock underlying the RSUs until the date

on which the Common Stock underlying the RSUs is issued or transferred to the Grantee pursuant to **Section 5** above.

(b) From and after the Date of Grant and until the earlier of (i) the time when the RSUs are paid in accordance with **Section 5** hereof or (ii) the time when the Grantee's right to receive Common Stock in payment of the RSUs is forfeited in accordance with **Section 4** hereof, on the date that the Company pays a cash dividend (if any) to holders of Common Stock generally, the Grantee shall be credited with cash per RSU equal to the amount of such dividend. Any amounts credited pursuant to the immediately preceding sentence shall be subject to the same applicable terms and conditions (including vesting, payment and forfeitability) as apply to the RSUs based on which the dividend equivalents were credited, and such amounts shall be paid in cash at the same time as the RSUs to which they relate are settled.

(c) The obligations of the Company under this Agreement will be merely that of an unfunded and unsecured promise of the Company to deliver Common Stock in the future, and the rights of the Grantee will be no greater than that of an unsecured general creditor. No assets of the Company will be held or set aside as security for the obligations of the Company under this Agreement.

7. **Adjustments.** The RSUs and the number of shares of Common Stock issuable for each RSU, and the other terms and conditions of the grant evidenced by this Agreement, are subject to mandatory adjustment, including as provided in Section 11 of the Plan.

8. **Withholding Taxes.** To the extent that the Company is required to withhold federal, state, local or foreign taxes or other amounts in connection with the delivery to the Grantee of Common Stock or any other payment to the Grantee or any other payment or vesting event under this Agreement, the Grantee agrees that the Grantee will satisfy such requirement in a manner determined by the Committee prior to any payment to the Grantee, including but not limited to a "sell to cover" transaction through a bank or broker. It shall be a condition to the obligation of the Company to make any such delivery or payment that the Grantee has satisfied such requirement in the form or manner specified by the Company. In no event will the market value of the Common Stock to be withheld, sold and/or delivered pursuant to this **Section 8** to satisfy applicable withholding taxes exceed the maximum amount of taxes or other amounts that could be required to be withheld without creating adverse accounting treatment for the Company with respect to the award of RSUs covered by this Agreement, as determined by the Committee.

9. **Compliance with Law.** The Company shall make reasonable efforts to comply with all applicable federal and state securities laws; provided, however, notwithstanding any other provision of the Plan and this Agreement, the Company shall not be obligated to issue any Common Stock pursuant to this Agreement if the issuance thereof would result in a violation of any such law.

10. **Compliance with or Exemption from Section 409A of the Code.** To the extent applicable, it is intended that this Agreement and the Plan comply with or be exempt from the provisions of Section 409A of the Code. This Agreement and the Plan shall be administered in a manner consistent with this intent, and any provision that would cause this Agreement or the Plan

to fail to satisfy Section 409A of the Code shall have no force or effect until amended to comply with or be exempt from Section 409A of the Code (which amendment may be retroactive to the extent permitted by Section 409A of the Code and may be made by the Company without the consent of the Grantee). Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement comply with Section 409A of the Code, and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest, or other expenses that may be incurred by the Grantee on account of non-compliance with Section 409A of the Code.

11. **Interpretation.** Any reference in this Agreement to Section 409A of the Code will also include any proposed, temporary or final regulations, or any other guidance, promulgated with respect to such Section by the U.S. Department of the Treasury or the Internal Revenue Service.

12. **No Right to Future Awards or Employment.** The grant of the RSUs under this Agreement to the Grantee is a voluntary, discretionary award being made on a one-time basis and it does not constitute a commitment to make any future awards. The grant of the RSUs and any payments made hereunder will not be considered salary or other compensation for purposes of any severance pay or similar allowance, except as otherwise required by law. Nothing contained in this Agreement shall confer upon the Grantee any right to be employed or remain employed by the Company or any of its Subsidiaries, nor limit or affect in any manner the right of the Company or any of its Subsidiaries to terminate the employment or adjust the compensation of the Grantee.

13. **Relation to Other Benefits.** Any economic or other benefit to the Grantee under this Agreement or the Plan shall not be taken into account in determining any benefits to which the Grantee may be entitled under any profit-sharing, retirement or other benefit or compensation plan maintained by the Company or any of its Subsidiaries and shall not affect the amount of any life insurance coverage available to any beneficiary under any life insurance plan covering employees of the Company or any of its Subsidiaries.

14. **Entire Agreement; Amendments.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and contains all the covenants, promises, representations, warranties and agreements between the parties with respect to the grant of the RSUs; provided, however, that the terms of this Agreement shall not modify and shall be subject to the terms and conditions of any employment, consulting and/or severance agreement between the Company (or a Subsidiary or other entity) and the Grantee in effect as of the date a determination is to be made under this Agreement. Without limiting the scope of the preceding sentence, except as provided therein, all prior understandings and agreements, if any, among the parties hereto relating to the subject matter hereof are hereby null and void and of no further force and effect. Any amendment to the Plan shall be deemed to be an amendment to this Agreement to the extent that the amendment is applicable hereto, and the Committee has the right to amend, alter, suspend, discontinue or cancel the RSUs, prospectively or retroactively; provided, however, that (a) no amendment shall adversely affect the rights of the Grantee under this Agreement without the Grantee's written consent, and (b) the Grantee's consent shall not be required to an amendment that

is deemed necessary by the Company to ensure compliance with Section 409A of the Code or Section 10D of the Exchange Act.

15. **Severability and Waiver.** In the event that one or more of the provisions of this Agreement shall be invalidated for any reason by a court of competent jurisdiction, any provision so invalidated shall be deemed to be separable from the other provisions hereof, and the remaining provisions hereof shall continue to be valid and fully enforceable. Waiver by any party of any breach of this Agreement or failure to exercise any right hereunder shall not be deemed to be a waiver of any other breach or right. The failure of any party to take action by reason of such breach or to exercise any such right shall not deprive the party of the right to take action at any time while or after such breach or condition giving rise to such right continues.

16. **Relation to Plan.** This Agreement is subject to the terms and conditions of the Plan. In the event of any inconsistency between the provisions of this Agreement and the Plan, the Plan shall govern. The Committee acting pursuant to the Plan, as constituted from time to time, shall, except as expressly provided otherwise herein or in the Plan, have the right to determine any questions which arise in connection with this Agreement.

17. **Electronic Delivery.** The Company may, in its sole discretion, deliver any documents related to the RSUs and the Grantee's participation in the Plan, or future awards that may be granted under the Plan, by electronic means or request the Grantee's consent to participate in the Plan by electronic means. The Grantee hereby consents to receive such documents by electronic delivery and, if requested, agrees to participate in the Plan through an online or electronic system established and maintained by the Company or another third party designated by the Company.

18. **Governing Law.** This Agreement shall be governed by and construed with the internal substantive laws of the State of Delaware, without giving effect to any principle of law that would result in the application of the law of any other jurisdiction.

19. **Successors and Assigns.** Without limiting **Section 3** hereof, the provisions of this Agreement shall inure to the benefit of, and be binding upon, the successors, administrators, heirs, legal representatives and assigns of the Grantee, and the successors and assigns of the Company.

20. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Delivery of an executed counterpart of the Agreement by facsimile or in electronic format shall be effective as delivery of a manually executed counterpart of the Agreement.

21. **Acknowledgement.** The Grantee acknowledges that the Grantee (a) has received a copy of the Plan, (b) has had an opportunity to review the terms of this Agreement and the Plan, (c) understands the terms and conditions of this Agreement and the Plan and (d) agrees to such terms and conditions.

22. **Company Recoupment of Awards.** Notwithstanding anything in this Agreement to the contrary, the Grantee acknowledges and agrees that this Agreement and the award described

herein are subject to the terms and conditions of the Company's clawback policy (if any) as may be in effect from time to time specifically to implement Section 10D of the Exchange Act and any applicable rules or regulations promulgated thereunder (including applicable rules and regulations of any national securities exchange on which the Common Stock may be traded).

IN ORDER TO RECEIVE THE BENEFITS OF THIS AGREEMENT, AND FOR THE AWARD TO BE EFFECTIVE, GRANTEE MUST ACCEPT THE AWARD IN THE COMPANY'S ONLINE EQUITY ADMINISTRATION SYSTEM. IF GRANTEE FAILS TO SATISFY THE ACCEPTANCE REQUIREMENT WITHIN 90 DAYS AFTER THE DATE OF GRANT, THEN (1) THIS AGREEMENT WILL BE OF NO FORCE OR EFFECT AND THE AWARD GRANTED HEREIN WILL BE AUTOMATICALLY FORFEITED TO THE COMPANY WITHOUT CONSIDERATION, AND (2) NEITHER GRANTEE NOR THE COMPANY WILL HAVE ANY FUTURE RIGHTS OR OBLIGATIONS UNDER THIS AGREEMENT.

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the Company has caused this Agreement to be executed by an officer thereunto duly authorized, and the Grantee has executed this Agreement, effective for all purposes as provided above.

**COMSCORE, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**GRANTEE**

By: \_\_\_\_\_  
Name:

SIGNATURE PAGE TO  
RESTRICTED STOCK UNITS AWARD AGREEMENT

Name of Subsidiary                      Jurisdiction of Incorporation

Rentrak Corporation                      Oregon, U.S.A.

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in Registration Statement Nos. 333-144281, 333-155355, 333-159126, 333-166349, 333-172838, 333-179625, 333-186764, 333-194010, 333-202221, 333-209310, and 333-225400 on Form S-8 and Registration Statement Nos. 333-226246 and 333-231778 on Form S-3 of our reports dated February 27, 2020, relating to the financial statements of comScore, Inc. and subsidiaries (the “Company”) and the effectiveness of the Company’s internal control over financial reporting appearing in this Annual Report on Form 10-K for the year ended December 31, 2019.

/s/ Deloitte & Touche LLP

McLean, Virginia

February 27, 2020



## CERTIFICATIONS

I, William P. Livek, certify that:

1. I have reviewed this Annual Report on Form 10-K of comScore, 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(s) 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.

/s/ William P. Livek

**William P. Livek**

**Chief Executive Officer**

**(Principal Executive Officer)**

Date: February 27, 2020

## CERTIFICATIONS

I, Gregory A. Fink, certify that:

1. I have reviewed this Annual Report on Form 10-K of comScore, 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(s) 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

/s/ Gregory A. Fink

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**Gregory A. Fink**

**Chief Financial Officer and Treasurer**

**(Principal Financial Officer)**

Date: February 27, 2020

**Certification Pursuant to 18 U.S.C. Section 1350**

In connection with the Annual Report of comScore, Inc. (the "Company") on Form 10-K for the year ended December 31, 2019, as filed with the Securities and Exchange Commission (the "SEC") on the date hereof (the "Report"), I, William P. Livek, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

- (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.

A signed original of this written statement has been provided to the Company and will be retained by the Company and furnished to the SEC or its staff upon request.

/s/ William P. Livek

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**William P. Livek**

**Chief Executive Officer**

**(Principal Executive Officer)**

Date: February 27, 2020

**Certification Pursuant to 18 U.S.C. Section 1350**

In connection with the Annual Report of comScore, Inc. (the "Company") on Form 10-K for the year ended December 31, 2019, as filed with the Securities and Exchange Commission (the "SEC") on the date hereof (the "Report"), I, Gregory A. Fink, Chief Financial Officer and Treasurer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

- (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.

A signed original of this written statement has been provided to the Company and will be retained by the Company and furnished to the SEC or its staff upon request.

/s/ Gregory A. Fink

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**Gregory A. Fink**

**Chief Financial Officer and Treasurer**

**(Principal Financial Officer)**

Date: February 27, 2020