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

FORM S-1
REGISTRATION STATEMENT
Under
The Securities Act of 1933

SQUARE, INC.
(Exact name of Registrant as specified in its charter)

Delaware
(Primary Standard Industrial Classification Code Number)
7372
80-0429876
(State or other jurisdiction of incorporation or organization)

1455 Market Street, Suite 600
San Francisco, CA 94103
(415) 375-3176
(Address, including zip code, and telephone number, including area code, of Registrant’s principal executive offices)

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Approximate date of commencement of proposed sale to the public: As soon as practicable after this Registration Statement becomes effective.

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

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

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

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

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

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

CALCULATION OF REGISTRATION FEE

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<th>Title of Each Class of Securities to be Registered</th>
<th>Proposed Maximum Aggregate Offering Price (1)(2)</th>
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(1) Estimated solely for the purpose of computing the amount of the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended.
(2) Includes the aggregate offering price of additional shares that the underwriters have the right to purchase, if any.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.
This is an initial public offering of shares of Class A common stock of Square, Inc. We are selling shares of our Class A common stock and the selling stockholder named in this prospectus is selling shares of our Class A common stock. We will not receive any proceeds from the sale of the shares by the selling stockholder.

Prior to this offering, there has been no public market for our common stock. It is currently estimated that the initial public offering price per share of Class A common stock will be between $ and $. We intend to apply to list our Class A common stock on the New York Stock Exchange under the symbol “SQ.”

We have two classes of authorized common stock: the Class A common stock offered hereby and Class B common stock. The rights of the holders of Class A common stock and Class B common stock are identical, except with respect to voting and conversion rights. Each share of Class A common stock is entitled to one vote. Each share of Class B common stock is entitled to ten votes and is convertible at any time into one share of Class A common stock.

After the completion of this offering, our existing stockholders will continue to hold all of our issued and outstanding Class B common stock and will hold approximately % of the combined voting power of our common stock. As a result of their ownership, they will be able to control any action requiring the general approval of our stockholders, including the election of our board of directors, the adoption of certain amendments to our certificate of incorporation and bylaws, the approval of any merger or sale of substantially all of our assets, and certain provisions that impact their rights and privileges as Class B common stockholders. See “Description of Capital Stock.”

At our request, the underwriters have reserved for sale, at our initial public offering price, up to % of the Class A common stock offered hereby to our existing sellers. The sales will be made under a directed share program through a platform administered by LOYAL3 Securities, Inc., which we refer to in this prospectus as the “LOYAL3 Platform.” The shares being made available for this program are being sold by the Start Small Foundation, a charitable vehicle started by our CEO and founder, Jack Dorsey, as the selling stockholder.

We are an “emerging growth company” as defined under the federal securities laws and, as such, may elect to comply with certain reduced public company reporting requirements for future filings.

Investing in our Class A common stock involves risks. See the section titled “Risk Factors” on page 25 to read about factors you should consider before buying shares of our Class A common stock.

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

<table>
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<th>Per Share</th>
<th>Total</th>
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<td>Initial public offering price</td>
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<td>Proceeds, before expenses, to us</td>
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<tr>
<td>Proceeds, before expenses, to the selling stockholder</td>
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(1) We have agreed to reimburse the underwriters for certain expenses. See the section titled “Underwriting (Conflicts of Interest).”

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

The underwriters expect to deliver the shares against payment in New York, New York on or about , 2015.

Goldman, Sachs & Co. Morgan Stanley J.P. Morgan
Barclays Deutsche Bank Securities Jefferies RBC Capital Markets Stifel
LOYAL3 Securities

Prospectus dated , 2015
You know why you're so great?
It's that you help companies like ours be great too.

- Melomp
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You should rely only on the information contained in this prospectus or contained in any free writing prospectus prepared by or on behalf of us. Neither we, the selling stockholder, nor the underwriters have authorized anyone to provide you with information different from, or in addition to, that contained in this prospectus or any related free writing prospectus. This prospectus is an offer to sell only the shares offered hereby and only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus is current only as of its date, regardless of its delivery. Our business, financial condition, results of operations, and prospects may have changed since that date.

Through and including , 2015 (the 25th day after the date of this prospectus), all dealers effecting transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to a dealer’s obligation to deliver a prospectus when acting as an underwriter and with respect to an unsold allotment or subscription.

For investors outside the United States: neither we, the selling stockholder, nor any of the underwriters have done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than the United States. You are required to inform yourselves about and to observe any restrictions relating to this offering and the distribution of this prospectus.
PROSPECTUS SUMMARY

This summary highlights information contained in this prospectus and does not contain all of the information that you should consider in making your investment decision. Before investing in our Class A common stock, you should carefully read this entire prospectus, including our consolidated financial statements and the related notes, and the information in the sections titled “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations.” Unless otherwise indicated, references to our “common stock” include our Class A common stock and Class B common stock.

SQUARE, INC.

Our First Sellers

The story of Square is best told through the stories of our sellers, the customers we serve.

As soon as we had a working prototype of our first credit card reader, we went out to talk to sellers. We met owners of a wide range of businesses, and they shared with us many of the challenges they faced.

We met Cheri, the owner of a flower cart called Lilybelle, who lost a sale when a customer did not have any cash and Cheri had no way to accept credit cards.

We met Jerad and Justin, brothers and co-owners of Sightglass Coffee, who were forced to stitch together disparate systems and processes to handle their basic business operations.

We met Andrei, a flight instructor, who depended on checks from his customers and never knew when the checks would clear and the money would be available in his bank account.

We met Kiya, the owner of a clothing store called Self Edge, who was declined by his traditional payment processor when he tried to expand his business from California to a second location in New York.

Cheri, Jerad and Justin, Andrei, and Kiya signed up for Square and became our first sellers. We learned a great deal from them: the value of accessibility, the power of integrated services, the importance of speed, and the necessity of trust. What they taught us helped make Square what it is today and inspired our mission to make commerce easy.

These sellers are only four of the over 30 million businesses in the United States, with millions of entrepreneurs starting more each year. Each has its own story to tell. We measure our success by their success. We listen to them, learn from them, and help them grow into their ambitions.

Our Business

We started Square in February 2009 to enable anyone with a mobile device to accept card payments, anywhere, anytime. While we found early success providing easy access to card payments, commerce extends beyond payments. In
every transaction, we see opportunity for our sellers: to learn more about which products are selling best, to reinvest in their businesses, or to create and engage loyal buyers. Although we currently generate approximately 95% of our revenue from payments and point-of-sale (POS) services, we have extended our product and service offerings to include financial services and marketing services, all to help sellers start, run, and grow their businesses.

We work to democratize commerce—leveling the playing field for sellers of all sizes. Our focus on technology and design allows us to create products and services that are accessible, intuitive, and easy-to-use. We set attractive and transparent pricing, and we accept approximately 95% of sellers who seek to process payments with Square. We provide a free software app with our affordable (often free) hardware to turn mobile devices into powerful POS solutions in minutes. Our insights into our sellers’ businesses have allowed us to develop services that are applicable to businesses of all types and sizes, from Square Analytics to digital receipts. We also continue to add advanced software features that tailor our POS solution to specific types of sellers, such as open tickets for bars and restaurants and inventory management for retailers.

Because of our approach, we have grown rapidly. Millions of sellers accept payments with Square. They span all types of businesses: from cabs to coffee shops, lawyers to landscapers, retail stores to restaurants. Although substantially all of our revenue is currently generated in the United States, we also serve sellers throughout Canada and Japan. As this international base of sellers grows, so too should our Gross Payment Volume (GPV) and revenue in these regions. We serve sellers of all sizes, ranging from a single vendor at a farmers’ market to multinational businesses. Our products and services are built to scale, so sellers can stay with us over the life of their businesses. In 2014, sellers using Square processed $23.8 billion of GPV, which was generated by 446 million card payments from approximately 144 million payment cards. GPV measures the total dollar amount of card payment transactions we process for our sellers (net of refunds), excluding card payments processed for Starbucks and our Square Cash peer-to-peer service. Since we generate transaction revenue as a percentage of payment volume, we believe GPV is a key indicator of our ability to generate revenue. In the 12 months ended June 2015, over two million sellers accepted five or more payments using Square, accounting for approximately 97% of our GPV.

The foundation of our business model is the millions of sellers processing payments with Square. We estimate that nearly half of our sellers find us and sign up, rather than us finding them, adding efficiency to our sales and marketing efforts. We measure the effectiveness of our spending by evaluating the “payback period,” which we view as the number of quarters it takes for a quarterly cohort of sellers’ cumulative transaction revenue net of transaction costs to surpass our sales and marketing spending in the quarter in which we acquired that cohort. We define a quarterly cohort of sellers as the group of sellers that are approved to accept card payments with Square in a given quarter. On average, our payback period has been four to five quarters.

Revenue from our sellers has grown consistently over time, resulting in strong dollar-based retention rates. Transaction revenue net of transaction costs for each of our 17 quarterly seller cohorts (dating back to the second quarter of 2010) has grown year over year in every quarter. Over the past four quarters, retention of transaction revenue net of transaction costs for our cohorts has, on average, exceeded 110% year over year.
The size and strength of our payments and POS business have allowed us to develop a deep understanding of our sellers’ business performance and to build a cohesive commerce ecosystem. As such, we are well positioned to provide financial services and marketing services to sellers efficiently and intelligently. For example, one of our financial services, Square Capital, uses our deep understanding of our sellers’ businesses to proactively underwrite and extend cash advances to them. Although Square Capital is still in its early stages, we have already advanced over $225 million since launching it in May 2014. Square Capital demonstrates how our services can rapidly reach significant scale through a combination of strong demand and our direct, ongoing interactions with our sellers. Although Square Capital currently does not contribute a significant amount of revenue to our business relative to our payments and POS services, our software and data product revenue, including revenue derived from Square Capital, has grown quickly, and we expect these products will contribute a larger portion of our total revenue over time. Marketing services, such as Square Customer Engagement, give sellers easy-to-use tools to help them close the loop between communication with a buyer and ultimately a new sale. We currently see more than 1.5 million monthly feedback communications sent by buyers to sellers through digital receipts. Together, our financial services and marketing services provide sellers with access to capital and access to customers, making it easier for them to accomplish their goals.

We are making commerce easy for buyers too. Buyers can now use payment cards at millions of sellers whom we believe previously only accepted cash or checks. Digital receipts give buyers a way to connect directly with their favorite businesses and enable loyalty programs to reward them for their continued business. We provide readers that accept the latest and most secure forms of payment, including EMV and NFC, which enables payment via Apple Pay and Android Pay. We introduced Square Cash as a fast and easy way to make digital payments for both peer-to-peer transactions, such as splitting the bill at dinner, and business services, such as paying a contractor or accountant. Our buyer network strengthens our ecosystem by building meaningful connections between sellers and buyers.

We have grown rapidly since our founding. For the six months ended June 30, 2015, our total net revenue grew to $560.6 million, up 51% from the six months ended June 30, 2014. In 2014, our total net revenue grew to $850.2 million, up 54% from the prior year. For the six months ended June 30, 2015, our Adjusted Revenue grew to $198.8 million, up 67% from the six months ended June 30, 2014. In 2014, our Adjusted Revenue grew to $276.3 million, up 73% from the prior year. Adjusted Revenue is a non-GAAP financial measure that we define as our total net revenue less transaction costs, adjusted to eliminate the effect of activity under our payment processing agreement with Starbucks. In the third quarter of 2012, we signed an agreement to process credit and debit card payment transactions for all Starbucks-owned stores in the United States. The agreement was amended in August 2015 to eliminate the exclusivity provision in order to permit Starbucks to begin transitioning to another payment processor starting October 1, 2015. Under the amendment, Starbucks also agreed to pay increased processing rates to us for as long as they continue to process transactions with us. We anticipate that Starbucks will transition to another payment processor and will cease using our payment processing services prior to the scheduled expiration of the agreement in the third quarter of 2016, and, in any event, we do not intend to renew it when it expires. For more information on Adjusted Revenue, see the section titled “—Key Operating Metrics and

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1 Europay, MasterCard, and Visa (EMV) technology is a global payments standard that places microprocessor chips into credit and debit cards that store and protect cardholder data. Near Field Communication (NFC) is a technology that allows smartphones and other devices, such as payments readers, to communicate when they are close together, enabling transactions that require no physical contact between the payments device and the payments reader.
Non-GAAP Financial Measures.” We intend to continue to make investments that will serve sellers and buyers over the long term even if a return on these investments is not realized in the short term. For the six months ended June 30, 2015 and June 30, 2014, we generated a net loss of $77.6 million and $79.4 million, respectively. In 2014 and 2013, we generated a net loss of $154.1 million and $104.5 million, respectively.

Trends in Our Favor

Local businesses drive the economy

According to the U.S. Census Bureau’s 2012 and 2013 reports and the U.S. Small Business Administration’s March 2014 report, the approximately 30 million small businesses in the United States generated 46% of the nation’s private sector output in 2010. These figures likely underestimate significant parts of the American economy. For example, they do not include the millions of businesses run by freelancers, artists, hobbyists, and others. We believe small businesses will continue to drive the economy as entrepreneurial activity creates millions of businesses each year. The Kauffman Index 2015 report estimates that in 2014 approximately 530,000 new entrepreneurs started businesses each month. Local businesses engage in significant commerce and are essential to the economy and character of local communities, acting as an on-ramp for anyone of any background to participate in economic growth.

Commerce is increasingly digital and mobile

The transition from cash and checks to electronic payments is occurring rapidly. In 2013, U.S. consumer payments totaled $8.9 trillion, including 55% ($4.9 trillion) through payment cards, 17% ($1.6 trillion) through cash, and 11% ($1.0 trillion) through checks, according to The Nilson Report published in December 2014. In 2018, consumer payments are expected to reach $11.4 trillion, with payment cards growing to 66% ($7.6 trillion) and cash and checks declining in use, also according to The Nilson Report published in December 2014. Globally, according to The Nilson Report published in January 2015, global purchase volume on payment cards is expected to increase from $16 trillion in 2013 to $49 trillion in 2023 (a 12% compound annual growth rate).

The rapid growth of mobile devices and associated app stores has provided freedom and accessibility to sellers and buyers, who can now engage in commerce anywhere. An estimated 438 million mobile devices in the United States accessed the internet in 2013, and this is expected to grow to over 690 million devices in 2018.

The shift to authenticated payments technologies creates opportunities for disruption

The shift to both EMV and contactless payments creates an opportunity for providers of more modern and lower cost POS solutions to displace legacy systems, as sellers upgrade to take advantage of increased security, lower financial loss, and an improved buyer experience.
U.S. credit card companies set October 1, 2015, as the date for the national adoption of EMV or chip cards. While this technology is not new globally, and in fact is widely used in most countries, the United States is currently in the process of migrating to EMV technology. Businesses that cannot process chip cards are now held financially responsible for certain fraudulent transactions previously covered by the cardholder’s issuing bank, effectively shifting the liability to sellers. In order to mitigate this liability shift, sellers must upgrade their payment card terminals to EMV compliant hardware. According to the Congressional Research Service 2015 report, as of July 1, 2015, the EMV Migration Forum estimated that only 25% of retailers will be in compliance with the October 1, 2015, transition deadline.

Another developing technology shift is the growing popularity of contactless payments from mobile devices with biometric authentication standards, such as Apple Pay and Android Pay. Contactless payments are a faster, safer, and more convenient experience on both sides of the counter. Accepting contactless payments also requires new technology for most businesses.

Businesses of all sizes need innovative solutions to thrive

As technology and the regulatory environment evolve, sellers of all types and sizes face a continuous need for new solutions. Historically, payments and POS services (across hardware and software), financial services, and marketing services have been limited or nonexistent for many businesses for the following reasons:

• Lack of access. Traditional payments solutions are often prohibitively expensive and difficult to use, and sellers are often denied service by traditional providers. We believe approximately 20 million sellers in the United States do not accept card payments today.

• Disparate and disjointed offerings. Sellers must laboriously piece together hardware, software, and payments services from many different vendors to run their businesses. Because these products and services are not integrated, sellers often resort to reconciling these disparate systems with pen and paper or with spreadsheets.

• Slow, unpredictable access to funds. Traditional payments solutions and financial services often require sellers to wait days or weeks to receive funds. According to a study published by the Federal Reserve Bank of New York in Spring 2014, the average small business loan application process takes 33 hours of work and includes applying to three different financial institutions.

• Lack of transparency. Many traditional providers offer terms and pricing that are opaque, complex, and unpredictable. For example, traditional providers typically charge a wide range of fees that are hard for sellers to understand or anticipate. These fees may include terminal fees, hardware rental fees, payment gateway fees, compliance fees, minimum monthly fees, and reporting fees, in addition to interchange and assessment fees that vary widely across card and transaction types.
Our End-to-End Commerce Ecosystem

Payments are at the heart of commerce and are the foundation of our ecosystem. Every payment a seller accepts creates an opportunity to develop a deeper understanding of his or her business. We use these insights to build additional seller services, which in turn generate more payment activity, bring more buyers into our network, and further strengthen our ecosystem. All of our services feature the following key elements:

- **Access and ease of use.** We design products and services that are simple and intuitive for all sellers.
- **Cohesion.** Services in our ecosystem connect seamlessly with each other, and we design integrated hardware products and software services to provide sellers and buyers with a frictionless experience.
- **Speed and predictability.** We design our products and services to deliver instant value. Sellers can sign up in minutes to take their first payment, getting fast and predictable access to funds.
- **Trust and transparency.** We build a mutually beneficial partnership with our sellers, based on straightforward pricing and dependable services that they can rely on to run and grow their businesses. We also take a differentiated approach to risk management that enables us to approve sellers who may have been denied elsewhere, while keeping our risk and fraud losses low.

Payments and POS services

Our payments and POS services include hardware and software to accept payments, streamline operations, and analyze business information. Square Register, our free POS app, combines with our hardware to turn a mobile device into a powerful POS solution. Our mobile payments and POS services transform the checkout process and advance digital and mobile commerce by untethering sales from long lines and antiquated cash registers. Sellers can also use our services such as Square Analytics and Invoices directly from a mobile device. We regularly add advanced software features for our POS solution for specific types of sellers. We act as the merchant of record for our sellers, which puts us in their shoes with respect to card networks and puts the risk for refunds and chargebacks on us. Because we work directly with payment card networks and banks, sellers do not need to manage the complex systems, rules, and requirements of the payments industry. The benefits to our sellers include fast, easy, and inclusive sign-up; simplicity; affordability; transparent pricing; fast access to funds; and the ability to take payments anywhere, anytime. Buyers benefit from these services by being able to easily pay anyone, anywhere with a payment card or mobile device.

Unburdened by legacy systems, we create technology that makes payments faster and more efficient. In November 2013, we launched Square Cash, an easy way for anyone to send and receive money electronically via email or a mobile app. Individuals and businesses can sign up for a Square Cash account using just a debit card and an email address or phone number. Square Cash started with peer-to-peer payments, which we offer to individuals for free. Square Cash can also help businesses eliminate paper checks and process more of their payments electronically by lowering the cost of payment processing through the use of debit cards. Since launch, people have sent over one billion dollars through Square Cash.
**Financial services**

Just as sellers face many challenges with the traditional system of accepting payment cards, they also face issues accessing and deploying funds to run and grow their businesses. We have applied the same capabilities and insights we used to develop our payments and POS services to address this need as well. We believe our financial services demonstrate the strength of our strategy, execution, and opportunity.

Square Capital provides merchant cash advances to prequalified sellers. We make it easy for sellers to use our service by proactively reaching out to them with an offer of an advance based on their payment processing history. The terms are straightforward, sellers get their funds quickly (often the next business day), and in return, they agree to make payments equal to a percentage of the payment volume we process for them up to a fixed amount. We receive these payments seamlessly through each card transaction we process for them up to a fixed amount. The service has a strong recurring nature, with nearly 90% of sellers who have been offered a second Square Capital advance choosing to accept it. We currently fund a significant majority of these advances from arrangements with third parties that commit to purchase the future receivables related to these advances. This funding significantly increases the speed with which we can scale Square Capital and allows us to mitigate our balance sheet risk.

Payroll is another area where our payments business provides the foundation for the type of opportunity we have realized with Square Capital. Like payments and business financing, payroll services exist within a complex and highly regulated industry. Payroll is one of the largest operating expenses for small businesses. In 2010, small businesses paid 42% of private sector payroll, according to the U.S. Small Business Administration’s March 2014 report. Square Payroll is an affordable, easy-to-use payroll service for sellers, optimized for those with hourly employees. It works seamlessly with Square Register to automatically track employee hours worked. This reduces complexity, saving time and money for our sellers. We recently introduced Square Payroll in California, and we plan to expand it to additional states.

**Marketing services**

We also use the insights derived from our payments and POS services to develop unique marketing services that help our sellers reach customers and increase sales. Square Customer Engagement helps sellers understand their businesses, engage customers in ongoing conversations, and promote their offerings through email marketing. The result is a personalized and improved shopping experience for buyers that helps drive growth for sellers. By linking buyer payment cards and information to marketing efforts conducted in our ecosystem, we have created a closed loop that allows sellers to easily assess the return on their marketing efforts—a difficult feat in the offline world.

Mobile device proliferation has also enabled delivery-as-a-service. Caviar, our food delivery offering, helps restaurants reach customers and increase sales without having to create and manage their own delivery logistics. By providing delivery services for them, Caviar makes it easy for restaurants to expand their reach with little additional overhead. Buyers can access Caviar through our iOS and Android mobile apps or through our Caviar website.
Our Strengths

- **We create technology to transform commerce.** We invest significantly in hardware and software design and engineering to rapidly deploy product updates to sellers and buyers. At the end of 2014, over 45% of our employees served in product engineering, development, and design functions.

- **We have tremendous scale.** Our millions of sellers provide a sizable opportunity for up-selling and cross-selling our products and services. Our scale also enables us to establish favorable partnerships with financial institutions to provide attractive pricing for our sellers.

- **We have a strong brand.** Nearly half of our sellers find us and sign up, rather than us finding them. This is the result of building services that deliver value and that sellers eagerly recommend.

- **We have a deep understanding of our sellers.** Payments and POS activity in our ecosystem allows us to create products and services that address many of the functions our sellers need to operate and grow their businesses.

- **We use a differentiated approach to risk management.** Our risk management approach starts with trusting sellers. We remove the friction of signing up, then use technology to quickly detect and eliminate risky and fraudulent activity. Since inception, we have ceased providing services to fewer than 5% of sellers due to suspected or confirmed fraudulent behavior, their exceeding our risk parameters, their violation of our terms of service, or other concerns. Our risk and fraud losses accounted for approximately 0.1% of GPV in the 12 months ended June 30, 2015.

- **We have a persistent communication channel with our sellers.** Our direct, ongoing interactions with our sellers help us to tailor offerings directly to them, at scale and in the context of their usage. For example, when a seller accesses their Square Dashboard—a centralized hub from where they can view and manage daily business operations—we can automatically send a notification to prompt the seller to sign up for Square Customer Engagement and take action on what they learned. On average, more than 70% of sellers who process more than $125,000 per year engage daily with analytics in their Square Dashboard.

- **We have a large and growing buyer network.** We have a direct relationship with buyers through various touch points in our ecosystem. In 2014, our sellers accepted payments from approximately 144 million payment cards, which we estimate represents approximately one in five active payment cards in circulation in the United States, based on data from The Nilson Report published in February 2015. Our relationship with buyers strengthens our ecosystem and many of our services, including Square Customer Engagement, Square Cash, and Caviar.

Our Growth Strategy

**Enhance our products and services**

- **Innovate to provide sellers with access to new payment methods.** We will continue to introduce new payment products and services, such as Square Cash and Square Readers for newer technologies, for the benefit of new and existing sellers.
• **Increase product and service functionality.** We are focused on improving our products and services so that they are applicable to a wide range of sellers and buyers. For example, our recently introduced open tickets feature in Square Register provides critical functionality to bars and full-service restaurants.

• **Grow our third-party App Marketplace.** We intend to expand the benefits of our services by strategically partnering with third parties, as we have with Intuit and Bigcommerce, to enable sellers to integrate Square with third-party products.

• **Increase third-party funding for Square Capital.** A significant majority of funding for Square Capital currently comes from third parties who commit to purchase the future receivables related to Square Capital advances. We will continue to seek third-party funding for these advances so we can increase our capacity to scale the service and further mitigate our balance sheet risk.

• **Continue to add new products and services that extend our ecosystem.** We will continue to introduce new products and services that can make use of the unique insights we garner from the integration of payments and POS services.

### Extend our reach

• **Strengthen our brand.** We will continue to focus on customer experience and on delivering simple, cohesive services that appeal to our sellers and buyers.

• **Expand marketing channels.** We plan to expand our marketing efforts across new and existing channels, including online and mobile marketing, retail distribution of our hardware products, television and radio advertising, direct response mail, and event marketing.

• **Increase adoption of services within our ecosystem.** We will continue to use our persistent communication channels, such as in-app notifications and dashboard alerts, to highlight to sellers the value of our payments and POS services, financial services, and marketing services.

• **Enhance relationships with larger sellers.** We will continue to invest in our direct sales and account management teams to facilitate the acquisition and support of larger sellers. We use custom pricing to make Square even more compelling for larger businesses.

### Expand globally

• **Expand our payments services into additional countries.** We evaluate many factors when choosing to enter a new country, including market opportunity, technology adoption, and the regulatory environment. We plan to expand into additional countries to broaden payment card acceptance worldwide and to increase our market opportunity.

• **Deploy non-payments-based services to accelerate global efforts.** In countries where regulatory or payment card network requirements constrain our market entry, we may enter first with services other than payments.
Our Current Sellers

Our sellers represent businesses in a diverse set of industries, including retail, services, food, and leisure. We serve sellers of all sizes, ranging from a single vendor at a farmers’ market to multinational businesses. We believe the diversity of our sellers underscores the accessibility of our offerings. We estimate that nearly 50% of our sellers’ businesses are owned or operated by women, versus only 30% of U.S. small businesses. The charts below show the percentage mix of our GPV by seller industry and seller size:
GPV Mix by Seller Size

- **>500K** Annualized GPV
- **$125K - $500K** Annualized GPV
- **<125K** Annualized GPV

<table>
<thead>
<tr>
<th>Year</th>
<th>Q2 2011</th>
<th>Q2 2012</th>
<th>Q2 2013</th>
<th>Q2 2014</th>
<th>Q2 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>1%</td>
<td>7%</td>
<td>2%</td>
<td>4%</td>
<td>7%</td>
<td>11%</td>
</tr>
<tr>
<td>92%</td>
<td>85%</td>
<td>76%</td>
<td>70%</td>
<td>63%</td>
<td></td>
</tr>
</tbody>
</table>

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Risks

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

• Our business depends on a strong and trusted brand, and any failure to maintain, protect, and enhance our brand would hurt our business;

• Our growth may not be sustainable and depends on our ability to retain existing sellers, attract new sellers, and increase sales to both new and existing sellers;

• Our business has generated net losses, and we intend to continue to invest substantially in our business. Thus, we may not be able to achieve or maintain profitability;

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

• Our risk management efforts may not be effective, which could expose us to losses and liability and otherwise harm our business;

• We derive substantially all of our revenue from payments services. Our efforts to expand our product portfolio and market reach may not succeed and may reduce our revenue growth;

• Our success depends on our ability to develop products and services to address the rapidly evolving market for payments and POS, financial, and marketing services, and, if we are not able to implement successful enhancements and new features for our products and services, our business could be materially and adversely affected;

• Substantial and increasingly intense competition in our industry may harm our business;

• We are dependent on payment card networks and acquiring processors, and any changes to their rules or practices could harm our business;

• Our quarterly results of operations and operating metrics fluctuate significantly and are unpredictable and subject to seasonality, which could result in the trading price of our Class A common stock being unpredictable or declining; and

• The dual class structure of our common stock has the effect of concentrating voting control within our existing stockholders, including our employees and directors and their affiliates; this will limit or preclude your ability to influence corporate matters. The holders of our outstanding Class B common stock will hold approximately % of the voting power of our outstanding capital stock following this offering.
### Our Corporate Information

Square was incorporated in Delaware in June 2009. Our headquarters are located at 1455 Market Street, Suite 600, San Francisco, California 94103. Our telephone number is (415) 375-3176. Our website address is www.squareup.com. The information contained in, or accessible through, our website is not part of, and is not incorporated into, this prospectus, and investors should not rely on any such information in deciding whether to invest in our Class A common stock.

We use various trademarks and trade names in our business, including “Square” and Square®, which we have registered in the United States and in various other countries. This prospectus also contains trademarks and trade names of other businesses that are the property of their respective holders. We have omitted the ® and ™ designations, as applicable, for the trademarks we name in this prospectus.

### JOBS Act

We are an “emerging growth company,” as defined in the Jumpstart Our Business Startups Act of 2012 (JOBS Act). We will remain an emerging growth company until the earlier of (1) the last day of the fiscal year (a) following the fifth anniversary of the completion of this offering, (b) in which we have total annual revenue of at least $1.0 billion, or (c) in which we become a large accelerated filer, which means that we have been public for at least 12 months, have filed at least one annual report, and the market value of our common stock that is held by non-affiliates exceeds $700 million as of the last day of our then most recently completed second fiscal quarter, and (2) the date on which we have issued more than $1.0 billion in non-convertible debt during the prior three-year period.

In addition, the JOBS Act provides that an emerging growth company can delay adopting new or revised accounting standards until such time as those standards apply to private companies. We have irrevocably elected not to avail ourselves of this exemption and, therefore, we will be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies.
## The Offering

<table>
<thead>
<tr>
<th>Description</th>
<th>Shares</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class A common stock offered by us</td>
<td></td>
</tr>
<tr>
<td>Class A common stock offered by the selling stockholder</td>
<td></td>
</tr>
<tr>
<td>Class A common stock to be outstanding after this offering</td>
<td></td>
</tr>
<tr>
<td>Class B common stock to be outstanding after this offering</td>
<td></td>
</tr>
<tr>
<td>Total Class A common stock and Class B common stock to be outstanding after this offering</td>
<td></td>
</tr>
<tr>
<td>Option to purchase additional shares of Class A common stock offered by us</td>
<td></td>
</tr>
</tbody>
</table>

### Use of proceeds

We intend to use the net proceeds from this offering primarily for working capital and general corporate purposes. We also may use a portion of the net proceeds from this offering for acquisitions of complementary businesses, technologies, or other assets. We have not entered into any agreements or commitments with respect to any specific acquisitions and have no understandings or agreements with respect to any such acquisition or investment at this time. We will not receive any proceeds from the sale of shares of our Class A common stock by the selling stockholder. See the section titled “Use of Proceeds.”

### Voting rights

Shares of our Class A common stock are entitled to one vote per share. Shares of our Class B common stock are entitled to 10 votes per share.

Holders of our Class A common stock and Class B common stock will generally vote together as a single class, unless otherwise required by law or our amended and restated certificate of incorporation. The holders of our outstanding Class B common stock will hold approximately % of the voting power of our outstanding capital stock following this offering and will have the ability to control the outcome of matters submitted to our stockholders for approval, including the election of our directors and the approval of any change in control transaction. See the sections titled “Principal and Selling Stockholders” and “Description of Capital Stock” for additional information.
Directed share program

At our request, the underwriters have reserved for sale, at our initial public offering price, up to % of the Class A common stock offered hereby to our existing sellers. The sales will be made through a directed share program through the LOYAL3 Platform. The shares being made available for this program are being sold by the Start Small Foundation as the selling stockholder.

Conflicts of Interest

Because J.P. Morgan Securities LLC is an underwriter in this offering and its affiliates collectively beneficially own more than 10% of our outstanding convertible preferred stock, all of which will convert into shares of Class B common stock in connection with this offering, J.P. Morgan Securities LLC is deemed to have a “conflict of interest” under Rule 5121 of Financial Industry Regulatory Authority Inc. (Rule 5121). Accordingly, this offering will be made in compliance with the applicable provisions of Rule 5121. The rule requires that a “qualified independent underwriter” meeting certain standards participate in the preparation of the registration statement and prospectus and exercise the usual standards of due diligence with respect thereto. Morgan Stanley & Co. LLC has agreed to act as a “qualified independent underwriter” within the meaning of Rule 5121 in connection with this offering. See “Underwriting (Conflicts of Interest).”

Proposed NYSE trading symbol

“SQ”

The number of shares of common stock to be outstanding after this offering is based on no shares of our Class A common stock and 291,005,896 shares of our Class B common stock (including preferred stock on an as-converted basis) outstanding as of June 30, 2015 and excludes the following:

- 103,627,701 shares of our Class B common stock issuable upon the exercise of options to purchase shares of our common stock outstanding as of June 30, 2015, with a weighted-average exercise price of $6.51 per share;
- 5,800,200 shares of our Class B common stock issuable upon the exercise of options to purchase shares of our common stock granted after June 30, 2015, with a weighted-average exercise price of $15.23 per share;
- 100,900 shares of our Class B common stock issuable upon the vesting of restricted stock units (RSUs) granted after June 30, 2015;
- 15,848,260 shares of our Class B common stock issuable upon the exercise of warrants outstanding as of June 30, 2015, with a weighted-average exercise price of $12.29 per share; and
- shares of our Class A common stock reserved for future issuance under our equity compensation plans, consisting of:
  - shares of our Class A common stock reserved for future issuance under our 2015 Equity Incentive Plan (2015 Plan), which will become effective prior to the completion of this offering; and
shares of our Class A common stock reserved for future issuance under our 2015 Employee Stock Purchase Plan (ESPP), which will become effective prior to the completion of this offering.

Our 2015 Plan and ESPP each provide for annual automatic increases in the number of shares reserved thereunder, and our 2015 Plan also provides for increases in the number of shares reserved thereunder based on awards under certain of our other equity compensation plans that expire, are forfeited, or are otherwise repurchased by us. See the section titled “Executive Compensation—Employee Benefit and Stock Plans” for additional information.

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

- the filing and effectiveness of our amended and restated certificate of incorporation and the effectiveness of our amended and restated bylaws, each of which will occur immediately prior to the completion of this offering;
- the reclassification of all outstanding shares of our common stock into an equivalent number of shares of our Class B common stock, which will occur prior to the completion of this offering, and the authorization of our Class A common stock;
- the automatic conversion and reclassification of all outstanding shares of our convertible preferred stock into an aggregate of 135,252,809 shares of our Class B common stock, which will occur immediately prior to the completion of this offering; and
- no exercise by the underwriters of their option to purchase additional shares.
Summary Consolidated Financial and Other Data

The following summary consolidated statement of operations data for the years ended December 31, 2012, 2013, and 2014, and the consolidated balance sheet data as of December 31, 2013 and 2014, have been derived from our audited consolidated financial statements and related notes included elsewhere in this prospectus. The summary consolidated statement of operations data for the six months ended June 30, 2014 and 2015, and the consolidated balance sheet data as of June 30, 2015, have been derived from our unaudited interim consolidated financial statements and related notes included elsewhere in this prospectus. The unaudited interim consolidated financial statements have been prepared on the same basis as the audited financial statements and reflect, in the opinion of management, all adjustments, which include only normal, recurring adjustments that are necessary to present fairly the unaudited interim consolidated financial statements. Our historical results are not necessarily indicative of the results that may be expected in the future, and the results in the six months ended June 30, 2015, are not necessarily indicative of results to be expected for the full year or any other period, in part because we do not intend to renew our payment processing agreement with Starbucks when it expires in the third quarter of 2016. Further, in August 2015 we amended our payment processing agreement with Starbucks to eliminate the exclusivity provision in order to permit Starbucks to begin transitioning to another payment processor starting October 1, 2015. Under the amendment, Starbucks also agreed to pay increased processing rates to us for as long as they continue to process transactions with us. We anticipate that Starbucks will transition to another payment processor and will cease using our payment processing services prior to the scheduled expiration of the agreement in the third quarter of 2016. As a result, Starbucks payment processing volumes may decrease meaningfully in the future, and may cease entirely prior to the scheduled expiration of the agreement in the third quarter of 2016. You should read the consolidated financial and other data below in conjunction with the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements and related notes included elsewhere in this prospectus.
Consolidated Statement of Operations Data:

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>Year Ended December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
</tr>
<tr>
<td></td>
<td>(in thousands)</td>
</tr>
<tr>
<td>Revenue:</td>
<td></td>
</tr>
<tr>
<td>Transaction revenue</td>
<td>$193,978</td>
</tr>
<tr>
<td>Starbucks transaction revenue</td>
<td>9,471</td>
</tr>
<tr>
<td>Software and data product revenue</td>
<td>—</td>
</tr>
<tr>
<td>Hardware revenue</td>
<td>—</td>
</tr>
<tr>
<td>Total net revenue</td>
<td>203,449</td>
</tr>
<tr>
<td>Cost of revenue:</td>
<td></td>
</tr>
<tr>
<td>Transaction costs</td>
<td>126,351</td>
</tr>
<tr>
<td>Starbucks transaction costs</td>
<td>12,547</td>
</tr>
<tr>
<td>Software and data product costs</td>
<td>—</td>
</tr>
<tr>
<td>Hardware costs</td>
<td>—</td>
</tr>
<tr>
<td>Amortization of acquired technology</td>
<td>—</td>
</tr>
<tr>
<td>Total cost of revenue</td>
<td>138,898</td>
</tr>
<tr>
<td>Gross profit</td>
<td>64,551</td>
</tr>
<tr>
<td>Operating expenses:</td>
<td></td>
</tr>
<tr>
<td>Product development</td>
<td>46,568</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>56,648</td>
</tr>
<tr>
<td>General and administrative</td>
<td>36,184</td>
</tr>
<tr>
<td>Transaction and advance losses</td>
<td>10,512</td>
</tr>
<tr>
<td>Amortization of acquired customer assets</td>
<td>—</td>
</tr>
<tr>
<td>Impairment of intangible assets</td>
<td>—</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>149,912</td>
</tr>
<tr>
<td>Operating loss</td>
<td>(85,361)</td>
</tr>
<tr>
<td>Interest (income) and expense</td>
<td>5</td>
</tr>
<tr>
<td>Other (income) and expense</td>
<td>(167)</td>
</tr>
<tr>
<td>Loss before income tax</td>
<td>(85,199)</td>
</tr>
<tr>
<td>Provision (benefit) for income taxes</td>
<td>—</td>
</tr>
<tr>
<td>Net loss</td>
<td>$ (85,199)</td>
</tr>
</tbody>
</table>

Operating expenses include share-based compensation expense as follows:

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>Year Ended December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
</tr>
<tr>
<td></td>
<td>(in thousands)</td>
</tr>
<tr>
<td>Product development</td>
<td>$3,984</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>668</td>
</tr>
<tr>
<td>General and administrative</td>
<td>3,462</td>
</tr>
<tr>
<td>Total share-based compensation</td>
<td>$8,114</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(in thousands)</td>
<td>(in thousands)</td>
<td>(unaudited)</td>
</tr>
</tbody>
</table>

### Consolidated Balance Sheet Data:

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash and cash equivalents</td>
<td>$166,176</td>
<td>$225,300</td>
<td>$197,940</td>
</tr>
<tr>
<td>Settlements receivable</td>
<td>$ 64,968</td>
<td>$115,481</td>
<td>$171,845</td>
</tr>
<tr>
<td>Working capital</td>
<td>$124,061</td>
<td>$218,761</td>
<td>$168,658</td>
</tr>
<tr>
<td>Total assets</td>
<td>$318,341</td>
<td>$541,888</td>
<td>$618,559</td>
</tr>
<tr>
<td>Customers payable</td>
<td>$ 95,794</td>
<td>$148,648</td>
<td>$215,892</td>
</tr>
<tr>
<td>Total stockholders' equity</td>
<td>$162,294</td>
<td>$273,572</td>
<td>$262,047</td>
</tr>
</tbody>
</table>

### Key Operating Metrics and Non-GAAP Financial Measures

We collect and analyze operating and financial data to evaluate the health of our business, allocate our resources, and assess our performance. In addition to revenue, net loss, and other results under generally accepted accounting principles (GAAP), the following table sets forth key operating metrics and non-GAAP financial measures we use to evaluate our business. Each of these metrics and measures excludes the effect of our payment processing agreement with Starbucks. We do not intend to renew our payment processing agreement with Starbucks when it expires in the third quarter of 2016, and we amended the agreement in August 2015 to eliminate the exclusivity provision in order to permit Starbucks to begin transitioning to another payment processor starting October 1, 2015. Under the amendment, Starbucks also agreed to pay increased processing rates to us for as long as they continue to process transactions with us. We anticipate that Starbucks will transition to another payment processor and will cease using our payment processing services prior to the scheduled expiration of the agreement in the third quarter of 2016. As a result, we believe it is useful to exclude Starbucks activity to clearly show the impact Starbucks has had on our financial results historically, to provide insight into the impact of the expected termination of the Starbucks agreement on our revenues in the future, to facilitate period-to-period comparisons of our business, and to facilitate comparisons of our performance to that of other payment processors. Our agreements with sellers, including Starbucks following the amendment described above, generally provide both our sellers and us the unilateral right to terminate such agreements at any time, without fine or penalty. Furthermore, we generally do not enter into long-term contractual agreements with sellers.


| Gross Payment Volume (GPV) (in millions) | $ 6,518 | $14,819 | $23,780 |
| Adjusted Revenue                      | $ 67,627 | $160,144 | $276,310 |
| Adjusted EBITDA                       | $(70,579) | $(51,530) | $(67,741) |

### Six Months Ended June 30, 2014, 2015

| Gross Payment Volume (GPV) (in millions) | $ 10,395 | $15,898 |
| Adjusted Revenue                      | $119,189 | $198,776 |
| Adjusted EBITDA                       | $(44,002) | $(19,270) |
**Gross Payment Volume (GPV)**

We define GPV as the total dollar amount of all card payments processed by sellers using Square, net of refunds. GPV excludes card payments processed for Starbucks. Additionally, GPV excludes activity related to our Square Cash peer-to-peer payments service.

**Adjusted Revenue**

Adjusted Revenue is a non-GAAP financial measure that we define as our total net revenue less transaction costs, adjusted to eliminate the effect of activity under our payment processing agreement with Starbucks. As described above, we anticipate that Starbucks will transition to another payment processor and will cease using our payment processing services in the future, and we believe that providing Adjusted Revenue metrics that exclude the impact of our agreement with Starbucks is useful to investors.

We believe it is useful to exclude transaction costs, substantially all of which are interchange fees set by payment card networks and paid to card issuers. The remainder of our transaction costs consists of assessment fees paid to payment card networks, fees paid to third-party payment processors, and bank settlement fees. While some payment processors present their revenue in a similar fashion to us, others present their revenue net of transaction costs because they pass through these costs directly to their sellers. Under our standard pricing model, we do not pass through these costs directly to our sellers.

Adjusted Revenue has limitations as a financial measure, should be considered as supplemental in nature, and is not meant as a substitute for the related financial information prepared in accordance with GAAP. These limitations include the following:

- Adjusted Revenue excludes transaction costs, which is our largest cost of revenue item; and
- other companies, including companies in our industry, may calculate Adjusted Revenue differently from how we calculate this measure or not at all, which reduces its usefulness as a comparative measure.

Because of these limitations, you should consider Adjusted Revenue alongside other financial performance measures, including total net revenue and our financial results presented in accordance with GAAP. The following table presents a reconciliation of total net revenue to Adjusted Revenue for each of the periods indicated:

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31</th>
<th>Six Months Ended June 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>2013</td>
</tr>
<tr>
<td>(in thousands)</td>
<td>(inaudited)</td>
<td>(inaudited)</td>
</tr>
<tr>
<td>Total net revenue</td>
<td>$203,449</td>
<td>$552,433</td>
</tr>
<tr>
<td>Less: Starbucks transaction revenue</td>
<td>9,471</td>
<td>114,456</td>
</tr>
<tr>
<td>Less: transaction costs</td>
<td>126,351</td>
<td>277,833</td>
</tr>
<tr>
<td>Adjusted Revenue</td>
<td>$67,627</td>
<td>$160,144</td>
</tr>
</tbody>
</table>
Adjusted EBITDA

Adjusted EBITDA is a non-GAAP financial measure that represents our net loss, adjusted to eliminate the effect of Starbucks transaction revenue and Starbucks transaction costs, before interest income and expense, provision or benefit for income taxes, depreciation, amortization, share-based compensation expense, other income and expense, the gain or loss on the sale of property and equipment, and impairment of intangible assets. We have included Adjusted EBITDA in this prospectus because it is a key measure used by our management to evaluate our operating performance, generate future operating plans, and make strategic decisions, including those relating to operating expenses and the allocation of internal resources. Accordingly, we believe that Adjusted EBITDA provides useful information to investors and others in understanding and evaluating our operating results in the same manner as our management and board of directors. In addition, it provides a useful measure for period-to-period comparisons of our business as it removes the effect of certain non-cash items and certain variable charges.

We believe it is useful to exclude non-cash charges, such as depreciation and amortization and share-based compensation expenses, from our Adjusted EBITDA because the amount of such expenses in any specific period may not directly correlate to the underlying performance of our business operations. We exclude Starbucks transaction revenue and Starbucks transaction costs because we anticipate that Starbucks will transition to another payment processor in the future. As described above, we anticipate Starbucks will cease using our payment processing services in the future and believe that providing Adjusted EBITDA metrics that exclude the impact of our agreement with Starbucks is useful to investors. We exclude gain or loss on the sale of property and equipment, and impairment of intangible assets from Adjusted EBITDA because we do not believe that these items are reflective of our ongoing business operations. Adjusted EBITDA has limitations as a financial measure, should be considered as supplemental in nature, and is not meant as a substitute for the related financial information prepared in accordance with GAAP. These limitations include the following:

- although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future, and Adjusted EBITDA does not reflect cash capital expenditure requirements for such replacements or for new capital expenditures or other capital commitments;

- Adjusted EBITDA does not reflect changes in, or cash requirements for, our working capital needs;

- Adjusted EBITDA does not reflect the effect of income taxes that may represent a reduction in cash available to us;

- Adjusted EBITDA does not reflect the effect of foreign currency exchange gains or losses which is included in other income and expense; and

- other companies, including companies in our industry, may calculate Adjusted EBITDA differently from how we calculate this measure or not at all, which reduces its usefulness as a comparative measure.
Because of these limitations, you should consider Adjusted EBITDA alongside other financial performance measures, including net loss and our other financial results presented in accordance with GAAP. The following table presents a reconciliation of net loss to Adjusted EBITDA for each of the periods indicated:

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31</th>
<th>Six Months Ended June 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012 (in thousands)</td>
<td>2013</td>
</tr>
<tr>
<td>Net loss</td>
<td>$(85,199)</td>
<td>$(104,493)</td>
</tr>
<tr>
<td>Starbucks transaction revenue</td>
<td>9,471</td>
<td>114,456</td>
</tr>
<tr>
<td>Starbucks transaction costs</td>
<td>12,547</td>
<td>139,803</td>
</tr>
<tr>
<td>Share-based compensation expense</td>
<td>8,114</td>
<td>14,658</td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>3,579</td>
<td>8,272</td>
</tr>
<tr>
<td>Interest (income) and expense</td>
<td>5</td>
<td>(12)</td>
</tr>
<tr>
<td>Other (income) and expense</td>
<td>(167)</td>
<td>(950)</td>
</tr>
<tr>
<td>Provision (benefit) for income taxes</td>
<td>—</td>
<td>513</td>
</tr>
<tr>
<td>Loss on sale of property and equipment</td>
<td>13</td>
<td>2,705</td>
</tr>
<tr>
<td>Impairment of intangible assets</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Adjusted EBITDA</td>
<td>$(70,579)</td>
<td>$(51,530)</td>
</tr>
</tbody>
</table>
A NOTE FROM JACK

We started Square because Jim McKelvey, our co-founder and my second boss (after my mother!), couldn’t accept a credit card for his art.

Setting up a merchant account was painful. The application process required lots of paperwork and took months. Banks asked for multiple credit checks and years of financial history. And when we were finally approved to accept cards, we couldn’t decipher the rates we were paying. Then our first deposit was held. The entire process was exclusionary and unfair.

Square was born out of our experience. We built a working prototype: a mobile credit card reader that plugged into the audio jack of an iPhone and an app to enter an amount and process the payment. But it took us a year to convince the financial industry to allow us to make Square broadly available. The problem was not with the technology, but with the system.

We decided to make the entire system faster, more affordable, and more accessible. We gave the card reader and software away for free. We settled funds next business morning, which required us to advance money to sellers faster than we received it. We abstracted away the byzantine maze of interchange pricing to offer a simple fixed rate per swipe, which forced us to find ways to lower our costs immediately. Every one of those decisions carried existential risks that we trusted we’d be able to overcome with time. And we have!

Creating more inclusion and greater equality in the global economy is both a social need and a huge business opportunity. We’ve made it our purpose: empower people with beautifully simple tools that give them an advantage where they previously and unfairly had none. Our strategy to realize that purpose is straightforward: grow our payments service, extend payments into financial services, and extend payments into marketing services.

We’ve built one of the fairest and most efficient payments businesses in the world. We made it possible to accept card payments in less than five minutes. We priced all payment cards at the same flat rate and eliminated complicated fees. With Square Cash we’ve built a network that works for both individuals and businesses, online and offline. We believe sellers should be able to accept any type of payment, from cash to cards, Apple Pay to bitcoin, and whatever the future may bring, so they never miss a sale.

The strength of this business is more than the money it generates. The collective power of our millions of sellers sustains a scale from which we can build valuable financial services and marketing services, creating reinforcing and virtuous cycles back to our core business of payments. We’ve made getting capital as easy as tapping a button. We replaced pen and paper accounting with real-time insights into sales patterns and customer trends. Everything works together seamlessly to help our sellers make smart decisions for their businesses. When they succeed, we succeed.

By making our services accessible to everyone, we can build a more fair and productive system that serves instead of rules. This is both good for Square and the right thing to do. We’re off to a strong start.

As a public company our decisions will continue to reflect what we’ve done as a private one—we put our customers first. That means constantly asking the question: how can the financial system better serve people? We’ll measure ourselves by our commitment to take the long view and focus on building a company that creates value over decades and not just a few fiscal quarters out.
I believe so much in the potential of this company to drive positive impact in my lifetime that over the past two years I have given over 15 million shares, or 20% of my own equity, back to both Square and the Start Small Foundation, a new organization I created to meaningfully invest in the folks who inspire us: artists, musicians, and local businesses, with a special focus on underserved communities around the world. The shares being made available for the directed share program in this offering are being sold by the Start Small Foundation, giving Square customers the ability to buy equity to support the Foundation. I have also committed to give 40 million more of my shares, an additional 10% of the company, to invest in this cause. I’d rather have a smaller part of something big than a bigger part of something small.

We intend to make this big! Thank you for your support and potential investment in Square.

Jack
RISK FACTORS

Investing in our Class A common stock involves a high degree of risk. You should carefully consider the risks and uncertainties described below, together with all of the other information in this prospectus, including the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements and related notes, before making a decision to invest in our Class A common stock. The risks and uncertainties described below may not be the only ones we face. If any of the risks actually occur, our business could be materially and adversely affected. In that event, the market price of our Class A common stock could decline, and you could lose part or all of your investment. See the sections titled “Special Note Regarding Forward-Looking Statements” and “Industry and Market Data.”

Risks Related to Our Business and Our Industry

Our business depends on a strong and trusted brand, and any failure to maintain, protect, and enhance our brand would hurt our business.

We have developed a strong and trusted brand that has contributed significantly to the success of our business. Our brand is predicated on the idea that sellers and buyers will trust us and find value in building and growing their businesses with our products and services. Maintaining, protecting, and enhancing our brand is critical to expanding our base of sellers, buyers, and other third-party partners, as well as increasing engagement with our products and services. This will depend largely on our ability to maintain trust, be a technology leader, and continue to provide high-quality and secure products and services. Any negative publicity about our industry or our company, the quality and reliability of our products and services, our risk management processes, changes to our products and services, our ability to effectively manage and resolve seller and buyer complaints, our privacy and security practices, litigation, regulatory activity, and the experience of sellers and buyers with our products or services, could adversely affect our reputation and the confidence in and use of our products and services. Harm to our brand can arise from many sources, including failure by us or our partners to satisfy expectations of service and quality; inadequate protection of sensitive information; compliance failures and claims; litigation and other claims; employee misconduct; and misconduct by our partners, service providers, or other counterparties. If we do not successfully maintain a strong and trusted brand, our business could be materially and adversely affected.

Our growth may not be sustainable and depends on our ability to retain existing sellers, attract new sellers, and increase sales to both new and existing sellers.

Our total net revenue grew to $850.2 million in 2014 from $203.4 million in 2012 and to $560.6 million for the six months ended June 30, 2015, from $371.9 million for the six months ended June 30, 2014. We expect our rate of revenue growth will decline, and it may decline more quickly than we expect for a variety of reasons, including the risks described in this prospectus. We also anticipate that Starbucks will transition to another payment processor and will cease using our payment processing services prior to the scheduled expiration of our payment processing agreement with them in the third quarter of 2016. As a result, our total net revenue may decrease meaningfully in the future. Our sellers and other users of our services have no obligation to continue to use our services, and we cannot assure you that they will. We generally do not have long-term contracts with our sellers, and the difficulty and costs associated with switching to a competitor may not be significant for many of our services. Our sellers’ payment processing activity with us may decrease for a variety of reasons, including sellers’ level of satisfaction with our products and services, the effectiveness of our support services, our
pricing, the pricing and quality of competing products or services, the effects of global economic conditions, or reductions in our sellers’ customer spending levels. In addition, the growth of our business depends in part on existing sellers expanding their use of our products and services. If we are unable to encourage sellers to broaden their use of our services, our growth may slow or stop, and our business may be materially and adversely affected. The growth of our business also depends on our ability to attract new sellers, to encourage larger sellers to use our products and services, and to introduce successful new products and services. We have invested in new products and services, including Square Cash and Caviar, and will continue to invest in new products and services, but if those products and services fail to be successful, our growth may slow or decline.

Our business has generated net losses, and we intend to continue to invest substantially in our business. Thus, we may not be able to achieve or maintain profitability.

We generated net losses of $85.2 million, $104.5 million, and $154.1 million in 2012, 2013, and 2014, respectively. As of December 31, 2014, we had an accumulated deficit of $395.6 million. For the six months ended June 30, 2015, we generated a net loss of $77.6 million. As of June 30, 2015, we had an accumulated deficit of $473.2 million. We intend to continue to make significant investments in our business, including with respect to our employee base; sales and marketing, including expenses relating to increased direct marketing efforts, referral programs, and free hardware and subsidized services; development of new products, services, and features; expansion of office space and other infrastructure; expansion of international operations; and general administration, including legal, finance, and other compliance expenses related to being a public company. If the costs associated with acquiring and supporting new or larger sellers materially rise in the future, including the fees we pay to third parties to advertise our products and services, our expenses may rise significantly. In addition, increases in our seller base could cause us to incur increased losses, because costs associated with new sellers are generally incurred up front, while revenue is recognized thereafter as sellers utilize our services. If we are unable to generate adequate revenue growth and manage our expenses, we may continue to incur significant losses and may not achieve or maintain profitability.

We frequently make decisions that may reduce our short-term operating results if we believe those decisions will improve the experiences of our sellers, their customers, and other users of our products and services, which we believe will improve our operating results over the long term. These decisions may not be consistent with the expectations of investors and may not produce the long-term benefits that we expect, in which case our business may be materially and adversely affected.

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

We, our sellers, and our partners, including third-party data centers that we use, obtain and process large amounts of sensitive data, including data related to our sellers, their customers, and their transactions. This is also true of other users of our services, such as Square Cash and Square Payroll. We face risks, including to our reputation as a trusted brand, in the handling and protection of this data, and these risks will increase as our business continues to expand. Our operations involve the storage and transmission of sensitive information of individuals using our services, including their names, addresses, social security numbers, payment card numbers and expiration dates, bank account information, and data regarding the performance of our sellers’ businesses. We also obtain sensitive information regarding our sellers’ customers, including their contact information, payment card numbers and expiration dates, and purchase histories. We
have administrative, technical, and physical security measures in place, and have policies and procedures in place to contractually require third parties to whom we transfer data to implement and maintain appropriate security measures. However, if our security measures or those of the previously mentioned third parties are inadequate or are breached as a result of third-party action, employee error, malfeasance, malware, phishing, hacking attacks, system error, trickery, or otherwise, and, as a result, someone obtains unauthorized access to sensitive information, including personally identifiable information, on our systems or our partners’ systems, our reputation and business could be damaged. If the sensitive information is lost or improperly disclosed or threatened to be disclosed, we could incur significant liability and be subject to regulatory scrutiny and penalties, including costs associated with remediating the breach. Under payment card rules and our contracts with our card processors, if there is a breach of payment card information that we store or that is stored by our sellers or other third parties with which we do business, we could be liable to the payment card issuing banks for their cost of issuing new cards and other related expenses. Additionally, if our own confidential business information were improperly disclosed, our business could be materially and adversely affected. A core aspect of our business is the reliability and security of our payments platform. Any perceived or actual breach of security could have a significant impact on our reputation as a trusted brand, cause us to lose existing sellers, prevent us from obtaining new sellers, require us to expend significant funds to remedy problems caused by breaches and to implement measures to prevent further breaches, and expose us to legal risk and potential liability. Any security breach at a company providing services to us, our sellers, or other users of our services could have similar effects.

Our risk management efforts may not be effective, which could expose us to losses and liability and otherwise harm our business.

We offer payments services and other products and services to a large number of customers, and we are responsible for vetting and monitoring these customers and determining whether the transactions we process for them are legitimate. When our products and services are used to process illegitimate transactions, and we settle those funds to sellers and are unable to recover them, we suffer losses and liability. These types of illegitimate transactions can also expose us to governmental and regulatory sanctions. The highly automated nature of, and liquidity offered by, our payments services make us a target for illegal or improper uses, including fraudulent or illegal sales of goods or services, money laundering, and terrorist financing. Identity thieves and those committing fraud using stolen or fabricated credit card or bank account numbers, or other deceptive or malicious practices, potentially can steal significant amounts of money from businesses like ours. In configuring our payments services, we face an inherent trade-off between security and customer convenience. Our risk management policies, procedures, techniques, and processes may not be sufficient to identify all of the risks to which we are exposed, to enable us to mitigate the risks we have identified, or to identify additional risks to which we may become subject in the future. As a greater number of larger sellers use our services, our exposure to material risk losses from a single seller, or from a small number of sellers, will increase. For example, in the three months ended March 31, 2015, we recorded a loss of approximately $5.7 million related to fraud by a single seller using our payments services. In addition, when we introduce new services, focus on new business types, or begin to operate in markets where we have a limited history of fraud loss, we may be less able to forecast and reserve accurately for those losses. Furthermore, if our risk management policies and processes contain errors or are otherwise ineffective, we may suffer large financial losses, we may be subject to civil and criminal liability, and our business may be materially and adversely affected.

We are currently, and will continue to be, exposed to risks associated with chargebacks and refunds in connection with payment card fraud or relating to the goods or services provided by our sellers. In the event that a billing dispute between a cardholder and a seller is not resolved in favor of the seller, including in situations where the seller engaged in
fraud, the transaction is typically “charged back” to the seller and the purchase price is credited or otherwise refunded to the cardholder. If we are unable to collect chargeback or refunds from the seller’s account, or if the seller refuses to or is unable to reimburse us for a chargeback or refunds due to closure, bankruptcy, or other reasons, we may bear the loss for the amounts paid to the cardholder. Beginning October 2015, businesses that cannot process EMV chip cards are held financially responsible for certain fraudulent transactions conducted using chip-enabled cards. This will shift an increased amount of the risk for certain fraudulent transactions from the issuing banks to these sellers, which may result in our having to seek an increased level of reimbursement for chargebacks from our sellers that do not deploy EMV compliant card readers. Our financial results would be adversely affected to the extent these sellers do not fully reimburse us for the related chargebacks. We do not collect and maintain reserves from our sellers to cover these potential losses, and for customer relations purposes we sometimes decline to seek reimbursement for certain chargebacks. The risk of chargebacks is typically greater with those of our sellers that promise future delivery of goods and services, which we allow on our service. If we are unable to maintain our losses from chargebacks at acceptable levels, the payment card networks could fine us, increase our transaction fees, or terminate our ability to process payment cards. Any increase in our transaction fees could damage our business, and if we were unable to accept payment cards, our business would be materially and adversely affected.

We derive substantially all of our revenue from payments services. Our efforts to expand our product portfolio and market reach may not succeed and may reduce our revenue growth.

We derive substantially all of our revenue from transaction fees we collect in connection with payments services. While we intend to continue to broaden the scope of products and services we offer, we may not be successful in deriving any significant revenue from these products and services. Failure to broaden the scope of products and services that are attractive may inhibit the growth of repeat business and harm our business, as well as increase the vulnerability of our core payments business to competitors offering a full suite of products and services. Furthermore, we may have limited or no experience in our newer markets. For example, we cannot assure you that any financial services and marketing services will be widely used. These offerings may present new and difficult technology, operational, and other challenges, and if we experience service disruptions, failures, or other issues, our business may be materially and adversely affected. Our newer activities may not recoup our investments in a timely manner or at all. If any of this were to occur, it could damage our reputation, limit our growth, and materially and adversely affect our business.

Our success depends on our ability to develop products and services to address the rapidly evolving market for payments and POS, financial, and marketing services, and, if we are not able to implement successful enhancements and new features for our products and services, our business could be materially and adversely affected.

We expect that new services and technologies applicable to the industries in which we operate will continue to emerge and evolve. Rapid and significant technological changes continue to confront the industries in which we operate, including developments in ecommerce, mobile commerce, and proximity payment devices (including contactless payments via NFC technology). Other potential changes are on the horizon as well, such as developments in crypto-currencies and in tokenization, which replaces sensitive data (e.g., payment card information) with symbols (tokens) to keep the data safe in the event that it ends up in the wrong hands. Similarly, there is rapid innovation in the provision of other products and services to businesses, including in financial services and marketing services.
These new services and technologies may be superior to, impair, or render obsolete the products and services we currently offer or the technologies we currently use to provide them. Incorporating new technologies into our products and services may require substantial expenditures and take considerable time, and we may not be successful in realizing a return on these development efforts in a timely manner or at all. There can be no assurance that any new products or services we develop and offer to our sellers will achieve significant commercial acceptance. For example, in 2011, we introduced Square Wallet, a mobile payment app, and discontinued it in May 2014. Our ability to develop new products and services may be inhibited by industry-wide standards, payment card networks, laws and regulations, resistance to change from buyers or sellers, or third parties’ intellectual property rights. Our success will depend on our ability to develop new technologies and to adapt to technological changes and evolving industry standards. If we are unable to provide enhancements and new features for our products and services or to develop new products and services that achieve market acceptance or that keep pace with rapid technological developments and evolving industry standards, our business would be materially and adversely affected.

The success of enhancements, new features, and products and services depends on several factors, including the timely completion, introduction, and market acceptance of the enhancements or new features or services. We often rely not only on our own initiatives and innovations, but also on third parties, including some of our competitors, for the development of and access to new technologies. For example, we have recently introduced a chip and contactless reader combining EMV and NFC technologies, but we do not yet know whether this reader will be supported by other important industry participants or gain wide market acceptance. Failure to accurately predict or to respond effectively to developments in our industry may significantly impair our business.

In addition, because our products and services are designed to operate with a variety of systems, infrastructures, and devices, we need to continuously modify and enhance our products and services to keep pace with changes in mobile, software, communication, and database technologies. We may not be successful in either developing these modifications and enhancements or in bringing them to market in a timely and cost-effective manner. Any failure of our products and services to continue to operate effectively with third-party infrastructures and technologies could reduce the demand for our products and services, result in dissatisfaction of our sellers or their customers, and materially and adversely affect our business.

**Substantial and increasingly intense competition in our industry may harm our business.**

We compete in markets characterized by vigorous competition, changing technology, changing seller and buyer needs, evolving industry standards, and frequent introductions of new products and services. We expect competition to intensify in the future as existing and new competitors introduce new services or enhance existing services. We compete against many companies to attract customers, and some of these companies have greater financial resources and substantially larger bases of customers than we do, which may provide them with significant competitive advantages. These companies may devote greater resources to the development, promotion, and sale of products and services, and they may offer lower prices or more effectively introduce their own innovative products and services that adversely impact our growth. Mergers and acquisitions by these companies may lead to even larger competitors with more resources. We also expect new entrants to offer competitive products and services. Certain sellers have longstanding exclusive, or nearly exclusive, relationships with our competitors to accept payment cards and other services that we offer. These relationships may make it difficult or cost-prohibitive for us to conduct material amounts of business with them. Competing services tied to established brands may engender greater confidence in the safety and efficacy of their services. If we are unable to differentiate ourselves from and successfully compete with our competitors, our business will be materially and adversely affected.

We may also face pricing pressures from competitors. Some potential competitors are able to offer lower prices to sellers for similar services by cross-subsidizing their payments services through other services they offer. Such competition
may result in the need for us to alter the pricing we offer to our sellers and could reduce our gross profit. In addition, as we grow, sellers may demand more customized and favorable pricing from us, and competitive pressures may require us to agree to such pricing, further reducing our gross profit. We currently negotiate pricing discounts and other incentive arrangements with certain large sellers to increase acceptance and usage of our products and services. If we continue this practice and if an increasing proportion of our sellers are large sellers, we may have to increase the discounts or incentives we provide, which could also reduce our gross profit.

**We are dependent on payment card networks and acquiring processors, and any changes to their rules or practices could harm our business.**

Our business depends on our ability to accept credit and debit cards, which ability is provided by the payment card networks, including Visa, MasterCard, American Express, and Discover. Other than American Express, we do not directly access the payment card networks that enable our acceptance of payment cards. As a result, we must rely on banks and acquiring processors to process transactions on our behalf. Our acquiring processor agreements have terms ranging from two to four years. Our three largest such agreements expire between the first quarter of 2017 and the first quarter of 2018, and two of these agreements provide for automatic renewal. These banks and acquiring processors may fail or refuse to process transactions adequately, may breach their agreements with us, or may refuse to renew these agreements on commercially reasonable terms. They might also take actions that degrade the functionality of our services, impose additional costs or requirements on us, or give preferential treatment to competitive services, including their own services. If we are unsuccessful in establishing or maintaining mutually beneficial relationships with these payment card networks, banks, and acquiring processors, our business may be harmed.

The payment card networks and our acquiring processors require us to comply with payment card network operating rules, including special operating rules that apply to us as a “payment service provider” providing payment processing services to merchants. The payment card networks set these network rules and have discretion to interpret them and change them. Any changes to or interpretations of the network rules that are inconsistent with the way we or our acquiring processors currently operate may require us to make changes to our business that could be costly or difficult to implement. If we fail to make such changes or otherwise resolve the issue with the payment card networks, the networks could fine us or prohibit us from processing payment cards. In addition, violations of the network rules or any failure to maintain good relationships with the payment card networks could impact our ability to receive incentives from them, could increase our costs, or could otherwise harm our business. If we were unable to accept payment cards or were limited in our ability to do so, our business would be materially and adversely affected.

We are required to pay interchange fees and assessments to the payment card networks, as well as fees to our acquiring processors, to process transactions. From time to time, payment card networks have increased, and may increase in the future, the interchange fees and assessments that they charge for each transaction processed using their networks. In addition, our acquiring processors may refuse to renew our agreements with them on commercially reasonable terms. Interchange fees or assessments are also subject to change from time to time due to government regulation. Because we generally charge our sellers a flat rate for our payments services, rather than passing through interchange fees and assessments to our sellers directly, any increase or decrease in interchange fees or assessments or in the fees we pay to our acquiring processors could make our pricing look less competitive, lead us to change our pricing model, or adversely affect our margins.
We could be, and in the past have been, subject to penalties from payment card networks if we fail to detect that sellers are engaging in activities that are illegal, contrary to the payment card network operating rules, or considered “high risk.” We must either prevent high-risk sellers from using our products and services or register such sellers with the payment card networks and conduct additional monitoring with respect to such sellers. Although the amount of these penalties has not been material to date, any additional penalties in the future could become material and could result in termination of our ability to accept payment cards or could require changes in our process for registering new sellers. This could materially and adversely affect our business.

Our quarterly results of operations and operating metrics fluctuate significantly and are unpredictable and subject to seasonality, which could result in the trading price of our Class A common stock being unpredictable or declining.

Factors that may cause fluctuations in our quarterly financial results include our ability to attract and retain new customers; the timing, effectiveness, and costs of expansion and upgrades of our systems and infrastructure, as well as the success of those expansions and upgrades; the outcomes of legal proceedings and claims; our ability to maintain or increase revenue, gross margins, and operating margins; our ability to introduce new services and to continue convincing customers to adopt additional offerings; increases in and timing of expenses that we may incur to grow and expand our operations and to remain competitive; period-to-period volatility related to fraud and risk losses; system failures resulting in the inaccessibility of our products and services; changes in the regulatory environment, including with respect to security, privacy, or enforcement of laws and regulations by regulators, including fines, orders, or consent decrees; changes in global business or macroeconomic conditions; unusual weather conditions; general retail buying patterns; and the other risks described in this prospectus.

We depend on key management, as well as our experienced and capable employees, and any failure to attract, motivate, and retain our employees could harm our ability to maintain and grow our business.

Our future success is significantly dependent upon the continued service of our executives and other key employees. If we lose the services of any member of management or any key personnel, we may not be able to locate a suitable or qualified replacement, and we may incur additional expenses to recruit and train a replacement, which could severely disrupt our business and growth. Jack Dorsey, our co-founder, President, and Chief Executive Officer, also serves as Chief Executive Officer of Twitter. This may at times adversely affect his ability to devote time, attention, and effort to Square.

To maintain and grow our business, we will need to identify, hire, develop, motivate, and retain highly skilled employees. Identifying, recruiting, training, integrating, and retaining qualified individuals requires significant time, expense, and attention. In addition, from time to time, there may be changes in our management team that may be disruptive to our business. If our management team, including any new hires that we make, fails to work together effectively and to execute our plans and strategies on a timely basis, our business could be harmed. Competition for highly skilled personnel is
intense, particularly in the San Francisco Bay Area where our headquarters are located. We may need to invest significant amounts of cash and equity to attract and retain new employees, and we may never realize returns on these investments. If we are not able to add and retain employees effectively, our ability to achieve our strategic objectives will be adversely affected, and our business and growth prospects will be harmed.

In addition, we have a number of employees, including many members of management, whose equity ownership in our company could give them substantial personal wealth following our initial public offering. As a result, it may be difficult for us to continue to retain and motivate these employees, and, if we are unable to do so, our business may be materially and adversely affected.

**If we fail to manage growth effectively, our business could be harmed.**

In order to manage our growth effectively, we must continue to strengthen our existing infrastructure, develop and improve our internal controls, create and improve our reporting systems, and timely address issues as they arise. These efforts may require substantial financial expenditures, commitments of resources, developments of our processes, and other investments and innovations. Furthermore, we encourage employees to be bold and to quickly develop and launch new features for our products and services. As we grow, we may not be able to execute as quickly as a smaller, more efficient organization. If we do not successfully manage our growth, our business will suffer.

**A deterioration of general macroeconomic conditions could materially and adversely affect our business.**

Our performance is subject to economic conditions and their impact on levels of spending by businesses and their customers. Most of the sellers that use our services are small businesses, many of which are in the early stages of their development, and these businesses may be disproportionately adversely affected by economic downturns and may fail at a higher rate than larger or more established businesses. If spending by their customers declines, these businesses would experience reduced sales and process fewer payments with us or, if they cease to operate, stop using our products and services altogether. Small businesses frequently have limited budgets and limited access to capital, and they may choose to allocate their spending to items other than our financial or marketing services, especially in times of economic uncertainty or in recessions. In addition, if more of our sellers cease to operate, this may have an adverse impact not only on the growth of our payments services but also on the success of our other services. For example, the growth in the number of sellers qualifying for Square Capital may slow or the receivables related to the Square Capital merchant cash advances may be paid more slowly, or not at all. Thus, if general macroeconomic conditions deteriorate, our business could be materially and adversely affected.

**If we are unable to maintain, promote, and grow our brand through effective marketing and communications strategies, our brand and business may be harmed.**

We believe that maintaining and promoting our brand in a cost-effective manner is critical to achieving widespread acceptance of our products and services and to expanding our base of customers. Maintaining and promoting our brand will depend largely on our ability to continue to provide useful, reliable, and innovative products and services, which we may not do successfully. We may introduce, or make changes to, features, products, services, or terms of service that customers do not like, which may materially and adversely affect our brand. Our brand promotion activities may not generate customer awareness or increase revenue, and even if they do, any increase in revenue may not offset the
expenses we incur in building our brand. If we fail to successfully promote and maintain our brand or if we incur excessive expenses in this effort, our business could be materially and adversely affected.

The introduction and promotion of new services, as well as the promotion of existing services, may be partly dependent on our visibility on third-party advertising platforms, such as Google, Twitter, or Facebook. Changes in the way these platforms operate or changes in their advertising prices or other terms could make the maintenance and promotion of our products and services and our brand more expensive or more difficult. If we are unable to market and promote our brand on third-party platforms effectively, our ability to acquire new sellers would be materially harmed.

We have received a significant amount of media coverage since our formation. We have also been from time to time in the past, and may in the future be, the target of incomplete, inaccurate, and misleading or false statements about our company, our business, and our products and services that could damage our brand and materially deter people from adopting our services. Negative publicity about our company or our management, including about our product quality and reliability, changes to our products and services, privacy and security practices, litigation, regulatory enforcement, and other actions, as well as the actions of our customers and other users of our services, even if inaccurate, could cause a loss of confidence in us. Our ability to respond to negative statements about us may be limited by legal prohibitions on permissible public communications by us during our initial public offering process or during future periods.

**We face challenges in expanding into new geographic regions.**

We plan to continue expanding into new geographic regions, and we currently face and will continue to face risks entering markets in which we have limited or no experience and in which we may not be well-known. Offering our services in new geographic regions often requires substantial expenditures and takes considerable time, and we may not be successful enough in these new geographies to recoup our investments in a timely manner or at all. We may be unable to attract a sufficient number of sellers, fail to anticipate competitive conditions, or face difficulties in operating effectively in these new markets.

The expansion of our products and services globally exposes us to risks relating to staffing and managing cross-border operations; increased costs and difficulty protecting intellectual property and sensitive data; tariffs and other trade barriers; differing and potentially adverse tax consequences; increased and conflicting regulatory compliance requirements, including with respect to data privacy and security; lack of acceptance of our products and services; challenges caused by distance, language, and cultural differences; exchange rate risk; and political instability. Accordingly, our efforts to expand our global operations may not be successful, which could limit our ability to grow our business.

**We rely on third parties and their systems for a variety of services, including to process transaction data and settle funds to us and our sellers, and these third parties’ failure to perform these services adequately could materially and adversely affect our business.**

To provide our payments solution and other products and services, we rely on third parties that we do not control, such as the payment card networks, our acquiring processors, the payment card issuers, various financial institution partners, systems like the Federal Reserve Automated Clearing House, and other partners. We rely on these third parties for a variety of services, including to transmit transaction data, process chargebacks and refunds, settle funds to our sellers, and to provide information and other elements of our services. For example, we currently rely on three acquiring
processors in the United States and one in each of Canada and Japan. While we believe there are other acquiring processors that could meet our needs, adding or transitioning to new providers may disrupt our business and increase our costs. In the event these third parties fail to provide these services adequately, including as a result of errors in their systems or events beyond their control, or refuse to provide these services on terms acceptable to us or at all, and we are not able to find suitable alternatives, our business may be materially and adversely affected.

Our services must integrate with a variety of operating systems, and the hardware that enables merchants to accept payment cards must interoperate with third-party mobile devices utilizing those operating systems. If we are unable to ensure that our services or hardware interoperate with such operating systems and devices, our business may be materially and adversely affected.

We are dependent on the ability of our products and services to integrate with a variety of operating systems, as well as web browsers that we do not control. Any changes in these systems that degrade the functionality of our products and services, impose additional costs or requirements on us, or give preferential treatment to competitive services, including their own services, could materially and adversely affect usage of our products and services. In addition, we rely on app marketplaces, such as the Apple App Store and Google Play, to drive downloads of our mobile app. Apple, Google, or other operators of app marketplaces regularly make changes to their marketplaces, and those changes may make access to our products and services more difficult. In the event that it is difficult for our sellers to access and use our products and services, our business may be materially and adversely affected.

In addition, our hardware interoperates with mobile devices developed by third parties. For example, the current version of Square Reader plugs into the audio jack of most smartphones and tablets. Changes in the design of these mobile devices may limit the interoperability of our hardware with such devices and require modifications to our hardware. If we are unable to ensure that our hardware continues to interoperate effectively with such devices, or if doing so is costly, our business may be materially and adversely affected.

Many of our key components are procured from a single or limited number of suppliers. Thus, we are at risk of shortage, price increases, changes, delay, or discontinuation of key components, which could disrupt and materially and adversely affect our business.

Many of the key components used to manufacture our products, such as the custom parts of Square Reader for magnetic stripe cards, including its magnetic stripe-reading element, its plastic cover, and its application-specific integrated circuits, come from limited or single sources of supply, as do the plastic cover, connector, and security cage of Square Reader for EMV chip cards and NFC. In addition, in some cases, we rely only on one manufacturer to fabricate, test, and assemble our products. For example, a single manufacturer assembles Square Reader for magnetic stripe cards and Square Reader for EMV chip cards and NFC, as well as manufactures those products’ plastic parts with custom tools that we own but that they maintain on their premises. The term of the agreement with that manufacturer initially expired on June 26, 2014, but automatically renewed (and will continue to renew) for consecutive one-year periods unless either party provides notice of non-renewal. In general, our contract manufacturers fabricate or procure components on our behalf, subject to certain approved procedures or supplier lists, and we do not have firm commitments from all of these manufacturers to provide all components, or to provide them in quantities and on timelines that we may require. To date, we have not identified alternative manufacturers for the assembly of our products and for most of the single-sourced components used in our products. For example, pursuant to a development and supply agreement, a component supplier
provides design, development, customization, and related services for components of the magnetic stripe-reading element in some of our products. The term of the agreement will continue until September 30, 2016, at which point it will automatically renew for successive two-year terms unless either party provides notice of non-renewal. Similarly, a component provider develops certain application-specific integrated circuits for our products pursuant to our designs and specifications. The term of our agreement with this provider will continue until March 24, 2016, and will automatically renew for consecutive one-year periods unless either party provides notice of non-renewal. Due to our reliance on the components or products produced by suppliers such as these, we are subject to the risk of shortages and long lead times in the supply of certain components or products. In the case of off-the-shelf components, we are subject to the risk that our suppliers may discontinue or modify them or that the components may cease to be available on commercially reasonable terms. We have in the past experienced, and may in the future experience, component shortages or delays or other problems in product assembly, and the availability of these components or products may be difficult to predict. Additionally, various sources of supply-chain risk, including strikes or shutdowns at delivery ports or loss of or damage to our products while they are in transit or storage, could limit the supply of our products. In the event of a shortage or supply interruption from suppliers of these components, we may not be able to develop alternate sources quickly, cost-effectively, or at all. Any interruption or delay in component supply, any increases in component costs, or the inability to obtain these parts or components from alternate sources at acceptable prices and within a reasonable amount of time, would harm our ability to provide our products to sellers on a timely basis. This could harm our relationships with our sellers, prevent us from acquiring new sellers, and materially and adversely affect our business.

*Our business could be harmed if we are unable to accurately forecast demand for our products and to adequately manage our product inventory.*

We invest broadly in our business, and such investments are driven by our expectations of the future success of a product. Our products, such as Square Reader, often require investments with a long lead times. An inability to correctly forecast the success of a particular product could harm our business. We must forecast inventory needs and expenses and place orders sufficiently in advance with our third-party suppliers and contract manufacturers based on our estimates of future demand for particular products. Our ability to accurately forecast demand for our products could be affected by many factors, including an increase or decrease in demand for our products or for our competitors' products, unanticipated changes in general market conditions, and the change in economic conditions.

If we underestimate demand for a particular product, our contract manufacturers and suppliers may not be able to deliver sufficient quantities of that product to meet our requirements, and we may experience a shortage of that product available for sale or distribution. The shortage of a popular product could materially and adversely affect our brand, our seller relationships, and the acquisition of additional sellers. If we overestimate demand for a particular product, we may experience excess inventory levels for that product and the excess inventory may become obsolete or out-of-date. Inventory levels in excess of demand may result in inventory write-downs or write-offs and the sale of excess inventory at further discounted prices, which could negatively impact our gross profit and our business.

*Our products and services may not function as intended due to errors in our software, hardware, and systems, or due to security breaches or human error in administering these systems, which could materially and adversely affect our business.*

Our software, hardware, and systems may contain undetected errors that could have a material adverse effect on our business, particularly to the extent such errors are not detected and remedied quickly. We have from time to time found
defects in our customer-facing software and hardware, internal systems, and technical integrations with third-party systems, and new errors may be introduced in the future. In addition, we provide frequent incremental releases of product and service updates and functional enhancements, which increases the possibility of errors. The electronic payments products and services we provide are designed to process complex transactions and deliver reports and other information related to those transactions, all at high volumes and processing speeds. Since customers use our services for important aspects of their businesses, any errors, defects, disruptions in services, or other performance problems with our services could hurt our reputation and damage our customers’ businesses. Software and system errors, or human error, could delay or inhibit settlement of payments, result in oversettlement, cause reporting errors, or prevent us from collecting transaction fees, all of which have occurred in the past. Similarly, security breaches or errors in our hardware design or manufacture could cause product safety issues typical of consumer electronics devices. Such issues could lead to product recalls and inventory shortages, result in costly and time-consuming efforts to redesign and redistribute our products, give rise to regulatory inquiries and investigations, and result in lawsuits and other liabilities and losses, which could have a material and adverse effect on our business.

Systems failures, interruptions, delays in service, catastrophic events, and resulting interruptions in the availability of our products or services could harm our business and our brand, and subject us to substantial liability.

Our systems and those of our third-party data center facilities may experience service interruptions, denial-of-service and other cyber-attacks, human error, earthquakes, hurricanes, floods, fires, natural disasters, power losses, disruptions in telecommunications services, fraud, military or political conflicts, terrorist attacks and other geopolitical unrest, computer viruses, or other events. Our systems are also subject to break-ins, sabotage, and acts of vandalism. Some of our systems are not fully redundant, and our disaster-recovery planning is not sufficient for all eventualities. In addition, as a provider of payments solutions, we are subject to increased scrutiny by regulators that may require specific business continuity and disaster recovery plans and more rigorous testing of such plans. This increased scrutiny may be costly and time-consuming and may divert our resources from other business priorities.

We have experienced and will likely continue to experience denial-of-service attacks, system failures, and other events or conditions that interrupt the availability or reduce the speed or functionality of our products and services. These events have resulted and likely will result in loss of revenue. In addition, they could result in significant expense to repair or replace damaged equipment and remedy resultant data loss or corruption. A prolonged interruption in the availability or reduction in the speed or other functionality of our products or services could materially harm our reputation and business. Frequent or persistent interruptions in our products and services could cause sellers to believe that our products and services are unreliable, leading them to switch to our competitors or to avoid our products and services, and could permanently harm our reputation and business. Moreover, to the extent that any system failure or similar event results in damages to customers or their businesses, these customers could seek compensation from us for their losses, and those claims, even if unsuccessful, would likely be time-consuming and costly for us to address.

A significant natural disaster could have a material and adverse impact on our business. Our headquarters and certain of our data center facilities are located in the San Francisco Bay Area, a region known for seismic activity. Despite any precautions we may take, the occurrence of a natural disaster or other unanticipated problems at our headquarters or data centers could result in lengthy interruptions in our services or could result in related liabilities. We have implemented a disaster recovery program, which enables us to move production to a back-up data center in the event of a catastrophe.
Although this program is functional, it may prove to be inadequate, increasing the risk of interruptions in our services, which could have a material and adverse impact on our business. We do not maintain insurance sufficient to compensate us for the potentially significant losses that could result from disruptions to our services.

**Our Square Capital service is subject to additional risks relating to the availability of capital, seller receivables, and general macroeconomic conditions.**

Our Square Capital service is subject to risks in addition to those described elsewhere in this prospectus. Maintaining and growing our Square Capital service is dependent on third parties to purchase the future receivables related to the Square Capital merchant cash advances. If third parties fail to continue to purchase such receivables or reduce the amount of future receivables they purchase, then we would have to fund future advances to merchants from our own resources and might have to reduce the scale of our Square Capital service. If third parties reduce the price they are willing to pay for these receivables or reduce the servicing fees they pay us in exchange for servicing the receivables on their behalf, then the financial performance of Square Capital would be harmed.

Adverse changes in macroeconomic conditions could cause some Square Capital sellers to cease operating or to experience a decline in their payment processing volume, rendering us unable to obtain the receivables or extending the period of time required for us to obtain such receivables. Sellers receiving MCAs are contractually obligated to use Square as their only card payment processing service until we have received the agreed-upon fixed amount of receivables. To the extent a seller breaches this obligation, the seller would be liable to us for the balance of the receivables. Consistent with the general nature of MCAs, we do not otherwise have any economic recourse to the seller in the event that it does not process a sufficient volume of payments with us to pay the agreed-upon fixed amount of receivables.

In addition, adverse changes in macroeconomic conditions could also lead to a decrease in the number of sellers suitable for Square Capital advances and strain our ability to correctly identify such sellers or manage risk of non-payment or fraud. Similarly, if we fail to correctly predict or price the availability of receivables of sellers utilizing our Square Capital service, our business may be materially and adversely affected.

We intend to continue to explore other models and structures for our Square Capital service, including lending and other forms of credit. Some of those models or structures would require, or be deemed to require, additional procedures, partnerships, licenses, or capabilities that we have not yet obtained or developed. Should we fail to expand and evolve our Square Capital service in this manner, or should these new models or structures, or new regulations or interpretations of existing regulations, impose requirements on us that are impractical or that we cannot satisfy, the future growth and success of the Square Capital service may be materially and adversely affected.

**Our business is subject to extensive regulation and oversight in a variety of areas, all of which are subject to change and uncertain interpretation.**

We are subject to a wide variety of local, state, federal, and international laws and regulations in the United States and in other countries in which we operate. These laws and regulations govern numerous areas that are important to our business, including consumer protection, privacy, labor and employment, immigration, import and export practices, product labeling, competition, and marketing and communications practices, to name a few. Such laws and regulations are subject to evolving interpretations and application, and it can be difficult to predict how they may be applied to our business,
particularly as we introduce new products and services and expand into new jurisdictions. Any perceived or actual breach of laws and regulations could negatively impact our business. It is possible that these laws and regulations could be interpreted or applied in a manner that would prohibit, alter, or impair our existing or planned products and services; that could cause us to be subject to audits, inquiries, or investigations; that could result in fines, injunctive relief, or other penalties; or that could require costly, time-consuming, or otherwise burdensome compliance measures from us.

In particular, as we seek to build a trusted and secure platform for commerce, and as we expand our network of sellers and buyers and facilitate their transactions and interactions with one another, we will increasingly be subject to laws and regulations related to the collection, use, retention, security, and transfer of information, including the personally identifiable information of our employees and sellers and their customers. As with the other laws and regulations noted above, these laws and regulations may be interpreted and applied differently over time and from jurisdiction to jurisdiction, and it is possible they will be interpreted and applied in ways that will materially and adversely affect our business. We post on our website our privacy policies and practices concerning the collection, use, and disclosure of information. Any failure, real or perceived, by us to comply with our posted privacy policies or with any regulatory requirements or orders or other local, state, federal, or international privacy or consumer protection-related laws and regulations could cause sellers or their customers to reduce their use of our products and services and could materially and adversely affect our business.

Our business is subject to complex and evolving regulations and oversight related to our provision of payments services and other financial services.

The laws, rules, and regulations that govern our business include or may in the future include those relating to banking, deposit-taking, cross-border and domestic money transmission, foreign exchange, payments services (such as payment processing and settlement services), consumer financial protection, anti-money laundering, escheatment, and compliance with the Payment Card Industry Data Security Standard, a set of requirements designed to ensure that all companies that process, store, or transmit payment card information maintain a secure environment to protect cardholder data. These laws, rules, and regulations are enforced by multiple authorities and governing bodies in the United States, including the Department of the Treasury, the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, and numerous state and local agencies. Outside of the United States, we are subject to additional laws, rules, and regulations related to the provision of payments and financial services, including those enforced by the Ministry of Economy, Trade, and Industry in Japan and those enforced by the Financial Transactions and Reports Analysis Centre in Canada, and as we expand into new jurisdictions, the number of foreign regulations and regulators governing our business will expand as well.

Although we have a compliance program focused on applicable laws, rules, and regulations and are continually investing more in this program, we may still be subject to fines or other penalties in one or more jurisdictions levied by federal or state or local regulators, including state Attorneys General, as well as those levied by foreign regulators. In addition to fines, penalties for failing to comply with applicable rules and regulations could include significant criminal and civil lawsuits, forfeiture of significant assets, or other enforcement actions. We could also be required to make changes to our business practices or compliance programs as a result of regulatory scrutiny. In addition, any perceived or actual breach of compliance by us with respect to applicable laws, rules, and regulations could have a significant impact on our reputation as a trusted brand and could cause us to lose existing customers, prevent us from obtaining new customers, require us to expend significant funds to remedy problems caused by breaches and to avert further breaches, and expose us to legal risk and potential liability.
We have obtained licenses to operate as a money transmitter (or its equivalent) in the United States and in the states where this is required. As a licensed money transmitter, we are subject to obligations and restrictions with respect to the investment of customer funds, reporting requirements, bonding requirements, and inspection by state regulatory agencies concerning those aspects of our business considered money transmission. Evaluation of our compliance efforts, as well as the questions of whether and to what extent our products and services are considered money transmission, are matters of regulatory interpretation and could change over time. In the past, we have been required to pay fines to Florida regulatory authorities and have received a Cease and Desist Order from Illinois regulatory authorities due to their interpretations and applications to our business of their respective state money transmission laws. In the future, as a result of the regulations applicable to our business, we could be subject to additional liability, including governmental fines, restrictions on our business, or other sanctions, and we could be forced to cease conducting certain aspects of our business with residents of certain jurisdictions, be forced to otherwise change our business practices in certain jurisdictions, or be required to obtain additional licenses or regulatory approvals. There can be no assurance that we will be able to obtain any such licenses, and, even if we were able to do so, there could be substantial costs and potential product changes involved in maintaining such licenses, which could have a material and adverse effect on our business.

We are subject to risks related to litigation, including intellectual property claims and regulatory disputes.

We may be, and in some instances have been, subject to claims, lawsuits (including class actions and individual lawsuits), government investigations, and other proceedings involving intellectual property, consumer protection, privacy, labor and employment, immigration, import and export practices, product labeling, competition, accessibility, securities, tax, marketing and communications practices, commercial disputes, and other matters. For example, we have been served with a putative class action complaint filed on behalf of couriers for our Caviar subsidiary alleging that the couriers have been improperly denied reimbursement for business expenses due to their classification as independent contractors.

We are currently in litigation with Robert E. Morley and a related entity regarding the inventorship of certain patents related to our intellectual property (Morley Litigation). If one or more claims in the Morley Litigation were determined adversely to us, or if the Morley Litigation were settled on unfavorable terms, this could affect our ability to use certain intellectual property and could also result in substantial monetary liabilities. In addition, Mr. Morley filed a subsequent lawsuit containing allegations that the formation of Square and the development of our card reader and decoding technologies constituted, among other things, breach of an alleged oral joint venture, fraud, negligent misrepresentation, civil conspiracy, unjust enrichment, and misappropriation of trade secrets, as well as other related claims. Mr. Morley contends that he was an equal partner with Jack Dorsey and Jim McKelvey in the business enterprise that ultimately evolved into Square, and that Mr. Dorsey and Mr. McKelvey breached their alleged oral joint venture agreement with Mr. Morley by excluding him from ownership in Square. Mr. Morley is seeking a judgment and order that Square, Mr. Dorsey, and Mr. McKelvey hold ownership of Square in constructive trust for Mr. Morley, as well as a variety of damages, injunctive relief, royalties, and correction of inventorship of certain of our patents.

The number and significance of our legal disputes and inquiries have increased as we have grown larger, as our business has expanded in scope and geographic reach, and as our products and services have increased in complexity. Becoming a public company will raise our public profile, which may result in increased litigation. In addition, some of the laws and regulations affecting the internet, mobile commerce, payment processing, business financing, and employment did not anticipate businesses like ours, and many of the laws and regulations affecting us have been enacted relatively recently. As a result, there is substantial uncertainty regarding the scope and application of many of the laws and
regulations to which we are subject, which increases the risk that we will be subject to claims alleging violations of those laws and regulations. In the future, we may also be accused of having, or be found to have, infringed or violated third-party intellectual property rights.

Regardless of the outcome, legal proceedings can have a material and adverse impact on us due to their costs, diversion of our resources, and other factors. Plaintiffs may seek, and we may become subject to, preliminary or provisional rulings in the course of litigation, including preliminary injunctions requiring us to cease some or all of our operations. We may decide to settle legal disputes on terms that are unfavorable to us. Furthermore, if any litigation to which we are a party is resolved adversely, we may be subject to an unfavorable judgment that we may not choose to appeal or that may not be reversed upon appeal. We may have to seek a license to continue practices found to be in violation of a third party’s rights. If we are required, or choose to enter into, royalty or licensing arrangements, such arrangements may not be available on reasonable terms or at all and may significantly increase our operating costs and expenses. As a result, we may also be required to develop or procure alternative non-infringing technology or discontinue use of technology, and doing so could require significant effort and expense or may not be feasible. In addition, the terms of any settlement or judgment in connection with any legal claims, lawsuits, or proceedings may require us to cease some or all of our operations or pay substantial amounts to the other party and could materially and adversely affect our business.

Our intellectual property rights are valuable, and any inability to protect them could reduce the value of our products, services, and brand.

Our trade secrets, trademarks, copyrights, patents, and other intellectual property rights are critical to our success. We rely on, and expect to continue to rely on, a combination of confidentiality, invention assignment, and license agreements with our employees, consultants, and third parties with whom we have relationships, as well as trademark, trade dress, domain name, copyright, trade secret, and patent rights, to protect our brand and other intellectual property rights. However, various events outside of our control may pose a threat to our intellectual property rights, as well as to our products and services. Effective protection of trademarks, copyrights, domain names, patent rights, and other intellectual property rights is expensive and difficult to maintain, both in terms of application and maintenance costs, as well as the costs of defending and enforcing those rights. The efforts we have taken to protect our intellectual property rights may not be sufficient or effective. Our intellectual property rights may be infringed, misappropriated, or challenged, which could result in them being narrowed in scope or declared invalid or unenforceable. Similarly, our reliance on unpatented proprietary information and technology, such as trade secrets and confidential information, depends in part on agreements we have in place with employees and third parties that place restrictions on the use and disclosure of this intellectual property. These agreements may be insufficient or may be breached, or we may not enter into sufficient agreements with such individuals in the first instance, in either case potentially resulting in the unauthorized use or disclosure of our trade secrets and other intellectual property, including to our competitors, which could cause us to lose any competitive advantage resulting from this intellectual property. Individuals not subject to invention assignment agreements may make adverse ownership claims to our current and future intellectual property. For example, we are currently in litigation with Robert E. Morley and a related entity regarding the inventorship of certain patents and patent applications related to our intellectual property. There can be no assurance that our intellectual property rights will be sufficient to protect against others offering products or services that are substantially similar to ours and that compete with our business.

As of June 30, 2015, we had 95 patents issued in the United States and abroad and 433 patent applications on file in the United States and abroad, though there can be no assurance that any or all of these applications will ultimately be
issued as patents. We also pursue registration of copyrights, trademarks, and domain names in the United States and in certain jurisdictions outside the United States, but doing so may not always be successful or cost-effective. In general, we may be unable or, in some instances, choose not to obtain legal protection for our intellectual property, and our existing and future intellectual property rights may not provide us with competitive advantages or distinguish our products and services from those of our competitors. The laws of some foreign countries do not protect our intellectual property rights to the same extent as the laws of the United States, and effective intellectual property protection and mechanisms may not be available in those jurisdictions. We may need to expend additional resources to defend our intellectual property in these countries, and the inability to do so could impair our business or adversely affect our international expansion. Our intellectual property rights may be contested, circumvented, or found unenforceable or invalid, and we may not be able to prevent third parties from infringing, diluting, or otherwise violating them.

Significant impairments of our intellectual property rights, and limitations on our ability to assert our intellectual property rights against others, could have a material and adverse effect on our business.

**We may not be able to secure financing on favorable terms, or at all, to meet our future capital needs.**

We have funded our operations since inception primarily through equity financings, bank credit facilities, and capital lease arrangements. We do not know when or if our operations will generate sufficient cash to fund our ongoing operations. In the future, we may require additional capital to respond to business opportunities, refinancing needs, challenges, acquisitions, or unforeseen circumstances and may decide to engage in equity or debt financings or enter into credit facilities for other reasons, and we may not be able to secure any such additional debt or equity financing or refinancing on favorable terms, in a timely manner, or at all. Any debt financing obtained by us in the future could also involve restrictive covenants relating to our capital-raising activities and other financial and operational matters, which may make it more difficult for us to obtain additional capital and to pursue business opportunities, including potential acquisitions. Our credit facility contains operating covenants, including customary limitations on the incurrence of certain indebtedness and liens, restrictions on certain inter-company transactions, and limitations on the amount of dividends and stock repurchases. Our ability to comply with these covenants may be affected by events beyond our control, and breaches of these covenants could result in a default under the credit facility and any future financial agreements into which we may enter. If not waived, defaults could cause our outstanding indebtedness under our credit facility and any future financing agreements that we may enter into to become immediately due and payable.

If we raise additional funds through further issuances of equity, convertible debt securities, or other securities convertible into equity, our existing stockholders could suffer significant dilution in their percentage ownership of our company, and any new equity securities we issue could have rights, preferences, and privileges senior to those of holders of our Class A common stock. If we are unable to obtain adequate financing or financing on terms satisfactory to us when we require it, our ability to continue to grow or support our business and to respond to business challenges could be significantly limited.

**Acquisitions, strategic investments, entries into new businesses, and divestitures could disrupt our business, divert our management’s attention, result in additional dilution to our stockholders, and harm our business.**

We may in the future seek to acquire or invest in businesses, apps, or technologies that we believe could complement or expand our products and services, enhance our technical capabilities, or otherwise offer growth opportunities. The
identification, evaluation, and negotiation of potential acquisitions or potential divestitures may divert the attention of management and entail various expenses, whether or not such transactions are ultimately completed. In addition, we have limited experience in acquiring other businesses. If we acquire additional businesses, we may not be able to integrate the acquired personnel, operations, and technologies successfully, or effectively manage the combined business following the acquisition. We also may not achieve the anticipated benefits from the acquired businesses due to a number of factors, including difficulties resulting from the integration of technologies, IT systems, accounting systems, culture or personnel; diversion of management's attention; litigation; use of resources; or other disruption of our operations. Regulatory constraints, particularly competition regulations, may also affect the extent to which we can maximize the value of our acquisitions or investments. Acquisitions could also result in dilutive issuances of equity securities or the incurrence of debt. In addition, we may spend time and money on acquisitions or investments that do not increase our revenue. If an acquired business fails to meet our expectations, our business may be materially and adversely affected.

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

Generally accepted accounting principles in the United States are subject to interpretation by the Financial Accounting Standards Board (FASB), the Securities and Exchange Commission (SEC), and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported financial results and could materially and adversely affect the transactions completed before the announcement of a change.

We may have exposure to greater-than-anticipated tax liabilities, which may materially and adversely affect our business.

We are subject to income taxes and non-income taxes in the United States and other countries in which we conduct business, and such laws and rates vary by jurisdiction. We are subject to review and audit by U.S. federal, state, local and foreign tax authorities. Such tax authorities may disagree with tax positions we take and if any such tax authority were to successfully challenge any such position, our financial results and operations could be materially and adversely affected. In addition, our future tax liability could be adversely affected by changes in tax laws, rates, and regulations. The determination of our worldwide provision for income and other taxes is highly complex and requires significant judgment, and there are many transactions and calculations where the ultimate tax determination is uncertain. Although we believe our estimates are reasonable, the amount ultimately payable may differ from amounts recorded in our financial statements and may materially affect our financial results in the period or periods for which such determination is made.

Risks Related to Ownership of Our Class A Common Stock and this Offering

The dual class structure of our common stock has the effect of concentrating voting control within our existing stockholders, including our employees and directors and their affiliates; this will limit or preclude your ability to influence corporate matters.

Our Class B common stock has ten votes per share, and our Class A common stock, which is the stock we are offering in our initial public offering, has one vote per share. Stockholders who hold shares of Class B common stock, including our executive officers, employees, and directors and their affiliates, will together hold approximately % of the
voting power of our outstanding capital stock following our initial public offering. Because of the ten-to-one voting ratio between our Class B and Class A common stock, the holders of our Class B common stock collectively will hold more than a majority of the combined voting power of our common stock upon the completion of our initial public offering, and therefore such holders will be able to control all matters submitted to our stockholders for approval. When the shares of our Class B common stock represent less than 5% of combined voting power of our Class A common stock and Class B common stock, the then-outstanding shares of Class B common stock will automatically convert into shares of Class A common stock. These holders of our Class B common stock may have interests that differ from yours and may vote in a way with which you disagree and which may be adverse to your interests.

Transfers by holders of Class B common stock will generally result in those shares converting to Class A common stock, subject to limited exceptions, such as certain transfers effected for estate planning purposes. Shares sold by the selling stockholder in this offering will become Class A common stock upon such sale. Such conversions of Class B common stock to Class A common stock upon transfer will have the effect, over time, of increasing the relative voting power of those holders of Class B common stock who retain their shares in the long term. If, for example, our existing shareholders retain a significant portion of their holdings of Class B common stock for an extended period of time, they could, in the future, continue to control a majority of the combined voting power of our outstanding capital stock. For a description of the dual class structure, see “Description of Capital Stock.”

We will incur significantly increased costs and devote substantial management time as a result of operating as a public company.

As a public company, we will incur significant legal, finance, and other expenses that we did not incur as a private company. We will be subject to the reporting requirements of the Securities Exchange Act of 1934, as amended (the Exchange Act), and will be required to comply with the applicable requirements of the Sarbanes-Oxley Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act, as well as the rules and regulations subsequently implemented by the SEC and the listing standards of the New York Stock Exchange (the NYSE), including changes in corporate governance practices and the establishment and maintenance of effective disclosure and financial controls. Following this offering, we will be required to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting for the first fiscal year beginning after the effective date of this offering. This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting, as well as a statement that our auditors have issued an attestation report on our management’s assessment of our internal controls. We expect that complying with these requirements will increase our legal and financial compliance costs and will make some activities more time consuming and costly. In addition, we expect that our management and other personnel will need to divert attention from operational and other business matters to devote substantial time to these requirements. In particular, we expect to incur significant expenses and devote substantial management effort toward ensuring compliance with the requirements of Section 404 of the Sarbanes-Oxley Act, which will increase when we are no longer an emerging growth company, as defined by the JOBS Act. We will need to hire additional accounting and financial staff with appropriate public company experience and technical accounting knowledge and maintain an internal audit function. Moreover, we could incur additional compensation costs in the event that we decide to pay cash compensation closer to that of other public technology companies, which would increase our general and administrative expenses and could materially and adversely affect our profitability.
If we are unable to implement and maintain effective internal controls over financial reporting in the future, investors may lose confidence in the accuracy and completeness of our financial reports, and the market price of our Class A common stock may be materially and adversely affected.

We are currently evaluating our internal controls, identifying and remediating deficiencies in those internal controls, and documenting the results of our evaluation, testing, and remediation. We may not be able to complete our evaluation, testing, and any required remediation in a timely fashion. If we identify one or more material weaknesses in our internal control over financial reporting that we are unable to remediate before the end of the same fiscal year in which the material weakness is identified, or if we are otherwise unable to maintain effective internal controls over financial reporting, we will be unable to assert that our internal controls are effective. If we are unable to do so, or if our auditors are unable to attest to management’s report on the effectiveness of our internal controls, we could lose investor confidence in the accuracy and completeness of our financial reports, which could cause the price of our Class A common stock to decline. For example, we identified a significant deficiency in our internal control over financial reporting during the preparation of our financial statements for the year ended December 31, 2014, which related to a discrepancy in the reconciliation of a sub-ledger. A significant deficiency is a control deficiency, or combination of control deficiencies, in internal control over financial reporting that is less severe than a material weakness yet important enough to merit attention by those responsible for oversight of a company's financial reporting. We have taken steps to remediate our control deficiencies. However, our efforts to remediate them may not be effective or prevent any future deficiency in our internal control over financial reporting. We will be required to disclose material changes made in our internal controls and procedures on a quarterly basis. However, our independent registered public accounting firm will not be required to formally attest to the effectiveness of our internal control over financial reporting pursuant to Section 404 of the Sarbanes-Oxley Act until the later of the year following our first annual report required to be filed with the SEC or the date we are no longer an “emerging growth company” as defined in the JOBS Act.

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

We intend to apply for the listing of our Class A common stock on the NYSE under the symbol “SQ.” However, we cannot assure you that an active trading market for our Class A common stock will develop on that exchange or elsewhere or, if developed, that any market will be sustained. Accordingly, we cannot assure you that a liquid trading market will exist, that you will be able to sell your shares of our Class A common stock when you wish, or that you will obtain your desired price for your shares of our Class A common stock.

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

Prior to the completion of this offering, there has been no public market for shares of our Class A common stock. The initial public offering price of our Class A common stock will be determined through negotiation between us, the selling stockholder, and the underwriters. This price will not necessarily reflect the price at which investors in the market will be willing to buy and sell shares of our Class A common stock following this offering. In addition, the market price of our Class A common stock following this offering is likely to be highly volatile, may be higher or lower than the initial public offering price of our Class A common stock and could be subject to wide fluctuations in response to various factors, some of which are beyond our control and may not be related to our operating performance.
Fluctuations in the market price of our Class A common stock could cause you to lose all or part of your investment because you may not be able to sell your shares at or above the price you paid in this offering. Factors that could cause fluctuations in the market price of our Class A common stock include the following:

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

In addition, in the past, following periods of volatility in the overall market and the market price of a particular company’s securities, securities class action litigation has often been instituted against these companies. This litigation, if instituted against us, could result in substantial costs and a diversion of our management’s attention and resources.
A total of \( \text{\%} \), or \( \text{\%} \), of the outstanding shares of our capital stock after this offering will be restricted from immediate resale but may be sold in the near future. The large number of shares of our capital stock eligible for public sale or subject to rights requiring us to register them for public sale could depress the market price of our Class A common stock.

The market price of our Class A common stock could decline as a result of sales of a large number of shares of our Class A common stock in the market after this offering, and the perception that these sales could occur may also depress the market price of our Class A common stock. Based on shares of our capital stock outstanding as of \( \text{\%} \), 2015, we will have \( \text{\%} \) shares of our capital stock outstanding after this offering. Our executive officers, directors, and the holders of substantially all of our capital stock, options, and warrants have entered into lock-up agreements with the underwriters under which they have agreed, subject to specific exceptions, not to sell any of our capital stock for 180 days following the date of this prospectus. As a result of these agreements, the provisions of our investors’ rights agreement described further in the section titled “Description of Capital Stock—Registration Rights” and the provisions of Rule 144 or Rule 701 under the Securities Act, shares of our capital stock will be available for sale in the public market as follows:

- beginning on the date of this prospectus, all \( \text{\%} \) shares of our Class A common stock sold in this offering will be immediately available for sale in the public market; and
- beginning 180 days after the date of this prospectus, the remainder of the shares of our capital stock will be eligible for sale in the public market from time to time thereafter, subject in some cases to the volume and other restrictions of Rule 144 and our insider trading policy.

We or the underwriters may release certain stockholders from the lock-up agreements or market standoff agreements prior to the end of the 180-day period.

Following the expiration of the lock-up agreements referred to above, stockholders owning an aggregate of up to \( \text{\%} \) shares of our Class B common stock can require us to register shares of our capital stock owned by them for public sale in the United States. In addition, we intend to file a registration statement to register approximately \( \text{\%} \) shares of our capital stock reserved for future issuance under our equity compensation plans. Upon effectiveness of that registration statement, subject to the satisfaction of applicable exercise periods, the expiration or waiver of the market standoff agreements and lock-up agreements referred to above, and applicable volume restrictions and other restrictions that apply to affiliates, the shares of our capital stock issued upon exercise of outstanding options to purchase shares of our Class A common stock will be available for immediate resale in the United States in the open market.

Future sales of our Class A common stock may make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate. These sales also could cause the market price of our common stock to decline and make it more difficult for you to sell shares of our Class A common stock.

**Anti-takeover provisions contained in our amended and restated certificate of incorporation, our amended and restated bylaws, and provisions of Delaware law, could impair a takeover attempt.**

Our amended and restated certificate of incorporation, our amended and restated bylaws, and Delaware law contain provisions which could have the effect of rendering more difficult, delaying, or preventing an acquisition deemed undesirable by our board of directors and therefore depress the trading price of our Class A common stock.
Among other things, our amended and restated certificate of incorporation and amended and restated bylaws include provisions (i) creating a classified board of directors whose members serve staggered three-year terms; (ii) authorizing “blank check” preferred stock, which could be issued by our board of directors without stockholder approval and may contain voting, liquidation, dividend, and other rights superior to our common stock; (iii) limiting the ability of our stockholders to call special meetings; (iv) eliminating the ability of our stockholders to act by written consent without a meeting or to remove directors without cause; and (v) requiring advance notice of stockholder proposals for business to be conducted at meetings of our stockholders and for nominations of candidates for election to our board of directors. These provisions, alone or together, could delay or prevent hostile takeovers and changes in control or changes in our management.

As a Delaware corporation, we are also subject to provisions of Delaware law, including Section 203 of the Delaware General Corporation Law, which prevents certain stockholders holding more than 15% of our outstanding capital stock from engaging in certain business combinations without the approval of our board of directors or the holders of at least two-thirds of our outstanding capital stock not held by such stockholder.

Any provision of our amended and restated certificate of incorporation, amended and restated bylaws, or Delaware law that has the effect of delaying or preventing a change in control could limit the opportunity for our stockholders to receive a premium for their shares of our capital stock and could also affect the price that some investors are willing to pay for our Class A common stock.

Our amended and restated bylaws will provide that the Court of Chancery of the State of Delaware will be the sole and exclusive forum for substantially all disputes between us and our stockholders, which could limit our stockholders’ ability to obtain a favorable judicial forum for disputes with us or our directors, officers, or employees.

Our amended and restated bylaws, which will become effective prior to the completion of this offering, provide that, unless we consent to the selection of an alternative forum, the Court of Chancery of the State of Delaware is the sole and exclusive forum for (i) any derivative action or proceeding brought on our behalf; (ii) any action asserting a claim of breach of fiduciary duty owed by any of our directors, officers, or other employees to us or to our stockholders; (iii) any action asserting a claim arising pursuant to the Delaware General Corporation Law; or (iv) any action asserting a claim governed by the internal affairs doctrine. The choice of forum provision may limit a stockholder’s ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, or other employees, which may discourage such lawsuits against us and our directors, officers, and other employees. Alternatively, if a court were to find the choice of forum provision contained in our amended and restated bylaws to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could have a material and adverse impact on our business.

Our management will have broad discretion over the use of proceeds and may apply the proceeds of this offering in ways that may not improve our business or increase the value of your investments.

We intend to use the net proceeds to us from this offering for general corporate purposes, including working capital, operating expenses, and capital expenditures. We cannot specify with certainty the particular uses of the net proceeds to us from this offering. Accordingly, our management will have considerable discretion in the application of the net proceeds,
and you will not have the opportunity, as part of your investment decision, to assess whether the proceeds are being used appropriately. Until the net proceeds are used, they may be placed in investments that do not produce significant income or that may lose value.

**Purchasers in this offering will experience immediate and substantial dilution in the book value of their investment.**

The assumed initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, is substantially higher than the pro forma net tangible book value per share of our outstanding capital stock upon the completion of this offering. Therefore, if you purchase shares of our Class A common stock in this offering, you will incur immediate dilution of $ in the net tangible book value per share from the price you paid. In addition, investors purchasing shares of our Class A common stock from us in this offering will have contributed % of the total consideration paid to us by all stockholders who purchased shares of our Class A common stock, in exchange for acquiring approximately % of the outstanding shares of our Class A common stock as of , 2015, after giving effect to this offering. The exercise of outstanding options to purchase shares of our Class A common stock will result in further dilution.

**In making your investment decision, you should understand that we and the underwriters have not authorized any other party to provide you with information concerning us or this offering.**

You should carefully evaluate all of the information in this prospectus. We have in the past received, and may continue to receive, a high degree of media coverage, including coverage that is not directly attributable to statements made by our officers or employees, that incorrectly reports on statements made by our officers or employees, or that is misleading. We and the underwriters have not authorized any other party to provide you with information concerning us or this offering.

**If securities or industry analysts do not publish or cease publishing research or reports about us, our business, our market, or our competitors, or if they adversely change their recommendations regarding our Class A common stock, the market price of our Class A common stock and trading volume could decline.**

The market for our Class A common stock will be influenced by the research and reports that securities or industry analysts may publish about us, our business, our market, or our competitors. If any of the analysts who may cover us adversely change their recommendations regarding our Class A common stock, or provide more favorable recommendations regarding our competitors, the market price of our common stock may decline. If any of the analysts who may cover us were to cease coverage of our company or fail to regularly publish reports on us, we may lose visibility in the financial markets, which in turn could cause the market price of our Class A common stock and trading volume to decline.

**We do not expect to declare any dividends in the foreseeable future.**

We do not anticipate declaring any cash dividends to holders of our common stock in the foreseeable future. Consequently, investors may need to rely on sales of our common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investment. Investors seeking cash dividends should not purchase shares of our common stock.
Additional stock issuances could result in significant dilution to our stockholders.

We may issue additional equity securities to raise capital, make acquisitions, or for a variety of other purposes. Additional issuances of our stock may be made pursuant to the exercise or conversion of new or existing convertible debt securities, warrants, stock options, or other equity incentive awards to new and existing service providers. Any such issuances will result in dilution to existing holders of our stock. We rely on equity-based compensation as an important tool in recruiting and retaining employees. The amount of dilution due to equity-based compensation of our employees and other additional issuances could be substantial.

As an emerging growth company within the meaning of the Securities Act, we will utilize certain modified disclosure requirements, and we cannot be certain whether these reduced requirements will make our Class A common stock less attractive to investors.

We are an emerging growth company, and for as long as we continue to be an emerging growth company, we may choose to take advantage of exemptions from various reporting requirements applicable to other public companies but not to “emerging growth companies.” These exemptions include reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, an exemption from the requirement that our independent registered public accounting firm audit our internal control over financial reporting under Section 404 of the Sarbanes-Oxley Act, and exemptions from the requirements to hold a nonbinding advisory vote on executive compensation and to provide stockholders the opportunity to vote on any golden parachute payments not previously approved. We have in this prospectus utilized, and we plan in future filings with the SEC to continue to utilize, the modified disclosure requirements available to emerging growth companies. As a result, our stockholders may not have access to certain information they may deem important.

Under the JOBS Act, we will remain an “emerging growth company” until the earliest of (i) the last day of the first fiscal year in which our total annual revenue reaches or exceeds $1.0 billion; (ii) the date that we become a “large accelerated filer” as defined in the Exchange Act, which could occur as early as January 1, 2017; (iii) the date on which we have issued more than $1.0 billion in non-convertible debt securities during the preceding three-year period; or (iv) the last day of the first fiscal year following the fifth anniversary of the completion of this offering.
SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

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

- our future financial performance, including expectations regarding our net revenue, cost of revenue, gross profit or gross margin, operating expenses, ability to generate cash flow, and ability to achieve, and maintain, future profitability;
- our ability to anticipate market needs and develop and introduce new and enhanced products and service functionality to adapt to changes in our industry;
- our anticipated growth and growth strategies and our ability to effectively manage that growth;
- the impact of increased competition in our market, innovation by our competitors, and our ability to compete effectively;
- our ability to successfully enter new markets and manage our international expansion;
- our ability to further penetrate our existing seller base to grow our end-to-end commerce ecosystem;
- our plans for funding Square Capital;
- our expectations concerning relationships with third parties, including Starbucks;
- our ability to successfully hire and retain qualified employees and key personnel;
- our ability to maintain, protect, and enhance our brand and intellectual property;
- costs associated with defending intellectual property infringement and other litigation to which we are a party;
- future acquisitions of or investments in complementary companies, products, services, or technologies and our ability to successfully integrate such companies or assets;
- the effects of seasonal trends on our results of operations;
- the sufficiency of our cash and cash equivalents and cash generated from operations to meet our working capital and capital expenditure requirements, as well as our plans for the net proceeds from this offering; and
- our compliance with applicable regulatory developments and regulations that currently apply or become applicable to our business.

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

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

The forward-looking statements made in this prospectus relate only to events as of the date on which the statements are made. We undertake no obligation to update any forward-looking statements made in this prospectus to reflect events or circumstances after the date of this prospectus or to reflect new information or the occurrence of unanticipated events, except as required by law. We may not actually achieve the plans, intentions, or expectations disclosed in our forward-looking statements and you should not place undue reliance on our forward-looking statements. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures, or investments we may make.
Unless otherwise indicated, information contained in this prospectus concerning our industry and the market in which we operate, including our general expectations and market position, market opportunity, and market size, is based on information from various third-party industry and research sources, on assumptions that we have made based on that data and other similar sources, and on our knowledge of the markets for our services. This information involves a number of assumptions and limitations, and you are cautioned not to give undue weight to such estimates.

In addition, industry publications, studies, and surveys generally state that they have been obtained from sources believed to be reliable, although they do not guarantee the accuracy or completeness of such information. The industry in which we operate is subject to a high degree of uncertainty and risk due to a variety of factors, including those described in the section titled "Risk Factors" and elsewhere in this prospectus. These and other factors could cause our actual results to differ materially from those expressed in the estimates made by the independent parties and by us.

The sources of industry and market data contained in this prospectus are listed below:

1. BIA/Kelsey, U.S. Local Media Forecast 2015 Spring Update, April 2015
3. FDIC, Loans to Small Businesses and Farms, FDIC-Insured Institutions, 1995-2015, Q4 2014
6. The Kauffman Index, Startup Activity National Trends, 2015
12. United States Census Bureau, Number of Firms, Number of Establishments, Employment, and Annual Payroll by Small Enterprise Employment Sizes for the U.S. and States, NAICS Sectors, 2012
The customer testimonials contained in this prospectus are from actual sellers. These sellers have agreed to the use of their testimonials and likenesses for marketing, advertising, and other purposes. Some of these sellers were previously compensated for their time, effort, and other costs associated with providing testimonials and appearing in pictures or videos.
USE OF PROCEEDS

We estimate that the net proceeds from the sale of shares of our Class A common stock in this offering will be approximately $ million, based on an assumed initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. If the underwriters’ option to purchase additional shares is exercised in full, we estimate that we will receive additional net proceeds of $ million. We will not receive any proceeds from the sale of shares of Class A common stock by the selling stockholder. A $1.00 increase (decrease) in the assumed initial public offering price would increase (decrease) the net proceeds from the offering by approximately $ million, assuming the number of shares offered remains the same and after deducting the estimated underwriting discounts and commissions.

The principal purposes of this offering are to obtain additional capital, to create a public market for our Class A common stock, and to facilitate our future access to the public equity markets. We plan to invest the net proceeds in short-term, investment-grade, interest-bearing securities such as money market accounts, certificates of deposit, commercial paper, or guaranteed obligations of the U.S. government. We currently intend to use the net proceeds received by us from this offering primarily for working capital and general corporate purposes. We may also use a portion of the net proceeds from this offering for acquisitions of complementary businesses, technologies, or other assets. We have not entered into any agreements or commitments with respect to any specific acquisitions and have no understandings or agreements with respect to any such acquisition or investment at this time. We cannot specify with certainty the particular uses for the net proceeds from this offering. Accordingly, our management team will have broad discretion in using the net proceeds from this offering.
DIVIDEND POLICY

We have never declared nor paid any cash dividends on our capital stock. We currently intend to retain all available funds and any future earnings for use in the operation of our business and do not expect to pay any dividends on our capital stock in the foreseeable future. Any future determination relating to our dividend policy will be made by our board of directors and will depend on a number of factors, including: our historic and projected financial condition, liquidity, and results of operations; our capital levels and needs; tax considerations; any acquisitions or potential acquisitions that we may examine; statutory and regulatory prohibitions and other limitations; the terms of any credit agreements, including our existing revolving line of credit facility, or other borrowing arrangements that restrict the amount of cash dividends that we can pay; general economic conditions; and other factors deemed relevant by our board of directors. We are not obligated to pay dividends on our Class A common stock.
CAPITALIZATION

The following table sets forth our cash and cash equivalents, as well as our capitalization, as of June 30, 2015, as follows:

• on an actual basis, giving effect to the reclassification of all outstanding shares of our common stock into an equivalent number of shares of our Class B common stock, which will occur prior to the closing of this offering, as if such reclassification had occurred on June 30, 2015;

• on a pro forma basis, giving effect to the adjustment set forth above and the automatic conversion and reclassification of all outstanding shares of our convertible preferred stock into an aggregate of 135,252,809 shares of our Class B common stock, which will occur prior to the closing of this offering, as if such reclassification and conversion had occurred on June 30, 2015; and

• on a pro forma as adjusted basis, giving effect to the actual and pro forma adjustments set forth above and the sale and issuance of shares of our Class A common stock by us in this offering, based upon the assumed initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

You should read this table in conjunction with “Selected Consolidated Financial and Other Data,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” and our consolidated financial statements and related notes included elsewhere in this prospectus.
As of June 30, 2015

<table>
<thead>
<tr>
<th></th>
<th>Actual</th>
<th>Pro Forma</th>
<th>Pro Forma Adjusted</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>(in thousands except share data)</td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$197,940</td>
<td>$197,940</td>
<td></td>
</tr>
<tr>
<td>Debt</td>
<td>30,000</td>
<td>30,000</td>
<td></td>
</tr>
<tr>
<td>Shareholders’ equity:</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Convertible preferred stock, $0.0000001 par value. 135,339,499 shares authorized, 135,252,809 issued and outstanding actual; no shares authorized, issued and outstanding, pro forma and pro forma as adjusted</td>
<td>514,945</td>
<td></td>
<td></td>
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<tr>
<td>Existing common stock, par value $0.0000001 per share; 445,000,000 shares authorized, 155,753,087 shares issued and outstanding actual; 445,000,000 shares authorized, 291,005,896 shares issued and outstanding pro forma; 445,000,000 shares authorized, issued and outstanding and pro forma as adjusted</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Class A common stock, par value $0.0000001 per share; no shares issued and outstanding actual; shares authorized, issued and outstanding pro forma; shares authorized, issued and outstanding and pro forma as adjusted</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Class B common stock, par value $0.0000001 per share; 445,000,000 shares authorized, 155,753,087 shares issued and outstanding actual; shares authorized, issued and outstanding pro forma; shares authorized, issued and outstanding and pro forma as adjusted</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additional paid-in capital</td>
<td>221,491</td>
<td>736,436</td>
<td></td>
</tr>
<tr>
<td>Accumulated other comprehensive loss</td>
<td>(1,159)</td>
<td>(1,159)</td>
<td></td>
</tr>
<tr>
<td>Accumulated deficit</td>
<td>(473,230)</td>
<td>(473,230)</td>
<td></td>
</tr>
<tr>
<td>Total stockholders’ equity</td>
<td>262,047</td>
<td>262,047</td>
<td></td>
</tr>
<tr>
<td>Total capitalization</td>
<td>$292,047</td>
<td>$292,047</td>
<td></td>
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</tbody>
</table>

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share of Class A common stock, which is the mid-point of the estimated offering price range set forth on the cover page of this prospectus, would increase (decrease) our pro forma adjusted cash and cash equivalents, additional paid-in capital, total stockholders’ equity, and total capitalization by approximately $ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting estimated underwriting discounts and commissions.

The number of shares of our Class A and Class B common stock to be outstanding after this offering is based on no shares of our Class A common stock and 291,005,896 shares of our Class B common stock (including preferred stock on an as-converted basis) outstanding as of June 30, 2015, and excludes the following:

- 103,627,701 shares of our Class B common stock issuable upon the exercise of options to purchase shares of our Class B common stock outstanding as of June 30, 2015, with a weighted-average exercise price of $6.51 per share;
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- 5,800,200 shares of our Class B common stock issuable upon the exercise of options to purchase shares of our Class B common stock granted after June 30, 2015, with a weighted-average exercise price of $15.23 per share;
- 100,900 shares of our Class B common stock issuable upon the vesting of RSUs granted after June 30, 2015;
- 15,848,260 shares of our Class B common stock issuable upon the exercise of warrants outstanding as of June 30, 2015, with a weighted-average exercise price of $12.29 per share; and
- shares of our Class A common stock reserved for future issuance under our equity compensation plans, consisting of:
  - shares of our Class A common stock reserved for future issuance under our 2015 Plan, which will become effective prior to the completion of this offering; and
  - shares of our Class A common stock reserved for future issuance under our ESPP, which will become effective prior to the completion of this offering.

Our 2015 Plan and ESPP each provide for annual automatic increases in the number of shares reserved thereunder, and our 2015 Plan also provides for increases in the number of shares reserved thereunder based on awards under certain of our other equity compensation plans that expire, are forfeited, or are otherwise repurchased by us. See the section titled “Executive Compensation—Employee Benefit and Stock Plans” for additional information.
If you purchase shares of our Class A common stock in this offering, your ownership interest will be diluted to the extent of the difference between the initial public offering price per share of our Class A common stock in this offering and the pro forma as adjusted net tangible book value per share of our Class A common stock immediately after this offering. Dilution in pro forma net tangible book value per share to investors purchasing shares of our Class A common stock in this offering represents the difference between the amount per share paid by investors purchasing shares of our Class A common stock in this offering and the pro forma as adjusted net tangible book value per share of our Class A common stock immediately after completion of this offering.

Our pro forma net tangible book value as of June 30, 2015, was $\text{millions}$ million, or $\text{per share.}$. Our pro forma net tangible book value per share represents the amount of our total tangible assets reduced by the amount of our total liabilities and divided by the total number of shares of our Class A common stock outstanding as of June 30, 2015, after giving effect to the reclassification of all outstanding shares of our common stock into an equivalent number of shares of our Class B common stock and the automatic conversion and reclassification of all outstanding shares of our convertible preferred stock into an aggregate of 135,252,809 shares of our Class B common stock. Such conversion will occur immediately prior to the completion of this offering.

After giving effect to the sale by us of \text{shares} shares of our Class A common stock in this offering at the assumed initial public offering price of $\text{per share}, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us, our pro forma as adjusted net tangible book value as of $\text{, 2015}$, would have been $\text{millions}$ million, or $\text{per share.}$. This represents an immediate increase in pro forma net tangible book value of $\text{ per share to our existing stockholders and an immediate dilution in pro forma net tangible book value of $ per share to investors purchasing shares of our Class A common stock in this offering. The following table illustrates this dilution:

<table>
<thead>
<tr>
<th>Assumed initial public offering price per share of Class A common stock</th>
<th>$</th>
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</thead>
<tbody>
<tr>
<td>Pro forma net tangible book value per share as of June 30, 2015</td>
<td>$</td>
</tr>
<tr>
<td>Increase in pro forma net tangible book value per share attributable to investors purchasing shares of our Class A common stock in this offering</td>
<td>$</td>
</tr>
<tr>
<td>Pro forma as adjusted net tangible book value per share of our Class A common stock immediately after the completion of this offering</td>
<td>$</td>
</tr>
<tr>
<td>Dilution in pro forma net tangible book value per share to investors purchasing shares of our Class A common stock in this offering</td>
<td>$</td>
</tr>
</tbody>
</table>

Each $\text{per share}, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, our pro forma as adjusted net tangible book value per share to new investors by $\text{ per share}, and would increase or decrease, as applicable, dilution per share to investors purchasing shares of our Class A common stock in this offering by approximately $\text{per share}, assuming the number of shares of our Class A common stock offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.
If the underwriters exercise their option to purchase additional shares in full, the pro forma as adjusted net tangible book value per share of our Class A common stock immediately after the completion of this offering would be $ per share, and the dilution in pro forma net tangible book value per share to investors purchasing shares of our Class A common stock in this offering would be $ per share.

The following table presents, on a pro forma basis as of June 30, 2015, after giving effect to (i) the reclassification of all outstanding shares of our common stock into an equivalent number of shares of our Class B common stock; (ii) the automatic conversion and reclassification of all outstanding shares of our convertible preferred stock into an aggregate of 135,252,809 shares of our Class B common stock, which conversion and reclassification will occur immediately prior to the completion of this offering; and (iii) the sale by us of shares of our Class A common stock in this offering at the assumed initial public offering price of $ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, the difference between the existing stockholders and the investors purchasing shares of our Class A common stock in this offering with respect to the number of shares of our Class A common stock purchased from us, the total consideration paid or to be paid to us, and the average price per share paid or to be paid to us, before deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us:

<table>
<thead>
<tr>
<th>Shares Purchased</th>
<th>Total Consideration</th>
<th>Average Price Per Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>Percent</td>
<td>Amount</td>
</tr>
<tr>
<td>Existing stockholders</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Investors purchasing shares of our Class A common stock in this offering</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totals</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

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

The number of shares of our Class A and Class B common stock that will be outstanding after this offering is based on no shares of our Class A common stock and 291,005,896 shares of our Class B common stock (including preferred stock on an as-converted basis) outstanding as of June 30, 2015, and excludes the following:

- 103,627,701 shares of our Class B common stock issuable upon the exercise of options to purchase shares of our Class B common stock outstanding as of June 30, 2015, with a weighted-average exercise price of $6.51 per share;
- 5,800,200 shares of our Class B common stock issuable upon the exercise of options to purchase shares of our Class B common stock granted after June 30, 2015, with a weighted-average exercise price of $15.23 per share.
• 100,900 shares of our Class B common stock issuable upon the vesting of RSUs granted after June 30, 2015;
• 15,848,260 shares of our Class B common stock issuable upon the exercise of warrants outstanding as of June 30, 2015, with a weighted-average exercise price of $12.29 per share; and
• shares of our Class A common stock reserved for future issuance under our equity compensation plans, consisting of:
  • shares of our Class A common stock reserved for future issuance under our 2015 Plan, which will become effective prior to the completion of this offering; and
  • shares of our Class A common stock reserved for future issuance under our ESPP, which will become effective prior to the completion of this offering.

Our 2015 Plan provides for annual automatic increases in the number of shares reserved thereunder, and our 2015 Plan also provides for increases in the number of shares reserved thereunder based on awards under certain of our other equity compensation plans that expire, are forfeited, or are otherwise repurchased by us. See the section titled “Executive Compensation—Employee Benefit and Stock Plans” for additional information.
SELECTED CONSOLIDATED FINANCIAL AND OTHER DATA

The following selected consolidated statement of operations data for the years ended December 31, 2012, 2013, and 2014, and the consolidated balance sheet data as of December 31, 2013 and 2014, have been derived from our audited consolidated financial statements and related notes included elsewhere in this prospectus. The selected consolidated statement of operations data for the six months ended June 30, 2014 and 2015, and the consolidated balance sheet data as of June 30, 2015, have been derived from our unaudited interim consolidated financial statements and related notes included elsewhere in this prospectus. The unaudited interim consolidated financial statements have been prepared on the same basis as the audited financial statements and reflect, in the opinion of management, all adjustments, which include only normal, recurring adjustments that are necessary to present fairly the unaudited interim consolidated financial statements. Our historical results are not necessarily indicative of the results that may be expected in the future, and the results in the six months ended June 30, 2015, are not necessarily indicative of results to be expected for the full year or any other period, in part because we do not intend to renew our payment processing agreement with Starbucks when it expires in the third quarter of 2016. Further, in August 2015 we amended our payment processing agreement with Starbucks to eliminate the exclusivity provision in order to permit Starbucks to begin transitioning to another payment processor starting October 1, 2015. Under the amendment, Starbucks also agreed to pay increased processing rates to us for as long as they continue to process transactions with us. We anticipate that Starbucks will transition to another payment processor and will cease using our payment processing services prior to the scheduled expiration of the agreement in the third quarter of 2016. As a result, Starbucks payment processing volumes may decrease meaningfully in the future, and may cease entirely prior to the scheduled expiration of the agreement in the third quarter of 2016. You should read the consolidated financial and other data below in conjunction with the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements and related notes included elsewhere in this prospectus.
## Table of Contents

**Consolidated Statement of Operations Data:**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transaction revenue</td>
<td>$ 193,978</td>
<td>$ 433,737</td>
<td>$ 707,799</td>
<td>$309,908</td>
<td>$470,974</td>
</tr>
<tr>
<td>Starbucks transaction revenue</td>
<td>9,471</td>
<td>114,456</td>
<td>123,024</td>
<td>56,613</td>
<td>62,867</td>
</tr>
<tr>
<td>Software and data product revenue</td>
<td>—</td>
<td>—</td>
<td>12,046</td>
<td>2,289</td>
<td>20,934</td>
</tr>
<tr>
<td>Hardware revenue</td>
<td>—</td>
<td>4,240</td>
<td>7,223</td>
<td>3,088</td>
<td>5,795</td>
</tr>
<tr>
<td><strong>Total net revenue</strong></td>
<td>203,449</td>
<td>552,433</td>
<td>850,192</td>
<td>371,878</td>
<td>560,570</td>
</tr>
<tr>
<td><strong>Cost of revenue:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transaction costs</td>
<td>126,351</td>
<td>277,833</td>
<td>450,858</td>
<td>196,076</td>
<td>298,927</td>
</tr>
<tr>
<td>Starbucks transaction costs</td>
<td>12,547</td>
<td>139,803</td>
<td>150,955</td>
<td>70,512</td>
<td>77,132</td>
</tr>
<tr>
<td>Software and data product costs</td>
<td>—</td>
<td>—</td>
<td>2,973</td>
<td>45</td>
<td>10,910</td>
</tr>
<tr>
<td>Hardware costs</td>
<td>—</td>
<td>6,012</td>
<td>18,330</td>
<td>8,365</td>
<td>10,910</td>
</tr>
<tr>
<td>Amortization of acquired technology</td>
<td>—</td>
<td>—</td>
<td>1,002</td>
<td>54</td>
<td>272</td>
</tr>
<tr>
<td><strong>Total cost of revenue</strong></td>
<td>138,898</td>
<td>423,648</td>
<td>624,118</td>
<td>275,270</td>
<td>395,943</td>
</tr>
<tr>
<td><strong>Gross profit</strong></td>
<td>64,551</td>
<td>128,785</td>
<td>226,074</td>
<td>96,608</td>
<td>164,627</td>
</tr>
<tr>
<td><strong>Operating expenses:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Product development</td>
<td>46,568</td>
<td>82,864</td>
<td>144,637</td>
<td>65,484</td>
<td>85,432</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>56,648</td>
<td>64,162</td>
<td>112,577</td>
<td>55,790</td>
<td>67,911</td>
</tr>
<tr>
<td>General and administrative</td>
<td>36,184</td>
<td>68,942</td>
<td>94,220</td>
<td>44,071</td>
<td>59,923</td>
</tr>
<tr>
<td>Transaction and advance losses</td>
<td>10,512</td>
<td>15,329</td>
<td>24,081</td>
<td>10,968</td>
<td>24,835</td>
</tr>
<tr>
<td>Amortization of acquired customer assets</td>
<td>—</td>
<td>—</td>
<td>1,050</td>
<td>230</td>
<td>950</td>
</tr>
<tr>
<td>Impairment of intangible assets</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td><strong>Total operating expenses</strong></td>
<td>149,912</td>
<td>233,727</td>
<td>376,565</td>
<td>176,543</td>
<td>239,051</td>
</tr>
<tr>
<td><strong>Operating loss</strong></td>
<td>(85,361)</td>
<td>(104,492)</td>
<td>(150,491)</td>
<td>(79,935)</td>
<td>(74,424)</td>
</tr>
<tr>
<td><strong>Interest (income) and expense</strong></td>
<td>5</td>
<td>(12)</td>
<td>1,058</td>
<td>182</td>
<td>858</td>
</tr>
<tr>
<td><strong>Other (income) and expense</strong></td>
<td>(167)</td>
<td>(950)</td>
<td>1,104</td>
<td>(220)</td>
<td>746</td>
</tr>
<tr>
<td><strong>Loss before income tax</strong></td>
<td>(85,199)</td>
<td>(103,980)</td>
<td>(152,653)</td>
<td>(79,897)</td>
<td>(76,028)</td>
</tr>
<tr>
<td>Provision (benefit) for income taxes</td>
<td>—</td>
<td>513</td>
<td>1,440</td>
<td>(542)</td>
<td>1,570</td>
</tr>
<tr>
<td><strong>Net loss</strong></td>
<td>(85,199)</td>
<td>(104,493)</td>
<td>(154,093)</td>
<td>(79,355)</td>
<td>(77,598)</td>
</tr>
</tbody>
</table>

Operating expenses include share-based compensation expense as follows:

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Product development</strong></td>
<td>$3,984</td>
<td>$8,820</td>
<td>$24,758</td>
<td>$9,821</td>
<td>$19,349</td>
</tr>
<tr>
<td><strong>Sales and marketing</strong></td>
<td>668</td>
<td>1,235</td>
<td>3,738</td>
<td>1,483</td>
<td>2,774</td>
</tr>
<tr>
<td><strong>General and administrative</strong></td>
<td>3,462</td>
<td>4,603</td>
<td>7,604</td>
<td>3,017</td>
<td>6,570</td>
</tr>
<tr>
<td><strong>Total share-based compensation</strong></td>
<td>$8,114</td>
<td>$14,658</td>
<td>$36,100</td>
<td>$14,321</td>
<td>$28,693</td>
</tr>
</tbody>
</table>
Consolidated Balance Sheet Data:

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31, 2013 (in thousands)</th>
<th>2014 (in thousands)</th>
<th>2015 (in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash and cash equivalents</td>
<td>$166,176</td>
<td>$225,300</td>
<td>$197,940</td>
</tr>
<tr>
<td>Settlements receivable</td>
<td>$64,968</td>
<td>$115,481</td>
<td>$171,845</td>
</tr>
<tr>
<td>Working capital</td>
<td>$124,061</td>
<td>$218,761</td>
<td>$168,658</td>
</tr>
<tr>
<td>Total assets</td>
<td>$318,141</td>
<td>$541,888</td>
<td>$618,559</td>
</tr>
<tr>
<td>Customers payable</td>
<td>$95,794</td>
<td>$148,648</td>
<td>$215,892</td>
</tr>
<tr>
<td>Total stockholders’ equity</td>
<td>$162,294</td>
<td>$273,672</td>
<td>$262,047</td>
</tr>
</tbody>
</table>

Key Operating Metrics and Non-GAAP Financial Measures

We collect and analyze operating and financial data to evaluate the health of our business, allocate our resources, and assess our performance. In addition to revenue, net (loss) income, and other results under generally accepted accounting principles (GAAP), the following table sets forth key operating metrics and non-GAAP financial measures we use to evaluate our business. Each of these metrics and measures excludes the effect of our payment processing agreement with Starbucks. We do not intend to renew our payment processing agreement with Starbucks when it expires in the third quarter of 2016, and we recently amended the agreement to eliminate the exclusivity provision in order to permit Starbucks to begin transitioning to another payment processor starting October 1, 2015. Under the amendment, Starbucks also agreed to pay increased processing rates to us for as long as they continue to process transactions with us. We anticipate that Starbucks will transition to another payment processor and will cease using our payment processing services prior to the scheduled expiration of the agreement in the third quarter of 2016. As a result, we believe it is useful to exclude Starbucks activity to clearly show the impact Starbucks has had on our financial results historically, to provide insight into the impact of the expected termination of the Starbucks agreement on our revenues in the future, to facilitate period-to-period comparisons of our business, and to facilitate comparisons of our performance to that of other payment processors. Our agreements with other sellers, including Starbucks following the amendment described above, generally provide both those sellers and us the unilateral right to terminate such agreements at any time, without fine or penalty. Furthermore, we generally do not enter into long-term contractual agreements with sellers.

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Payment Volume (GPV) (in millions)</td>
<td>$6,518</td>
<td>$14,819</td>
<td>$23,780</td>
<td>$10,395</td>
<td>$15,898</td>
</tr>
<tr>
<td>Adjusted Revenue</td>
<td>$67,627</td>
<td>$160,144</td>
<td>$276,310</td>
<td>$119,189</td>
<td>$198,776</td>
</tr>
<tr>
<td>Adjusted EBITDA</td>
<td>$(70,579)</td>
<td>$(51,530)</td>
<td>$(67,741)</td>
<td>$(44,002)</td>
<td>$(19,270)</td>
</tr>
</tbody>
</table>

Gross Payment Volume (GPV)

We define GPV as the total dollar amount of all card payments processed by sellers using Square, net of refunds. GPV excludes card payments processed for Starbucks. Additionally, GPV excludes activity related to our Square Cash peer-to-peer payments service.
Adjusted Revenue

Adjusted Revenue is a non-GAAP financial measure that we define as our total net revenue less transaction costs, adjusted to eliminate the effect of activity under our payment processing agreement with Starbucks. As described above, we anticipate that Starbucks will transition to another payment processor and will cease using our payment processing services in the future, and we believe that providing Adjusted Revenue metrics that exclude the impact of our agreement with Starbucks is useful to investors.

We believe it is useful to exclude transaction costs from Adjusted Revenue as this is a primary metric used by management to measure our business performance, and it affords greater comparability to other payments processing companies. Substantially all of the transaction costs excluded from Adjusted Revenue are interchange fees set by payment card networks and are paid to card issuers, with the remainder of such transaction costs consisting of assessment fees paid to payment card networks, fees paid to third-party payment processors, and bank settlement fees. While some payment processors present their revenue in a similar fashion to us, others present their revenue net of transaction costs because they pass through these costs directly to their sellers. Under our standard pricing model, we do not pass through these costs directly to our sellers.

Adjusted Revenue has limitations as a financial measure, should be considered as supplemental in nature, and is not meant as a substitute for the related financial information prepared in accordance with GAAP. These limitations include the following:

- Adjusted Revenue excludes transaction costs, which is our largest cost of revenue item; and
- other companies, including companies in our industry, may calculate Adjusted Revenue differently from how we calculate this measure or not at all, which reduces its usefulness as a comparative measure.

Because of these limitations, you should consider Adjusted Revenue alongside other financial performance measures, including total net revenue and our financial results presented in accordance with GAAP. The following table presents a reconciliation of total net revenue to Adjusted Revenue for each of the periods indicated:

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
<th>Six Months Ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>2013</td>
</tr>
<tr>
<td>(in thousands)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total net revenue</td>
<td>$203,449</td>
<td>$552,433</td>
</tr>
<tr>
<td>Less: Starbucks transaction revenue</td>
<td>9,471</td>
<td>114,456</td>
</tr>
<tr>
<td>Less: transaction costs</td>
<td>126,351</td>
<td>277,833</td>
</tr>
<tr>
<td>Adjusted Revenue</td>
<td>$ 67,627</td>
<td>$160,144</td>
</tr>
</tbody>
</table>

Adjusted EBITDA

Adjusted EBITDA is a non-GAAP financial measure that represents our net loss, adjusted to eliminate the effect of Starbucks transaction revenue and Starbucks transaction costs, before interest income and expense, provision or benefit for income taxes, depreciation, amortization, share-based compensation expense, other income and expense, the gain or loss on the sale of property and equipment, and impairment of intangible assets. We have included Adjusted EBITDA in
this prospectus because it is a key measure used by our management to evaluate our operating performance, generate future operating plans, and make strategic decisions, including those relating to operating expenses and the allocation of internal resources. Accordingly, we believe that Adjusted EBITDA provides useful information to investors and others in understanding and evaluating our operating results in the same manner as our management and board of directors. In addition, it provides a useful measure for period-to-period comparisons of our business, as it removes the effect of certain non-cash items and certain variable charges.

We believe it is useful to exclude non-cash charges, such as depreciation and amortization, and share-based compensation expenses, from our Adjusted EBITDA because the amount of such expenses in any specific period may not directly correlate to the underlying performance of our business operations. We exclude Starbucks transaction revenue and Starbucks transaction costs because we anticipate that Starbucks will transition to another payment processor in the future. As described above, we anticipate Starbucks will cease using our payment processing services in the future and believe that providing Adjusted EBITDA metrics that exclude the impact of our agreement with Starbucks is useful to investors. We exclude gain or loss on the sale of property and equipment, and impairment of intangible assets from Adjusted EBITDA because we do not believe that these items are reflective of our ongoing business operations. In addition, we believe it is useful to exclude interest income and expense, other income and expense, and provision or benefit from income taxes, as these items are not components of our core business operations. Adjusted EBITDA has limitations as a financial measure, should be considered as supplemental in nature and is not meant as a substitute for the related financial information prepared in accordance with GAAP. These limitations include the following:

- although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future, and Adjusted EBITDA does not reflect cash capital expenditure requirements for such replacements or for new capital expenditures or other capital commitments;
- Adjusted EBITDA does not reflect changes in, or cash requirements for, our working capital needs;
- Adjusted EBITDA does not reflect the effect of income taxes that may represent a reduction in cash available to us;
- Adjusted EBITDA does not reflect the effect of foreign currency exchange gains or losses which are included in other income and expense; and
- other companies, including companies in our industry, may calculate Adjusted EBITDA differently from how we calculate this measure or not at all, which reduces its usefulness as a comparative measure.

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Because of these limitations, you should consider Adjusted EBITDA alongside other financial performance measures, including net loss and our other financial results presented in accordance with GAAP. The following table presents a reconciliation of net loss to Adjusted EBITDA for each of the periods indicated:

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th>Six Months Ended June 30,</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Net loss</td>
<td>$(85,199)</td>
<td>$(104,493)</td>
<td>$(154,093)</td>
<td>$(79,355)</td>
<td>$(77,598)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Starbucks transaction revenue</td>
<td>(9,471)</td>
<td>(114,456)</td>
<td>(123,024)</td>
<td>(56,613)</td>
<td>(62,867)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Starbucks transaction costs</td>
<td>12,547</td>
<td>139,803</td>
<td>150,955</td>
<td>70,512</td>
<td>77,132</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Share-based compensation expense</td>
<td>8,114</td>
<td>14,658</td>
<td>36,100</td>
<td>14,321</td>
<td>28,693</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>3,579</td>
<td>8,272</td>
<td>18,586</td>
<td>7,713</td>
<td>11,956</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest (income) and expense</td>
<td>5</td>
<td>(12)</td>
<td>1,058</td>
<td>182</td>
<td>858</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other (income) and expense</td>
<td>(167)</td>
<td>(950)</td>
<td>1,104</td>
<td>(220)</td>
<td>746</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provision (benefit) for income taxes</td>
<td>—</td>
<td>513</td>
<td>1,440</td>
<td>(542)</td>
<td>1,570</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loss on sale of property and equipment</td>
<td>13</td>
<td>2,705</td>
<td>133</td>
<td>—</td>
<td>240</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impairment of intangible assets</td>
<td>—</td>
<td>2,430</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjusted EBITDA</td>
<td>$(70,579)</td>
<td>$(51,530)</td>
<td>$(67,741)</td>
<td>$(44,002)</td>
<td>$(19,270)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
MANAGEMENT'S DISCUSSION AND ANALYSIS OF
FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis in conjunction with the information set forth under “Selected Consolidated Financial And Other Data” and our consolidated financial statements and related notes included elsewhere in this prospectus. The statements in this discussion regarding our expectations of our future performance; liquidity and capital resources; our plans, estimates, beliefs and expectations that involve risks and uncertainties; and other non-historical statements in this discussion, are forward-looking statements. These forward-looking statements are subject to numerous risks and uncertainties, including, but not limited to, the risks and uncertainties described under “Risk Factors” and elsewhere in this prospectus. Our actual results may differ materially from those contained in or implied by any forward-looking statements.

Overview

We started Square in February 2009 to enable anyone with a mobile device to accept card payments, anywhere, anytime. While we found early success providing easy access to card payments, commerce extends beyond payments. In every transaction, we see opportunity for our sellers: to learn more about which products are selling best, to reinvest in their businesses, or to create and engage loyal buyers. Although we currently generate approximately 95% of our revenue from payments and point-of-sale (POS) services, we have extended our product and service offerings to include financial services and marketing services, all to help sellers start, run, and grow their businesses.

We work to democratize commerce—leveling the playing field for sellers of all sizes. Our focus on technology and design allows us to create products and services that are accessible, intuitive, and easy-to-use. We set attractive and transparent pricing, and we accept approximately 95% of sellers who seek to process payments with Square. We provide a free software app with our affordable (often free) hardware to turn mobile devices into powerful POS solutions in minutes. Our insights into our sellers’ businesses have allowed us to develop services that are applicable to businesses of all types and sizes, from Square Analytics to digital receipts. We also continue to add advanced software features that tailor our POS solution to specific types of sellers, such as open tickets for bars and restaurants and inventory management for retailers.

Because of our approach, we have grown rapidly. Millions of sellers accept payments with Square. They span all types of businesses: from cabs to coffee shops, lawyers to landscapers, retail stores to restaurants. Although substantially all of our revenue is currently generated in the United States, we also serve sellers throughout Canada and Japan. As this international base of sellers grows, so too should our Gross Payment Volume (GPV) and revenue in these regions. We serve sellers of all sizes, ranging from a single vendor at a farmers’ market to a farmers’ market to multinational businesses. Our products and services are built to scale, so sellers can stay with us over the life of their businesses. In 2014, sellers using Square processed $23.8 billion of GPV, which was generated by 446 million card payments from approximately 144 million payment cards. GPV measures the total dollar amount of card payment transactions we process for our sellers (net of refunds), excluding card payments processed for Starbucks and our Square Cash peer-to-peer service. Since we generate transaction revenue as a percentage of payment volume, we believe GPV is a key indicator of our ability to generate revenue. In the 12 months ended June 2015, over two million sellers accepted five or more payments using Square, accounting for approximately 97% of our GPV.
The foundation of our business model is the millions of sellers processing payments with Square. We estimate that nearly half of our sellers find us and sign up, rather than us finding them, adding efficiency to our sales and marketing efforts. We measure the effectiveness of our spending by evaluating the “payback period,” which we view as the number of quarters it takes for a quarterly cohort of sellers’ cumulative transaction revenue net of transaction costs to surpass our sales and marketing spending in the quarter in which we acquired that cohort. We define a quarterly cohort of sellers as the group of sellers that are approved to accept card payments with Square in a given quarter. On average, our payback period has been four to five quarters.

Revenue from our sellers has grown consistently over time, resulting in strong dollar-based retention rates. Transaction revenue net of transaction costs for each of our 17 quarterly seller cohorts (dating back to the second quarter of 2010) has grown year over year in every quarter. Over the past four quarters, retention of transaction revenue net of transaction costs for our cohorts has, on average, exceeded 110% year over year.

The addition of new products and services is also a key part of our strategy. Our scale, growth, and unique insights enable us to serve sellers of all sizes with additional financial services and marketing services, further strengthening our business. For example, sellers who grow sales as a result of deploying funds from Square Capital into their business will ultimately process increased payment volume with us.

We earn nearly all of our revenue from payments and POS services. For the six months ended June 30, 2015, transaction revenue and Starbucks transaction revenue together represented 95% of total net revenue. For the six months ended June 30, 2015, our total net revenue grew to $560.6 million, up 51% from the six months ended June 30, 2014. In 2014, our total net revenue grew to $850.2 million, up 54% from the prior year. For the six months ended June 30, 2015, our Adjusted Revenue grew to $198.8 million, up 67% from the six months ended June 30, 2014. In 2014, our Adjusted Revenue grew to $276.3 million, up 73% from the prior year. We intend to continue to make investments that will serve sellers and buyers over the long term even if a return on these investments is not realized in the short term. For the six months ended June 30, 2015 and June 30, 2014, we generated a net loss of $77.6 million and $79.4 million, respectively. In 2014 and 2013, we generated a net loss of $154.1 million and $104.5 million, respectively.

Factors Affecting Our Operating Performance

Adoption of our payments and POS services. Our payments services are the foundation of our relationship with our sellers. We generate revenue with every card payment that our sellers accept. We will continue to drive adoption of our payments services by scaling our solutions to meet the needs of sellers of all types and sizes. We believe we can do this by further developing our products and services, using custom pricing to attract larger sellers, and enhancing relationships with larger sellers through our direct sales and account management teams.

We seek to continue to drive adoption of our payments and POS services, as they represent one important way sellers can gain familiarity with our full range of products, features, and services. The insights generated by our payments services enable many new products and services, such as analytics that show our sellers how their businesses are performing, helping them increase sales and thereby generating incremental revenue for us. As a result, the level of ongoing seller adoption of our payments and POS services will affect our growth.

Up-selling and cross-selling additional products and services. Our existing sellers represent a sizable opportunity to up-sell and cross-sell products and services with little incremental sales and marketing expense. We believe that POS
services such as Square Appointments, financial services such as Square Capital, and marketing services such as Square Customer Engagement represent opportunities to further increase engagement with our sellers. We plan to continually invest in product development, and in sales and marketing, to increase the usage and awareness of these services. As a result, to the extent we are able to up-sell and cross-sell these financial services and marketing services and develop and introduce new products and services to our existing sellers, our growth and margins will be positively affected.

**Ongoing evolution in payment technologies.** We are committed to ensuring that no seller misses a sale because he or she cannot accept a certain form of payment. In the near term, this means enabling our sellers to accept NFC and EMV payments in addition to magnetic stripe card payments. We are also committed to encouraging the shift to authenticated technologies for a stronger and more secure seller and buyer experience. Today, card-issuing banks are generally responsible for fraudulent card-present transactions. Beginning October 2015, sellers in the United States who accept card-present payments with EMV chip cards and who are not using EMV-compliant hardware will be subject to liability for fraud associated with those transactions. We believe this will lead to a significant upgrade cycle for POS terminals among our current seller base and that it presents an opportunity for us to reach an even broader group of sellers seeking cost-effective solutions to comply with EMV requirements, in particular the new standards in the United States and Japan. In conjunction with the shift toward EMV, we believe that sellers will increasingly want to enable NFC payments, as NFC technology can offer fast EMV-compliant transactions. In the second quarter of 2015, we began shipping our first Square Reader for EMV chip cards, and we recently announced a Square Reader for both EMV chip cards and NFC, which will begin shipping in the second half of 2015.

Unlike our Square Reader for magnetic stripe cards, which we distribute for free and the costs of which are reflected in our sales and marketing expenses, our Square Readers for EMV chip cards and NFC will be available for sale and will be reflected in hardware revenue and hardware costs. We currently offer our Square Reader for EMV chip cards at a price approximately equal to our costs, and we expect to do the same with our Square Reader for EMV chip cards and NFC. As a result, the timing of the transition of new and existing sellers from our Square Reader for magnetic stripe cards to our Square Reader for EMV chip cards and NFC will affect our results of operations. Relative to our free Square Reader for magnetic stripe cards, we may encounter changes in demand from new sellers for our Square Reader for EMV chip cards and NFC given the cost associated with purchasing more advanced hardware. Additionally, from time to time we may engage in promotional efforts to encourage the adoption of Square Readers for EMV chip cards and NFC. These efforts may have short-term negative effects on our operating results.

**Sales and marketing investment.** We plan to invest in sales and marketing channels that we believe drive further growth and adoption of our services. Given the nature of our revenue streams, which are distributed over time as sellers process transactions, our investments in sales and marketing do not realize returns in the same period in which they are made but over subsequent periods, which could adversely affect our near-term results. We measure the effectiveness of sales and marketing spending in a quarter relative to the performance of the seller cohort acquired in that quarter. The payback period for our seller cohorts has been four to five quarters on average.

**Continued investment in product development.** We will continue to invest in product development to build new products and services and to bring them to market. We expect to continue to increase headcount to promote and support our anticipated growth. Although we expect these investments to benefit our business over the long term, we expect our total operating expenses will increase in dollar amount over time, and in the short term they may have negative effects on our operating results.
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Seller size. As our existing sellers grow and as we serve increasingly larger sellers, we have an opportunity to significantly grow our GPV. Serving an increasing number of larger sellers also presents an opportunity to cross-sell software and data products and services that generate incremental revenue and gross profit with limited or zero incremental customer acquisition costs. Over time, we expect an increasing portion of our growth to come from increased revenue per seller. However, we experience an inherent trade-off between the size of our sellers and our transaction revenue as a percentage of GPV because we selectively offer custom pricing to larger sellers.

Global adoption. We believe we are well positioned to enter additional markets globally, including through our ability to provide modern, cost-effective hardware to markets that have embraced NFC or EMV technologies. We plan to continue expanding into new countries to broaden our base of sellers and to increase our market opportunity. In doing so, we may need to invest significantly, which could have negative effects on our operating results.

Buyer adoption of our services. We offer services that directly reach buyers. Today, our digital receipts provide a unique link between sellers and buyers—any time a buyer completes a sale with a Square seller, he or she can choose to receive a digital receipt via email or text message, building a direct communication channel. In 2014, we sent 147 million digital receipts; for the six months ended June 30, 2015, we sent approximately 105 million digital receipts, representing nearly 70% growth over the same period last year. We currently see more than 1.5 million monthly feedback communications sent by buyers to sellers through digital receipts. We also offer Caviar, Square Cash, and other services to make commerce easy for buyers. We have made significant investments in the development of these buyer-facing products and services, and our ability to grow our buyer network will be important for strengthening our ecosystem and driving our growth.

Amendment and expiration of Starbucks payment processing agreement. In the third quarter of 2012, we signed an agreement to process credit and debit card payment transactions for all Starbucks-owned stores in the United States. We believe this agreement was a valuable catalyst for building best-in-class enterprise infrastructure. For the six months ended June 30, 2015, and the year ended December 31, 2014, the gross loss related to our payment processing agreement with Starbucks was $14.3 million and $27.9 million, respectively. In August 2015, we amended our payment processing agreement with Starbucks to eliminate the exclusivity provision in order to permit Starbucks to begin transitioning to another payment processor starting October 1, 2015. Under the amendment, Starbucks also agreed to pay increased processing rates to us for as long as they continue to process transactions with us. We anticipate that Starbucks will transition to another payment processor and will cease using our payment processing services prior to the scheduled expiration of the agreement in the third quarter of 2016. As a result, Starbucks payment processing volumes may decrease meaningfully in the future, and may cease entirely prior to the scheduled expiration of the agreement in the third quarter of 2016. In any event, we do not intend to renew our payment processing agreement with Starbucks when it expires in the third quarter of 2016, at which point we would cease generating both Starbucks transaction revenue and Starbucks transaction costs, positively affecting our overall gross profit. Because we do not expect to renew our payment processing agreement with Starbucks, and because the agreement’s historical terms are not representative of future economics, we believe it is useful to exclude Starbucks activity to clearly show the impact Starbucks has had on our financial results historically, to provide insight into the impact of the expected termination of the Starbucks agreement on our revenues in the future, to facilitate period-to-period comparisons of our business, and to facilitate comparisons of our performance to that of other payment processors.

Effect of pricing initiatives for our payment processing services. Since February 2011, our standard model for payments services has remained stable at 2.75% of the total transaction amount for processing card-present transactions,

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and 3.5% of the total transaction amount plus $0.15 per transaction for card-not-present transactions. Notwithstanding our history of stable pricing for our payments services, we face competition across our payments services. We have introduced pricing programs to attract newer larger customers, such as our current custom pricing program (introduced in November 2013). Our custom pricing initiative affects a small but fast growing portion of our sellers and represents an opportunity for incremental growth. To the extent competition for sellers increases, particularly for those that are offered custom pricing, our rate of growth and margins may be adversely affected.

Macroeconomic environment. Our sellers’ underlying business activity from buyers is linked to the macroeconomic environment, affecting our transaction revenue as well as the adoption of additional services by our sellers.

Components of Results of Operations

Revenue

Transaction revenue. We charge our sellers a transaction fee for payment processing services equal to 2.75% of the total transaction amount for processing card-present transactions and for processing payments with Square Invoices, and 3.5% of the total transaction amount plus $0.15 per transaction for processing manually entered (card-not-present) transactions. We also selectively offer custom pricing for larger sellers.

Starbucks transaction revenue. Under our payment processing agreement with Starbucks, we charge a percentage of the total transaction amount for processing credit and debit card payment transactions for all Starbucks-owned stores in the United States. Under the amended terms of our payment processing agreement, Starbucks can terminate the agreement with 30 days’ notice, and, as of October 1, 2015, Starbucks will no longer be obligated to use us as their exclusive payment processor. As a result, Starbucks payment processing volumes may decrease meaningfully in the future, and may cease entirely prior to the scheduled expiration of the agreement in the third quarter of 2016, positively affecting our overall gross profit. In any event, we do not intend to renew our payment processing agreement with Starbucks when it expires. Starbucks transaction revenue in 2012 includes the initial recognition of the fair value of a warrant issued in our payment processing agreement with Starbucks. Subsequent remeasurements of this warrant liability were captured in other income and expense until the third quarter of 2013, when we amended the warrants issued to Starbucks, and no further remeasurements will be required with respect to this warrant. We have also issued Starbucks two additional warrants to purchase Class B common stock which become exercisable if certain performance thresholds under our agreement with Starbucks are achieved prior to the termination of such agreement, or if we consummate a change of control transaction, which does not include an initial public offering of our equity securities. We have assessed the probability of such conditions being met to be remote; however, any initial fair value measurements would be offset against Starbucks transaction revenues if any of the performance thresholds are achieved or there is a change of control before the term of the payment processing agreement expires.

Software and data product revenue. In addition to payments and POS services, we offer our sellers paid software services, including Square Appointments and Square Customer Engagement. Square Capital is our most significant data service and provides merchant cash advances (MCAs) to pre-qualified sellers. In return for these advances, the merchant agrees to repay a fixed future receivable amount. A fixed percentage of the merchant’s daily processing volume is withheld as repayment for their advance. Of that repayment, the agreed upon fixed percentage is recognized as revenue, resulting in revenue being recognized ratably as cash is collected. We currently fund a significant majority of the MCAs from
arrangements with third parties that commit to purchase the future receivables related to the MCAs. This funding significantly increases the speed with which we can scale Square Capital and allows us to mitigate our balance sheet risk. We generate revenue from selling these future receivables to third parties by charging upfront fees when the receivables are sold and charging ongoing servicing fees for servicing these receivables. We fund the remaining MCAs from our balance sheet. In these instances, the difference between the fixed amount of the future receivable and the related MCA is collected over time and recognized as revenue. Revenue for Caviar, our food delivery service, is also included in software and data product revenue and is derived from seller fees, which are a percentage of total food order value, delivery fees, which are fixed per transaction, and service fees paid by the consumer based on total food order value. We expect software and data product revenue to constitute an increasing percentage of our total net revenue.

Hardware revenue. Hardware revenue includes revenue from sales of Square Stand, Square Readers for EMV chip cards and NFC, and third-party peripherals. Third-party peripherals include cash drawers, receipt printers, and barcode scanners, all of which can be integrated with Square Stand to provide a comprehensive POS solution. We began selling Square Readers for EMV chip cards in the second quarter of 2015. As we broaden our hardware offerings and third-party peripherals, and as we migrate new and existing sellers to Square Readers for EMV chip cards and NFC, hardware revenue may increase as a portion of total net revenue.

Cost of Revenue and Gross Margin

Transaction costs. Transaction costs consist primarily of interchange fees set by payment card networks and that are paid to the card-issuing financial institution, assessment fees paid to payment card networks, fees paid to third-party payment processors, and bank settlement fees.

Starbucks transaction costs. Starbucks transaction costs are made up of the same components as our overall transaction costs.

Software and data product costs. Software and data product costs consist primarily of Caviar-related costs, which include payments to third-party couriers for deliveries and the costs of equipment provided to sellers. Cost of revenue for other software and data products consist primarily of the allocated portion of costs related to our third-party data center facilities and depreciation, as well as personnel-related and facilities costs related to customer support. To the extent we are able to increase the proportion of our total net revenue that is derived from sale of these software and data products, we expect our overall gross margin will be positively affected.

Hardware costs. Hardware costs consist primarily of product costs associated with Square Stand, Square Readers for EMV chip cards and NFC, and third-party peripherals. Product costs include manufacturing-related overhead and personnel costs, certain royalties, packaging, and fulfillment costs. We currently offer our Square Reader for EMV chip cards and anticipate offering our new Square Reader for EMV chip cards and NFC at a price approximately equal to our costs. For Square Stand, our production costs exceed our revenue. However, we believe that Square Stand is an attractive offering to many of our larger sellers, and, as a result, we intend to continue to offer Square Stand at prices less than our costs. In conjunction with the sale of Square Reader for EMV chip cards and NFC, we will also begin to recognize additional costs related to the design and distribution of those units, although we do not expect the effect of these additional costs on our overall gross margin to be significant.
Amortization of acquired technology. These costs consist of amortization related to technologies acquired through acquisitions that have the capability of producing revenue.

Operating Expenses

Operating expenses consist of product development, sales and marketing, general and administrative expenses, transaction and advance losses, amortization of acquired customer assets, and impairment of intangible assets. For product development and general and administrative expenses, the largest single component is personnel-related expenses, including salaries and bonuses, employee benefit costs, and share-based compensation. In the case of sales and marketing expenses, a significant portion is related to paid advertising expenses in addition to personnel-related expenses. Operating expenses also include allocated overhead costs for facilities, human resources, and IT.

Product Development

Product development expenses currently represent the largest component of our operating expenses and consist primarily of personnel-related expenses of our engineering and design personnel, fees and supply costs related to maintenance and capacity expansion at third-party data center facilities, development and tooling costs, and fees for software licenses, consulting, legal, and other services that are directly related to growing and maintaining our portfolio of products and services. Additionally, product development expenses include the depreciation of product-related infrastructure and tools, including data center equipment, internally developed software, and computer equipment. We continue to focus our product development efforts on adding new features and apps, and on enhancing the functionality and ease of use of our offerings. Our ability to realize returns on these investments is substantially dependent upon our ability to successfully address current and emerging requirements of sellers and buyers through the development and introduction of these new products and services. While we expect total product development expenses to increase as we invest further in engineering and design personnel, we also expect our product development expenses to decline as a percentage of total net revenue.

Sales and Marketing

Sales and marketing expenses consist primarily of three components. First, sales and marketing includes costs incurred to acquire new sellers through various paid advertising channels, including online, mobile, email, direct mail, and direct response TV, all of which are expensed as incurred. Second, sales and marketing expenses include personnel-related expenses of our direct sales, account management, local and product marketing, retail and ecommerce, partnerships, and communications personnel. Third, sales and marketing expenses include the costs associated with the manufacturing and distribution of the Square Reader for magnetic stripe cards, which is offered for free on our website and provided through various marketing events and distribution channels. New sellers who purchase a Square Reader for magnetic stripe cards from one of our retail distribution partners are offered a rebate equal to the price paid. The cost to us of manufacturing and distributing Square Readers for magnetic stripe cards is partially offset by amounts received from retail distribution partners. As our sellers transition to using Square Readers for EMV chip cards and NFC, we expect to distribute relatively fewer Square Readers for magnetic stripe cards, thus reducing that component of our sales and marketing costs. Sales and marketing expenses also include costs associated with Square Cash, which enables individuals to initiate peer-to-peer cash transfers free of charge. While we expect sales and marketing expenses to increase as the scale of our business grows, we expect sales and marketing expenses to decline as a percentage of total net revenue over
the long term. Over the short term, however, sales and marketing expenses as a percentage of total net revenue may demonstrate variability based on the timing and magnitude of marketing and customer acquisition initiatives.

**General and Administrative**

General and administrative expenses consist primarily of personnel-related expenses of our finance, legal, human resources, and administrative personnel. General and administrative expenses also include costs related to customer support personnel and systems, as well as fees paid for professional services, including legal, tax, and accounting services. While we expect general and administrative expenses to increase in dollar amount to support our growth and costs of compliance associated with being a public company, we expect general and administrative expense to decline as a percentage of total net revenue.

**Transaction and Advance Losses**

We are exposed to transaction losses due to chargebacks as a result of fraud or uncollectibility. Examples of transaction losses include chargebacks for unauthorized credit card use and inability to collect on disputes between buyers and sellers over the delivery of goods or services. The total of expected losses less the total amount of chargebacks reported constitutes our reserve for estimated losses incurred but not reported. We base our reserve estimates on prior chargeback history and current period data points indicative of transaction loss. We reflect additions to the reserve in current operating results, while we make charges to the reserve when we incur losses. We reflect recoveries in the reserve for transaction losses as collected.

We are not exposed to losses for the receivables that are sold to third parties in accordance with our arrangements with them. These third-party arrangements cover a majority of the dollar value of receivables outstanding. For the remaining receivables, we are generally exposed to losses related to uncollectibility, and similar to the accrued transaction loss, we establish losses for uncollectible receivables. We estimate the allowance based on prior default rates and seller-specific activity. We plan to continue to fund a substantial majority of future MCAs through third-party sales. Although advance losses associated with MCAs have been immaterial since Square Capital’s launch in May 2014, we expect advance losses from MCAs to constitute a greater portion of advance losses in future periods to the extent adoption of this product increases over time.

The establishment of appropriate reserves is an inherently uncertain process, and ultimate losses may vary from the current estimates. We regularly update our reserve estimates as new facts become known and events occur that may affect the settlement or recovery of losses. For the year ended December 31, 2014, our transaction and advance losses accounted for approximately 0.1% of GPV. However, as we expand our seller base, offer new services, and expand to new geographies, we expect that our transaction and advance losses would be affected and will vary quarter to quarter.

**Amortization of Acquired Customer Assets**

Amortization of acquired customer assets includes customer relationships, restaurant relationships, driver relationships, subscriber relationships, and partner relationships.
Impairment of Intangible Assets

As certain acquired intangible assets were not expected to contribute directly or indirectly to our future cash flows and there were no other ways to monetize the technology, an impairment charge was recorded in December 2013.

Interest and Other Income and Expense

Interest income and expense consists primarily of interest expense for the drawn portion of our revolving credit facility. Other income and expense historically consisted primarily of changes in the fair value of our customer warrant liability measurements, and to a lesser extent, interest expense on our capital lease financings, interest income on cash balances, and foreign currency-related gains and losses.

Provision (Benefit) for Income Taxes

The provision (benefit) for income taxes consists primarily of local, state, federal, and foreign tax. Our effective tax rate fluctuates from period to period due to changes in the mix of income and losses in jurisdictions with a wide range of tax rates, the effect of acquisitions, the change resulting from the amount of recorded valuation allowance, the permanent difference between GAAP and local tax laws, certain one-time items, and changes in tax contingencies.

As of December 31, 2014, we had $45.7 million of federal, $123.3 million of state, and $31.3 million of foreign net operating loss carryforwards, which will begin to expire in 2032 for federal and 2019 for state tax purposes. The foreign net operating loss carryforwards do not expire. An annual limitation may apply to the use of net operating loss carryforwards under provisions of the Internal Revenue Code and similar state tax provisions that are applicable if we experience an ownership change. As of December 31, 2014, we have performed an analysis on the potential limitations on the utilization of net operating loss carryforwards and determined that as of such date they were not subject to any material limitations that would preclude the use of the net operating losses. We have not conducted an analysis to determine if an ownership change will occur as a result of this offering. Substantially all of our net operating loss carryforwards were subject to a valuation allowance as of June 30, 2015.
Results of Operations

The results of operations presented below should be reviewed in conjunction with the consolidated financial statements and notes included elsewhere in this prospectus. The following table sets forth our consolidated results of operations for the periods shown:

<table>
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<th>Year Ended December 31,</th>
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<th>Year Ended December 31,</th>
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<td>(in thousands)</td>
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<tr>
<td>Total net revenue</td>
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<td>$850,192</td>
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<td>Total cost of revenue</td>
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<td></td>
<td>138,898</td>
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<td>Gross profit</td>
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<td>96,608</td>
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<tr>
<td>Operating expenses:</td>
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<td>Product development</td>
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<td>Sales and marketing</td>
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<td>55,790</td>
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<td>General and administrative</td>
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<td>Transaction and advance losses</td>
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<td>24,081</td>
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<td>Amortization of acquired customer assets</td>
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<td>1,050</td>
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<td>950</td>
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<td>Impairment of intangible assets</td>
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<td>2,430</td>
<td>—</td>
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<td>Total operating expenses</td>
<td>149,912</td>
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<td>376,565</td>
<td>176,543</td>
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<td>Operating loss</td>
<td>(85,361)</td>
<td>(104,942)</td>
<td>(150,491)</td>
<td>(79,935)</td>
<td>(74,424)</td>
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<td>Interest (income) and expense</td>
<td>5</td>
<td>(12)</td>
<td>1,058</td>
<td>182</td>
<td>858</td>
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<td>Other (income) and expense</td>
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<td>(220)</td>
<td>746</td>
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<td>Loss before income tax</td>
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<td>(103,980)</td>
<td>(152,653)</td>
<td>(79,897)</td>
<td>(76,028)</td>
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<tr>
<td>Provision (benefit) for income taxes</td>
<td>—</td>
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<td>1,440</td>
<td>(542)</td>
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<tr>
<td>Net loss</td>
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<td>$(154,093)</td>
<td>$(79,355)</td>
<td>$(77,598)</td>
<td></td>
</tr>
</tbody>
</table>

The following table sets forth share-based compensation expense for the periods shown:

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
<th></th>
<th></th>
<th>Year Ended December 31,</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>2013</td>
<td>2014</td>
<td>2014</td>
<td>2015</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(in thousands)</td>
<td></td>
<td></td>
<td>(in thousands)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Product development</td>
<td>$3,984</td>
<td>$8,820</td>
<td>$24,758</td>
<td>$9,821</td>
<td>$19,349</td>
<td></td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>668</td>
<td>1,235</td>
<td>3,738</td>
<td>1,483</td>
<td>2,774</td>
<td></td>
</tr>
<tr>
<td>General and administrative</td>
<td>3,462</td>
<td>4,603</td>
<td>7,604</td>
<td>3,017</td>
<td>6,570</td>
<td></td>
</tr>
<tr>
<td>Total share-based compensation</td>
<td>$8,114</td>
<td>$14,658</td>
<td>$36,100</td>
<td>$14,321</td>
<td>$28,693</td>
<td></td>
</tr>
</tbody>
</table>
Comparison of Six Months Ended June 30, 2014 and 2015

Total Net Revenue

The following table sets forth our total net revenue for the periods shown:

<table>
<thead>
<tr>
<th></th>
<th>Six Months Ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2014</td>
</tr>
<tr>
<td>(in thousands)</td>
<td></td>
</tr>
<tr>
<td>(unaudited)</td>
<td></td>
</tr>
<tr>
<td>Transaction revenue</td>
<td>$309,908</td>
</tr>
<tr>
<td>Starbucks transaction revenue</td>
<td>56,613</td>
</tr>
<tr>
<td>Software and data product revenue</td>
<td>2,289</td>
</tr>
<tr>
<td>Hardware revenue</td>
<td>3,068</td>
</tr>
<tr>
<td>Total net revenue</td>
<td>$371,878</td>
</tr>
</tbody>
</table>

Total net revenue for the six months ended June 30, 2015, increased by $188.7 million, or 51%, compared to the six months ended June 30, 2014.

Transaction revenue for the six months ended June 30, 2015, increased by $161.1 million, or 52%, compared to the six months ended June 30, 2014. This increase was attributable to growth in GPV processed of $5.5 billion, or 53%, to $15.9 billion from $10.4 billion. The significant majority of growth in GPV was derived from new sellers added within the 12-month period ended June 30, 2015; a smaller portion was generated by growth in GPV from the payment activity of existing sellers that were approved to transact with us on or prior to June 30, 2014. Transaction revenue as a percentage of GPV remained largely constant period to period and contributed 84% of total net revenue in the six months ended June 30, 2015, up from 83% in the six months ended June 30, 2014.

Starbucks transaction revenue for the six months ended June 30, 2015, increased by $6.3 million, or 11%, compared to the six months ended June 30, 2014. Starbucks transaction revenue contributed 11% of total net revenue in the six months ended June 30, 2015, down from 15% in the six months ended June 30, 2014.

Software and data product revenue for the six months ended June 30, 2015, increased by $18.6 million compared to the six months ended June 30, 2014. The increase was driven by the launch of several new products and services in 2014, including Square Capital. Software and data product revenue also reflects revenue contributions from Caviar, which we acquired in August 2014. Software and data product revenue grew to 4% of total net revenue in the six months ended June 30, 2015, up from 1% in the six months ended June 30, 2014.

Hardware revenue for the six months ended June 30, 2015, increased by $2.7 million, or 89%, compared to the six months ended June 30, 2014. The increase reflects growth in our sales of Square Stand and third-party peripherals. Hardware revenue represented 1% of total net revenue in the six months ended June 30, 2015 and 2014.
Total Cost of Revenue

The following table sets forth our total cost of revenue for the periods shown:

<table>
<thead>
<tr>
<th></th>
<th>Six Months Ended June 30, 2014 (in thousands)</th>
<th>2015 (in thousands)</th>
<th>$ Change</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Transaction costs</strong></td>
<td>$196,076</td>
<td>$298,927</td>
<td>$102,851</td>
<td>52%</td>
</tr>
<tr>
<td>Starbucks transaction costs</td>
<td>70,512</td>
<td>77,132</td>
<td>6,620</td>
<td>9%</td>
</tr>
<tr>
<td>Software and data product costs</td>
<td>45</td>
<td>7,230</td>
<td>7,185</td>
<td>NM</td>
</tr>
<tr>
<td>Hardware costs</td>
<td>8,365</td>
<td>10,910</td>
<td>2,545</td>
<td>30%</td>
</tr>
<tr>
<td>Amortization of acquired technology</td>
<td>272</td>
<td>1,744</td>
<td>1,472</td>
<td>NM</td>
</tr>
<tr>
<td><strong>Total cost of revenue</strong></td>
<td><strong>$275,270</strong></td>
<td><strong>$395,943</strong></td>
<td><strong>$120,673</strong></td>
<td><strong>44%</strong></td>
</tr>
</tbody>
</table>

Total cost of revenue for the six months ended June 30, 2015, increased by $120.7 million, or 44%, compared to the six months ended June 30, 2014.

Transaction costs for the six months ended June 30, 2015, increased by $102.9 million, or 52%, compared to the six months ended June 30, 2014. This increase was attributable to growth in GPV processed of $5.5 billion, or 53%, to $15.9 billion from $10.4 billion. Transaction costs as a percentage of GPV remained largely constant period to period.

Starbucks transaction costs for the six months ended June 30, 2015, increased by $6.6 million, or 9%, compared to the six months ended June 30, 2014.

Software and data product costs for the six months ended June 30, 2015, increased by $7.2 million and were a nominal amount in the six months ended June 30, 2014. Software and data product costs primarily reflect the ongoing costs associated with our acquisition of Caviar in August 2014 and with the introduction of our Square Appointments service following our acquisition of BookFresh in February 2014.

Hardware costs for the six months ended June 30, 2015, increased by $2.5 million, or 30%, compared to the six months ended June 30, 2014. The increase was attributable to increased sales of Square Stand and third-party peripherals. Hardware costs associated with the production of Square Stand exceed the revenue we derive from sales of Square Stand, resulting in a negative gross margin.

Amortization of acquired technology for the six months ended June 30, 2015, increased by $1.5 million compared to the six months ended June 30, 2014. The increase was driven primarily by acquired technology assets from our 2014 acquisitions of BookFresh and Caviar and our 2015 acquisitions of FastBite and Kili.
Product Development

The following table sets forth our product development expenses for the periods shown:

<table>
<thead>
<tr>
<th></th>
<th>Six Months Ended June 30,</th>
<th></th>
<th>$ Change</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2014</td>
<td>2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in thousands)</td>
<td>(unaudited)</td>
<td>(unaudited)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Product development</td>
<td>$ 65,484</td>
<td>$ 85,432</td>
<td>$ 19,948</td>
<td>30%</td>
</tr>
<tr>
<td>Percentage of total</td>
<td>18%</td>
<td>15%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>net revenue</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Product development expenses for the six months ended June 30, 2015, increased by $19.9 million, or 30%, compared to six months ended June 30, 2014. Product development personnel increased by 8% from June 30, 2014, to June 30, 2015, primarily due to the addition of engineering, design, and product personnel, including those who joined as a result of acquisitions. For the six months ended June 30, 2015, product development expenses included $19.3 million of share-based compensation expense, a $9.5 million increase compared to the six months ended June 30, 2014. For the six months ended June 30, 2015, product development expenses also included $5.9 million of depreciation expense, a $1.5 million increase compared to the six months ended June 30, 2014.

Sales and Marketing

The following table sets forth our sales and marketing expenses for the periods shown:

<table>
<thead>
<tr>
<th></th>
<th>Six Months Ended June 30,</th>
<th></th>
<th>$ Change</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2014</td>
<td>2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in thousands)</td>
<td>(unaudited)</td>
<td>(unaudited)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>$ 55,790</td>
<td>$ 67,911</td>
<td>$ 12,121</td>
<td>22%</td>
</tr>
<tr>
<td>Percentage of total</td>
<td>15%</td>
<td>12%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>net revenue</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Sales and marketing expenses for the six months ended June 30, 2015, increased by $12.1 million, or 22%, compared to the six months ended June 30, 2014. This increase reflects an increase of $2.7 million in paid marketing expenses primarily from direct mail and mobile marketing campaigns that occurred during the period. The balance of the increase was primarily due to a 24% increase in sales and marketing personnel in the period from June 30, 2014, to June 30, 2015, and an increase in costs associated with our Square Cash peer-to-peer payments service. For the six months ended June 30, 2015, sales and marketing expenses included $2.8 million of share-based compensation expense, a $1.3 million increase compared to the six months ended June 30, 2014.

General and Administrative

The following table sets forth our general and administrative expenses for the periods shown:

<table>
<thead>
<tr>
<th></th>
<th>Six Months Ended June 30,</th>
<th></th>
<th>$ Change</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2014</td>
<td>2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(in thousands)</td>
<td>(unaudited)</td>
<td>(unaudited)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>General and administrative</td>
<td>$ 44,071</td>
<td>$ 59,923</td>
<td>$ 15,852</td>
<td>36%</td>
</tr>
<tr>
<td>Percentage of total</td>
<td>12%</td>
<td>11%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>net revenue</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
General and administrative expenses for the six months ended June 30, 2015, increased by $15.9 million, or 36%, compared to the six months ended June 30, 2014. General and administrative personnel increased by 46% in the period from June 30, 2014, to June 30, 2015, primarily reflecting additions to our customer support, legal, compliance, and finance teams. The balance of the increase was primarily due to increased third-party legal, finance, consulting, and certain software license expenses. For the six months ended June 30, 2015, general and administrative expenses included $6.6 million of share-based compensation expense, a $3.6 million increase compared to the six months ended June 30, 2014.

Transaction and Advance Losses

The following table sets forth our transaction and advance losses for the periods shown:

<table>
<thead>
<tr>
<th></th>
<th>Six Months Ended June 30,</th>
<th>$ Change</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2014 (in thousands)</td>
<td>2015 (in thousands)</td>
<td></td>
</tr>
<tr>
<td>Transaction and advance losses</td>
<td>$10,968 (unaudited)</td>
<td>$24,835 (unaudited)</td>
<td>$13,867</td>
</tr>
</tbody>
</table>

Transaction and advance losses for the six months ended June 30, 2015, increased by $13.9 million. We incurred a charge of approximately $5.7 million related to a fraud loss from a single seller in March 2015.

Amortization of Acquired Customer Assets

The following table sets forth our amortization of acquired customer assets for the periods shown:

<table>
<thead>
<tr>
<th></th>
<th>Six Months Ended June 30,</th>
<th>$ Change</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2014 (in thousands)</td>
<td>2015 (in thousands)</td>
<td></td>
</tr>
<tr>
<td>Amortization of acquired customer assets</td>
<td>$230 (unaudited)</td>
<td>$950 (unaudited)</td>
<td>$720</td>
</tr>
</tbody>
</table>

Amortization of acquired customer assets for the six months ended June 30, 2015, increased by $0.7 million compared to the six months ended June 30, 2014, primarily as a result of the amortization of customer assets and the acquisitions of Caviar in August 2014 and FastBite in February 2015.

Interest and Other Income and Expense

The following table sets forth our interest and other income and expense for the periods shown:

<table>
<thead>
<tr>
<th></th>
<th>Six Months Ended June 30,</th>
<th>$ Change</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2014 (in thousands)</td>
<td>2015 (in thousands)</td>
<td></td>
</tr>
<tr>
<td>Interest (income) and expense</td>
<td>$182 (unaudited)</td>
<td>$858 (unaudited)</td>
<td>$676</td>
</tr>
<tr>
<td>Other (income) and expense</td>
<td>(220)</td>
<td>746</td>
<td>966</td>
</tr>
</tbody>
</table>
Interest income and expense for the six months ended June 30, 2015, increased by $0.7 million compared to the six months ended June 30, 2014, driven primarily by the interest expense related to the draw on our revolving credit facility beginning in the second quarter of 2014.

Other income and expense for the six months ended June 30, 2015, increased by $1.0 million compared to the six months ended June 30, 2014, driven primarily by fluctuations in foreign exchange rates.

Provision for Income Taxes

The following table sets forth our provision for income taxes for the periods shown:

<table>
<thead>
<tr>
<th>Provision (benefit) for income taxes</th>
<th>Six Months Ended June 30,</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2014 (in thousands)</td>
<td>2015 (in thousands)</td>
<td>$ Change</td>
<td>% Change</td>
<td></td>
</tr>
<tr>
<td>Effective tax rate</td>
<td>($542)</td>
<td>$1,570</td>
<td>$2,112</td>
<td>NM</td>
<td></td>
</tr>
</tbody>
</table>

Provision for income taxes for the six months ended June 30, 2015, increased by $2.1 million compared to the six months ended June 30, 2014.


Total Net Revenue

The following table sets forth our total net revenue for the periods shown:

<table>
<thead>
<tr>
<th>Transaction revenue</th>
<th>Year Ended December 31,</th>
<th>2012 (in thousands)</th>
<th>2013 (in thousands)</th>
<th>2014 (in thousands)</th>
<th>2012 to 2013 % Change</th>
<th>2013 to 2014 % Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$193,978</td>
<td>$433,737</td>
<td>$707,799</td>
<td>124%</td>
<td>63%</td>
</tr>
<tr>
<td>Starbucks transaction revenue</td>
<td></td>
<td>9,471</td>
<td>114,456</td>
<td>123,024</td>
<td>NM</td>
<td>7%</td>
</tr>
<tr>
<td>Software and data product revenue</td>
<td></td>
<td>—</td>
<td>—</td>
<td>12,046</td>
<td>—%</td>
<td>NM</td>
</tr>
<tr>
<td>Hardware revenue</td>
<td></td>
<td>—</td>
<td>4,240</td>
<td>7,323</td>
<td>NM</td>
<td>73%</td>
</tr>
<tr>
<td>Total net revenue</td>
<td></td>
<td>$203,449</td>
<td>$552,433</td>
<td>$850,192</td>
<td>172%</td>
<td>54%</td>
</tr>
</tbody>
</table>

Comparison of Years Ended December 31, 2013 and 2014

Total net revenue for the year ended December 31, 2014, increased by $297.8 million, or 54%, compared to the year ended December 31, 2013.

Transaction revenue for the year ended December 31, 2014, increased by $274.1 million, or 63%, compared to the year ended December 31, 2013. This increase was attributable to growth in GPV processed of $9.0 billion, or 60%, to $23.8 billion.
from $14.8 billion. The majority of growth in GPV was derived from new sellers added within the year ended December 31, 2014; a smaller though still meaningful portion was generated by growth in GPV from the payment activity of existing sellers that were approved to transact with us on or prior to December 31, 2013. Our transaction revenue as a percentage of GPV also improved relative to the prior-year period, most notably as a result of the discontinuation in the first quarter of 2014 of our monthly pricing program, under which we charged sellers $275 for up to $21,000 of payment processing. Transaction revenue contributed 83% of total net revenue in the year ended December 31, 2014, up from 79% in the year ended December 31, 2013.

Starbucks transaction revenue for the year ended December 31, 2014, increased by $8.6 million, or 7%, compared to the year ended December 31, 2013. Starbucks transaction revenue contributed 14% of total net revenue in the year ended December 31, 2014, down from 21% in the year ended December 31, 2013.

Software and data product revenue for the year ended December 31, 2014, increased to $12.0 million and was a nominal amount in the year ended December 31, 2013. We launched and expanded several new services in 2014, including Square Capital. Software and data product revenue in 2014 also reflected the effect of our acquisition of BookFresh in February 2014 and Caviar in August 2014. Software and data product revenue contributed 1% of total net revenue in 2014.

Hardware revenue for the year ended December 31, 2014, increased by $3.1 million, or 73%, compared to the year ended December 31, 2013. The increase was attributable to growth in sales of Square Stand and third-party peripherals. Hardware revenue contributed 1% of total net revenue in 2014.

**Comparison of Years Ended December 31, 2012 and 2013**

Total net revenue for the year ended December 31, 2013, increased by $349.0 million, or 172%, compared to the year ended December 31, 2012.

Transaction revenue for the year ended December 31, 2013, increased by $239.8 million, or 124%, compared to the year ended December 31, 2012. This increase was attributable to growth in GPV processed of $8.3 billion, or 127%, to $14.8 billion from $6.5 billion. The majority of growth in GPV was derived from new sellers added within the year ended December 31, 2013; a smaller though still meaningful portion was generated by growth in GPV from the payment activity of existing sellers that were approved to transact with us on or prior to December 31, 2012. Transaction revenue contributed 79% of total net revenue in the year ended December 31, 2013, down from 95% in the year ended December 31, 2012.

Starbucks transaction revenue for the year ended December 31, 2013, increased by $105.0 million compared to the year ended December 31, 2012. Our agreement to provide payment processing for Starbucks commenced in the fourth quarter of 2012, and 2013 was the first year to include a full 12 months of Starbucks transaction revenue. As a result, Starbucks transaction revenue contributed 21% of total net revenue in the year ended December 31, 2013, up from 5% in the year ended December 31, 2012. The year ended December 31, 2012, also included a $2.2 million non-recurring contra-revenue charge to account for a share-based incentive incurred in connection with entering into our payment processing agreement with Starbucks.

Software and data product revenue was nominal for the year ended December 31, 2013, and zero for the year ended December 31, 2012, as the related services were launched or acquired primarily in 2014.
Hardware revenue for the year ended December 31, 2013, increased by $4.2 million compared to the year ended December 31, 2012. In 2013, we began selling Square Stands. Hardware revenue was zero for the year ended December 31, 2012.

**Total Cost of Revenue**

The following table sets forth our total cost of revenue for the periods shown:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(in thousands)</td>
<td></td>
<td></td>
<td>% Change</td>
<td>% Change</td>
</tr>
<tr>
<td>Transaction costs</td>
<td>$126,351</td>
<td>$277,833</td>
<td>$450,858</td>
<td>120%</td>
</tr>
<tr>
<td>Starbucks transaction costs</td>
<td>12,547</td>
<td>139,803</td>
<td>150,955</td>
<td>NM</td>
</tr>
<tr>
<td>Software and data product costs</td>
<td>—</td>
<td>—</td>
<td>2,973</td>
<td>NM</td>
</tr>
<tr>
<td>Hardware costs</td>
<td>—</td>
<td>6,012</td>
<td>18,330</td>
<td>NM</td>
</tr>
<tr>
<td>Amortization of acquired technology</td>
<td>—</td>
<td>—</td>
<td>1,002</td>
<td>NM</td>
</tr>
<tr>
<td><strong>Total cost of revenue</strong></td>
<td>$138,898</td>
<td>$423,648</td>
<td>$624,118</td>
<td>205%</td>
</tr>
</tbody>
</table>

**Comparison of Years Ended December 31, 2013 and 2014**

Total cost of revenue for the year ended December 31, 2014, increased by $200.5 million, or 47%, compared to the year ended December 31, 2013.

Transaction costs for the year ended December 31, 2014, increased by $173.0 million, or 62%, compared to the year ended December 31, 2013. This increase was attributable to growth in GPV processed of $9.0 billion, or 60%. Our transaction costs as a percentage of transaction revenue declined from 2013 to 2014, primarily as a result of the discontinuation in the first quarter of 2014 of our monthly pricing program, under which we charged sellers $275 for up to $21,000 of payment processing.

Starbucks transaction costs for the year ended December 31, 2014, increased by $11.2 million, or 8%, compared to the year ended December 31, 2013.

Software and data product costs for the year ended December 31, 2014, were $3.0 million and were nominal in the year ended December 31, 2013. Software and data product costs reflect the ongoing costs associated with Caviar following its acquisition in August 2014 and costs associated with the introduction of our Square Appointments services following our acquisition of BookFresh in February 2014.

Hardware costs for the year ended December 31, 2014, increased by $12.3 million, or 205%, compared to the year ended December 31, 2013. The increase was attributable to increased sales of Square Stand and third-party peripherals. Hardware costs associated with the production of Square Stand exceed the revenue we derive from sales of Square Stand, resulting in a negative gross margin.

Amortization of technology assets for the year ended December 31, 2014, was $1.0 million, compared to zero in the year ended December 31, 2013. In 2014, we acquired technology assets through the acquisitions of BookFresh and Caviar.
Comparison of Years Ended December 31, 2012 and 2013

Total cost of revenue for the year ended December 31, 2013, increased by $284.8 million, or 205%, compared to the year ended December 31, 2012.

Transaction costs for the year ended December 31, 2013, increased by $151.5 million, or 120%, compared to the year ended December 31, 2012. This increase was attributable to growth in GPV processed of $8.3 billion, or 127%. During the year transaction costs as a percentage of GPV declined as a result of renegotiated costs with our processing partners.

Starbucks transaction costs for the year ended December 31, 2013, increased by $127.3 million compared to the year ended December 31, 2012. Our agreement to provide payment processing for Starbucks commenced in the fourth quarter of 2012, and as a result 2013 represented the first year to include a full 12 months of Starbucks transaction costs.

Software and data product costs were nominal for the year ended December 31, 2013, and zero for the year ended December 31, 2012, as the related services were launched or acquired in 2014 and 2015.

Hardware costs for the year ended December 31, 2013, were $6.0 million compared to zero for the year ended December 31, 2012, reflecting the commencement of sales of Square Stand and third-party peripherals.

Amortization of technology assets was zero for both the year ended December 31, 2013, and the year ended December 31, 2012, as we did not acquire any technology assets until 2014.

Product Development

The following table sets forth our product development expenses for the periods shown:

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>2012 to 2013 % Change</th>
<th>2013 to 2014 % Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>(in thousands)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Product development</td>
<td>$46,568</td>
<td>$82,864</td>
</tr>
<tr>
<td>Percentage of total net revenue</td>
<td>23%</td>
<td>15%</td>
</tr>
</tbody>
</table>

Product development expenses for the year ended December 31, 2014, increased by $61.8 million, or 75%, compared to the year ended December 31, 2013. Product development personnel increased by 33% in the period from December 31, 2013, to December 31, 2014, primarily due to the addition of personnel in our engineering, product, and design teams. For the year ended December 31, 2014, product development expenses included $24.8 million in share-based compensation expense, a $15.9 million increase compared to the year ended December 31, 2013. In 2014, we also incurred an incremental $6.7 million in depreciation expense primarily related to data center equipment and internally developed software.

Product development expenses for the year ended December 31, 2013, increased by $36.3 million, or 78%, compared to the year ended December 31, 2012, primarily due to the addition of personnel in our engineering, product, and design teams. For the year ended December 31, 2013, product development expenses included $8.8 million in share-based compensation expense, a $4.8 million increase compared to the year ended December 31, 2012.
Sales and Marketing

The following table sets forth our sales and marketing expenses for the periods shown:

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2012 to 2013 % Change</th>
<th>2013 to 2014 % Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>(in thousands)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>$56,648</td>
<td>$64,162</td>
<td>$112,577</td>
<td>13%</td>
<td>75%</td>
</tr>
<tr>
<td>Percentage of total net revenue</td>
<td>28%</td>
<td>12%</td>
<td>13%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Sales and marketing expenses for the year ended December 31, 2014, increased by $48.4 million, or 75%, compared to the year ended December 31, 2013. Sales and marketing personnel increased by 191% in the period from December 31, 2013, to December 31, 2014. For the year ended December 31, 2014, sales and marketing expenses included $3.7 million in share-based compensation expense, a $2.5 million increase compared to the year ended December 31, 2013. We also increased paid marketing expenses by $17.8 million in 2014 over 2013 as we executed a series of direct response TV, email, direct mail, and online marketing campaigns focused on bringing new sellers onto our platform and driving awareness of new product and service offerings. As a result, we also incurred increased expenses related to providing Square Readers for magnetic stripe cards to these new sellers.

Sales and marketing expenses for the year ended December 31, 2013, increased by $7.5 million, or 13%, compared to the year ended December 31, 2012, due to increased investment in paid marketing channels, shipments of Square Readers for magnetic stripe cards, and the addition of sales and marketing personnel. For the year ended December 31, 2013, sales and marketing expenses included $1.2 million in share-based compensation expense, a $0.6 million increase compared to the year ended December 31, 2012.

General and Administrative

The following table sets forth our general and administrative expenses for the periods shown:

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2012 to 2013 % Change</th>
<th>2013 to 2014 % Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>(in thousands)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General and administrative</td>
<td>$36,184</td>
<td>$68,942</td>
<td>$94,220</td>
<td>91%</td>
<td>37%</td>
</tr>
<tr>
<td>Percentage of total net revenue</td>
<td>18%</td>
<td>12%</td>
<td>11%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

General and administrative expenses for the year ended December 31, 2014, increased by $25.3 million, or 37%, compared to the year ended December 31, 2013. General and administrative personnel increased by 65% in the period from December 31, 2013, to December 31, 2014. For the year ended December 31, 2014, general and administrative expenses included $7.6 million in share-based compensation expense, a $3.0 million increase compared to the year ended December 31, 2013. Additionally, during 2014 we incurred increased third-party legal, finance, tax, consulting, and software license expenses.

General and administrative expenses for the year ended December 31, 2013, increased by $32.8 million, or 91%, compared to the year ended December 31, 2012, primarily reflecting the addition of personnel in our general and administrative functions. For the year ended December 31, 2013, general and administrative expenses included $4.6 million in share-based compensation expense, a $1.1 million increase compared to the year ended December 31, 2012. During 2013, we also incurred increased third-party legal, finance, consulting, and software license expenses.
Transaction and Advance Losses

The following table sets forth our transaction and advance losses for the periods shown:

<table>
<thead>
<tr>
<th>Year Ended December 31,</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2012 to 2013 % Change</th>
<th>2013 to 2014 % Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transaction and advance losses</td>
<td>$10,512</td>
<td>$15,329</td>
<td>$24,081</td>
<td>46%</td>
<td>57%</td>
</tr>
</tbody>
</table>

Transaction and advance losses for the year ended December 31, 2014, increased by $8.8 million, or 57%, compared to the year ended December 31, 2013, primarily reflecting growth in GPV of $9.0 billion, or 60%, as well as $2.4 million in provisions for losses related to Square Capital, which launched in May 2014.

Transaction and advance losses for the year ended December 31, 2013, increased by $4.8 million, or 46%, compared to the year ended December 31, 2012, primarily reflecting growth in GPV of $8.3 billion, or 127%, offset by improvements in risk management that lowered transaction and advance losses relative to GPV.

Amortization of Acquired Customer Assets

The following table sets forth our amortization of acquired customer assets expenses for the periods shown:

<table>
<thead>
<tr>
<th>Amortization of acquired customer assets</th>
<th>2012 (in thousands)</th>
<th>2013 (in thousands)</th>
<th>2014 (in thousands)</th>
<th>2012 to 2013 % Change</th>
<th>2013 to 2014 % Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ —</td>
<td>$ —</td>
<td>$1,050</td>
<td>NM</td>
<td>NM</td>
<td>NM</td>
</tr>
</tbody>
</table>

Amortization of acquired customer assets for the year ended December 31, 2014, increased by $1.1 million compared to the year ended December 31, 2013, as a result of our acquisitions of BookFresh and Caviar in 2014.

Interest and Other Income and Expense

The following table sets forth our other income and expense for the periods shown:

<table>
<thead>
<tr>
<th>Interest (income) and expense</th>
<th>2012 (in thousands)</th>
<th>2013 (in thousands)</th>
<th>2014 (in thousands)</th>
<th>2012 to 2013 % Change</th>
<th>2013 to 2014 % Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 5</td>
<td>$(12)</td>
<td>$1,058</td>
<td>NM</td>
<td>NM</td>
<td>NM</td>
</tr>
<tr>
<td>Other (income) and expense</td>
<td>$(167)</td>
<td>$(950)</td>
<td>$1,104</td>
<td>NM</td>
<td>NM</td>
</tr>
</tbody>
</table>

Interest income and expense for the year ended December 31, 2014, increased by $1.1 million compared to the year ended December 31, 2013, primarily as a result of the interest incurred on amounts drawn down on our revolving credit facility. Prior to 2014, interest income and expense was minimal as we had no revolving credit facility.

Other income and expense for the year ended December 31, 2014, increased by $2.1 million compared to the year ended December 31, 2013, as a result of warrant liability remeasurement and foreign exchange rate losses. Other income and expense for the year ended December 31, 2013, decreased by $0.8 million compared to the year ended December 31, 2012, as a result of foreign exchange rate gains.
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Provision for Income Taxes

The following table sets forth our provision for income taxes for the periods shown:

<table>
<thead>
<tr>
<th>Year Ended December 31.</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>% Change</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(in thousands)</td>
<td></td>
</tr>
<tr>
<td>Provision for income taxes</td>
<td>$ —</td>
<td>$513</td>
<td>$1,440</td>
<td>NM</td>
<td>181%</td>
</tr>
</tbody>
</table>

Provision for income taxes for the year ended December 31, 2014, increased by $0.9 million, or 181%, compared to the year ended December 31, 2013. Our current provision for income taxes for the year ended December 31, 2014, included state, federal, and foreign expense of $4.1 million offset by a state and federal deferred benefit of $2.7 million. Our provision for income taxes for the year ended December 31, 2013, included state and foreign expense of $0.5 million. No provision was recorded for the year ended December 31, 2012.
Quarterly Results of Operations

The following tables set forth selected unaudited quarterly statements of operations data for the last seven quarters. The information for each of these quarters has been prepared on the same basis as the audited annual financial statements included elsewhere in this prospectus and, in the opinion of management, includes all adjustments, which consist only of normal recurring adjustments, necessary for the fair presentation of the results of operations for these periods. This data should be read in conjunction with our audited consolidated financial statements and related notes included elsewhere in this prospectus. These quarterly operating results are not necessarily indicative of the results we may achieve in future periods.

<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue:</td>
<td>(in thousands)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transaction revenue</td>
<td>$130,978</td>
<td>$137,014</td>
<td>$172,894</td>
<td>$191,560</td>
<td>$206,331</td>
<td>$211,110</td>
<td>$259,864</td>
</tr>
<tr>
<td>Starbucks transaction revenue</td>
<td>$33,754</td>
<td>$26,466</td>
<td>$30,147</td>
<td>$29,895</td>
<td>$36,516</td>
<td>$29,237</td>
<td>$33,630</td>
</tr>
<tr>
<td>Software and data product revenue</td>
<td>—</td>
<td>$523</td>
<td>$1,766</td>
<td>$3,733</td>
<td>$6,024</td>
<td>$8,006</td>
<td>$12,928</td>
</tr>
<tr>
<td>Hardware revenue</td>
<td>1,244</td>
<td>1,079</td>
<td>1,989</td>
<td>2,232</td>
<td>2,023</td>
<td>2,023</td>
<td>2,204</td>
</tr>
<tr>
<td>Total net revenue</td>
<td>$165,976</td>
<td>$165,082</td>
<td>$206,796</td>
<td>$227,420</td>
<td>$250,894</td>
<td>$250,557</td>
<td>$310,013</td>
</tr>
</tbody>
</table>

| Cost of revenue:   |               |
| Transaction costs  |               |
| Starbucks transaction costs | $39,819      | $33,016      | $37,496      | $37,377      | $43,066      | $36,211      | $40,921      |
| Software and data product costs | —           | 14           | 31           | 987          | 1,941        | 3,098        | 4,132        |
| Hardware costs     | 2,877         | 3,441        | 4,924        | 5,162        | 4,803        | 4,197        | 6,713        |
| Amortization of acquired technology | —           | 80           | 192          | 330          | 400          | 602          | 1,142        |
| Total cost of revenue | $127,529     | $122,826     | $152,444     | $166,281     | $182,567     | $176,272     | $219,671     |

| Gross profit       | $38,447       | $42,256      | $54,352      | $61,139      | $68,327      | $74,285      | $90,342      |

| Operating expenses:  |
| Product development | $26,261       | $30,933      | $34,551      | $39,483      | $39,670      | $39,545      | $45,887      |
| Sales and marketing | $16,377       | $26,070      | $29,720      | $25,914      | $30,873      | $36,181      | $31,730      |
| General and administrative | $19,928      | $23,402      | $20,669      | $24,514      | $25,635      | $28,119      | $31,804      |
| Transaction and advance losses | $3,946       | $6,128       | $4,840       | $6,255       | $16,322      | $8,513       | $8,142       |
| Amortization of acquired customer assets | —           | 68           | 162          | 361          | 459          | 468          | 482          |
| Impairment of intangible assets | 2,430        | —            | —            | —            | —            | —            | —            |
| Total operating expenses | $68,842      | $86,601      | $89,942      | $97,130      | $102,892     | $120,635     | $118,416     |

<table>
<thead>
<tr>
<th>Operating loss</th>
<th>(in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(30,395)</td>
<td>(44,345)</td>
</tr>
<tr>
<td>(35,590)</td>
<td>(35,991)</td>
</tr>
<tr>
<td>(34,565)</td>
<td>(46,350)</td>
</tr>
</tbody>
</table>

| Interest (income) and expense | 89 |
| Other (income) and expense   | 89 |

<table>
<thead>
<tr>
<th>Loss before income tax</th>
<th>(in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(30,277)</td>
<td>(44,801)</td>
</tr>
<tr>
<td>(35,096)</td>
<td>(37,381)</td>
</tr>
<tr>
<td>(35,375)</td>
<td>(47,560)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Provision (benefit) for income taxes</th>
<th>(in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>513</td>
<td>(810)</td>
</tr>
<tr>
<td>268</td>
<td>285</td>
</tr>
<tr>
<td>285</td>
<td>1,697</td>
</tr>
<tr>
<td>418</td>
<td>1,152</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Net loss</th>
<th>(in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ (30,790)</td>
<td>$ (43,991)</td>
</tr>
<tr>
<td>$(35,364)</td>
<td>$(37,666)</td>
</tr>
<tr>
<td>$(37,072)</td>
<td>$(47,978)</td>
</tr>
<tr>
<td>$(29,620)</td>
<td>$(29,620)</td>
</tr>
</tbody>
</table>
Costs and expenses include share-based compensation expense as follows:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Share-Based Compensation</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Product development</td>
<td>$2,938</td>
<td>$4,265</td>
<td>$5,556</td>
<td>$7,086</td>
<td>$7,851</td>
<td>$8,958</td>
<td>$10,391</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>411</td>
<td>644</td>
<td>839</td>
<td>1,070</td>
<td>1,185</td>
<td>1,429</td>
<td>1,345</td>
</tr>
<tr>
<td>General and administrative</td>
<td>1,533</td>
<td>1,310</td>
<td>1,707</td>
<td>2,176</td>
<td>2,411</td>
<td>3,074</td>
<td>3,498</td>
</tr>
<tr>
<td><strong>Total share-based compensation</strong></td>
<td>$4,882</td>
<td>$6,219</td>
<td>$8,102</td>
<td>$10,332</td>
<td>$11,447</td>
<td>$13,461</td>
<td>$15,232</td>
</tr>
</tbody>
</table>

The following table sets forth the key operating metrics and non-GAAP financial measures we use to evaluate our business for each of the periods indicated:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>GPV (in millions)</td>
<td>$4,486</td>
<td>$4,605</td>
<td>$5,789</td>
<td>$6,430</td>
<td>$6,955</td>
<td>$7,116</td>
<td>$8,782</td>
</tr>
<tr>
<td>Adjusted Revenue</td>
<td>$47,389</td>
<td>$52,341</td>
<td>$66,848</td>
<td>$75,100</td>
<td>$82,021</td>
<td>$89,156</td>
<td>$109,620</td>
</tr>
<tr>
<td>Adjusted EBITDA</td>
<td>($11,553)</td>
<td>($27,782)</td>
<td>($16,220)</td>
<td>($13,047)</td>
<td>($10,692)</td>
<td>($20,129)</td>
<td>$859</td>
</tr>
</tbody>
</table>

The following table presents a reconciliation of total net revenue to Adjusted Revenue for each of the periods indicated:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total net revenue</strong></td>
<td>$165,976</td>
<td>$165,082</td>
<td>$206,796</td>
<td>$227,420</td>
<td>$250,894</td>
<td>$250,557</td>
<td>$310,013</td>
</tr>
<tr>
<td>Less: Starbucks transaction revenue</td>
<td>33,754</td>
<td>26,466</td>
<td>30,147</td>
<td>28,895</td>
<td>36,516</td>
<td>29,237</td>
<td>33,630</td>
</tr>
<tr>
<td>Less: Transaction costs</td>
<td>84,833</td>
<td>86,275</td>
<td>109,801</td>
<td>122,425</td>
<td>132,357</td>
<td>132,164</td>
<td>166,763</td>
</tr>
<tr>
<td><strong>Adjusted Revenue</strong></td>
<td>$47,389</td>
<td>$52,341</td>
<td>$66,848</td>
<td>$75,100</td>
<td>$82,021</td>
<td>$89,156</td>
<td>$109,620</td>
</tr>
</tbody>
</table>

90
The following table presents a reconciliation of net loss to Adjusted EBITDA for each of the periods indicated:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(in thousands)</td>
<td>(unaudited)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjusted EBITDA Reconciliation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss</td>
<td>$(30,790)</td>
<td>$(43,991)</td>
<td>$(35,364)</td>
<td>$(37,666)</td>
<td>$(37,072)</td>
<td>$(47,978)</td>
<td>$(29,620)</td>
</tr>
<tr>
<td>Starbucks transaction revenue</td>
<td>(33,754)</td>
<td>(26,466)</td>
<td>(30,147)</td>
<td>(29,895)</td>
<td>(36,516)</td>
<td>(29,237)</td>
<td>(33,630)</td>
</tr>
<tr>
<td>Starbucks transaction costs</td>
<td>39,819</td>
<td>33,016</td>
<td>37,496</td>
<td>37,377</td>
<td>43,066</td>
<td>36,211</td>
<td>40,921</td>
</tr>
<tr>
<td>Share-based compensation expense</td>
<td>4,882</td>
<td>6,219</td>
<td>8,102</td>
<td>10,332</td>
<td>11,447</td>
<td>13,461</td>
<td>15,232</td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>2,852</td>
<td>3,794</td>
<td>3,919</td>
<td>5,130</td>
<td>5,743</td>
<td>5,546</td>
<td>6,410</td>
</tr>
<tr>
<td>Interest (income) and expense</td>
<td>(4)</td>
<td>2</td>
<td>180</td>
<td>433</td>
<td>443</td>
<td>414</td>
<td>444</td>
</tr>
<tr>
<td>Other (income) and expense</td>
<td>(114)</td>
<td>454</td>
<td>(674)</td>
<td>957</td>
<td>367</td>
<td>796</td>
<td>(50)</td>
</tr>
<tr>
<td>Provision (benefit) for income taxes</td>
<td>513</td>
<td>(810)</td>
<td>268</td>
<td>285</td>
<td>1,697</td>
<td>418</td>
<td>1,152</td>
</tr>
<tr>
<td>Loss on sale of property and equipment</td>
<td>2,613</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>133</td>
<td>240</td>
<td>—</td>
</tr>
<tr>
<td>Impairment of intangible assets</td>
<td>2,430</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Adjusted EBITDA</td>
<td>$(11,553)</td>
<td>$(27,782)</td>
<td>$(16,220)</td>
<td>$(13,047)</td>
<td>$(10,692)</td>
<td>$(20,129)</td>
<td>$(859)</td>
</tr>
</tbody>
</table>

Quarterly Trends

Transaction revenue is highly correlated with the level of GPV generated by sellers using our payments services. Historically our transaction revenue has been strongest in our fourth quarter and weakest in our first quarter, as our sellers typically generate additional GPV during the holiday season. We believe that this seasonality has affected and will continue to affect our quarterly results; however, to date its effect may have been masked by our rapid growth.

Software and data product revenue has demonstrated less seasonality than revenue from our payments services.

Hardware revenue generally demonstrates less seasonality than our payments services, with most fluctuations tied to periodic product launches, promotions, or other arrangements with our retail partners.

Changes in product development expenses primarily reflect the timing of additions of engineering and design personnel. To a lesser extent, they also reflect the timing of fees and supply costs related to maintenance and capacity expansion at third-party data center facilities and development and tooling costs related to the design, testing, and shipping of our hardware products, and fees for software licenses, consulting, legal, and other services that are directly related to growing and maintaining our products and services.

Changes in sales and marketing expense reflect the variable nature of the timing and magnitude of paid marketing and customer acquisition initiatives across our advertising channels, including online, mobile, email, direct mail, and direct response TV. Additionally, sales and marketing expense is affected by the total shipments of Square Readers for magnetic stripe cards in a given period, as it includes the cost of manufacturing and distributing those readers.

Changes in general and administrative expenses primarily reflect the timing of additions of finance, legal, human resources, and administrative personnel, as well as the timing of tax payments and reserves. To a lesser extent they also reflect the timing of costs related to customer support personnel and systems, as well as fees paid for professional services, including legal and financial services.
Liquidity and Capital Resources

Since inception through June 30, 2015, we have financed our operations primarily through private sales of equity securities for net proceeds of $514.9 million and, to a lesser extent, bank debt financing of $30.0 million. Prior to the third quarter of 2014, we funded the MCAs to our sellers entirely from our own cash balances. We currently fund a significant majority of these MCAs from arrangements with third parties that commit to purchase the future receivables related to these advances. We plan to continue to fund a substantial majority of future MCAs through third-party sales.

We believe that our existing cash and cash equivalents, availability under our line of credit and the net proceeds we expect to receive from this offering will be sufficient to meet our working capital needs and planned capital expenditures for at least the next 12 months. From time to time, we may seek to raise additional capital through equity, equity-linked, and debt financing arrangements. We cannot assure you that any additional financing will be available to us on acceptable terms or at all.

### Liquidity and Capital Resources

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash and cash equivalents</td>
<td>$219,409</td>
<td>$166,176</td>
<td>$225,300</td>
<td>$138,563</td>
<td>$197,940</td>
<td></td>
</tr>
<tr>
<td>Short-term restricted cash</td>
<td>$50,000</td>
<td>$10,000</td>
<td>$11,950</td>
<td>11,450</td>
<td>11,951</td>
<td></td>
</tr>
<tr>
<td>Long-term restricted cash</td>
<td>$9,270</td>
<td>$9,270</td>
<td>$14,394</td>
<td>11,221</td>
<td>14,394</td>
<td></td>
</tr>
<tr>
<td>Net loss</td>
<td>($85,199)</td>
<td>($104,493)</td>
<td>($154,093)</td>
<td>($79,355)</td>
<td>($77,598)</td>
<td></td>
</tr>
<tr>
<td>Net cash used in operating activities</td>
<td>$42,925</td>
<td>$60,577</td>
<td>$109,394</td>
<td>$50,733</td>
<td>$10,739</td>
<td></td>
</tr>
<tr>
<td>Net cash used in investing activities</td>
<td>$47,791</td>
<td>$10,803</td>
<td>$24,554</td>
<td>$18,371</td>
<td>$24,380</td>
<td></td>
</tr>
<tr>
<td>Net cash provided by financing activities</td>
<td>$227,180</td>
<td>$18,907</td>
<td>$194,152</td>
<td>$41,277</td>
<td>$8,633</td>
<td></td>
</tr>
</tbody>
</table>

We consider all highly liquid investments, including money market funds, with an original maturity of three months or less when purchased to be cash equivalents.

Short-term restricted cash of $12.0 million in 2014 reflects pledged cash deposited into savings accounts at the financial institutions that process our sellers’ payments transactions. We use the restricted cash to secure letters of credit with these financial institutions to provide collateral for liabilities arising from cash flow timing differences in the processing of these payments. We have recorded this amount as a current asset on our consolidated balance sheets given the short-term nature of these cash flow timing differences and given that there is no minimum time frame during which the cash must remain restricted.

Long-term restricted cash of $14.4 million in 2014 reflects cash deposited into money market accounts that is used as collateral pursuant to multi-year lease agreements entered into in 2012 and 2014 for our office buildings. We have recorded this amount as a non-current asset on the consolidated balance sheets as the terms of the related leases extend beyond one year.
We experience significant day-to-day fluctuations in our cash and cash equivalents, settlements receivables and customer payables and hence working capital. These fluctuations are primarily due to the following:

- **Timing of period end.** For periods that end on a weekend or a bank holiday our cash and cash equivalents, settlements receivable and customers payable amounts typically will be more than for periods ending on a weekday, as we settle to our sellers for payment processing activity on business days; and

- **Fluctuations in daily GPV.** When daily GPV increases, our cash and cash equivalents, settlements receivable, and customer payable amounts increase. Typically our cash, cash equivalents, settlements receivable, and customer payable balances at period end represent one to four days of receivables and disbursements to be made in the subsequent period. Customer payable and settlements receivable balances typically move in tandem, as pay-out and pay-in largely occur on the same business day. However, customers payable balances will be greater in amount than settlements receivable due to the fact that a subset of funds are held due to unlinked bank accounts, risk holds and chargebacks. Holidays and day-of-week may also cause significant volatility in daily GPV amounts.

### Cash Flows from Operating Activities

Cash used in operating activities consisted of net loss adjusted for certain non-cash items including depreciation and amortization, share-based compensation expense, provisions for transaction losses, excess tax benefit from share based award activity, provision for uncollectible receivables related to MCAs, deferred income taxes, and impairment of intangible assets, as well as the effect of changes in operating assets and liabilities, including working capital.

For the six months ended June 30, 2015, cash used by operating activities was $10.7 million, as a result of a net loss of $77.6 million, offset by non-cash items consisting of share-based compensation of $28.7 million, provision for transaction losses of $21.6 million, and depreciation and amortization of intangible assets of $12.0 million. Additional cash provided from changes in operating assets and liabilities, including an increase of $67.3 million in customers payable was offset by an increase in settlements receivable of $56.3 million and charge-offs and recoveries to accrued transaction losses of $14.2 million.

For the six months ended June 30, 2014, cash used by operating activities was $50.7 million, as a result of a net loss of $79.4 million, offset by non-cash items consisting of share-based compensation expense of $14.3 million, provision for transaction losses of $8.0 million, and depreciation and amortization of intangible assets of $7.7 million. Additional uses of cash from changes in operating assets and liabilities, including an increase in settlements receivable of $38.0 million and merchant cash advance receivable of $26.4 million, were offset by an increase in customers payable of $49.4 million, and other liabilities of $16.4 million.

For the year ended December 31, 2014, cash used by operating activities was $109.4 million, as a result of a net loss of $154.1 million, offset by non-cash items consisting of share-based compensation expense of $36.1 million, provision for transaction losses of $18.5 million, and depreciation and amortization of intangible assets of $18.6 million. Additional cash provided from changes in our operating assets and liabilities included increases in settlements receivable of $50.4 million, merchant cash advance receivable of $31.7 million, charge-offs and recoveries to accrued transaction losses of $17.5 million, and other current assets of $14.2 million, were offset by an increase in customers payable of $53.0 million, other liabilities of $23.3 million, and accrued expenses of $8.1 million.
For the year ended December 31, 2013, cash used by operating activities was $60.6 million, as a result of a net loss of $104.5 million, offset by non-cash items consisting of share-based compensation expense of $14.7 million, provision for transaction losses of $15.1 million, and depreciation and amortization of intangible assets of $8.3 million. Additional cash provided from changes in our operating assets and liabilities, including increases in customers payable of $21.1 million, other liabilities of $14.3 million, and accrued expenses of $9.9 million, were offset by an increase in settlements receivable of $27.7 million, and charge-offs and recoveries to accrued transaction losses of $13.6 million.

For the year ended December 31, 2012, cash used by operating activities was $42.9 million, as a result of a net loss of $85.2 million, offset by non-cash items consisting of share-based compensation expense of $8.1 million, provision for transaction losses of $10.5 million, and depreciation and amortization of intangible assets of $3.6 million. Additional cash provided from changes in our operating assets and liabilities, including increases in customers payable of $47.1 million, was partially offset by a change in settlements receivable of $19.9 million, and charge-offs and recoveries to accrued transaction losses $7.3 million.

**Cash Flows from Investing Activities**

Cash flows used in investing activities primarily relate to capital expenditures to support our growth, changes in restricted cash, and business acquisitions.

For the six months ended June 30, 2015, cash used in investing activities was $24.4 million as a result of capital expenditures of $20.5 million and business acquisitions of $3.8 million.

For the six months ended June 30, 2014, cash used in investing activities was $18.4 million as a result of capital expenditures of $14.6 million and an increase in restricted cash of $3.4 million.

For the year ended December 31, 2014, cash used in investing activities was $24.6 million as a result of capital expenditures of $28.8 million and an increase in restricted cash of $7.1 million, which were partially offset by business acquisitions net of cash acquired of $11.7 million. The positive cash flow effect from business acquisitions in the period reflects the cash balance obtained as a result of our acquisition of Caviar.

For the year ended December 31, 2013, cash used in investing activities was $10.8 million as a result of capital expenditures of $47.9 million and business acquisitions of $2.9 million, which were partially offset by a reduction restricted cash of $40.0 million.

For the year ended December 31, 2012, cash used in investing activities was $47.8 million as a result of capital expenditures of $13.0 million and an increase in restricted cash of $34.8 million.

**Cash Flows from Financing Activities**

Cash flows provided by financing activities primarily relate to proceeds from our issuance of convertible preferred stock, proceeds from long-term debt under our revolving credit facility and proceeds from the exercise of stock options.

For the six months ended June 30, 2015, cash provided by financing activities was $8.6 million as a result of proceeds from the exercise of stock options.
For the six months ended June 30, 2014, cash provided by financing activities was $41.3 million as a result of proceeds from long-term debt under our revolving credit facility of $30.0 million and proceeds from the exercise of stock options of $11.3 million.

For the year ended December 31, 2014, cash provided by financing activities was $194.2 million as a result of proceeds from our issuance of convertible preferred stock of $148.7 million, proceeds from long-term debt under our revolving credit facility of $30.0 million, proceeds from the exercise of stock options of $14.1 million and excess tax benefit from share-based award activity of $1.3 million.

For the year ended December 31, 2013, cash provided by financing activities was $18.9 million as a result of proceeds from the exercise of stock options.

For the year ended December 31, 2012, cash provided by financing activities was $227.2 million as a result of proceeds from our issuance of convertible preferred stock of $221.8 million and proceeds from the exercise of stock options of $5.6 million, which were slightly offset by principal repayments on our capital lease obligations of $0.2 million.

**Cash Flows Related to Square Capital**

Prior to the third quarter of 2014, we funded our MCAs to our sellers from our balance sheet. The majority of funding for Square Capital currently comes from third parties who commit to purchase the future receivables related to Square Capital. We do not anticipate significant increases in the use of our cash to fund MCAs in future periods.

**Concentration of Credit Risk**

Other than Starbucks, we did not have any sellers who accounted for more than 10% of our total net revenue for the year ended December 31, 2014, or the six months ended June 30, 2015.

Our three largest third-party processors represented approximately 50%, 33%, and 12% of our settlements receivable as of December 31, 2014. The same three parties represented approximately 69%, 28%, and 0% of our settlements receivable as of December 31, 2013. As of June 30, 2015, the same three parties represented approximately 57%, 24%, and 11% of our settlements receivable.

**Contractual Obligations and Commitments**

Our principal commitments consist of long-term debt under our revolving credit facility, capital leases, and operating leases. The following table summarizes our commitments to settle contractual obligations in cash as of December 31, 2014.

<table>
<thead>
<tr>
<th>Payments due by period</th>
<th>Total (in thousands)</th>
<th>Less than 1 year</th>
<th>1 - 3 years</th>
<th>3 - 5 years</th>
<th>More than 5 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long-term debt</td>
<td>$ 30,000</td>
<td>$ —</td>
<td>$ —</td>
<td>$ 30,000</td>
<td>$ —</td>
</tr>
<tr>
<td>Capital leases</td>
<td>159</td>
<td>57</td>
<td>99</td>
<td>3</td>
<td>—</td>
</tr>
<tr>
<td>Operating leases</td>
<td>142,049</td>
<td>14,541</td>
<td>30,395</td>
<td>30,512</td>
<td>66,601</td>
</tr>
<tr>
<td>Total</td>
<td>$172,208</td>
<td>$14,598</td>
<td>$30,494</td>
<td>$60,515</td>
<td>$66,601</td>
</tr>
</tbody>
</table>
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Purchase orders are not included in the table above. Our purchase orders represent authorizations to purchase rather than binding agreements.

**Long-term Debt Under Our Revolving Credit Facility**

We entered into a revolving credit agreement with certain lenders in April 2014, which provided for a $225.0 million revolving unsecured credit facility maturing on April 4, 2019. As of December 31, 2014 and June 30, 2015, $30.0 million was drawn down under the credit facility, with $195.0 million remaining as available. On July 1, 2015, we repaid all amounts outstanding under this facility.

Borrowings under the credit facility bear interest, at our option, at (i) a base rate based on the highest of the prime rate, the federal funds rate plus 0.50%, and an adjusted LIBOR rate for a one-month interest period plus 1.00%, in each case plus a margin ranging from 0.00% to 0.75%; or (ii) an adjusted LIBOR rate plus a margin ranging from 1.00% to 1.75%. This margin is determined based on the total leverage ratio for the preceding fiscal quarter or fiscal year and whether a qualified initial public offering has occurred in accordance with the terms of the revolving credit agreement. We are obligated to pay other customary fees for a credit facility of this size and type including an annual administrative agent fee of $0.1 million and an unused commitment fee ranging from 0.10% to 0.25% depending on our leverage ratio. We paid $0.4 million in unused commitment fees during the year ended December 31, 2014. We paid $0.2 million in unused commitment fees during the six months ended June 30, 2015. At December 31, 2014 and June 30, 2015, $30.0 million was drawn under this facility.

Our credit facility contains operating covenants, including customary limitations on the incurrence of certain indebtedness and liens, restrictions on certain inter-company transactions, and limitations on the amount of dividends and stock repurchases.

**Lease Commitments**

We have entered into various non-cancelable operating leases for certain offices with contractual lease periods expiring between 2014 and 2025. We recognized total rental expenses under operating leases of $1.6 million, $6.1 million, and $11.4 million, during the years ended December 31, 2012, 2013, and 2014, respectively.

**Off-balance Sheet Arrangements**

We do not have any off-balance sheet arrangements and did not have any such arrangements in the six months ended June 30, 2015, or for years ended December 31, 2012, 2013, or 2014.

**Critical Accounting Policies and Estimates**

Our discussion and analysis of our financial condition and results of operations are based upon our financial statements, which have been prepared in accordance with GAAP. GAAP requires us to make certain estimates and judgments that affect the amounts reported in our financial statements. We base our estimates on historical experience, anticipated future trends and other assumptions we believe to be reasonable under the circumstances. Because these accounting policies require significant judgment, our actual results may differ materially from our estimates.
We believe the assumptions and estimates associated with revenue recognition, accrued transaction losses, provision for uncollectible receivables related to MCAs, marketing expenses, business combinations, goodwill and intangible assets, income taxes, share-based compensation, and common stock valuation to have the greatest potential effect on our consolidated financial statements. Therefore, we consider these to be our critical accounting policies and estimates. For further information on all of our significant accounting policies, see Note 1 of the accompanying notes to our consolidated financial statements.

Revenue Recognition

We recognize revenue when persuasive evidence of an arrangement exists, delivery of obligations to our customers has occurred, the related fees are fixed or determinable, and collectability is reasonably assured.

Transaction revenue

Transaction revenue consists of fees a seller pays us to process their payment transactions and is recognized upon authorization of a transaction. Revenue is recognized net of refunds, which are reversals of transactions initiated by sellers. We act as the merchant of record for our sellers, which puts us in their shoes with respect to card networks and puts the risk for refunds and chargebacks on us. Because we work directly with payment card networks and banks, sellers do not need to manage the complex systems, rules, and requirements of the payments industry.

We charge our sellers a transaction fee for payment processing services equal to 2.75% of the total transaction amount for processing card-present transactions and for processing payments with Square Invoices, and 3.5% of the total transaction amount plus $0.15 per transaction for processing manually entered (card-not-present) transactions. We also selectively offer custom pricing for larger sellers.

The gross transaction fees collected from sellers is recognized as revenue on a gross basis as we are the primary obligor to the seller and are responsible for processing the payment, have latitude in establishing pricing with respect to the sellers and other terms of service, have sole discretion in selecting the third party to perform the settlement, and assume the credit risk for the transaction processed.

Starbucks transaction revenue

We entered into an agreement with Starbucks to provide payment processing services for a portion of their retail locations. Starbucks transaction revenue consists of fees paid by Starbucks, net of refunds, to process their payment transactions and is recognized upon authorization of a transaction. As with our other transaction revenue, revenue is recognized on a gross basis as we are the primary obligor to Starbucks and are responsible for processing the payment, have latitude in establishing pricing, have sole discretion in selecting the third party to perform the settlement, and assume credit risk for the transaction processed.

Software and data product revenue

Software and data product revenue primarily consists of revenue related to services provided through software offerings, or revenue derived through the use of underlying data:

- Software as a service includes Square Appointments and Square Customer Engagement. We provide the use of software for a fee which is recognized ratably over the relevant service period.
Square Capital provides MCAs in exchange for a fixed amount of future receivables. For the cash advances in which we retain the right to receivables, the difference between the aggregate amount of the future receivables and the cash advance is recognized as revenue ratably as cash is collected. We also sell a portion of our future receivables related to our MCAs to third parties. We collect and recognize upfront fees, which are a fixed percentage of the cash advanced when the receivables are sold. We also charge third parties an ongoing servicing fee for facilitating the repayment of these receivables through our payment processing platform. The servicing fee is calculated as a fixed percentage of each repayment transaction processed and is collected and recognized as the servicing is performed.

Caviar is a courier order management app which facilitates food delivery services to restaurants. We charge restaurants a commission fee based on total food order value for these services. We also charge consumers a fixed delivery fee per transaction, as well as a service fee which is based on total food order value. All fees are recognized upon delivery of the food, net of refunds.

Hardware revenue

Hardware revenue is generated from sales of Square Stand, third-party peripherals, and Square Readers for EMV chip cards and NFC. Hardware revenue is recorded net of returns and is recognized upon delivery of hardware to the end customer.

Accrued Transaction Losses

We are exposed to transaction losses due to chargebacks, which represent a potential loss due to a dispute between a seller and their customer or due to a fraudulent transaction. We establish reserves for estimated losses arising from processing payment transactions. These reserves represent the estimated amounts necessary to provide for transaction losses incurred as of the consolidated balance sheet date, including those for which we have not yet been notified.

The reserves are based on known facts and circumstances as of the reporting date, including subsequent events, and historical trends related to loss rates. Additions to the reserve are reflected in current operating results, while charges to the reserve are made when losses are recognized. These amounts are classified as transaction and advance losses on our consolidated statements of operations and comprehensive loss.

The establishment of appropriate reserves for transaction losses is an estimate based on the available data and is inherently an uncertain process. Ultimately, losses may vary from the current estimates. We regularly update our reserve estimates as new facts become known and events occur that may impact the settlement or recovery of losses.

Provision for Uncollectible Receivables Related to MCAs

Merchant cash advance receivable, net represents the aggregate amount of MCA-related receivables owed by sellers as of the consolidated balance sheet date, net of an allowance for potential uncollectible amounts in the event of merchant fraud or default. We are not exposed to losses for the receivables that are sold to third parties in accordance with our arrangements with them. These third-party arrangements cover a majority of the dollar value of receivables outstanding. For the remaining receivables, we are generally exposed to losses related to uncollectibility, and similar to the accrued transaction loss, we establish losses for uncollectible receivables. We estimate the allowance based on an assessment of
various factors, including historical experience, sellers’ current processing volume, and other factors that may affect the sellers’ ability to make future payments on the receivables. Additions to the allowance are reflected in current operating results, while charges against the allowance are made when losses are recognized. These additions are classified within transaction and advance loss on the consolidated statements of operations. Recoveries are reflected as a reduction in the allowance for uncollectible receivables related to MCAs when the recovery occurs. No provision existed prior to 2014 as Square Capital launched in 2014.

Marketing Expenses

Marketing expenses are expensed as incurred and include customer acquisition costs and advertising costs. Customer acquisition costs include manufacturing and distribution costs associated with Square Readers for magnetic stripe cards, which are offered for free on our website and provided through various marketing events and distribution channels. We also offer rebates to new sellers who become customers for the retail price of the credit card readers purchased. The expected future rebates related to card readers distributed are accrued in other current liabilities on the consolidated balance sheets. These costs are partially offset by amounts received from distribution partners. Marketing expenses also include costs associated with Square Cash, which enables individuals to initiate peer-to-peer cash transfers free of charge. Customer acquisition costs are expensed as incurred.

Business Combinations, Goodwill, and Intangible Assets

We apply the provisions of ASC 805, Business Combinations, in the accounting for acquisitions. It requires us to recognize separately from goodwill the assets acquired and the liabilities assumed at their acquisition date fair values. Goodwill as of the acquisition date is measured as the excess of consideration transferred over the net of the acquisition date fair values of the assets acquired and the liabilities assumed. While we use our best estimates and assumptions to accurately value assets acquired and liabilities assumed at the acquisition date as well as contingent consideration, where applicable, our estimates are inherently uncertain and subject to refinement. As a result, during the measurement period, which may be up to one year from the acquisition date, we may record adjustments to the assets acquired and liabilities assumed with the corresponding offset to goodwill. Upon the conclusion of the measurement period or final determination of the values of assets acquired or liabilities assumed, whichever comes first, any subsequent adjustments are recorded in our consolidated statements of operations.

Uncertain tax positions and tax related valuation allowances assumed in connection with a business combination are initially estimated as of the acquisition date. We review these items during the measurement period as we continue to actively seek and collect information relating to facts and circumstances that existed at the acquisition date. Changes to these uncertain tax positions and tax related valuation allowances made subsequent to the measurement period, or if they relate to facts and circumstances that did not exist at the acquisition date, are recorded in our provision for income taxes in our consolidated statement of operations.

We perform a goodwill impairment test annually on December 31 and more frequently if events and circumstances indicate that the asset might be impaired. The impairment test is performed in accordance with FASB ASC 350—Intangibles—Goodwill and Other, and an impairment loss is recognized to the extent that the carrying amount exceeds the reporting unit’s fair value. We have the option to first assess qualitative factors to determine whether events or circumstances indicate that it is more likely than not that the fair value of a reporting unit is less than its carrying amount.
and determine whether further action is needed. If, after assessing the totality of events or circumstances, we determine it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, then performing the two-step impairment test is unnecessary. As of December 31, 2014, no impairment of goodwill was recorded.

Acquired intangibles consist of acquired technology and customer relationships associated with various acquisitions. Acquired technology is initially recorded at fair value based on the present value of the estimated net future income-producing capabilities of software services acquired in acquisitions. We amortize acquired technology over its estimated useful life on a straight-line basis within cost of revenue. Customer relationships represent relationships that we have with customers of the acquired companies and are either based upon contractual or legal rights or are considered separable; that is, capable of being separated from the acquired entity and being sold, transferred, licensed, rented or exchanged. These customer relationships are initially recorded at their fair value based on the present value of expected future cash flows. We amortize customer relationships on a straight-line basis over their estimated useful lives within our operating expenses. We evaluate the remaining estimated useful life of our intangible assets being amortized on an ongoing basis to determine whether events and circumstances warrant a revision to the remaining period of amortization.

**Income Taxes**

We report income taxes in accordance with Financial Accounting Standards Board Accounting Standards Codification (FASB ASC) 740, *Income Taxes*, which requires an asset and liability approach in accounting for income taxes. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases, as well as net operating loss and tax credit carryforwards. Deferred tax amounts are determined by using the enacted tax rates expected to be in effect when the temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. A valuation allowance reduces the deferred tax assets to the amount that is more likely than not to be realized.

We use financial projections to support our net deferred tax assets, which contain significant assumptions and estimates of future operations. If such assumptions were to differ significantly from actual future results of operations, it may have a material effect on our ability to realize our deferred tax assets. At the end of each quarterly period, we assess the ability to realize the deferred tax assets. If it is more likely than not that we would not realize the deferred tax assets, then we would establish a valuation allowance for all or a portion of the deferred tax assets.

We recognize the effect of uncertain income tax positions only if those positions are more likely than not of being sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs.

We record interest and penalties related to uncertain tax positions in the provision for income tax expense on the consolidated statements of operations and comprehensive loss.

**Share-Based Compensation**

We measure compensation expense for all share-based payment awards, including stock options granted to employees, directors, and non-employees based on the estimated fair values on the date of each grant. The fair value of each stock option granted is estimated using the Black-Scholes-Merton option valuation model. Share-based compensation is recognized on a straight-line basis over the requisite service period, net of estimated forfeitures.
We have historically issued unvested restricted shares to employee stockholders of certain acquired companies. A portion of these awards is generally subject to continued post-acquisition employment, and this portion has been accounted for as post-acquisition share-based compensation expense. We recognize compensation expense equal to the grant date fair value of the common stock on a straight-line basis over the period during which the employee is required to perform service in exchange for the award.

We use the straight-line method for share-based compensation expense recognition. For the years ended December 31, 2012, 2013, and 2014, and period ended June 30, 2015, the weighted average assumptions used are as follows:

<table>
<thead>
<tr>
<th></th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dividend yield</td>
<td>—%</td>
<td>—%</td>
<td>—%</td>
<td>—%</td>
<td>—%</td>
</tr>
<tr>
<td>Risk-free interest rate</td>
<td>0.96%</td>
<td>1.55%</td>
<td>1.85%</td>
<td>1.93%</td>
<td>1.74%</td>
</tr>
<tr>
<td>Expected volatility</td>
<td>44.34%</td>
<td>46.47%</td>
<td>46.95%</td>
<td>45.21%</td>
<td>48.63%</td>
</tr>
<tr>
<td>Expected term (years)</td>
<td>6.05</td>
<td>6.09</td>
<td>6.06</td>
<td>6.08</td>
<td>6.10</td>
</tr>
</tbody>
</table>

The following table summarizes the effects of share-based compensation on our consolidated statements of operations and comprehensive loss for the years ended December 31, 2012, 2013, and 2014, and the period ended June 30, 2015:

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
<th>Six Months Ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>2013</td>
</tr>
<tr>
<td>Share-based compensation expense:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Product development</td>
<td>$3,984</td>
<td>$8,820</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>668</td>
<td>1,235</td>
</tr>
<tr>
<td>General and administrative</td>
<td>3,462</td>
<td>4,603</td>
</tr>
<tr>
<td>Total</td>
<td>$8,114</td>
<td>$14,658</td>
</tr>
</tbody>
</table>

As of December 31, 2014, there was $177.9 million of total unrecognized compensation expense related to outstanding stock options and restricted stock awards that is expected to be recognized over a weighted average period of 2.86 years. As of June 30, 2015, there was $178.6 million of total unrecognized compensation cost related to outstanding stock options and restricted stock awards that is expected to be recognized over a weighted average period of 3.51 years.

Common Stock Valuations

The fair value of our common stock underlying our stock options has historically been determined by our board of directors, with assistance from management, based upon information available at the time of grant. Given the absence of a public trading market for our common stock and in accordance with the American Institute of Certified Public Accountants Accounting & Valuation Guide, Valuation of Privately-Held-Company Equity Securities Issued as Compensation, our board...
of directors has exercised reasonable judgment and considered numerous objective and subjective factors to determine the best estimate of the fair value of our common stock at each grant date. These factors included the following:

- contemporaneous valuations of our common stock by an independent valuation advisory firm;
- the prices, rights, preferences, and privileges of our preferred stock relative to the common stock;
- the prices of preferred stock sold by us to third-party investors in arms-length transactions;
- our operating and financial performance;
- current business conditions and projections;
- the likelihood of achieving a liquidity event, such as an initial public offering or sale of our company, given prevailing market conditions;
- the lack of marketability of our common stock;
- the market performance of comparable publicly traded companies; and
- the U.S. and global economic and capital market conditions and outlook.

The per share estimated fair value of our common stock in the table below represents the determination by our board of directors of the fair value of our common stock as of the date of grant, taking into consideration the various objective and subjective factors described above, including the valuations of our common stock. There is inherent uncertainty in these estimates and, if we had made different assumptions than those described below, the fair value of the underlying common stock and amount of our stock-based compensation expense, net loss, and net loss per share amounts would have differed.

Following the closing of our initial public offering, the fair value per share of our common stock for purposes of determining stock-based compensation will be the closing price of our common stock as reported on the applicable grant date.
The following table summarizes by grant date the number of shares of stock options granted from June 20, 2014 through the date of this prospectus, as well as the associated per share exercise price and the estimated fair value per share of our common stock on the grant date:

<table>
<thead>
<tr>
<th>Options Granted:</th>
<th>Number of options granted</th>
<th>Exercise price per share</th>
<th>Estimated Fair Value per share</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 20, 2014</td>
<td>9,040,250</td>
<td>$8.23</td>
<td>$8.23</td>
</tr>
<tr>
<td>July 18, 2014</td>
<td>1,328,250</td>
<td>$8.23</td>
<td>$8.23</td>
</tr>
<tr>
<td>August 16, 2014</td>
<td>1,835,298</td>
<td>$9.11</td>
<td>$9.11</td>
</tr>
<tr>
<td>September 25, 2014</td>
<td>645,904</td>
<td>$9.11</td>
<td>$9.11</td>
</tr>
<tr>
<td>November 6, 2014</td>
<td>2,207,926</td>
<td>$10.06</td>
<td>$10.06</td>
</tr>
<tr>
<td>December 17, 2014</td>
<td>3,425,249</td>
<td>$10.06</td>
<td>$10.06</td>
</tr>
<tr>
<td>January 22, 2015</td>
<td>4,452,600</td>
<td>$10.06</td>
<td>$10.06</td>
</tr>
<tr>
<td>February 24, 2015</td>
<td>2,121,400</td>
<td>$10.06</td>
<td>$10.06</td>
</tr>
<tr>
<td>March 10, 2015</td>
<td>46,000</td>
<td>$10.06</td>
<td>$10.06</td>
</tr>
<tr>
<td>March 11, 2015</td>
<td>2,201,431</td>
<td>$10.06</td>
<td>$10.06</td>
</tr>
<tr>
<td>March 20, 2015</td>
<td>594,000</td>
<td>$11.28</td>
<td>$11.28</td>
</tr>
<tr>
<td>April 21, 2015</td>
<td>2,063,981</td>
<td>$11.28</td>
<td>$11.28</td>
</tr>
<tr>
<td>May 14, 2015</td>
<td>797,100</td>
<td>$13.09</td>
<td>$13.09</td>
</tr>
<tr>
<td>June 17, 2015</td>
<td>14,526,200</td>
<td>$13.94</td>
<td>$13.94</td>
</tr>
<tr>
<td>July 9, 2015</td>
<td>980,900</td>
<td>$14.81</td>
<td>$14.81</td>
</tr>
<tr>
<td>August 11, 2015</td>
<td>2,474,800</td>
<td>$15.25</td>
<td>$15.25</td>
</tr>
<tr>
<td>September 16, 2015</td>
<td>2,344,400</td>
<td>$15.39</td>
<td>$15.39</td>
</tr>
</tbody>
</table>

Based on the initial public offering price of $ per share of Class A common stock, the intrinsic value of stock options outstanding at was $ million, of which $ million and $ million related to stock options that were vested and unvested, respectively, at that date.

For each valuation, the equity value of our business was determined using the income and market approach, and was then allocated to the common stock using the Hybrid Method which combines the use of the Option Pricing Method (OPM) and Probability Weighted Expected Return Method (PWERM).

The income approach estimates the fair value of a company based on the present value of the company’s future estimated cash flows and the residual value of the company beyond the forecast period. These future values are discounted to their present values to reflect the risks inherent in the company achieving these estimated cash flows. The terminal value was calculated to estimate our value beyond the forecast period by applying a multiple to the terminal year. Significant inputs of the income approach (in addition to our estimated future cash flows themselves) include the discount rate and terminal multiple.

The market approach estimates the fair value of a company by applying market multiples of comparable publicly traded companies in the same industry or similar lines of business. The market multiples are based on key metrics implied by the enterprise or acquisition values of comparable publicly traded companies. Given our significant focus on investing in and growing our business, we primarily utilized the revenue multiple when performing our valuation assessment under the market approach. When considering which companies to include in our comparable industry peer companies, we focused
mostly on U.S.-based publicly traded companies with businesses similar to ours. The selection of our comparable industry peer companies requires us to make judgments as to the comparability of these companies to us. We considered a number of factors including business description, business size, market share, revenue model, development stage, and historical operating results. We then analyzed the business and financial profiles of the selected companies for relative similarities to us and, based on this assessment, we selected our comparable industry peer companies. Several of the comparable industry peer companies are our competitors and are generally larger than us in terms of total net revenue and assets. We believe that the comparable industry peers selected are a representative group for purposes of performing contemporaneous valuations. The same comparable industry peers were also used in determining various other estimates and assumptions in our contemporaneous valuations.

The OPM considers the various equity securities as call options on the total equity value, giving consideration to the rights and preferences of each class of equity. The various classes of equity are modeled as call options that give their owners the right, but not the obligation, to buy the underlying equity value at a predetermined (or exercise) price. Common equity classes are considered to be a call option with a claim on equity value at an exercise price equal to the aggregate liquidation preferences for the preferred equity classes. The OPM depends on key assumptions regarding the volatility and time to a liquidity event, but does not require explicit estimates of the possible future outcomes. As such, this method is best used when the range of possible future outcomes is difficult to predict, making forecasts highly speculative.

The PWERM considers the value of preferred and common equity based upon an analysis of the future values of equity assuming various future outcomes, including an initial public offering, a merger or sale, dissolution, or continued operation as a private company. The estimated value for each class of equity is based upon the probability-weighted present value of expected future net cash flows, considering each of the possible future events, as well as the rights and preferences of each share class. The Probability-Weighted Expected Return Method is complex as it requires numerous assumptions relating to potential future outcomes of equity, hence, this method is best used when possible future outcomes can be predicted with reasonable certainty.

The Hybrid Method is a hybrid between the PWERM and OPM. The Hybrid Method estimates the probability-weighted value across multiple scenarios, but uses the OPM to estimate the allocation of value within one or more of those scenarios. The Hybrid Method can be a useful alternative to explicitly modeling all PWERM scenarios, in situations where the company has transparency into one or more near term exits, but is unsure about what will occur if the current plans fall through. An advantage of the hybrid method is that it takes the advantage of the conceptual framework of option-pricing theory to model a continuous distribution of future outcomes and to capture the option-like payoffs of the various share classes while also explicitly considering future scenarios and the discontinuities in outcomes that companies may experience.

To determine the Fair Value of one share of common stock, we relied on the Hybrid Method, in which we utilized the PWERM to allocate the value under certain Initial Public Offering (IPO) scenarios, and the OPM to allocate the value under scenarios other than an IPO (the All Other scenario). We then applied an appropriate weighting to each scenario. Our selection of this equity allocation method was primarily based on our stage of development, estimated time to liquidity, and capital structure, as well as our expectations for a possible IPO.
Recent Accounting Pronouncements

Under the JOBS Act, we meet the definition of an emerging growth company. We have irrevocably elected to opt out of the extended transition period for complying with new or revised accounting standards pursuant to Section 107(b) of the JOBS Act.

In May 2014, the FASB issued an accounting standards update that will replace existing revenue recognition guidance. Among other things, the updated guidance requires companies to recognize revenue in a way that depicts the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. This guidance will be effective for annual reporting periods beginning after December 15, 2017, and interim periods within annual periods beginning after December 15, 2018. The guidance can be applied either retrospectively to each period presented or as a cumulative-effect adjustment as of the date of adoption. We have not yet selected a transition method and are evaluating the impact of adopting this new accounting standard update on the consolidated financial statements and related disclosures.

In August 2014, the FASB issued an accounting standard update under which management will be required to assess an entity’s ability to continue as a going concern and provide related footnote disclosures in certain circumstances. The new guidance is effective for annual periods beginning after December 15, 2016 and for annual and interim periods thereafter. The adoption of this guidance is not expected to have an effect on our financial statements or disclosures.

In April 2015, the FASB issued an accounting standards update under which the debt issuance costs related to a recognized debt liability be presented in the balance sheet as a direct deduction from the carrying amount of that debt liability, consistent with debt discounts. The amendment is effective for financial statements issued for fiscal years beginning after December 15, 2015, and interim periods within those fiscal years, with early adoption permitted. We have early adopted this new guidance, which did not have any effect on our financial statements.

In April 2015, the FASB issued new guidance that will help entities evaluate the accounting for fees paid by a customer in a cloud computing arrangement by providing guidance as to whether an arrangement includes the sale or license of software. This guidance will be effective for our fiscal year ending December 31, 2016, with early adoption permitted. We do not believe the pending adoption of this guidance will have a material impact on our consolidated financial statements.

In July 2015, the FASB issued an accounting standards update, which will simplify how we measure inventory. The current guidance requires an entity to measure inventory at the lower of cost or market. Market could be replacement cost, net realizable value, or net realizable value less an approximately normal profit margin. Under the new guidance, inventory is measured at the lower of cost and net realizable value, which would eliminate the other two options that currently exist for market: replacement cost and net realizable value less an approximately normal profit margin. The amendment is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years, with early adoption permitted. We are currently evaluating the impact this new guidance may have on the consolidated financial statements.

Quantitative and Qualitative Disclosures about Market Risk

We have operations both within the United States and globally, and we are exposed to market risks in the ordinary course of our business, including the effects of interest rate changes and foreign currency fluctuations. Information relating to quantitative and qualitative disclosures about these market risks is described below.
Interest Rate Sensitivity

Cash and cash equivalents and short-term investments as of June 30, 2015, were held primarily in cash deposits and money market funds. The fair value of our cash, cash equivalents, and short-term investments would not be significantly affected by either an increase or decrease in interest rates due mainly to the short-term nature of these instruments. Any future borrowings incurred under the credit facility would accrue interest at a floating rate based on a formula tied to certain market rates at the time of incurrence (as described above). A 10% increase or decrease in interest rates would not have a material effect on our interest income or expense.

Foreign Currency Risk

Most of our revenue is earned in U.S. dollars, and therefore our revenue is not currently subject to significant foreign currency risk. Our foreign operations are denominated in the currencies of the countries in which our operations are located, and may be subject to fluctuations due to changes in foreign currency exchange rates, particularly changes in the Japanese Yen and Canadian Dollar. Fluctuations in foreign currency exchange rates may cause us to recognize transaction gains and losses in our statement of operations. A 10% increase or decrease in current exchange rates would not have a material impact on our financial results.
BUSINESS

Our First Sellers

The story of Square is best told through the stories of our sellers, the customers we serve.

As soon as we had a working prototype of our first credit card reader, we went out to talk to sellers. We met owners of a wide range of businesses, and they shared with us many of the challenges they faced.

Our first seller was Cheri, the owner of a flower cart called Lilybelle in San Francisco’s Mint Plaza. While we were describing our product, a customer approached who wanted to buy flowers. Cheri had no way to accept credit cards, so the customer said he would go to a nearby ATM and come right back. He did not return. At that moment, we saw the value of creating a product that would enable sellers to accept all forms of payment—so sellers would never miss a sale.

Jerad and Justin, brothers and co-owners of Sightglass Coffee, were our second sellers. They were opening a coffee cart and wanted to accept card payments. We watched as they rang up customers—they would write down the order and add up the various items on a calculator. Unable to track the cash payments they received or the number of items sold, they were forced to stitch together disparate systems and processes, including counting cups to estimate cappuccinos they had sold. At Sightglass, we realized the power of the point-of-sale (POS) and the kinds of analytics we could deliver. Learning from the Sightglass experience, we integrated payments into the POS, helping sellers make well-informed decisions and save valuable time so they could focus on their customers.

Andrei, our third seller, was a flight instructor whose business had previously depended on checks, but he never knew when the checks would clear and the money would be available in his bank account. Even worse, sometimes the checks would bounce. Andrei helped us to understand that predictable and steady cash flow is critical to running a business. We designed a product that provides speed and transparency so sellers would get their money quickly and know the exact amount that would be available.

Our fourth seller was Kiya, the owner of a clothing store called Self Edge. Self Edge was a successful business in San Francisco, and Kiya wanted to expand to New York. Kiya was already accepting card payments with a traditional payment processor, and he asked them for another payment card terminal for his New York store. They turned him down. When we met Kiya, we were inspired by his passion and knowledge and we wanted to partner with him at his new location. We saw that we could serve Kiya better than traditional institutions because of our trust-based approach to risk management. We build long-term relationships with sellers as they succeed and grow.

Cheri, Jerad and Justin, Andrei, and Kiya signed up for Square and became our first sellers. We learned a great deal from them: the value of accessibility, the power of integrated services, the importance of speed, and the necessity of trust. What they taught us helped make Square what it is today and inspired our mission to make commerce easy.

These sellers are only four of the over 30 million businesses in the United States, with millions of entrepreneurs starting more each year. Each has its own story to tell. We measure our success by their success. We listen to them, learn from them, and help them grow into their ambitions.

Our Business

We started Square in February 2009 to enable anyone with a mobile device to accept card payments, anywhere, anytime. While we found early success providing easy access to card payments, commerce extends beyond payments. In
every transaction, we see opportunity for our sellers: to learn more about which products are selling best, to reinvest in their businesses, or to create
and engage loyal buyers. Although we currently generate approximately 95% of our revenue from payments and POS services, we have extended
our product and service offerings to include financial services and marketing services, all to help sellers start, run, and grow their businesses.

We work to democratize commerce—leveling the playing field for sellers of all sizes. Our focus on technology and design allows us to create
products and services that are accessible, intuitive, and easy-to-use. We set attractive and transparent pricing, and we accept approximately 95% of
sellers who seek to process payments with Square. We provide a free software app with our affordable (often free) hardware to turn mobile devices
into powerful POS solutions in minutes. Our insights into our sellers’ businesses have allowed us to develop services that are applicable to
businesses of all types and sizes, from Square Analytics to digital receipts. We also continue to add advanced software features that tailor our POS
solution to specific types of sellers, such as open tickets for bars and restaurants and inventory management for retailers.

Because of our approach, we have grown rapidly. Millions of sellers accept payments with Square. They span all types of businesses: from
cabs to coffee shops, lawyers to landscapers, retail stores to restaurants. Although substantially all of our revenue is currently generated in the
United States, we also serve sellers throughout Canada and Japan. As this international base of sellers grows, so too should our Gross Payment
Volume (GPV) and revenue in these regions. We serve sellers of all sizes, ranging from a single vendor at a farmers’ market to multinational
businesses. Our products and services are built to scale, so sellers can stay with us over the life of their businesses. In 2014, sellers using Square
processed $23.8 billion of GPV, which was generated by 446 million card payments from approximately 144 million payment cards. GPV measures
the total dollar amount of card payment transactions we process for our sellers (net of refunds), excluding card payments processed for Starbucks
and our Square Cash peer-to-peer service. Since we generate transaction revenue as a percentage of payment volume, we believe GPV is a key
indicator of our ability to generate revenue. In the 12 months ended June 2015, over two million sellers accepted five or more payments using
Square, accounting for approximately 97% of our GPV.

The foundation of our business model is the millions of sellers processing payments with Square. We estimate that nearly half of our sellers
find us and sign up, rather than us finding them, adding efficiency to our sales and marketing efforts. We measure the effectiveness of our spending
by evaluating the “payback period,” which we view as the number of quarters it takes for a quarterly cohort of sellers’ cumulative transaction revenue
net of transaction costs to surpass our sales and marketing spending in the quarter in which we acquired that cohort. We define a quarterly cohort of
sellers as the group of sellers that are approved to accept card payments with Square in a given quarter. On average, our payback period has been
four to five quarters.

Revenue from our sellers has grown consistently over time, resulting in strong dollar-based retention rates. Transaction revenue net of
transaction costs for each of our 17 quarterly seller cohorts (dating back to the second quarter of 2010) has grown year over year in every
quarter. Over the past four quarters, retention of transaction revenue net of transaction costs for our cohorts has, on average, exceeded 110% year
over year.

The size and strength of our payments and POS business have allowed us to develop a deep understanding of our sellers’ business
performance and to build a cohesive commerce ecosystem. As such, we are well positioned to provide financial services and marketing services to
sellers efficiently and intelligently. For example, one of our financial services, Square Capital, uses our deep understanding of our sellers’ businesses
to proactively underwrite and extend cash advances to them. Although Square Capital is still in its early stages, we have already advanced over $225
million since
launching it in May 2014. Square Capital demonstrates how our services can rapidly reach significant scale through a combination of strong demand and our direct, ongoing interactions with our sellers. Although Square Capital currently does not contribute a significant amount of revenue to our business relative to our payments and POS services, our software and data product revenue, including revenue derived from Square Capital, has grown quickly, and we expect these products will contribute a larger portion of our total revenue over time. Marketing services, such as Square Customer Engagement, give sellers easy-to-use tools to help them close the loop between communication with a buyer and ultimately a new sale. We currently see more than 1.5 million monthly feedback communications sent by buyers to sellers through digital receipts. Together, our financial services and marketing services provide sellers with access to capital and access to customers, making it easier for them to accomplish their goals.

We are making commerce easy for buyers too. Buyers can now use payment cards at millions of sellers whom we believe previously only accepted cash or checks. Digital receipts give buyers a way to connect directly with their favorite businesses and enable loyalty programs to reward them for their continued business. We provide readers that accept the latest and most secure forms of payment, including EMV and NFC, which enables payment via Apple Pay and Android Pay. We introduced Square Cash as a fast and easy way to make digital payments for both peer-to-peer transactions, such as splitting the bill at dinner, and business services, such as paying a contractor or accountant. Our buyer network strengthens our ecosystem by building meaningful connections between sellers and buyers.

We have grown rapidly since our founding. For the six months ended June 30, 2015, our total net revenue grew to $560.6 million, up 51% from the six months ended June 30, 2014. In 2014, our total net revenue grew to $850.2 million, up 54% from the prior year. For the six months ended June 30, 2015, our Adjusted Revenue grew to $198.8 million, up 67% from the six months ended June 30, 2014. In 2014, our Adjusted Revenue grew to $276.3 million, up 73% from the prior year. Adjusted Revenue is a non-GAAP financial measure that we define as our total net revenue less transaction costs, adjusted to eliminate the effect of activity under our payment processing agreement with Starbucks. In the third quarter of 2012, we signed an agreement to process credit and debit card payment transactions for all Starbucks-owned stores in the United States. This relationship helped us to achieve more significant scale and to build greater awareness with prospective sellers, strengthened our board of directors by adding Starbucks CEO Howard Schultz to our board for a 12 month period, and included an equity investment by Starbucks in our Series D preferred stock financing on the same terms and conditions as all other sales of our Series D preferred stock by us in that financing. However, the terms of the agreement were unprofitable for us. The agreement was amended in August 2015 to eliminate the exclusivity provision in order to permit Starbucks to begin transitioning to another payment processor starting October 1, 2015. Under the amendment, Starbucks also agreed to pay increased processing rates to us for as long as they continue to process transactions with us. These increased rates may decrease the impact of the Starbucks relationship to our gross margins depending on how quickly Starbucks transitions to another payment processor. The amendment permits Starbucks to terminate the agreement ahead of the original expiration date in the third quarter of 2016. We anticipate that Starbucks will transition to another payment processor and will cease using our payment processing services prior to the scheduled expiration of the agreement, and, in any event, we do not intend to renew it when it expires. For more information on Adjusted Revenue, see the section titled “—Key Operating Metrics and Non-GAAP Financial Measures.” We intend to continue to make investments that will serve sellers and buyers over the long term even if a return on these investments is not realized in the short term. For the six months ended June 30, 2015 and June 2014, we had total net revenue of $850.2 million and $560.6 million, respectively.
30, 2014, we generated a net loss of $77.6 million and $79.4 million, respectively. In 2014 and 2013, we generated a net loss of $154.1 million and $104.5 million, respectively.

**Trends in Our Favor**

**Local Businesses Drive the Economy**

According to the U.S. Census Bureau’s 2012 and 2013 reports and the U.S. Small Business Administration’s March 2014 report, the approximately 30 million small businesses in the United States generated 46% of the nation’s private sector output in 2010. These figures likely underestimate significant parts of the American economy. For example, they do not include the millions of businesses run by freelancers, artists, hobbyists, and others. We believe small businesses will continue to drive the economy as entrepreneurial activity creates millions of businesses each year. The Kauffman Index 2015 report estimates that in 2014 approximately 530,000 new entrepreneurs started businesses each month. Local businesses engage in significant commerce and are essential to the economy and character of local communities, acting as an on-ramp for anyone of any background to participate in economic growth.

**Commerce Is Increasingly Digital and Mobile**

The transition from cash and checks to electronic payments is occurring rapidly. In 2013, U.S. consumer payments totaled $8.9 trillion, including 55% ($4.9 trillion) through payment cards, 17% ($1.6 trillion) through cash, and 11% ($1.0 trillion) through checks, according to The Nilson Report published in December 2014. In 2018, consumer payments are expected to reach $11.4 trillion, with payment cards growing to 66% ($7.6 trillion) and cash and checks declining in use, also according to The Nilson Report published in December 2014. Globally, according to The Nilson Report published in January 2015, global purchase volume on payment cards is expected to increase from $16 trillion in 2013 to $49 trillion in 2023 (a 12% compound annual growth rate).
The rapid growth of mobile devices and associated app stores has provided freedom and accessibility to sellers and buyers, who can now engage in commerce anywhere. An estimated 438 million mobile devices in the United States accessed the internet in 2013, and this is expected to grow to over 690 million devices in 2018.

The Shift to Authenticated Payments Technologies Creates Opportunities for Disruption

The shift to both EMV and contactless payments creates an opportunity for providers of more modern and lower cost POS solutions to displace legacy systems, as sellers upgrade to take advantage of increased security, lower financial loss, and an improved buyer experience.

U.S. credit card companies set October 1, 2015, as the date for the national adoption of EMV or chip cards. While this technology is not new globally, and in fact is widely used in most countries, the United States is currently in the process of migrating to EMV technology. Businesses that cannot process chip cards are now held financially responsible for certain fraudulent transactions previously covered by the cardholder’s issuing bank, effectively shifting the liability to sellers. In order to mitigate this liability shift, sellers must upgrade their payment card terminals to EMV compliant hardware. According to the Congressional Research Service 2015 report, as of July 1, 2015, the EMV Migration Forum estimated that only 25% of retailers will be in compliance with the October 1, 2015, transition deadline.

Another developing technology shift is the growing popularity of contactless payments from mobile devices with biometric authentication standards, such as Apple Pay and Android Pay. Contactless payments are a faster, safer, and more convenient experience on both sides of the counter. Accepting contactless payments also requires new technology for most businesses.
Businesses of All Sizes Need Innovative Solutions to Thrive

As technology and the regulatory environment evolve, sellers of all types and sizes face a continuous need for new solutions. Historically, payments and POS services (across hardware and software), financial services, and marketing services have been limited or nonexistent for many businesses for the following reasons:

- **Lack of access.** Traditional payments solutions are often prohibitively expensive and difficult to use, and sellers are often denied service by traditional providers. We believe approximately 20 million sellers in the United States do not accept card payments today.

- **Disparate and disjointed offerings.** Sellers must laboriously piece together hardware, software, and payments services from many different vendors to run their businesses. Because these products and services are not integrated, sellers often resort to reconciling these disparate systems with pen and paper or with spreadsheets.

- **Slow, unpredictable access to funds.** Traditional payments solutions and financial services often require sellers to wait days or weeks to receive funds. According to a study published by the Federal Reserve Bank of New York in Spring 2014, the average small business loan application process takes 33 hours of work and includes applying to three different financial institutions.

- **Lack of transparency.** Many traditional providers offer terms and pricing that are opaque, complex, and unpredictable. For example, traditional providers typically charge a wide range of fees that are hard for sellers to understand or anticipate. These fees may include terminal fees, hardware rental fees, payment gateway fees, compliance fees, minimum monthly fees, and reporting fees, in addition to interchange and assessment fees that vary widely across card and transaction types.

Our End-to-End Commerce Ecosystem

Payments are at the heart of commerce and are the foundation of our ecosystem. Every payment a seller accepts creates an opportunity to develop a deeper understanding of his or her business. We use these insights to build additional seller services, which in turn generate more payment activity, bring more buyers into our network, and further strengthen our ecosystem. All of our services feature the following key elements:

- **Access and ease of use.** We design products and services that are simple and intuitive for all sellers.

- **Cohesion.** Services in our ecosystem connect seamlessly with each other, and we design integrated hardware products and software services to provide sellers and buyers with a frictionless experience.

- **Speed and predictability.** We design our products and services to deliver instant value. Sellers can sign up in minutes to take their first payment, getting fast and predictable access to funds.

- **Trust and transparency.** We build a mutually beneficial partnership with our sellers, based on straightforward pricing and dependable services that they can rely on to run and grow their businesses. We also take a differentiated approach to risk management that enables us to approve sellers who may have been denied elsewhere, while keeping our risk and fraud losses low.
Payments and POS Services

Our payments and POS services include hardware and software to accept payments, streamline operations, and analyze business information. Square Register, our free POS app, combines with our hardware to turn a mobile device into a powerful POS solution. Our mobile payments and POS services transform the checkout process and advance digital and mobile commerce by untethering sales from long lines and antiquated cash registers. Sellers can also use our services such as Square Analytics and Invoices directly from a mobile device. We regularly add advanced software features for our POS solution for specific types of sellers. We act as the merchant of record for our sellers, which puts us in their shoes with respect to card networks and puts the risk for refunds and chargebacks on us. Because we work directly with payment card networks and banks, sellers do not need to manage the complex systems, rules, and requirements of the payments industry. The benefits to our sellers include fast, easy, and inclusive sign-up; simplicity; affordability; transparent pricing; fast access to funds; and the ability to take payments anywhere, anytime. Buyers benefit from these services by being able to easily pay anyone, anywhere with a payment card or mobile device.

Unburdened by legacy systems, we create technology that makes payments faster and more efficient. In November 2013, we launched Square Cash, an easy way for anyone to send and receive money electronically via email or a mobile app. Individuals and businesses can sign up for a Square Cash account using just a debit card and an email address or phone number. Square Cash started with peer-to-peer payments, which we offer to individuals for free. Square Cash can also help businesses eliminate paper checks and process more of their payments electronically by lowering the cost of payment processing through the use of debit cards. Since launch, people have sent over one billion dollars through Square Cash.

Financial Services

Just as sellers face many challenges with the traditional system of accepting payment cards, they also face issues accessing and deploying funds to run and grow their businesses. We have applied the same capabilities and insights we used to develop our payments and POS services to address this need as well. We believe our financial services demonstrate the strength of our strategy, execution, and opportunity.

Square Capital provides merchant cash advances to prequalified sellers. We make it easy for sellers to use our service by proactively reaching out to them with an offer of an advance based on their payment processing history. The terms are straightforward, sellers get their funds quickly (often the next business day), and in return, they agree to make payments equal to a percentage of the payment volume we process for them up to a fixed amount. We receive these payments seamlessly through each card transaction we process for them up to a fixed amount. The service has a strong recurring nature, with nearly 90% of sellers who have been offered a second Square Capital advance choosing to accept it. We currently fund a significant majority of these advances from arrangements with third parties that commit to purchase the future receivables related to these advances. This funding significantly increases the speed with which we can scale Square Capital and allows us to mitigate our balance sheet risk.

Payroll is another area where our payments business provides the foundation for the type of opportunity we have realized with Square Capital. Like payments and business financing, payroll services exist within a complex and highly regulated industry. Payroll is one of the largest operating expenses for small businesses. In 2010, small businesses paid 42% of private sector payroll, according to the U.S. Small Business Administration’s March 2014 report. Square Payroll is an affordable, easy-to-use payroll service for sellers, optimized for those with hourly employees. It works seamlessly with Square Register to automatically track employee hours worked. This reduces complexity, saving time and money for our sellers. We recently introduced Square Payroll in California, and we plan to expand it to additional states.
Marketing Services

We also use the insights derived from our payments and POS services to develop unique marketing services that help our sellers reach customers and increase sales. Square Customer Engagement helps sellers understand their businesses, engage customers in ongoing conversations, and promote their offerings through email marketing. The result is a personalized and improved shopping experience for buyers that helps drive growth for sellers. By linking buyer payment cards and information to marketing efforts conducted in our ecosystem, we have created a closed loop that allows sellers to easily assess the return on their marketing efforts—a difficult feat in the offline world.

Mobile device proliferation has also enabled delivery-as-a-service. Caviar, our food delivery offering, helps restaurants reach customers and increase sales without having to create and manage their own delivery logistics. By providing delivery services for them, Caviar makes it easy for restaurants to expand their reach with little additional overhead. Buyers can access Caviar through our iOS and Android mobile apps or through our Caviar website.

Our Opportunity

We believe there is a substantial opportunity for our end-to-end commerce ecosystem to connect functions that previously existed as silos: payments, POS services, financial services, and marketing services. We earn revenue from activity in our ecosystem from fees charged on payment volume, as well as from software revenue paid to us by our sellers.

Payments services are expected to grow rapidly as buyers and sellers use payment cards instead of cash and checks. We earn a transaction fee for payment processing services. According to The Nilson Report published in December 2014, consumer payment card purchase volume is expected to reach $7.6 trillion in 2018. The Nilson Report published in January 2015 estimates this volume to reach $10.0 trillion in 2023. We connect payments to the POS with Square Register, and we expect to increase the number of software services that we offer to our sellers. U.S. small and medium-sized businesses, including micro businesses, were projected to spend approximately $11 billion on all types of SaaS products in 2014, growing to approximately $17 billion by 2018.

We also generate revenue from additional products that address other large market opportunities. Square Capital meets the demand from our sellers for financing, a critical service that enables them to grow and in turn drives additional payments activity with us. We generate revenue based on the amount of capital provided to our sellers. According to the FDIC Q4 2014 report, there were $130 billion in small business loans outstanding under $100,000 as of December 2014, and according to a 2013 Oliver Wyman report, there is $80 billion of demand for small business new-form lending lines of credit. Square Payroll meets another need of our sellers, managing one of their largest business expenses. In 2014, U.S. businesses were expected to spend $16 billion on payroll services.

Our marketing services enable our sellers to reach and engage buyers, further increasing activity in our ecosystem. Square Customer Engagement addresses our sellers’ advertising and marketing needs. Local advertising spending in the United States was expected to reach $138 billion in 2014, according to an April 2015 BIA/Kelsey forecast. In addition, Caviar generates revenue from fees charged on food deliveries. Consumers spent approximately $230 billion at independent restaurants in 2014.

We also believe our ecosystem is expanding the market with new sellers. The simplicity, affordability, transparency, and cohesion of our services enable many sellers and buyers access to a world previously unavailable to them. We
estimate based on data from industry sources that from 2009 to 2014, the number of active merchant outlets accepting credit cards grew by approximately one million or less. However, Square, counting as one establishment, has millions of sellers accepting payments. We believe our opportunity will continue to grow as we expand globally.

**Our Strengths**

*We Create Technology to Transform Commerce*

We invest significantly in hardware and software design and engineering to rapidly deploy product updates to sellers and buyers. At the end of 2014, over 45% of our employees served in product engineering, development, and design functions. Unburdened by legacy technology, we deliver tightly integrated services using a full-stack development approach that combines product management, development, and design.

*We Have Tremendous Scale*

Our millions of sellers provide a sizable opportunity for up-selling and cross-selling our products and services. Our scale also enables us to establish favorable partnerships with financial institutions to provide attractive pricing for our sellers.

*We Have a Strong Brand*

Nearly half of our sellers find us and sign up, rather than us finding them. This is the result of building services that deliver value and that sellers eagerly recommend. We have earned a net promoter score\(^3\) of 70, which is more than double the average score for banking providers calculated by Satmetrix Systems, Inc., a third-party research firm. In addition, our square-shaped readers reinforce our well-known brand and make it easy for new sellers to find Square. These sellers in turn help us grow by recommending us to other sellers, engaging in social media about us, and proudly displaying our logo in their stores.

*We Have a Deep Understanding of Our Sellers*

Payments and POS activity in our ecosystem allows us to create products and services that address many of the functions our sellers need to operate and grow their businesses. This deep understanding also enhances our detection of fraudulent behavior, improves our underwriting capabilities, lowers costs, and improves the customer experience.

*We Use a Differentiated Approach to Risk Management*

Our risk management approach starts with trusting sellers. We remove the friction of signing up, then use technology to quickly detect and eliminate risky and fraudulent activity. The risk models we have developed help us to accept approximately 95% of sellers who seek to process payments with Square, while keeping our risk and fraud losses low. Our

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\(^3\) Net promoter score (NPS) is an index ranging from -100 to 100 that measures the willingness of customers to recommend a company’s products. It is used to gauge customers’ overall satisfaction with a company’s product and their loyalty to the brand, and it is typically based on customer surveys. We conduct surveys of our sellers to assess our NPS on a quarterly basis.
risk and fraud losses accounted for approximately 0.1% of GPV in the 12 months ended June 30, 2015. Since inception, we have ceased providing services to fewer than 5% of sellers due to suspected or confirmed fraudulent behavior, their exceeding our risk parameters, their violation of our terms of service, or other concerns.

**We Have a Persistent Communication Channel with Our Sellers**

Our direct, ongoing interactions with our sellers help us to tailor offerings directly to them, at scale and in the context of their usage. For example, when a seller accesses their Square Dashboard—a centralized hub from where they can view and manage daily business operations—we can automatically send a notification to prompt the seller to sign up for Square Customer Engagement and take action on what they learned. On average, more than 70% of sellers who process more than $125,000 per year engage daily with analytics in their Square Dashboard.

**We Have a Large and Growing Buyer Network**

We have a direct relationship with buyers through various touch points in our ecosystem. In 2014, our sellers accepted payments from approximately 144 million payment cards, which we estimate represents approximately one in five active payment cards in circulation in the United States, based on data from The Nilson Report published in February 2015. Our relationship with buyers strengthens our ecosystem. For example, Square Customer Engagement enables sellers to communicate directly with buyers, Square Cash provides buyers a fast and easy way to make and receive payments, and Caviar provides buyers direct access to their favorite restaurants.

**Our Business Model**

While building services that are great for our sellers, we have also built a business model that presents great opportunity for Square.

Historically, many sellers have not accepted card payments because the process to do so was too costly and too difficult. These barriers to entry reflect the payment industry’s legacy of high costs of customer acquisition and fraud. Our business model enables us to greatly reduce these costs and pass savings on to our sellers. By reducing cost and friction, we have expanded the market of sellers accepting card payments and expanded the number of payments they accept.

The foundation of our business model is the millions of sellers processing payments with Square. We estimate that nearly half of our sellers find us and sign up, rather than us finding them, adding efficiency to our sales and marketing efforts. We measure the effectiveness of our spending by evaluating the “payback period,” which we view as the number of quarters it takes for a cohort of sellers’ cumulative transaction revenue net of transaction costs to surpass our sales and marketing spending in the quarter in which we acquired that cohort. On average, our payback period has been four to five quarters.

Our products and services appeal to sellers because they can immediately and easily accept payments at a low, transparent cost with fast access to funds. We act as a payment service provider, which means we can set our own pricing, chargeback, and risk policies with our sellers. We work directly with the payment card networks and banks so our sellers do not need to manage the complex systems, rules, and requirements of the payments industry.
While many sellers are initially attracted to Square for payments and POS services, they can also benefit from our financial services and marketing services. These services enhance our business model by adding additional revenue with little incremental customer acquisition costs, increasing contribution profit from sellers. As sellers use our financial services and marketing services, their payments activity on Square grows, reinforcing our strong recurring payments revenue.

Revenue from our sellers has grown consistently over time, resulting in strong dollar-based retention rates. Transaction revenue net of transaction costs for each of our 17 quarterly seller cohorts (dating back to the second quarter of 2010) has grown year-over-year in every quarter. Over the past four quarters, retention of transaction revenue net of transaction costs for our cohorts has, on average, exceeded 110% year-over-year. We have continued to grow beyond our recurring payments and POS business by adding new sellers that accept payments and by cross-selling and up-selling additional services. Our scale, growth, and unique understanding of our sellers’ businesses enable us to serve sellers of all sizes in many ways and reinforce the advantages of our business model.

Our Growth Strategy

We have significant opportunity ahead. Our growth strategy is to enhance our products and services, extend our reach, and expand globally.

Enhance Our Products and Services

• **Innovate to provide sellers with access to new payment methods.** We will continue to introduce new payment products and services, such as Square Cash and Square Readers for newer technologies, for the benefit of new and existing sellers. In the United States, beginning in October 2015, we believe many sellers will convert to EMV and NFC terminals due to the fraud liability shift imposed by the payment card networks. We believe this represents a significant opportunity to add new sellers and gain market share. In 2013, we introduced Square Cash, a payment solution designed to be the fastest, easiest way to pay anyone. Square Cash has expanded beyond free peer-to-peer money transfers to also give sellers an easy and affordable way to get paid.

• **Increase product and service functionality.** We are focused on improving our products and services so that they are applicable to a wide range of sellers and buyers. For example, our recently introduced open tickets feature in Square Register provides critical functionality to bars and full-service restaurants.

• **Grow our third-party App Marketplace.** Our App Marketplace enables us to offer our sellers integration with a wide range of products and services from companies such as Intuit and Bigcommerce. We intend to continue to expand the benefits of our services by strategically partnering with third parties wherever we believe it will provide value to both their customers and ours.

• **Increase third-party funding for Square Capital.** A significant majority of funding for Square Capital currently comes from third parties who commit to purchase the future receivables related to Square Capital advances. We will continue to seek third-party funding for these advances so we can increase our capacity to scale the service and further mitigate our balance sheet risk.

• **Continue to add new products and services that extend our ecosystem.** We will continue to introduce new products and services that can make use of the unique insights we garner from the integration of payments and POS services.
Extend Our Reach

• Strengthen our brand. We will continue to focus on customer experience and on delivering simple, cohesive services that appeal to our sellers and buyers. This focus has earned us a net promoter score of 70, more than double the average score for banking providers. Our high net promoter score means our sellers recommend our services to others, strengthening our brand and helping to drive efficient customer acquisition.

• Expand marketing channels. We plan to expand our marketing efforts across new and existing channels, including online and mobile marketing, retail distribution of our hardware products, television and radio advertising, direct response mail, and event marketing.

• Increase adoption of services within our ecosystem. We will continue to use our persistent communication channels such as in-app notifications and dashboard alerts to highlight to sellers the value of our payments and POS services, financial services, and marketing services. We intend to use these and other channels to cross-sell and up-sell our seller base with new and existing services.

• Enhance relationships with larger sellers. We will continue to invest in our direct sales and account management teams to facilitate the acquisition and support of larger sellers. We use custom pricing to make Square even more compelling for larger businesses.

Expand Globally

• Expand our payments services into additional countries. We evaluate many factors when choosing to enter a new country, including market opportunity, technology adoption, and the regulatory environment. The payments landscape outside the United States is largely dominated by adherence to EMV chip-and-pin standards, which requires a purpose-built hardware pin pad. We believe software-based pin entry on a seller’s mobile device is more secure, flexible, and affordable than current hardware-based specifications. We will continue to advocate for an open mobile-pin standard that we believe will lower hardware costs for sellers and broaden payment card acceptance worldwide. We currently offer payments services in the United States, Japan, and Canada. We plan to expand into additional countries to broaden payment card acceptance worldwide and to increase our market opportunity.

• Deploy non-payments-based services to accelerate global efforts. In countries where regulatory or payment card network requirements constrain our market entry, we may enter first with services other than payments. For example, we currently make Square Register freely available separate from our payments processing services for sellers worldwide to record and analyze their business trends without direct payments offerings from us. We will look for other opportunities to introduce new products and services into these markets, including software offerings and Caviar.
Payment Processing Overview

Processing payment card transactions requires close coordination among a number of industry participants that provide the services and infrastructure required to enable such transactions. These participants consist of payment service providers, acquiring processors, card networks, and issuing banks. Within this landscape, Square serves as a payment service provider, acting as the touch point for the seller to the rest of the payment chain. The definitions and graphic below outline this payment chain and the typical flow of a Square payment transaction, along with the types of fees typically paid and received at each stage.

**Payment Service Provider (PSP)**: Provider of the payment services that holds the direct relationship with the seller and facilitates the rest of the payment transaction on behalf of the seller. A PSP is also the merchant of record for the transaction.

**Acquiring Processor**: Provider of the back-end technology that facilitates the flow of payment information through the Card Networks to the Issuing Bank. Our agreements with acquiring processors typically have terms of two to four years.

**Card Networks (e.g. Visa, MasterCard)**: Provider of the infrastructure for card payment information to flow from the Acquiring Bank to the Acquiring Processor.

**Issuing Bank**: The financial institution that issues the Buyer's payment card.

**Acquiring Bank**: The financial institution associated with the Acquiring Processor.
1. Once the Buyer is ready to make a purchase, the Seller inputs the transaction into the Square point-of-sale (POS) and presents the Buyer with the amount owed.
2. The Buyer pays for the transaction by swiping or dipping their payment card, or by tapping their NFC-enabled mobile device on the Square Reader or Square Stand, which captures the Buyer’s account information.
3. The Square POS sends the payment transaction information to Square, which acts as the Payment Service Provider (PSP).
4. Square passes the payment transaction information to the Acquiring Processor via an internet connection. Square pays a small fixed fee per transaction to the Acquiring Processor.
5. The Acquiring Processor routes the payment transaction to the appropriate Card Network affiliated with the Buyer’s card such as Visa, Mastercard, Discover, or American Express. Square pays a variety of fees to the Card Network, the most significant of which are assessment fees that are typically less than 0.15% of the transaction amount.

6. The Acquiring Processor then routes the payment transaction through the Card Network to the Issuing Bank, which authorizes or declines the payment transaction for the Buyer’s payment card.

7. Upon authorization, the Issuing Bank sends a notification back through the Card Network to the Square POS to inform the Seller that the transaction has been successfully authorized.

8. The Square POS sends a digital receipt for the transaction to the Buyer, enabling a persistent communication channel between the Seller and the Buyer. For example, this is how the Buyer can send feedback to the Seller about the service provided.

9. The Issuing Bank then triggers a disbursement of funds to the Acquiring Bank through the Card Network for the transaction amount. Square will ultimately pay the Issuing Bank an interchange fee as a percentage of the amount of the transaction plus a fixed fee per transaction, which together average between 1.5% to 2.0% of the transaction amount. However, this percentage can vary significantly based on the card type, transaction type, and transaction size.

10. Square transfers the funds to the Seller’s bank account, net of the fee charged by Square (typically 2.75% of payment volume for card present transactions or 3.5% of payment volume plus $0.15 per transaction for card not present transactions). Square provides sellers with fast access to funds, typically settling with them by the next business day after the date of the transaction via Automated Clearing House (ACH) transfers, or the same day via its Instant Deposit service for an additional fee. Square pays a very small fee for each ACH transfer.

11. The funds are settled from the Acquiring Bank to Square, typically in one to two business days after the date of the transaction.

12. At the end of the month, the Issuing Bank sends a statement to the Buyer showing their monthly charges. The statement includes a reference to Square as the merchant of record on the billing statement as a prefix to the Seller name (denoted as SQ*).
Our Products and Services

We offer products and services for our sellers to start, run, and grow their businesses. From our payments and POS services, we gather unique insights that enable us to extend into differentiated financial services and marketing services.

The Square Ecosystem
 Payments and POS Services

We provide sellers a range of options for easily and securely accepting payments in-person or online. It is easy for sellers to get started, taking only a few minutes and requiring no credit checks. We accept approximately 95% of sellers who seek to process payments with Square. Funds are typically deposited into a seller's bank account the next business day. We also cover up to $250 in chargebacks per month for all of our sellers, and we offer custom rates for those who process a large volume of payments. Sellers can accept Visa, MasterCard, Discover, and American Express all at the same rate. We also offer custom rates to select Square sellers who process a large volume of payments. Square payment processing is currently available in the United States, Canada, and Japan, with further international expansion planned.

In-Person Payments

Our custom-designed hardware and software make in-person acceptance of payment cards easy. We offer affordable (often free) hardware and charge a flat rate of 2.75% per swipe, dip, or tap.

Square Reader for magnetic stripe cards plugs into the standard headset jack of a mobile device. It enables sellers to accept payments by swiping a buyer’s payment card. These readers are free, mobile, and require no separate battery.

Square Reader for EMV chip cards also plugs into the standard headset jack of a mobile device. It enables sellers to accept payments by dipping an EMV chip card or swiping a magnetic stripe card.

Square Reader for EMV chip cards and NFC, available in the fall of 2015, connects wirelessly to mobile devices. It accepts EMV chip cards and payments made via the tap of the buyer’s mobile device using NFC. This enables acceptance via Apple Pay, Android Pay, and other mobile wallets.

Square Stand transforms an iPad into a full POS terminal. It features an integrated magnetic stripe reader, provides power to a connected iPad, and can connect to the Square Reader for EMV chip cards and NFC. It also connects to various peripheral devices that brick-and-mortar businesses need, such as barcode scanners and receipt printers.

Square Gift Cards enable sellers to offer, redeem, and track gift cards through Square Register. Gift cards can be ordered online, with choices of either preset or custom designs to fit the seller’s brand.

Sellers can manually enter card information in Square Register when, for example, accepting payments over the phone. We charge 3.5% plus $0.15 per transaction for manually-entered card-not-present transactions.

Online Payments

Sellers can create custom digital invoices and collect payments securely with Square Invoices. Sellers can also create a simple online store with Square Store or build more advanced websites through integrations with companies such as Bigcommerce and Weebly. We charge a flat rate of 2.75% for payments made via Square Invoices or Square Store and 2.9% plus $0.30 per transaction for payments made via third-party websites.
Square Cash

Square Cash is a fast, easy way for anyone to send and receive money electronically. Individuals and businesses can sign up for a Square Cash account using just a debit card and an email address or a phone number. People can quickly pay businesses or send money using the Square Cash app to a recipient’s phone number, email address, to people nearby using Bluetooth LE, or to a $Cashtag. All Square Cash accounts come with the ability to create a customized $Cashtag, a unique, personalized name like $ErinHills or $SunsetPhotography that enables anyone to get paid privately and securely. Square Cash is available for free to individuals sending peer-to-peer payments. Businesses that use Square Cash to process payments for goods and services pay 1.9% per transaction.

Square Register

Square Register is our free POS software application for iOS and Android. It integrates seamlessly with our payment processing solution, but can also be used on a standalone basis. It is currently available to sellers in most countries worldwide. Square Register enables sellers across a wide range of business types to itemize products or services for faster checkout. Items can be grouped, categorized, sorted, and linked to inventory management. Square Register supports a range of tender types including cash, checks, and gift cards, in addition to credit and debit card payments. When completing a purchase, a buyer can opt in to receive a digital receipt via email or text message.

We also offer Employee Management, a paid upgrade to Square Register that unlocks more advanced features often needed by larger, multi-location businesses. Employee Management helps sellers oversee multiple stores from one account, manage employee timecards, and view and act on detailed sales reports that can be filtered by employee, device, or location.
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Square Analytics
Square Analytics helps sellers quickly and easily understand how their business is performing. Because payments information is stored in the cloud, Square Analytics can be accessed anytime, anywhere. Analytics can surface key insights to a seller such as “Which items have been selling the best over the last month?” or “How many of my customers are new versus returning?” without requiring spreadsheets or other tools. Square Analytics is free for our sellers.

Square Appointments
Square Appointments enables sellers to schedule and accept appointments, manage staff calendars, organize their clients’ information, and view appointment history. Sellers can send automated communications via email or text to remind clients of upcoming appointments and notify them of any changes, which reduces cancellations. It is currently available via a web or iOS app for a monthly fee.

Square App Marketplace
Square App Marketplace enables sellers to seamlessly integrate third-party apps with Square. These apps provide extensions to our POS functionality as well as provide other back office solutions. It gives our sellers access to cloud solution providers such as Intuit and Bigcommerce.

Financial Services

Square Capital
Square Capital provides MCAs to pre-qualified sellers. Our sellers are attracted to the service because we reach out to them proactively with an offer of an advance based on their payment processing history. The terms are straightforward, they get their funds quickly (often the next business day), and, in return, they agree to make payments to us equal to a percentage of the payment volume we process for them up to a fixed amount. We receive these payments seamlessly through each card transaction we process for them. A seller can quickly access the status of their Square Capital through their Square dashboard. In addition, the service has a strong recurring nature, with nearly 90% of sellers who have been offered a second Square Capital advance choosing to accept a repeat advance. We currently fund a significant majority of these advances from arrangements with third parties who commit to purchase the future receivables related to these MCAs. This funding significantly increases the speed with which we can scale Square Capital and allows us to mitigate our balance sheet risk.
Sellers receiving MCAs are contractually obligated to use Square as their only card payment processing services until we have received the agreed-upon fixed amounts of receivables. To the extent a seller breaches this obligation, the seller would be liable to us for the balance of the purchased receivables. Consistent with the general nature of MCAs, there is also no fixed period of time in which the seller must deliver the purchased future receivables to us, as delivery of the purchased future receivables is contingent on the generation of such receivables, and we do not otherwise have any economic recourse to the seller in the event that it does not process a sufficient volume of payments with us to pay the agreed-upon fixed amount of receivables.

**Square Payroll**

Square Payroll is an affordable, easy-to-use payroll service for sellers, optimized for those with hourly employees. It works seamlessly with Square Register so that employee hours worked can be pre-populated from employee shift logging information. This reduces complexity, saving time and money for our sellers. Square Payroll is currently available as a limited release in California with plans to expand nationwide.

**Marketing Services**

**Square Customer Engagement**

Square Customer Engagement helps sellers better analyze and understand their businesses, engage their buyers in ongoing conversations, and promote their offerings through email marketing to drive additional sales. Buyers that have opted in to receive a digital receipt via Square Register can contact the seller about their experience directly from the receipt. A seller can reply to a buyer and even offer a credit or refund directly. We automatically build customer lists for those who have opted in and organize them (loyal, casual, lapsed, etc.) to add context to an otherwise anonymous channel. Sellers can also upload their own buyer contact information. Sellers can create promotions, announcements, or event invitations to send to their buyers. Square Customer Engagement then closes the loop for sellers by enabling them to see precisely how marketing drives in-store sales, whether customers come back, and how much they spend when they do. Free customer engagement services are available to all of our sellers and we also offer a set of advanced services for a monthly fee.
Caviar

Caviar offers a food delivery service to help restaurants reach new customers and increase sales. By managing the logistics of delivery, Caviar makes it easy for restaurants to expand their reach and grow revenue without additional overhead. Caviar enables buyers to order delivery from their favorite local restaurants, including those that did not previously offer delivery. With Caviar’s purpose-built courier and order management apps, delivery is fast; Caviar FastBite, which offers curated meals, can provide delivery in as little as 10 minutes. Buyers can easily access Caviar through our iOS and Android mobile apps or through our website. Caviar is currently available in many U.S. markets, including New York, Los Angeles, San Francisco, and Philadelphia, with over 1,000 partner restaurants available in our marketplace. Caviar charges consumers a fixed fee per delivery plus a service fee. We also charge our partner restaurants a service fee as a percentage of total food order value.

Our Current Sellers

Our sellers represent businesses in a diverse set of industries, including retail, services, food, and leisure. We serve sellers of all sizes, ranging from a single vendor at a farmers’ market to multinational businesses. We believe the diversity of our sellers underscores the accessibility of our offerings. We estimate that nearly 50% of our sellers’ businesses are owned or operated by women, versus only 30% of U.S. small businesses. The charts below show the percentage mix of our GPV by seller industry and seller size:
GPV Mix by Seller Size

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<tr>
<td>2015 Q2</td>
<td>63%</td>
<td>26%</td>
<td>11%</td>
</tr>
</tbody>
</table>
“Square’s just given us so much flexibility and peace of mind—and to be able to open up a second location with Square Capital—it’s been huge.”

LINDSAY & KALLIE WESLEY
JUX-TA-POSE
TAMPA, FL
“Square charges me one simple fee for each transaction—and that’s the only fee. There is no monthly statement fee, there is no additional processing fee, there are no hidden fees using Square.”

JAMES BROCK
BOSTON HOME INSPECTORS
BOSTON, MA
“I love having Square Capital in my corner whenever I need to update equipment or make minor renovations. I get funded the next day!”

MYLINH CAO
DUA VIETNAMESE NOODLE SOUP
ATLANTA, GA
“Square es tan sencillo que no se tiene que explicar, es lo que nos gusta.”

ALFREDO LIVAS
LA MONARCA
LOS ANGELES, CA

Square is so simple you don't have to explain it. That's what we love about it.
“Square has been a big part of helping The Barbershop Club go to the next level.”

WOODY LOVELL
THE BARBERSHOP CLUB
LOS ANGELES, CA
“I feel that Square is really a champion for small businesses. They empower me to make good business decisions, and they’ve made my life much easier.”

MELANIE PORTER  
LAVENDER & HONEY  
PASADENA, CA
Square has improved operational efficiency and increased our card payments to 30% of all transactions!
“There’s no other tool out there that makes it this simple to see which suits are selling and what add-ons people buy. The data isn’t just insightful, it has led to increased profitability.”

TOMAS ROMITA
MADE CLOTHING
TORONTO, ONTARIO, CANADA
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“Square is trying to get barriers out of the way and help us have a more direct interaction with our customers.”

JAMES FREEMAN
BLUE BOTTLE COFFEE
SAN FRANCISCO, NEW YORK, LOS ANGELES, & TOKYO, JAPAN
“With Square Cash, now we can collect donations in a very, very streamlined way.”

CHRIS MADDOCKS
MANAGING DIRECTOR
U.S. FUND FOR UNICEF
Product Development and Technology

We organize our product teams with a full-stack development model, integrating product management, development, and design. We focus on affordability, reliability, and cohesion when developing our hardware and software. Our products and services are mobile-first and platform agnostic. We frequently update our software products and have a regular software release schedule with improvements deployed twice a month, ensuring our sellers get immediate access to the latest features. Our services are built on a scalable technology platform, enabling us to assess risk and capture and analyze over a billion transactions a year.

While our software and hardware is developed in-house, we utilize contract manufacturers for the production of our hardware products.

As of June 30, 2015, approximately 46% of our employees work in our product management, development, and design organizations. Our product development expenses were $82.9 million and $144.6 million for the years ended December 31, 2013 and 2014, respectively.

Sales and Marketing

We have a strong brand and continue to raise brand awareness among sellers by enhancing our services and fostering rapid adoption through increased brand affinity, public relations, and strategic partnerships. Nearly half of our sellers find us and sign up, rather than us having to find them. We also leverage our direct sales and account management teams to facilitate the acquisition and support of larger sellers. Direct marketing, online and offline, has also been an effective customer acquisition channel. This includes display advertising, search engine marketing, social media, direct mail campaigns, trade shows and events, radio and television advertising, and print media. Our Square Readers for magnetic stripe cards are available for free directly via our website or mobile apps, and also at nearly 30,000 retail stores (including Apple, Best Buy, Staples, Target, Verizon, Walgreens, and Walmart). We plan to continue offering Square Reader for magnetic stripe cards for free.

Our Competition

The markets in which we operate are competitive and evolving. For payments and POS services, we compete primarily with traditional acquiring processors and payment processors who sell more expensive POS systems, often bundled with long-term contracts, through direct sales and ISO channels. While competitive factors and their relative importance vary based on the size, industry, and focus of sellers, we believe the principal methods of competition in the market for payments and POS services are the following:

- accuracy and promptness of payment;
- ability to accept new payment types, such as NFC (Apple Pay, Android Pay and other electronic wallets) and EMV;
- product and service pricing, the transparency of that pricing, and contract complexity and length of commitment;
- simplicity and ease-of-use;
- breadth and depth of features and functionality;
brand recognition and reputation;
integration with payment processing, third-party apps, and mobile platforms;
security and reliability;
support for a seller’s brand development; and
ease and timing of seller sign-up process.

Our competitors range from large, well-established vendors to smaller, earlier-stage companies, including third-party acquiring processors or payment processors, POS software and terminal providers, peer-to-peer payment providers, and business software providers such as those that provide ecommerce, inventory management, analytics, and appointment solutions.

We seek to differentiate ourselves from competitors primarily on the basis of our cohesive commerce ecosystem and focus on accessibility, speed, transparency, and trust. Our ability to innovate quickly to accept new payment technologies such as NFC through Apple Pay, Android Pay, and other new currencies further differentiates our payments platform from our competition. Many competitors offer payments and POS services that have features tailored to particular business types or seller needs, and many competitors, especially larger ones, have more comprehensive offerings with specific features and integrations that are attractive to larger sellers and sellers in particular industries.

With respect to our financial services, we compete against established and new alternative lenders as well as other more traditional financial service providers. With respect to our marketing services, we compete with other customer engagement software providers and traditional advertising solutions, as well as with delivery service providers.

For instance, Square Capital competes with other providers of financing to small and medium-sized businesses, including traditional banks, MCA providers, and newer lending models. We believe that the principal methods of competition in the market for financing are ease of process to apply for a loan, brand recognition and trust, loan features, transparent terms, effectiveness of customer acquisition, and customer experience. We believe Square Capital competes favorably with other offerings on the basis of these factors. However, many of our competitors have more financial resources and access to capital, offer a wider variety of credit products, and have larger borrower bases.

We expect the markets for payments and POS services, financial services, and marketing services to evolve and overlap, which we expect will increase competition in our industry.

**Intellectual Property**

We seek to protect our intellectual property rights by relying on a combination of federal, state, and common law rights in the United States and other countries, as well as on contractual measures. It is our practice to enter into confidentiality, non-disclosure, and invention assignment agreements with our employees and contractors, and into confidentiality and non-disclosure agreements with other third parties, in order to limit access to, and disclosure and use of, our confidential information and proprietary technology. In addition to these contractual measures, we also rely on a combination of trademarks, trade dress, copyrights, registered domain names, trade secrets, and patent rights to help protect our brand and our other intellectual property.
We have developed a patent program and strategy to identify, apply for, and secure patents for innovative aspects of our products, services, and technologies where appropriate. As of June 30, 2015, we had 95 issued patents and 433 filed patent applications in the United States and in foreign jurisdictions relating to a variety of aspects of our technology. Our issued patents will expire between 2022 and 2034 (with the exception of a single patent obtained through an acquisition, which will expire in 2016). We intend to file additional patent applications as we continue to innovate through our research and development efforts, and to pursue additional patent protection to the extent we deem it beneficial and cost-effective.

We actively pursue registration of our trademarks, logos, service marks, trade dress, and domain names in the United States and in other jurisdictions. We are the registered holder of a variety of U.S. and international domain names that include the term “Square” and variations thereof.

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

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

Government Regulation

Foreign and domestic laws and regulations apply to many key aspects of our business. Failure to comply with these requirements may result in, among other things, revocation of required licenses or registrations, loss of approved status, private litigation, administrative enforcement actions, sanctions, civil and criminal liability, and constraints on our ability to continue to operate.

Payments Regulation

Various laws and regulations govern the payments industry in the United States and globally. For example, certain jurisdictions in the United States require a license to offer money transmission services, such as our peer-to-peer payments product, Square Cash, and we maintain a license in each of those jurisdictions. We are also registered as a “Money Services Business” with the U.S. Department of Treasury’s Financial Crimes Enforcement Network. These licenses and registrations subject us, among other things, to record-keeping requirements, reporting requirements, bonding requirements, limitations on the investment of customer funds, and inspection by state and federal regulatory agencies.

Outside the United States, we provide localized versions of some of our services to customers through various foreign subsidiaries. The activities of those non-U.S. entities are, or may be, supervised by regulatory authorities in the jurisdictions in which they operate. In Canada, Square Register is the sole payments service we offer, and we are not required to hold a license to offer it. We remain in close contact with Finance Canada, which has regulatory authority over payments issues, among other areas. Square Register is the sole payments service we offer in Japan and we are not required to hold a license to offer it. We remain in close contact with Japan’s Ministry of Economy, Trade, and Industry, which has regulatory authority over payments issues, among other areas.

Our payments services may be or become subject to regulation by other authorities, and the laws and regulations applicable to the payments industry in any given jurisdiction are always subject to interpretation and change.
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Consumer Financial Protection

The Consumer Financial Protection Bureau and other federal, local, state, and foreign regulatory agencies regulate financial products, including credit, deposit, and payments services, and other similar services. These agencies have broad consumer protection mandates, and they promulgate, interpret, and enforce rules and regulations that affect our business.

Anti-Money Laundering

We are subject to anti-money laundering (AML) laws and regulations in the United States and other jurisdictions. We have implemented an AML program designed to prevent our payments network from being used to facilitate money laundering, terrorist financing, and other illicit activity. Our program is also designed to prevent our network from being used to facilitate business in countries, or with persons or entities, included on designated lists promulgated by the U.S. Department of the Treasury’s Office of Foreign Assets Controls and equivalent foreign authorities. Our AML compliance program includes policies, procedures, reporting protocols, and internal controls, including the designation of an AML compliance officer, and is designed to address these legal and regulatory requirements and to assist in managing risk associated with money laundering and terrorist financing.

Protection and Use of Information

We collect and use a wide variety of information to help ensure the integrity of our services and to provide features and functionality to our customers. This aspect of our business, including the collection, use, and protection of the information we acquire from our own services as well as from third-party sources, is subject to laws and regulations in the United States and elsewhere. Accordingly, we publish our privacy policies and terms of service, which describe our practices concerning the use, transmission, and disclosure of information. As our business continues to expand in the United States and worldwide, and as laws and regulations continue to be passed and their interpretations continue to evolve, additional laws and regulations may become relevant to us.

Communications Regulation

We send texts, emails, and other communications in a variety of contexts, such as when providing digital receipts. Communications laws, including those promulgated by the Federal Communications Commission, apply to certain aspects of this activity in the United States and elsewhere.

Additional Developments

Various regulatory agencies in the United States and elsewhere continue to examine a wide variety of issues that could impact our business, including products liability, import and export compliance, accessibility for the disabled, insurance, marketing, privacy, and labor and employment matters. As our business continues to develop and expand, additional rules and regulations may become relevant. For example, if our Square Capital program shifts from an MCA model to a loan model, state and federal rules concerning lending could become applicable. Similarly, if we choose to offer Square Payroll in more jurisdictions, additional regulations, including tax rules, will apply.

For further information, see the section titled “Risk Factors—Risk Related to Our Business and Our Industry.”
Our Employees

As of June 30, 2015, we had 1,171 full-time employees. We also engage temporary employees and consultants as needed to support our operations. None of our employees are either represented by a labor union or subject to a collective bargaining agreement. We have not experienced any work stoppages, and we consider our relations with our employees to be good.

Our Facilities

Our corporate headquarters, which include product development, sales, marketing, and business operations, are located in San Francisco, California. It consists of 333,570 square feet of space under a lease that expires in 2023. We also lease 43,689 square feet in New York, New York for a product development, sales, and business operations office under a lease that expires in 2025. We have offices in several other locations and believe our facilities are sufficient for our current needs.

Legal Proceedings

We are currently a party to, and may in the future be involved in, various litigation matters (including intellectual property litigation), legal claims, and government investigations. Notably, we are currently involved in ongoing legal proceedings with Robert E. Morley and REM Holdings 3, LLC (REM). In two related proceedings, we are litigating disputes over certain patents and over Mr. Morley’s early involvement in the business enterprise that became Square.

On December 1, 2010, we, along with our co-founder Jim McKelvey, filed a complaint (2010 Complaint) in the United States District Court for the Eastern District of Missouri (District Court), which, as amended, concerns the inventorship, ownership, implied license, non-infringement, invalidity, and unenforceability of three patents: U.S. Patent Nos. 7,918,394 (‘394 Patent), 7,810,729 (‘729 Patent), and 7,896,248 (‘248 Patent). All three patents are in a single patent family directed to card reader technology. The patents, which the U.S. Patent and Trademark Office (PTO) granted in 2010 and 2011, name Mr. Morley as the sole inventor and REM as their assignee of rights. The 2010 Complaint sought to add Mr. McKelvey as a named inventor of those patents given his significant contributions to the claimed inventions. REM counterclaimed, alleging infringement by Square of the three patents, and we subsequently requested that the PTO reexamine those patents.

On January 17, 2012, the PTO issued a reexamination certificate invalidating the entirety of the ‘394 Patent. With the ‘394 Patent invalidated, two patents remained for consideration by the PTO: the ‘729 Patent and the ‘248 Patent. In April 2012, the PTO reexamination examiner closed prosecution on those two patents, rejecting all of the claims of the ‘729 Patent and 13 of the 20 claims of the ‘248 Patent as invalid in view of prior art. REM appealed the reexamination examiner’s rejections on these two remaining patents to the Patent Office Trial and Appeals Board (PTAB), and we appealed to have the PTAB reject the remaining seven claims of the ‘248 Patent and to recognize additional grounds for rejection of the previously rejected ‘248 Patent and ‘729 Patent claims. In March 2014, the PTAB issued a decision in our favor, affirming the rejection of all claims of the ‘729 Patent, affirming the rejection of the 13 claims of the ‘248 Patent, and ruling that the reexamination examiner should also reject the remaining seven claims of the ‘248 Patent (having so ruled, the PTAB did not need to consider additional grounds for rejecting the ‘248 and ‘729 Patent claims). Following the PTAB’s
On January 30, 2014, three weeks after the PTAB hearing that resulted in the rejection of all of Mr. Morley's and REM's remaining claims of the patents in the 2010 Complaint, Mr. Morley and REM filed a complaint against us and against Jack Dorsey and Mr. McKelvey, in the District Court, alleging that the formation of Square and the development of our card reader and decoding technologies constituted, among other things, breach of an alleged oral joint venture, fraud, negligent misrepresentation, civil conspiracy, unjust enrichment, and misappropriation of trade secrets, as well as other related claims (2014 Complaint). Mr. Morley contends as part of his alleged oral joint venture claim, among others, that he was an equal partner with Mr. Dorsey and Mr. McKelvey in the business enterprise that ultimately evolved into Square, and that Mr. Dorsey and Mr. McKelvey breached their alleged oral joint venture agreement with Mr. Morley by excluding him from ownership in Square. Mr. Morley claims that to the extent the defendants contend that no joint venture was formed, Mr. McKelvey and Mr. Dorsey committed fraud, negligent misrepresentation, and/or fraudulent nondisclosure. The 2014 Complaint also alleges infringement of another patent related to the '248, '394, and '729 Patents, U.S. Patent No. 8,584,946 ('946 Patent). Mr. Morley is seeking a judgment and order that Square, Mr. Dorsey, and Mr. McKelvey hold ownership of Square in constructive trust for Mr. Morley, as well as a variety of additional damages, injunctive relief, royalties, and correction of inventorship of certain of our patents.

Even prior to the filing of the 2014 Complaint, on December 31, 2013, we had filed a petition at the PTAB requesting inter partes review (IPR) proceedings to invalidate the '946 Patent, and in July 2014, the PTO granted our petition to institute the IPR on all requested claims. We moved to consolidate the 2014 Complaint with the 2010 Complaint (the Complaints), and the District Court granted our motion on July 16, 2014. We moved to dismiss certain claims as time barred under California and Delaware law, and the District Court denied the motion on October 16, 2014, applying Missouri law. We moved to stay counts of the 2014 Complaint related to alleged infringement of the '946 Patent and inventorship of certain of our patents, pending the ongoing PTO proceedings, and on April 2, 2015, the District Court granted our motion to stay. The District Court has issued a scheduling order that sets forth the current expected schedule of important events in the proceedings, but no assurances can be given that the schedule will not change. We are vigorously defending against the Complaints. Given the early stage of the proceedings, we cannot reliably determine the potential liability that could result from this matter.

Additionally, we are involved in a class action lawsuit concerning independent contractors in connection with our Caviar business. On March 19, 2015, Jeffry Levin, on behalf of a putative nationwide class, filed a lawsuit in the Northern District of California against our wholly owned subsidiary, Caviar, Inc., which, as amended, alleges that Caviar misclassified Mr. Levin and other similarly situated couriers as independent contractors and, in doing so, violated various provisions of
the California Labor Code and California Business and Professions Code by requiring them to pay various business expenses that should have been borne by Caviar. Mr. Levin is also seeking an award of penalties pursuant to the Labor Code Private Attorneys General Act of 2004, on behalf of the putative class. On June 30, 2015, we filed a Motion to Compel Individual Arbitration and Motion to Dismiss the amended complaint. Our motion was heard on August 4, 2015, and we are now awaiting a written decision on the motion from the court. Regardless of the outcome, we will continue to vigorously defend against Mr. Levin’s claims. Given the early stage of these proceedings, it is not yet possible to reliably determine any potential liability that could result from this matter.

In addition, from time to time, we are involved in various other litigation matters and disputes arising in the ordinary course of business. While it is not feasible to predict or determine the ultimate outcome of these matters, we believe that none of our current legal proceedings will have a material adverse effect on our business.
MANAGEMENT

Executive Officers and Directors

The following table provides information regarding our executive officers and directors as of September 30, 2015:

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Position</th>
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<tbody>
<tr>
<td><strong>Executive Officers:</strong></td>
<td></td>
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<tr>
<td>Jack Dorsey</td>
<td>38</td>
<td>President, Chief Executive Officer, and Chairman</td>
</tr>
<tr>
<td>Sarah Friar</td>
<td>42</td>
<td>Chief Financial Officer</td>
</tr>
<tr>
<td>Dana Wagner</td>
<td>40</td>
<td>General Counsel and Corporate Secretary</td>
</tr>
<tr>
<td>Françoise Brougher</td>
<td>50</td>
<td>Business Lead</td>
</tr>
<tr>
<td>Alyssa Henry</td>
<td>45</td>
<td>Seller Lead</td>
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<tr>
<td><strong>Non-Employee Directors:</strong></td>
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<td></td>
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<tr>
<td>Roelof Botha</td>
<td>42</td>
<td>Director</td>
</tr>
<tr>
<td>Earvin “Magic” Johnson, Jr.</td>
<td>56</td>
<td>Director</td>
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<tr>
<td>Vinod Khosla</td>
<td>60</td>
<td>Director</td>
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<tr>
<td>Jim McKelvey</td>
<td>49</td>
<td>Director</td>
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<tr>
<td>Mary Meeker</td>
<td>56</td>
<td>Director</td>
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<tr>
<td>Ruth Simmons</td>
<td>70</td>
<td>Director</td>
</tr>
<tr>
<td>Lawrence Summers</td>
<td>60</td>
<td>Director</td>
</tr>
<tr>
<td>David Viniar</td>
<td>60</td>
<td>Director</td>
</tr>
</tbody>
</table>

(1) Member of our audit and risk committee
(2) Member of our compensation committee
(3) Member of our nominating and corporate governance committee

**Executive Officers**

**Jack Dorsey.** Mr. Dorsey is our co-founder and has served as our President and Chief Executive Officer and as a member of our board of directors since July 2009. From May 2007 to October 2008, Mr. Dorsey served as President and Chief Executive Officer of Twitter, Inc. Mr. Dorsey also currently serves as Chief Executive Officer and a director of Twitter. Mr. Dorsey is committed to his CEO roles at both Square and Twitter, and will be dividing his time, attention, and efforts between the two companies. Mr. Dorsey also serves as a member of the board of directors of The Walt Disney Company.

Mr. Dorsey was selected to serve on our board of directors because of the perspective and experience he provides as one of our founders, as well as his extensive experience with technology companies.

**Sarah Friar.** Ms. Friar has served as our Chief Financial Officer since July 2012. From April 2011 to July 2012, Ms. Friar served as Senior Vice President of Finance and Strategy of salesforce.com, inc. From July 2000 to April 2011, Ms. Friar served in various positions at The Goldman Sachs Group, Inc., including as a Managing Director in the Equity Research Division. Ms. Friar currently serves on the board of directors of New Relic, Inc. and previously served on the board of directors of Model N, Inc. Ms. Friar currently serves on the Management Board of the Stanford Graduate School of Business. Ms. Friar holds a MEng in Metallurgy, Economics, and Management from the University of Oxford and an M.B.A. from the Stanford Graduate School of Business.
Dana Wagner. Mr. Wagner has served as our General Counsel since July 2011 and as our Corporate Secretary since August 2011. From May 2007 to July 2011, Mr. Wagner served in various positions at Google Inc., including as Director, and oversaw the antitrust and competition legal practice. From 2004 to 2007, Mr. Wagner served as an Assistant U.S. Attorney for the Northern District of California. Prior to that, Mr. Wagner served as a Trial Attorney for the U.S. Department of Justice’s Antitrust Division, and as an Adjunct Professor at the University of California, Hastings College of the Law. Mr. Wagner currently serves on the board of directors of The Museum of Art and Digital Entertainment. Mr. Wagner holds a B.A. in Comparative Literature and Economics from the University of California, Berkeley, and a J.D. from Yale Law School.

Françoise Brougher. Ms. Brougher has served as our Business Lead since April 2013. From March 2005 to April 2013, Ms. Brougher served in various positions at Google Inc., most recently as Vice President of SMB Global Sales and Operations. From October 2000 to December 2004, Ms. Brougher served in various positions at Charles Schwab & Co., including as Vice President of Business Strategy. Ms. Brougher currently serves on the board of directors of Sodexo S.A. Ms. Brougher holds a Masters in Engineering from Institut Catholique d’Arts et Metiers and an M.B.A. from Harvard Business School.

Alyssa Henry. Ms. Henry has served as our Seller Lead since October 2014. From May 2014 to October 2014, Ms. Henry served as our Engineering Lead, Infrastructure. From April 2006 to April 2014, Ms. Henry served in various positions at Amazon.com, Inc., including as Vice President, Amazon Web Services Storage Services and as General Manager of Amazon S3. Ms. Henry holds a B.S. in Mathematics Applied Science from the University of California, Los Angeles.

Non-Employee Directors

Roelof Botha. Mr. Botha has served as a member of our board of directors since January 2011. Since January 2003, Mr. Botha has served in various positions at Sequoia Capital, a venture capital firm, including as a Managing Member of Sequoia Capital Operations, LLC. From 2000 to 2003, Mr. Botha served in various positions at PayPal, Inc., including as Chief Financial Officer. Mr. Botha currently serves on the boards of directors of Natera, Inc., Xoom Corporation, and a number of privately-held companies. Mr. Botha holds a B.S. in Actuarial Science, Economics, and Statistics from the University of Cape Town and an M.B.A. from the Stanford Graduate School of Business.

Mr. Botha was selected to serve on our board of directors because of his financial and managerial experience.

Earvin “Magic” Johnson, Jr. Mr. Johnson has served as a member of our board of directors since July 2015. Since June 1979, Mr. Johnson has served as the Chief Executive Officer of Magic Johnson Enterprises, Inc., or its predecessor, a company that develops and provides a range of products and services largely focused on urban communities. Since July 1994, Mr. Johnson has served as a Vice President of the Los Angeles Lakers. Mr. Johnson has also been a co-owner of the Los Angeles Dodgers since March 2012, the Los Angeles Sparks since February 2014, and the Los Angeles Football Club since October 2014. Prior to his career in business, Mr. Johnson played professional basketball for the Los Angeles Lakers from 1979 through 1991, during which time the Lakers won five world championships and he received the NBA Most Valuable Player award three times, ultimately being elected to the Naismith Memorial Basketball Hall of Fame in June 2002. Mr. Johnson currently serves as the Chairman of the board of directors of the Magic Johnson Foundation, a philanthropic foundation, as well as on the boards of directors of a number of privately-held companies.

Mr. Johnson was selected to serve on our board of directors because of his diverse background in professional sports, business, and community development and his experience working with underserved urban communities.
Mr. Khosla has served as a member of our board of directors since June 2011. Since April 2004, Mr. Khosla has served as a General Partner of Khosla Ventures, a venture capital firm. Prior to that, Mr. Khosla served as a General Partner of Kleiner Perkins Caufield & Byers, a venture capital firm, and as Chief Executive Officer of Sun Microsystems, Inc. Mr. Khosla currently serves on the boards of directors of a number of privately-held companies. Mr. Khosla holds a B.S. in Electrical Engineering from the Indian Institute of Technology in New Delhi, an M.S. in Biomedical Engineering from Carnegie Mellon University, and an M.B.A. from the Stanford Graduate School of Business.

Mr. Khosla was selected to serve on our board of directors because of his extensive experience as an investor in technology companies.

Jim McKelvey. Mr. McKelvey is our co-founder and has served as a member of our board of directors since July 2009. Since July 2013, Mr. McKelvey has served as a Managing Director of SixThirty FinTech Accelerator, LLC, a financial technology accelerator. Since March 2012, Mr. McKelvey has served as a General Partner of Cultivation Capital, a venture capital firm. Since January 1990, Mr. McKelvey has served in various positions at Mira Smart Conferencing, a digital conferencing company. Mr. McKelvey currently serves on the boards of directors of a number of privately-held companies. Mr. McKelvey holds a B.S. in Computer Science and a B.A. in Economics from Washington University in St. Louis.

Mr. McKelvey was selected to serve on our board of directors because of the perspective and experience he brings as one of our founders.

Mary Meeker. Ms. Meeker has served as a member of our board of directors since June 2011. Since December 2010, Ms. Meeker has served as a General Partner of Kleiner Perkins Caufield & Byers. From 1991 to 2010, Ms. Meeker worked at Morgan Stanley, where she worked as a Managing Director and Research Analyst. Ms. Meeker currently serves on the boards of directors of LendingClub Corporation and a number of privately-held companies. Ms. Meeker holds a B.A. in Psychology from DePauw University and an M.B.A. from Cornell University.

Ms. Meeker was selected to serve on our board of directors because of her extensive experience advising and analyzing technology companies.

Dr. Ruth Simmons. Dr. Simmons has served as a member of our board of directors since August 2015. Dr. Simmons is President Emerita of Brown University, having served as President from July 2001 to June 2012. Prior to that, Dr. Simmons served as President of Smith College from 1995 to 2001, and Vice Provost of Princeton University from 1991 to 1995. Dr. Simmons currently serves on the boards of directors of Mondelez International, Inc., Fiat Chrysler Automobiles N.V., and Texas Instruments Inc. Dr. Simmons holds a B.A. in French from Dillard University and a Ph.D. in Romance Languages and Literatures from Harvard University.

Dr. Simmons was selected to serve on our board of directors because of her expertise on educational and public policy issues and her service on the boards of directors of a number of public companies.

Lawrence Summers. Dr. Summers has served as a member of our board of directors since June 2011. Since January 2011, Dr. Summers has served as the Charles W. Eliot University Professor & President Emeritus of Harvard University and the Well Director of the Mossavar-Rahmani Center for Business & Government at the Harvard Kennedy School. From January 2009 to December 2010, Dr. Summers served as Director of the National Economic Council for
President Obama. Dr. Summers previously served as President of Harvard University, and he has also served in various other senior policy positions, including as Secretary of the Treasury and Vice President of Development Economics and Chief Economist of the World Bank. Dr. Summers currently serves on the board of directors of LendingClub Corporation. Dr. Summers holds a B.S. in Economics from Massachusetts Institute of Technology and a Ph.D. in Economics from Harvard University.

Dr. Summers was selected to serve on our board of directors because of his extensive policy experience.

David Viniar. Mr. Viniar has served as a member of our board of directors since October 2013. From August 1980 until his retirement in January 2013, Mr. Viniar served in various positions at The Goldman Sachs Group, including as Chief Financial Officer, Executive Vice President, and Head of the Operations, Technology, Finance and Services Division. Mr. Viniar currently serves on the board of directors of The Goldman Sachs Group. Mr. Viniar holds a B.A. in Economics from Union College and an M.B.A. from Harvard Business School.

Mr. Viniar was selected to serve on our board of directors because of his financial and business expertise.

Each executive officer serves at the discretion of our board of directors and holds office until his or her successor is duly elected and qualified or until his or her earlier resignation or removal. There are no family relationships among any of our executive officers or directors.

Code of Business Conduct and Ethics

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

Election and Classification of Board of Directors

Our business and affairs are managed under the direction of our board of directors. Pursuant to our current certificate of incorporation and our amended and restated voting agreement, our directors were elected as follows:

- Messrs. Dorsey, McKelvey, Khosla, and Johnson and Drs. Summers and Simmons were elected as the designees nominated by holders of our common stock;
- Mr. Botha was elected as the designee nominated by holders of our Series B convertible preferred stock;
- Ms. Meeker was elected as the designee nominated by holders of our Series C convertible preferred stock; and
- Mr. Viniar was elected as a designee nominated by holders of a majority of each of our common stock and our convertible preferred stock.

In connection with this offering, the provisions of our amended and restated voting agreement relating to the election of our directors will terminate and our current certificate of incorporation by which our directors were elected, along with our...
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bylaws, will be amended and restated. After the completion of this offering, the number of directors will be fixed by our board of directors, subject to
the terms of our amended and restated certificate of incorporation and amended and restated bylaws. Each of our current directors will continue to
serve as a director until the election and qualification of his or her successor, or until his or her earlier death, resignation, or removal.

Our amended and restated certificate of incorporation will provide that our board of directors will be divided into three classes with staggered
three-year terms. Only one class of directors will be elected at each annual meeting of stockholders, with the other classes continuing for the
remainder of their respective three-year terms. Our current directors will be divided among the three classes as follows:

• the Class I directors will be             , and their terms will expire at the annual meeting of stockholders to be held in 2016;
• the Class II directors will be             , and their terms will expire at the annual meeting of stockholders to be held in 2017; and
• the Class III directors will be             , and their terms will expire at the annual meeting of stockholders to be held in 2018.

At each annual meeting of stockholders, upon the expiration of the term of a class of directors, the successor to each such director in the
class will be elected to serve from the time of election and qualification until the third annual meeting following his or her election and until his or her
successor is duly elected and qualifies, in accordance with our certificate of incorporation. Any
additional directorships resulting from an increase in
the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of our directors.

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

**Director Independence**

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

**Lead Independent Director**

Our board of directors intends to adopt corporate governance guidelines that will provide that one of our independent directors should serve
as our Lead Independent Director at any time when our Chief Executive Officer serves as the
Chairman of our board of directors or if the Chairman is not otherwise independent. Because Jack Dorsey is our Chairman and is not an “independent” director as defined in the listing standards of the New York Stock Exchange, our board of directors has appointed David Viniar to serve as our Lead Independent Director. As Lead Independent Director, Mr. Viniar will preside over periodic meetings of our independent directors, serve as a liaison between our Chairman and our independent directors, and perform such additional duties as our board of directors may otherwise determine and delegate.

Committees of Our Board of Directors

Our board of directors has established an audit and risk committee, a compensation committee, and a nominating and corporate governance committee. The composition and responsibilities of each of the committees of our board of directors are described below. Members serve on these committees until their resignation or until otherwise determined by our board of directors.

Audit and Risk Committee

Our audit and risk committee is comprised of , , and , each of whom satisfies the requirements for independence and financial literacy under the applicable rules and regulations of the SEC and listing standards of the New York Stock Exchange. serves as the chair of our audit and risk committee, qualifies as an "audit committee financial expert" as defined in the rules of the SEC, and satisfies the financial sophistication requirements under the listing standards of the New York Stock Exchange. Following the completion of this offering, our audit and risk committee will, among other things, be responsible for the following:

- selecting a qualified firm to serve as the independent registered public accounting firm to audit our financial statements;
- helping to ensure the independence and performance of the independent registered public accounting firm;
- reviewing financial statements and discussing the scope and results of the independent audit and quarterly reviews with the independent registered public accounting firm, and reviewing, with management and the independent registered public accounting firm, our interim and year-end results of operations and the reports and certifications regarding internal controls over financial reporting and disclosure controls;
- preparing the audit and risk committee report that the SEC requires to be included in our annual proxy statement;
- reviewing the adequacy and effectiveness of our disclosure controls and procedures, and developing procedures for employees to submit concerns anonymously about questionable accounting or audit matters;
- reviewing our policies on risk assessment and risk management;
- reviewing related party transactions; and
- approving or, as required, pre-approving, all audit and all permissible non-audit services and fees, other than de minimis non-audit services, to be performed by the independent registered public accounting firm.

Our audit and risk committee will operate under a written charter that satisfies the applicable rules and regulations of the SEC and the listing standards of the New York Stock Exchange.
Compensation Committee

Our compensation committee is comprised of [name], [name], and [name], each of whom satisfies the requirements for independence under the applicable rules and regulations of the SEC and listing standards of the New York Stock Exchange. [Chairname] serves as the chair of our compensation committee. Each member of our compensation committee is also a non-employee director, as defined pursuant to Rule 16b-3 promulgated under the Exchange Act, and an outside director, as defined pursuant to Section 162(m) of the Internal Revenue Code. Following the completion of this offering, our compensation committee will, among other things, be responsible for the following:

• reviewing, approving and determining, or making recommendations to our board of directors regarding the compensation of our executive officers;
• overseeing our overall compensation philosophy and compensation policies, plans, and benefit programs for service providers, including our executive officers;
• administering our equity compensation plans; and
• reviewing, approving, and making recommendations to our board of directors regarding incentive compensation and equity compensation plans.

Our compensation committee will operate under a written charter that satisfies the applicable rules and regulations of the SEC and the listing standards of the New York Stock Exchange.

Nominating and Corporate Governance Committee

Our nominating and corporate governance committee is comprised of [name] and [name], each of whom satisfies the requirements for independence under the applicable rules and regulations of the SEC and listing standards of the New York Stock Exchange. [Chairname] serves as the chair of our nominating and corporate governance committee. Following the completion of this offering, our nominating and corporate governance committee will, among other things, be responsible for the following:

• identifying, evaluating, and selecting, or making recommendations to our board of directors regarding, nominees for election to our board of directors and its committees;
• evaluating the performance of our board of directors and of individual directors;
• considering and making recommendations to our board of directors regarding the composition of our board of directors and its committees;
• reviewing developments in corporate governance practices;
• evaluating the adequacy of our corporate governance practices and reporting;
• reviewing the succession planning for our Chief Executive Officer, as well as each of our other executive officers; and
• developing and making recommendations to our board of directors regarding corporate governance guidelines and matters.

Our nominating and corporate governance committee will operate under a written charter that satisfies the applicable listing standards of the New York Stock Exchange.
Compensation Committee Interlocks and Insider Participation

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

Director Compensation

Our non-employee directors did not receive cash or equity compensation for their service on our board of directors and committees of our board of directors. As of December 31, 2014, none of our non-employee directors held any outstanding equity awards to purchase shares of our common stock, other than Messrs. McKelvey and Viniar and Dr. Summers as described below.

In 2014, Mr. McKelvey received $39,583 for consulting services provided by him under the terms of a consulting agreement with us.

On June 9, 2011, Dr. Summers was granted an option to purchase 1,288,000 shares of our common stock, which he early exercised for restricted shares of our common stock that were subject to the same vesting schedule as the option. One forty-eighth of the shares vested on July 9, 2011, and one forty-eighth of the shares vest monthly thereafter, subject to Dr. Summers’ continued service with us. As of December 31, 2014, Dr. Summers held 161,000 restricted shares of our common stock.

On October 30, 2013, Mr. Viniar was granted an option to purchase 326,950 shares of our common stock. This option is early exercisable. One-fourth of the shares subject to the option vested on October 30, 2014, and one forty-eighth of the shares vest monthly thereafter, subject to Mr. Viniar’s continued service with us. An additional 12 months of shares subject to the option will vest in the event of a change of control of our company if Mr. Viniar remains in service with us at the time of such change of control. As of December 31, 2014, Mr. Viniar held an option to purchase 326,950 shares of our common stock.

Directors who are also our employees receive no additional compensation for their service as directors. During 2014, Mr. Dorsey was our only employee director. See the section titled “Executive Compensation” for additional information about Mr. Dorsey’s compensation.
**EXECUTIVE COMPENSATION**

Our named executive officers for 2014, which consist of our Chief Executive Officer and our two most highly compensated executive officers other than our Chief Executive Officer, are:

- Jack Dorsey, our President and Chief Executive Officer;
- Sarah Friar, our Chief Financial Officer; and
- Alyssa Henry, our Seller Lead.

### Summary Compensation Table

The following table sets forth information regarding the total compensation earned by or paid to our named executive officers for the year ended December 31, 2014:

<table>
<thead>
<tr>
<th>Name and Principal Position</th>
<th>Year</th>
<th>Salary ($)</th>
<th>Bonus ($)</th>
<th>Option Awards ($) (1)</th>
<th>All Other Compensation ($)</th>
<th>Total ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jack Dorsey</td>
<td>2014</td>
<td>3,750</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>3,750</td>
</tr>
<tr>
<td><strong>President and Chief Executive Officer</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sarah Friar</td>
<td>2014</td>
<td>230,000</td>
<td>—</td>
<td>1,253,408</td>
<td>42,253(2)</td>
<td>1,525,661</td>
</tr>
<tr>
<td><strong>Chief Financial Officer</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alyssa Henry</td>
<td>2014</td>
<td>147,289(3)</td>
<td>50,000(4)</td>
<td>6,526,394</td>
<td>131,525(5)</td>
<td>6,855,208</td>
</tr>
<tr>
<td><strong>Seller Lead</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(1) The amounts disclosed represent the aggregate grant date fair value of the award as calculated in accordance with Financial Accounting Standard Board Accounting Standards Codification Topic 718. The assumptions used in calculating the grant date fair value of the award disclosed in this column are set forth in the notes to our audited consolidated financial statements included elsewhere in this prospectus.

(2) The amount disclosed reflects the aggregate incremental costs of perquisites and other personal benefits, including, among other things, transportation costs of $40,445 in connection with Ms. Friar commuting to our principal executive offices in San Francisco, California, and expense reimbursements for meals and parking costs.

(3) The amount disclosed represents Ms. Henry’s prorated base salary for the period during which she was employed with us in 2014.

(4) The amount disclosed represents a discretionary one-time bonus paid in connection with Ms. Henry’s joining us in May 2014.

(5) The amount disclosed reflects the aggregate incremental costs of perquisites and other personal benefits, including, among other things, relocation assistance costs of $130,654 related to Ms. Henry’s joining us and relocation to San Francisco, California in May 2014, and expense reimbursements for meals and gym membership.

### Executive Officer Employment Letters

**Jack Dorsey**

Prior to the completion of this offering, we intend to enter into a confirmatory employment letter with Jack Dorsey, our President and Chief Executive Officer. The confirmatory employment letter will have no specific term and will provide for at-will employment. Mr. Dorsey’s current annual base salary is $.

**Sarah Friar**

Prior to the completion of this offering, we intend to enter into a confirmatory employment letter with Sarah Friar, our Chief Financial Officer. The confirmatory employment letter will have no specific term and will provide for at-will employment. Ms. Friar’s current annual base salary is $. 

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Ms. Friar received a stock option grant to purchase up to 1,400,000 shares of our common stock in February 2015 at an exercise price of $10.06 per share. The option vests as to one-fifth of the shares subject to the option on March 1, 2016, and the remaining shares subject to the option will vest in equal monthly installments each month thereafter for four years.

Alyssa Henry

Prior to the completion of this offering, we intend to enter into a confirmatory employment letter with Alyssa Henry, our Seller Lead. The confirmatory employment letter will have no specific term and will provide for at-will employment. Alyssa Henry’s current annual base salary is $.

Pension Benefits and Nonqualified Deferred Compensation

We do not provide a pension plan for our employees, and none of our named executive officers participated in a nonqualified deferred compensation plan in 2014.

Outstanding Equity Awards at 2014 Year-End

The following table sets forth information regarding outstanding stock options and stock awards held by our named executive officers as of December 31, 2014:

<table>
<thead>
<tr>
<th>Option Awards</th>
<th>Stock Awards</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name</strong></td>
<td><strong>Grant Date</strong> (1)</td>
</tr>
<tr>
<td>Jack Dorsey</td>
<td>7/25/2012(3)</td>
</tr>
<tr>
<td>Sarah Friar</td>
<td>5/31/2013(3)</td>
</tr>
<tr>
<td></td>
<td>8/27/2013(3)</td>
</tr>
<tr>
<td></td>
<td>2/27/2014(7)</td>
</tr>
<tr>
<td>Alyssa Henry</td>
<td>5/14/2014(3)</td>
</tr>
</tbody>
</table>

(1) Each of the outstanding options to purchase shares of our Class B common stock was granted pursuant to our 2009 Plan and is subject to 12 months of accelerated vesting in the event of a change of control.

(2) This column represents the fair market value of a share of our Class B common stock on the date of grant, as determined by our board of directors or its authorized committee.

(3) One-fourth of the shares subject to the option vest on the first anniversary of the vesting commencement date and one forty-eighth of the shares vest monthly thereafter, subject to continued service with us.

(4) The option is subject to an early exercise provision and is immediately exercisable for restricted shares. Restricted shares acquired upon the early exercise of options are subject to repurchase by us at the original exercise price, which right lapses pursuant to the option’s vesting schedule. Of the shares underlying this option, 122,940 of the shares were vested as of December 31, 2014.

(5) The option is subject to an early exercise provision and is immediately exercisable for restricted shares. Restricted shares acquired upon the early exercise of options are subject to repurchase by us at the original exercise price, which right lapses pursuant to the option’s vesting schedule. Of the shares underlying this option, 28,890 of the shares were vested as of December 31, 2014.

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The option is subject to an early exercise provision and is immediately exercisable for restricted shares. Restricted shares acquired upon the early exercise of options are subject to repurchase by us at the original exercise price, which right lapses pursuant to the option’s vesting schedule. Of the shares underlying this option, 292,780 of the shares were vested as of December 31, 2014. One-fifth of the shares subject to the option vest on the first anniversary of the vesting commencement date and one-sixtieth of the shares vest monthly thereafter, subject to continued service with us.

The option is subject to an early exercise provision and is immediately exercisable for restricted shares. Restricted shares acquired upon the early exercise of options are subject to repurchase by us at the original exercise price, which right lapses pursuant to the option’s vesting schedule. All of the shares underlying this option were unvested as of December 31, 2014.

Potential Payments upon Termination or Change of Control

Executive Change of Control and Severance Agreements

Prior to the completion of this offering, we intend to enter into a change of control and severance agreement with each of our named executive officers, which agreement provides for the severance and change of control benefits described below. Each change of control and severance agreement will supersede any existing agreement or arrangement the named executive officers may have with us that provides for severance and/or change of control payments or benefits.

Under each change of control and severance agreement, if the named executive officer remains employed by us or any of our subsidiaries through a “triggering event” (as defined in our 2009 Plan), the vesting of any of his or her options (or unvested shares acquired through the early exercise of options) that were outstanding when the change of control and severance agreement was entered into will be accelerated as if he or she had been employed for an additional 12 months following such triggering event.

If the named executive officer’s employment is terminated by us without “cause” or by reason of death or “disability” (as such terms are defined in his or her change of control and severance agreement), in either case, outside the Change of Control Period (as defined below), he or she will be eligible to receive the following payments and benefits if he or she timely signs and does not revoke a release of claims:

• a lump-sum payment equal to 75% of annual base salary (as of immediately before his or her termination);
• a lump-sum payment equal to a pro rata portion of the annual bonus that the named executive officer would have earned for the year of his or her termination if he or she had remained employed until eligible to receive the bonus;
• a taxable lump-sum payment equal to nine months of the monthly COBRA premium required to continue health insurance coverage for the named executive officer and his or her eligible dependents regardless of whether the named executive officer elects COBRA coverage; and
• in the event of a termination due to death or disability only, fully accelerated vesting and exercisability of all outstanding equity awards, and, with respect to equity awards with performance-based vesting, all performance goals or other vesting criteria will be deemed achieved at 100% of target levels.

If, within the three-month period before or after the 12-month period following a change of control (such period, the Change of Control Period), the named executive officer’s employment is terminated by us without cause or by reason of death or disability or the named executive officer resigns for “good reason” (as defined in his or her change of control and severance agreement), the named executive officer will be entitled to the following benefits if he or she timely signs and does not revoke a release of claims:

• a lump-sum payment equal to 100% of his or her annual base salary (as of immediately before his or her reduction in salary (as of immediately before his or her termination (or if the termination is due to a resignation for good reason based on a material reduction in base salary, then as of immediately before such reduction) or, if such amount is greater, as of immediately before the change of control);
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• a lump-sum payment equal to 100% of his or her target annual bonus (for the year of his or her termination);
• a taxable lump-sum payment equal to 12 months of the monthly COBRA premium required to continue health insurance coverage for the named executive officer and his or her eligible dependents regardless of whether the named executive officer elects COBRA coverage; and
• 100% accelerated vesting of all outstanding equity awards, and, with respect to equity awards with performance-based vesting, all performance goals or other vesting criteria will be deemed achieved at the greater of actual performance or 100% of target levels.

In addition, if any of the payments or benefits provided for under the change of control and severance agreements or otherwise payable to the named executive officer would constitute “parachute payments” within the meaning of Section 280G of the Internal Revenue Code and could be subject to the related excise tax, he or she would be entitled to receive either full payment of such payments and benefits or such lesser amount that would result in no portion of the payments and benefits being subject to the excise tax, whichever results in the greater amount of after-tax benefits to the named executive officer. The change of control and severance agreement does not require us to provide any tax gross-up payments to the named executive officer.

Employee Benefit and Stock Plans

2015 Equity Incentive Plan

Prior to the completion of this offering, we expect our board of directors will adopt, and our stockholders will approve, our 2015 Plan. We expect that our 2015 Plan will be effective on the business day immediately prior to the effective date of the registration statement of which this prospectus forms a part. Our 2015 Plan will provide for the grant of incentive stock options, within the meaning of Section 422 of the Code, to our employees and any parent and subsidiary corporations’ employees, and for the grant of nonstatutory stock options, restricted stock, restricted stock units (RSUs), stock appreciation rights, performance units, and performance shares to our employees, directors, and consultants and our parent and subsidiary corporations’ employees and consultants.

Authorized Shares. A total of shares of our Class A common stock will be reserved for issuance pursuant to our 2015 Plan. In addition, the shares reserved for issuance under our 2015 Plan also will include shares returned to our 2009 Plan as the result of expiration or termination of awards and shares previously issued pursuant to our 2009 Plan that are forfeited or repurchased by us (provided that the maximum number of shares that may be added to our 2015 Plan pursuant to this provision is shares). The number of shares available for issuance under our 2015 Plan will also include an annual increase on the first day of each fiscal year beginning on January 1, 2016, equal to the least of:

• shares;
• of the outstanding shares of our Class A common stock as of the last day of the immediately preceding fiscal year; or
• such other amount as our board of directors may determine.

If an award expires or becomes unexercisable without having been exercised in full, is surrendered pursuant to an exchange program, or, with respect to restricted stock, restricted stock units, performance units, or performance shares, is
forfeited to or repurchased due to failure to vest, the unpurchased shares (or for awards other than stock options or stock appreciation rights, the forfeited or repurchased shares) will become available for future grant or sale under the 2015 Plan. Shares used to pay the exercise price of an award or satisfy the tax withholding obligations related to an award will become available for future grant or sale under the 2015 Plan. To the extent an award is paid out in cash rather than shares, such cash payment will not result in a reduction in the number of shares available for issuance under the 2015 Plan.

Plan Administration. The compensation committee of our board of directors is expected to administer our 2015 Plan. In the case of awards intended to qualify as "performance-based compensation" within the meaning of Section 162(m) of the Code, the committee will consist of two or more "outside directors" within the meaning of Section 162(m). In addition, if we determine it is desirable to qualify transactions under our 2015 Plan as exempt under Rule 16b-3, such transactions will be structured to satisfy the requirements for exemption under Rule 16b-3. The administrator will have the power to administer our 2015 Plan, including but not limited to, the power to interpret the terms of our 2015 Plan and awards granted under it, to create, amend, and revoke rules relating to our 2015 Plan, including creating sub-plans, and to determine the terms of the awards, including the exercise price, the number of shares subject to each such award, the exercisability of the awards, and the form of consideration, if any, payable upon exercise. The administrator will also have the authority to amend existing awards to reduce or increase their exercise prices, to allow the opportunity to transfer outstanding awards to a financial institution or other person or entity selected by the administrator, and to institute an exchange program by which outstanding awards may be surrendered in exchange for awards of the same type which may have a higher or lower exercise price or different terms, awards of a different type, and/or cash.

Stock Options. Stock options may be granted under our 2015 Plan. The exercise price of options granted under our 2015 Plan must be at least equal to the fair market value of our Class A common stock on the date of grant. The term of an incentive stock option may not exceed ten years, except that with respect to any participant who owns more than 10% of the voting power of all classes of our outstanding stock, the term must not exceed five years and the exercise price must equal at least 110% of the fair market value on the grant date subject to the provisions of our 2015 Plan. The administrator will determine the methods of payment of the exercise price of an option, which may include cash, shares, or other property acceptable to the administrator, as well as other types of consideration permitted by applicable law and the other terms of the option, subject to the provisions of our 2015 Plan. After the termination of service of an employee, director, or consultant, he or she may exercise his or her option for the period of time stated in his or her option agreement. Generally, if termination is due to death or disability, the option will remain exercisable for 12 months. In all other cases, the option generally will remain exercisable for three months following the termination of service. An option may not be exercised later than the expiration of its term.

Stock Appreciation Rights. Stock appreciation rights may be granted under our 2015 Plan. Stock appreciation rights allow the recipient to receive the appreciation in the fair market value of our Class A common stock between the exercise date and the date of grant. Stock appreciation rights may not have a term exceeding ten years. After the termination of service of an employee, director or consultant, he or she may exercise his or her stock appreciation right for the period of time stated in his or her stock appreciation rights agreement. However, in no event may a stock appreciation right be exercised later than the expiration of its term. Subject to the provisions of our 2015 Plan, the administrator will determine the other terms of stock appreciation rights, including when such rights become exercisable and whether to pay any increased appreciation in cash, shares of our Class A common stock, or a combination thereof, except that the per share
exercise price for the shares to be issued pursuant to the exercise of a stock appreciation right must be no less than 100% of the fair market value per share on the date of grant.

Restricted Stock. Restricted stock may be granted under our 2015 Plan. Restricted stock awards are grants of shares of our Class A common stock that vest in accordance with terms and conditions established by the administrator. The administrator will determine the number of shares of restricted stock granted to any employee, director or consultant, and, subject to the provisions of our 2015 Plan, will determine the terms and conditions of such awards. The administrator may impose whatever conditions to vesting it determines to be appropriate (for example, the administrator may set restrictions based on the achievement of specific performance goals or continued service to us); and may, in its sole discretion, accelerate the time at which any restrictions will lapse or be removed. Recipients of restricted stock awards generally will have voting and dividend rights with respect to such shares upon grant without regard to vesting, unless the administrator provides otherwise. Shares of restricted stock that do not vest are subject to our right of repurchase or forfeiture.

RSUs. RSUs may be granted under our 2015 Plan. An RSU is an award that covers a number of shares of our Class A common stock and that may be settled upon vesting by the issuance of the underlying shares or in cash or a combination of shares and cash. Subject to the provisions of our 2015 Plan, the administrator will determine the terms and conditions of RSUs, including the vesting criteria (which may include accomplishing specified performance criteria or continued service to us) and the form and timing of payment. Notwithstanding the foregoing, the administrator, in its sole discretion, may accelerate the time at which any restrictions will lapse or be removed.

Performance Units and Performance Shares. Performance units and performance shares may be granted under our 2015 Plan. Performance units and performance shares are awards that will result in a payment to a participant only if performance goals established by the administrator are achieved or the awards otherwise vest. The administrator will establish organizational or individual performance goals or other vesting criteria in its discretion, which, depending on the extent to which they are met, will determine the number and/or the value of performance units and performance shares to be paid out to participants. After the grant of a performance unit or performance share, the administrator, in its sole discretion, may reduce or waive any performance criteria or other vesting provisions for such performance units or performance shares. Performance units shall have an initial dollar value established by the administrator on or prior to the grant date. Performance shares shall have an initial value equal to the fair market value of our Class A common stock on the grant date. The administrator, in its sole discretion, may pay earned performance units or performance shares in the form of cash, shares or some combination thereof.

Outside Directors. Our 2015 Plan will provide that all outside (non-employee) directors will be eligible to receive all types of awards (except for incentive stock options) under our 2015 Plan. Prior to the completion of this offering, we intend to implement a formal policy pursuant to which our outside directors will be eligible to receive equity awards under our 2015 Plan. In order to provide a maximum limit on the awards that can be made to our outside directors, our 2015 Plan will provide that in any given year, an outside director (i) will not be granted cash-settled awards having a grant-date fair value greater than $ , but that in the fiscal year that an outside director first joins our board of directors, he or she may be granted a cash-settled award with a grant date fair value of up to $ ; and (ii) will not be granted stock-settled awards having a grant date fair value greater than $ , but that in the fiscal year that an outside director first joins our board of directors, he or she may be granted stock-settled awards having a grant date fair value of up to $ . The grant-date fair values will be determined according to GAAP. The maximum limits do not reflect the intended size of any potential grants or a commitment to make grants to our outside directors under our 2015 Plan in the future.
Non-Transferability of Awards. Unless the administrator provides otherwise, our 2015 Plan generally will not allow for the transfer of awards and only the recipient of an award may exercise an award during his or her lifetime.

Certain Adjustments. In the event of certain changes in our capitalization, to prevent diminution or enlargement of the benefits or potential benefits available under our 2015 Plan, the administrator will adjust the number and class of shares that may be delivered under our 2015 Plan and/or the number, class and price of shares covered by each outstanding award, and the numerical share limits set forth in our 2015 Plan.

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

Merger or Change in Control. Our 2015 Plan will provide that in the event of a merger or change in control, as defined under our 2015 Plan, each outstanding award will be treated as the administrator determines, except that if a successor corporation or its parent or subsidiary does not assume or substitute an equivalent award for any outstanding award, then such award will fully vest, all restrictions on such award will lapse, all performance goals or other vesting criteria applicable to such award will be deemed achieved at 100% of target levels, and such award will become fully exercisable, if applicable, for a specified period prior to the transaction. The award will then terminate upon the expiration of the specified period of time. If the service of an outside director is terminated on or following a change in control, other than pursuant to a voluntary resignation, his or her stock options, RSUs, and stock appreciation rights, if any, will vest fully and become immediately exercisable, all restrictions on his or her restricted stock will lapse and all performance goals or other vesting requirements for his or her performance shares and units will be deemed achieved at 100% of target levels, and all other terms and conditions met.

Forfeiture and clawback. All awards granted under our 2015 Plan will be subject to recoupment under any clawback policy that we are required to adopt under applicable law. In addition, the administrator may provide in an award agreement that the recipient’s rights, payments, and benefits with respect to such award shall be subject to reduction, cancellation, forfeiture, or recoupment upon the occurrence of specified events. In the event of any accounting restatement, the recipient of an award may be required to repay a portion of the proceeds received in connection with the settlement of an award earned or accrued under certain circumstances.

Amendment; Termination. The administrator will have the authority to amend, suspend, or terminate our 2015 Plan provided such action does not impair the existing rights of any participant. Our 2015 Plan will automatically terminate in 2025, unless we terminate it sooner.

2015 Employee Stock Purchase Plan

Prior to the completion of this offering, we expect our board of directors will adopt, and our stockholders will approve, our 2015 Employee Stock Purchase Plan (ESPP). We expect that our ESPP will be effective on the business day immediately prior to the effective date of the registration statement of which this prospectus forms a part. We believe that allowing our employees to participate in our ESPP provides them with a further incentive towards ensuring our success and accomplishing our corporate goals.

Authorized Shares. A total of shares of our Class A common stock will be available for sale under our ESPP. The number of shares of our Class A common stock available for sale under our ESPP will also include an annual increase on the first day of each fiscal year beginning on January 1, 2016, equal to the least of:

- shares;
Plan Administration. The compensation committee of our board of directors is expected to administer our ESPP and will have full but non-exclusive authority to interpret the terms of our ESPP and determine eligibility to participate, subject to the conditions of our ESPP, as described below.

Eligibility. Generally, all of our employees will be eligible to participate if they are employed by us, or any participating subsidiary, for at least 20 hours per week and more than five months in any calendar year. However, an employee may not be granted rights to purchase shares of our Class A common stock under our ESPP if such employee:

- immediately after the grant would own capital stock possessing 5% or more of the total combined voting power or value of all classes of our capital stock; or

- hold rights to purchase shares of our common stock under all of our employee stock purchase plans that accrue at a rate that exceeds $25,000 worth of shares of our common stock for each calendar year.

Offering Periods. Our ESPP will include a component that allows us to make offerings intended to qualify under Section 423 of the Code and a component that allows us to make offerings not intended to qualify under Section 423 of the Code to participants of designated companies, as described in our ESPP. Our ESPP will provide for 166-month offering periods. The offering periods will be scheduled to start on the first trading day on or after and of each year, except for the first offering period, which will commence on the effectiveness of this Registration Statement and will end on the first trading day on or after . Each offering period will include purchase periods, which will be the approximately 1-month period commencing with one exercise date and ending with the next exercise date.

Contributions. Our ESPP will permit participants to purchase shares of our Class A common stock through payroll deductions of up to 166% of their eligible compensation. A participant will be able to purchase a maximum of shares of our Class A common stock during a purchase period.

Exercise of Purchase Right. Amounts deducted and accumulated by the participant will be used to purchase shares of our Class A common stock at the end of each 166-month purchase period. The purchase price of the shares will be 166% of the lower of the fair market value of our common stock on the first trading day of each offering period or on the exercise date. Participants will be able to end their participation at any time during an offering period and will be paid their accrued contributions that have not yet been used to purchase shares of our Class A common stock. Participation will end automatically upon termination of employment with us.

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

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

**Amendment; Termination.** The administrator will have the authority to amend, suspend, or terminate our ESPP, except that, subject to certain exceptions described in our ESPP, no such action may adversely affect any outstanding rights to purchase shares of our Class A common stock under our ESPP. Our ESPP automatically will terminate in 2035, unless we terminate it sooner.

**2009 Stock Plan**

Our board of directors and our stockholders adopted our 2009 Plan in July 2009. Our 2009 Plan was most recently amended in September 2015. Our 2009 Plan will be terminated prior to the completion of this offering, and accordingly, no new awards will be granted under the 2009 Plan following the completion of this offering. All outstanding awards under the 2009 Plan will continue to be governed by their existing terms. As of June 30, 2015, options to purchase 103,627,701 shares of our Class B common stock remained outstanding under our 2009 Plan at a weighted-average exercise price of approximately $6.51 per share. The compensation committee of our board of directors administers our 2009 Plan. Except as described in this paragraph, options granted under our 2009 Plan are subject to terms generally similar to those described above with respect to options that may be granted under our 2015 Plan, provided that upon a termination of service, an option granted under our 2009 Plan generally will remain exercisable for three months following a termination either by us other than for “cause” (as defined in the 2009 Plan) or by the participant for any reason, generally for six months following a termination due to disability and generally nine months following a termination due to death and generally will terminate immediately upon a termination by us for cause. However, in the event of a termination of a participant’s service other than by us for “cause” occurring on or after August 31, 2015 and before the date that is nine months following the first public sale of our securities, so long as the participant has provided continuous services to us for at least two years, any option granted under our 2009 Plan generally will remain exercisable until the earlier of: (i) three years from the termination date or (ii) one year from the date of the first public sale of our securities. Our 2009 Plan provides that in the event of a “corporate transaction,” as defined under the 2009 Plan, each outstanding award will either be (i) assumed or substituted for an equivalent award or right by a successor corporation or its parent or subsidiary or (ii) terminated in exchange for cash, securities, and/or property equal to the excess of the fair market value of the shares subject to the portion of the award that is vested and exercisable immediately prior to the consummation of the corporate transaction over the per share exercise price thereof (if any). In the event the successor corporation does not agree to assume, substitute, or exchange an award under our 2009 Plan, then such award will terminate upon the consummation of the corporate transaction. In addition, certain awards granted under our 2009 Plan provide for 12 months of vesting acceleration contingent upon the occurrence of a “trigger event” (as defined in our 2009 Plan) either on (x) the date of the triggering event if the award recipient has been in continuous service for at least 12 months at the time of the triggering event, or (y) the date that is 12 months following the award recipient’s start date, if the award recipient has not been providing continuous service for at least 12 months as of the date of the triggering event but remains in service after the triggering event through the 12-month anniversary of such start date, pursuant to the applicable option award agreement. Our 2009 Plan generally does not allow for the transfer of awards and only the recipient of an award may exercise the award during his or her lifetime. Our board of directors may amend our 2009 Plan at any time, provided that such amendment does not materially or adversely affect the rights of any participant under any outstanding option without the
participant’s consent. On July 9, 2015, our board of directors approved a modification to all nonstatutory stock option grants to extend the exercise term for terminated employees who have completed two years of service. This modification was made based on our belief that our current employees who have contributed to our company for two or more years should be able to keep the equity they have earned. The modified expiration date in respect of a termination event will be the earlier of (i) three years from termination or (ii) one year following an initial public offering, if in each case, the date of termination occurs between August 31, 2015 and the nine-month anniversary of the initial public offering. In all cases, the grants remain subject to earlier expiration in accordance with their original terms.

Executive Incentive Compensation Plan

Our compensation committee adopted an Executive Incentive Compensation Plan, which we refer to as our Bonus Plan. Our Bonus Plan allows our compensation committee to provide incentive awards (payable in cash or grants of equity awards) to selected employees, including our named executive officers, based upon performance goals established by our compensation committee. Pursuant to the Bonus Plan, our compensation committee, in its sole discretion, will establish a target award for each participant and a bonus pool, with actual awards payable from such bonus pool, with respect to the applicable performance period.

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

Our compensation committee may, in its sole discretion and at any time, increase, reduce, or eliminate a participant’s actual award or the amount allocated to the bonus pool for a particular performance period. The actual award may be below, at, or above a participant’s target award, in our compensation committee’s discretion. Our compensation committee may determine the amount of any increase, reduction, or elimination on the basis of such factors as it deems relevant, and it will not be required to establish any allocation or weighting with respect to the factors it considers.

Actual awards will generally be paid in cash (or its equivalent) in a single lump sum as soon as practicable after the end of the performance period during which they are earned and after they are approved by our compensation committee, but in no event later than the later of March 15 of the following calendar year or the 15th day of the third month of the
following fiscal year. Unless otherwise determined by our compensation committee, to earn an actual award, a participant must be employed by us (or an affiliate of ours) through the date the award is paid.

Our board of directors or our compensation committee, in their sole discretion, may alter, suspend, or terminate the Bonus Plan, provided such action does not, without the consent of the participant, alter or impair the rights or obligations under any award already earned by such participant.

401(k) Plan

We maintain a tax-qualified retirement plan, or the 401(k) plan, that provides eligible employees with an opportunity to save for retirement on a tax-advantaged basis. Eligible employees are able to participate in the 401(k) plan as of the first day of the month following the date they meet the 401(k) plan’s eligibility requirements, and participants are able to defer up to 90% of their eligible compensation subject to applicable annual Code limits. All participants’ interests in their deferrals are 100% vested when contributed. The 401(k) plan permits us to make matching contributions and profit sharing contributions to eligible participants, although we have not made any such contributions to date.
CERTAIN RELATIONSHIPS, RELATED PARTY AND OTHER TRANSACTIONS

Other than compensation arrangements, including employment, termination of employment, and change in control arrangements, with our directors and executive officers, including those discussed in the sections titled “Management” and “Executive Compensation,” and the registration rights described in the section titled “Description of Capital Stock—Registration Rights,” the following is a description of each transaction since January 1, 2012 and each currently proposed transaction in which:

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

Equity Financings

**Series D Convertible Preferred Stock Financing**

From July 2012 through September 2012, we sold an aggregate of 20,164,210 shares of our Series D convertible preferred stock at a purchase price of approximately $11.014 per share, for an aggregate purchase price of $222.1 million. The following table summarizes purchases of our Series D convertible preferred stock by related persons:

<table>
<thead>
<tr>
<th>Stockholder</th>
<th>Shares of Series D Convertible Preferred Stock</th>
<th>Total Purchase Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entities affiliated with Rizvi Traverse (1)</td>
<td>13,618,980</td>
<td>$149,999,445.72</td>
</tr>
<tr>
<td>JPMC Strategic Investments I Corporation (2)</td>
<td>1,015,980</td>
<td>$11,190,003.72</td>
</tr>
</tbody>
</table>

(1) Affiliates of Rizvi Traverse holding our securities whose shares are aggregated for purposes of reporting share ownership information are RT Spartan IV, LLC, RT SQ Co-Invest, LLC, RT SQ Secondary LLC, RT-SQ TS, LLC, Rizvi Opportunistic Fund II, L.P., RT SQ Co-Invest II, LLC, Rizvi Opportunistic Equity Fund I-B, L.P., Rizvi Opportunistic Equity Fund II, L.P., Rizvi Opportunistic Equity Fund I-B (TI), L.P., Rizvi Traverse Partners, LLC, Rizvi Traverse Partners II, LLC, and Rizvi Opportunistic Equity Fund (TI), L.P.

(2) JPMC Strategic Investments I Corporation’s ultimate parent is J.P. Morgan Chase & Co., the ultimate parent of one of the underwriters of this offering.

**Series E Convertible Preferred Stock Financing**

From September 2014 through October 2014, we sold an aggregate of 9,700,289 shares of our Series E convertible preferred stock at a purchase price of approximately $15.46345 per share, for an aggregate purchase price of $150.0 million. The following table summarizes purchases of our Series E convertible preferred stock by related persons:

<table>
<thead>
<tr>
<th>Stockholder</th>
<th>Shares of Series E Convertible Preferred Stock</th>
<th>Total Purchase Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entities affiliated with Rizvi Traverse (1)</td>
<td>485,014</td>
<td>$7,499,989.74</td>
</tr>
<tr>
<td>JPMC Strategic Investments I Corporation (2)</td>
<td>646,686</td>
<td>$9,999,996.63</td>
</tr>
</tbody>
</table>

(1) Affiliates of Rizvi Traverse holding our securities whose shares are aggregated for purposes of reporting share ownership information are RT Spartan IV, LLC, RT SQ Co-Invest, LLC, RT SQ Secondary LLC, RT-SQ TS, LLC, Rizvi Traverse Partners, LLC, Rizvi Traverse Partners II, LLC, and Rizvi Opportunistic Equity Fund (TI), L.P.
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Opportunistic Fund II, L.P., RT SQ Co-Invest II, LLC, Rizvi Opportunistic Equity Fund I-B, L.P., Rizvi Opportunistic Equity Fund, L.P., Rizvi Opportunistic Equity Fund I-B (Ti), L.P., Rizvi Traverse Partners, LLC, Rizvi Traverse Partners II, LLC, and Rizvi Opportunistic Equity Fund (Ti), L.P.

(2) JPMC Strategic Investments I Corporation’s ultimate parent is J.P. Morgan Chase & Co., the ultimate parent of one of the underwriters of this offering.

2014 Third-Party Tender Offer

In January 2014, we entered into a letter agreement with certain holders of our capital stock, including entities affiliated with Rizvi Traverse, pursuant to which we agreed to waive certain transfer restrictions in connection with, and assist in the administration of, a tender offer that such holders proposed to commence. In January 2014, these holders commenced a tender offer to purchase shares of our capital stock from certain of our securityholders, including James McKelvey, Lawrence Summers, and Dana Wagner. An aggregate of 6,124,470 shares of our capital stock were tendered pursuant to the tender offer at a price of approximately $13.53 per share.

Investors’ Rights Agreement

We are party to an amended and restated investors’ rights agreement with certain holders of our capital stock, including Jack Dorsey, Jim McKelvey, Khosla Ventures III, LP, entities affiliated with JPMC Strategic Investments, entities affiliated with Sequoia Capital, entities affiliated with Rizvi Traverse, and an entity affiliated with Mary Meeker. Under our amended and restated investors’ rights agreement, certain holders of our capital stock have the right to demand that we file a registration statement or request that their shares of our capital stock be covered by a registration statement that we are otherwise filing. See the section titled “Description of Capital Stock—Registration Rights” for additional information regarding these registration rights.

Right of First Refusal and Co-Sale Agreement

Pursuant to our equity compensation plans and certain agreements with certain holders of our capital stock, including Jack Dorsey, Jim McKelvey, Khosla Ventures III, LP, entities affiliated with JPMC Strategic Investments, entities affiliated with Sequoia Capital, entities affiliated with Rizvi Traverse, and an entity affiliated with Mary Meeker, including an amended and restated right of first refusal and co-sale agreement, we or our assignees have a right to purchase shares of our capital stock which stockholders propose to sell to other parties. This right will terminate upon the completion of this offering. Since January 1, 2012, we have waived our right of first refusal in connection with the sale of certain shares of our capital stock, resulting in the purchase of such shares by certain of our stockholders. See the section titled “Principal and Selling Stockholders” for additional information regarding beneficial ownership of our capital stock.

Voting Agreement

We are party to an amended and restated voting agreement under which certain holders of our capital stock, including Jack Dorsey, Jim McKelvey, Khosla Ventures III, LP, entities affiliated with JPMC Strategic Investments, entities affiliated with Sequoia Capital, entities affiliated with Rizvi Traverse, and an entity affiliated with Mary Meeker, have agreed as to the manner in which they will vote their shares of our capital stock on certain matters, including with respect to the election of directors. This agreement will terminate upon the completion of this offering, and thereafter none of our stockholders will have any special rights regarding the election or designation of members of our board of directors.
Holder Voting Agreement

We are party to a voting agreement under which certain holders of our capital stock, including entities affiliated with Rizvi Traverse, have agreed to vote their shares of our capital stock as directed by, and have granted an irrevocable proxy to, an officer appointed for the purpose of acting as a proxyholder by our board of directors at such officer’s discretion on matters to be voted upon by stockholders, subject to certain limited exceptions. This voting agreement will terminate upon the completion of this offering.

Contribution Agreements

In each of January 2014 and January 2015, we entered into a contribution agreement with a trust affiliated with Jack Dorsey, our President, Chief Executive Officer, and Chairman, pursuant to which such trust agreed to contribute an aggregate of 15,068,238 shares of our capital stock to us for no consideration.

Transactions with West Studios, LLC

Jack Dorsey, our President, Chief Executive Officer, and Chairman, has a direct ownership interest in West Studios, LLC. In 2012, we incurred $1.2 million of expense for consulting services rendered to us by West Studios, LLC. In connection with the services rendered, we granted West Studios, LLC an option to purchase 375,000 shares of our common stock that was exercised in full in 2014.

Limitation of Liability and Indemnification of Officers and Directors

Our amended and restated certificate of incorporation, which will become effective immediately prior to the completion of this offering, contains provisions that limit the liability of our directors for monetary damages to the fullest extent permitted by Delaware law. Consequently, our directors will not be personally liable to us or our stockholders for monetary damages for any breach of fiduciary duties as directors, except liability for the following:

- any breach of their duty of loyalty to our company or our stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the Delaware General Corporation Law; or
- any transaction from which they derived an improper personal benefit.

Any amendment to, or repeal of, these provisions will not eliminate or reduce the effect of these provisions in respect of any act, omission, or claim that occurred or arose prior to that amendment or repeal. If the Delaware General Corporation Law is amended to provide for further limitations on the personal liability of directors of corporations, then the personal liability of our directors will be further limited to the greatest extent permitted by the Delaware General Corporation Law.

In addition, our amended and restated bylaws, which will become effective immediately prior to the completion of this offering, provide that we will indemnify, to the fullest extent permitted by law, any person who is or was a party or is
threatened to be made a party to any action, suit, or proceeding by reason of the fact that he or she is or was one of our directors or officers or is or was serving at our request as a director or officer of another corporation, partnership, joint venture, trust, or other enterprise. Our amended and restated bylaws provide that we may indemnify to the fullest extent permitted by law any person who is or was a party or is threatened to be made a party to any action, suit, or proceeding by reason of the fact that he or she is or was one of our employees or agents or is or was serving at our request as an employee or agent of another corporation, partnership, joint venture, trust, or other enterprise. Our amended and restated bylaws also provide that we must advance expenses incurred by or on behalf of a director or officer in advance of the final disposition of any action or proceeding, subject to limited exceptions.

Further, we have entered into or will enter into indemnification agreements with each of our directors and executive officers that may be broader than the specific indemnification provisions contained in the Delaware General Corporation Law. These indemnification agreements require us, among other things, to indemnify our directors and executive officers against liabilities that may arise by reason of their status or service. These indemnification agreements also require us to advance all expenses incurred by the directors and executive officers in investigating or defending any such action, suit or proceeding. We believe that these agreements are necessary to attract and retain qualified individuals to serve as directors and executive officers.

The limitation of liability and indemnification provisions that are included in our amended and restated certificate of incorporation, amended and restated bylaws, and indemnification agreements with our directors and executive officers may discourage stockholders from bringing a lawsuit against our directors and executive officers for breach of their fiduciary duties. They may also reduce the likelihood of derivative litigation against our directors and executive officers, even though an action, if successful, might benefit us and other stockholders. Further, a stockholder's investment may be adversely affected to the extent that we pay the costs of settlement and damage awards against directors and executive officers as required by these indemnification provisions. At present, we are not aware of any pending litigation or proceeding involving any person who is or was one of our directors, officers, employees, or other agents or is or was serving at our request as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, for which indemnification is sought, and we are not aware of any threatened litigation that may result in claims for indemnification.

We have obtained insurance policies under which, subject to the limitations of the policies, coverage is provided to our directors and executive officers against losses arising from claims made by reason of breach of fiduciary duty or other wrongful acts as a director or executive officer, including claims relating to public securities matters, and to us with respect to payments that may be made by us to these directors and executive officers pursuant to our indemnification obligations or otherwise as a matter of law.

Certain of our non-employee directors may, through their relationships with their employers, be insured and/or indemnified against certain liabilities incurred in their capacity as members of our board of directors.

The underwriting agreement provides for indemnification by the underwriters of us and our officers and directors for certain liabilities arising under the Securities Act or otherwise.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or persons controlling our company pursuant to the foregoing provisions, we have been informed that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.
Policies and Procedures for Related Party Transactions

Our audit and risk committee will have the primary responsibility for reviewing and approving or disapproving “related party transactions,” which are transactions between us and related persons in which the aggregate amount involved exceeds or may be expected to exceed $120,000 and in which a related person has or will have a direct or indirect material interest. The charter of our audit and risk committee will provide that our audit and risk committee shall review and approve in advance any related party transaction.

Prior to the completion of this offering, we intend to adopt a formal written policy providing that we are not permitted to enter into any transaction that exceeds $120,000 and in which any related person has a direct or indirect material interest without the consent of our audit and risk committee. In approving or rejecting any such transaction, our audit and risk committee is to consider the relevant facts and circumstances available and deemed relevant to our audit and risk committee, including whether the transaction is on terms no less favorable than terms generally available to an unaffiliated third party under the same or similar circumstances and the extent of the related person’s interest in the transaction.
The following table sets forth certain information with respect to the beneficial ownership of our capital stock as of September 30, 2015, and as adjusted to reflect the sale of our Class A common stock offered by us in this offering assuming no exercise of the underwriters’ option to purchase additional shares, for:

- each of our named executive officers;
- each of our directors;
- all of our current directors and executive officers as a group;
- each person known by us to be the beneficial owner of more than 5% of the outstanding shares of our common stock; and
- the selling stockholder.

We have determined beneficial ownership in accordance with the rules of the SEC, and thus it represents sole or shared voting or investment power with respect to our securities. Unless otherwise indicated below, to our knowledge, the persons and entities named in the table have sole voting and sole investment power with respect to all shares that they beneficially owned, subject to community property laws where applicable. The information does not necessarily indicate beneficial ownership for any other purpose, including for purposes of Sections 13(d) and 13(g) of the Securities Act.

We have based our calculation of the percentage of beneficial ownership prior to this offering on no shares of our Class A common stock and 291,995,015 shares of our Class B common stock outstanding as of September 30, 2015, which includes 135,252,809 shares of our Class B common stock resulting from the automatic conversion and reclassification of all outstanding shares of our convertible preferred stock into our Class B common stock immediately prior to the completion of this offering, as if such conversion and reclassification had occurred as of September 30, 2015. We have based our calculation of the percentage of beneficial ownership after this offering on shares of our Class A common stock and Class B common stock outstanding immediately after the completion of this offering, assuming no exercise by the underwriters of their option to purchase additional shares. We have deemed shares of our common stock subject to stock options that are currently exercisable or exercisable within 60 days of September 30, 2015, to be outstanding and to be beneficially owned by the person holding the stock option for the purpose of computing the percentage ownership of that person. We did not deem these shares outstanding, however, for the purpose of computing the percentage ownership of any other person.
Unless otherwise indicated, the address of each beneficial owner listed in the table below is c/o Square, Inc., 1455 Market Street, Suite 600, San Francisco, CA 94103.

<table>
<thead>
<tr>
<th>Name of Beneficial Owner</th>
<th>Shares Beneficially Owned Before the Offering</th>
<th>Number of Shares Being Offered</th>
<th>Shares Beneficially Owned After the Offering</th>
<th>% of Total Voting Power After Our Initial Public Offering</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Shares</td>
<td>%</td>
<td>Class A</td>
<td>Shares</td>
</tr>
<tr>
<td>5% Stockholders</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Khosla Ventures III, LP (1)</td>
<td>50,522,780</td>
<td>17.3%</td>
<td>15,728,310</td>
<td>5.4%</td>
</tr>
<tr>
<td>Entities affiliated with JPMC Strategic Investments (2)</td>
<td>16,018,376</td>
<td>5.5%</td>
<td>16,018,376</td>
<td>5.5%</td>
</tr>
<tr>
<td>Entities affiliated with Sequoia Capital (3)</td>
<td>15,728,310</td>
<td>5.4%</td>
<td>15,728,310</td>
<td>5.4%</td>
</tr>
<tr>
<td>Entities affiliated with Rizvi Traverse (4)</td>
<td>15,635,104</td>
<td>5.4%</td>
<td>15,635,104</td>
<td>5.4%</td>
</tr>
<tr>
<td>Named Executive Officers and Directors:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jack Dorsey (5)</td>
<td>71,124,082</td>
<td>24.4%</td>
<td>185,361,632</td>
<td>61.5%</td>
</tr>
<tr>
<td>Sarah Friar (6)</td>
<td>3,900,000</td>
<td>1.3%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alyssa Henry (7)</td>
<td>2,000,000</td>
<td>*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Roelof Botha (8)</td>
<td>15,728,310</td>
<td>5.4%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Earvin Johnson (9)</td>
<td>38,000</td>
<td>*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vinod Khosla (10)</td>
<td>50,522,780</td>
<td>17.3%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>James McKelvey (11)</td>
<td>27,345,120</td>
<td>9.4%</td>
<td></td>
<td></td>
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<tr>
<td>Mary Meeker (12)</td>
<td>8,623,410</td>
<td>3.0%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ruth Simmons (13)</td>
<td>38,000</td>
<td>*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lawrence H. Summers (14)</td>
<td>1,092,110</td>
<td>*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>David Viniar (15)</td>
<td>326,950</td>
<td>*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All executive officers and directors as a group (13 persons) (16)</td>
<td>185,361,632</td>
<td>61.5%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Selling Stockholders:

- Options to purchase shares of our capital stock included in this table are early exercisable. To the extent such shares have not yet vested as of a given date, such shares will remain subject to repurchase by us at the original purchase price.
- Represents beneficial ownership of less than one percent (1%) of the outstanding shares of our common stock.

(1) Consists of 50,522,780 shares held of record by Khosla Ventures III, LP (KV III). The general partner of KV III is Khosla Ventures Associates III, LLC (KVA III). VK Services, LLC is the sole manager of KVA III. Vinod Khosla is the managing member of VK Services, LLC and holds voting and dispositive power over the shares held by KV III. The address of each of these entities is 2128 Sand Hill Road, Menlo Park, CA 94025.
(2) Consists of (i) 15,555,996 shares held of record by JPMC Strategic Investments I Corporation and (ii) 462,380 shares of record held by JPMC Strategic Investments II Corporation (collectively, JPMC Strategic Investments). J.P. Morgan Chase & Co. is the ultimate parent of JPMC Strategic Investments and is the ultimate parent of one of the underwriters of this offering. The address of each of these entities is 270 Park Avenue, New York, NY 10017. See the section titled “Underwriting (Conflicts of Interest)” for information related to the underwriting of this offering.
(3) Consists of (i) 13,899,110 shares held of record by Sequoia Capital U.S. Venture 2010 Fund, LP (SC USV 2010), (ii) 308,270 shares held of record by Sequoia Capital U.S. Venture 2010 Partners Fund, LP (SC USV 2010 PF), and (iii) 1,520,930 shares held of record by Sequoia Capital U.S. Venture 2010 Partners Fund (Q), LP (SC USV 2010 PFQ) (collectively, the SC 2010 Funds). SC US (TTGP), Ltd. is the general partner of SC USV 2010 Management, L.P., which is the general partner of each of SC USV 2010, SC USV 2010 PF, and SC USV 2010 PFQ (collectively, the SC 2010 Funds). The directors and stockholders of SC US (TTGP), Ltd. that exercise voting and investment discretion with respect to SC 2010 Funds’ investments are Roelof F. Botha, James J. Goetz, Michael L. Goguen, Douglas M. Leone, and Michael J. Moritz. As a result, and by virtue of the relationships described in this footnote, each such person shares voting and dispositive power over the shares held by the SC 2010 Funds. The address of each of these entities is 2800 Sand Hill Road, Suite 101, Menlo Park, CA 94025.
(4) Consists of (i) 11,349,190 shares held of record by RT Spartan IV, LLC. (ii) 1,121,170 shares held of record by RT SQ Co-Invest, LLC. (iii) 902,150 shares held of record by RT SQ Secondary LLC. (iv) 628,960 shares held of record by RT-SQ TS, LLC. (v) 565,210 shares held of record by Rizvi Opportunistic Fund II, L.P.. (vi) 485,014 shares held of record by RT SQ Co-Invest II, LLC. (vii) 249,500 shares held of record by Rizvi Opportunistic Equity Fund I-B, L.P.. (viii) 87,420 shares held of record by Rizvi Opportunistic Equity Fund, L.P.. (ix) 59,250 shares held of record by Rizvi Opportunistic Equity Fund I-B (TI), L.P.. (x) 40,210 shares held of record by Rizvi Traverse Partners, LLC. (xi) 29,470 shares held of record by Rizvi
Traverse Partners II, LLC, and (xii) 17,560 shares held of record by Rizvi Opportunistic Equity Fund (TI), L.P. (collectively, the Rizvi Traverse Entities). Rizvi Traverse Management, LLC is the general partner of Rizvi Opportunistic Equity Fund, L.P., Rizvi Opportunistic Equity Fund (TI), L.P., Rizvi Opportunistic Equity Fund I-B, L.P., and Rizvi Opportunistic Equity Fund I-B (TI), L.P. and the manager of Rizvi Traverse Partners, LLC. Rizvi Traverse Management II, LLC is the manager of Rizvi Opportunistic Equity Fund II, L.P. and Rizvi Traverse Partners II, LLC. RT-SQ Management, LLC is the manager of RT Spartan IV, LLC and RT SQ Co-Invest, LLC. Rizvi Traverse CI GP, LLC is the manager of RT SQ Secondary, LLC, RT SQ Co-Invest II, LLC, and RT-SQ TS, LLC. Suhail Rizvi and John Giampetroni are the managers of each of Rizvi Traverse Management, LLC, Rizvi Traverse Management II, LLC, RT-SQ Management, LLC, and Rizvi Traverse CI GP, LLC and exercise voting and investment discretion with respect to the investments managed by such entities. As a result, and by virtue of the relationships described in this footnote, each such person shares voting and dispositive power over the shares held by the Rizvi Traverse Entities. The address of each of these entities is 260 East Brown Street, Suite 380, Birmingham, MI 48009.

(5) Consists of (i) 63,002,506 shares held of record by the Jack Dorsey Revocable Trust u/a/d 12/8/10, for which Mr. Dorsey serves as trustee, (ii) 7,952,826 shares held of record by the Jack Dorsey Remainder Trust u/a/d 6/23/10, for which Mr. Dorsey serves as a trustee, and (iii) 168,750 shares held of record by West Studios, LLC. Mr. Dorsey is a managing member of West Studios, LLC and shares voting and dispositive power over the shares held by West Studios, LLC. The address of West Studios, LLC is 682 Schofield Rd., San Francisco, CA 94129.

(6) Consists of (i) 1,053,709 shares held of record by The Sarah Friar 2015 GRAT, dated August 6, 2015, for which Ms. Friar serves as a trustee, (ii) 295,060 shares held of record by the David Riley and Sarah Friar Revocable Trust Dated August 11, 2006, for which David Riley and Sarah Friar serve as co-trustees, and (iii) 2,551,231 shares subject to options exercisable within 60 days of September 30, 2015, of which 303,280 shares are vested as of such date.

(7) Consists of 2,000,000 shares subject to options exercisable within 60 days of September 30, 2015, of which 750,000 shares are vested as of such date.

(8) Consists of the shares listed in footnote (2) above. Mr. Botha is a director of West Studios, LLC and holds voting and dispositive power over the shares held by West Studios, LLC.

(9) Consists of 38,000 shares held of record by The June Bug Lifetime Trust, dtd 3/17/1992, for which Mr. Johnson serves as a trustee, all of which are subject to repurchase by us at the original issue price.

(10) Consists of the shares listed in footnote (1) above. Mr. Khosla is the managing member of VK Services, LLC and holds voting and dispositive power over the shares held by KV III.

(11) Consists of (i) 5,469,024 shares held of record by Mr. McKelvey and (ii) 21,876,096 shares held of record by the James McKelvey, Jr. Revocable Trust dated July 2, 2014, for which Mr. McKelvey serves as a trustee.

(12) Consists of 8,623,410 shares held in the name of KPCB Holdings, Inc., as nominee, for the account of KPCB Digital Growth Fund, LLC and KPCB DG1 Founders Fund, LLC (together, the DGF Funds) and KPCB sFund, LLC (sFund), John Doerr, Ted Schlein, Brook Byers, Bing Gordon, and Mary Meeker are managing members of KPCB DGF Associates, LLC, the managing member of the DGF Funds, and share voting and dispositive power with the shares held for the account of the DGF Funds. John Doerr, Ted Schlein, Brook Byers, and Bing Gordon are managing members of KPCB sFund Associates, LLC, the managing member of sFund and, therefore, share voting and dispositive power over the shares held by sFund. The address of each of these entities is 2750 Sand Hill Road, Menlo Park, CA 94025.

(13) Consists of 38,000 shares subject to options exercisable within 60 days of September 30, 2015, of which 16,347 shares are vested as of such date.

(14) Consists of (i) 792,110 shares held of record by Dr. Summers, (ii) 209,040 shares held of record by the LHS 2014 Qualified Annuity Trust #1S dated February 13, 2014, for which Dr. Summers serves as trustee, and (iii) 90,960 shares held of record by the LHS 2015 Qualified Annuity Trust #2S dated February 13, 2014, for which Dr. Summers serves as trustee.

(15) Consists of 328,950 shares subject to options exercisable within 60 days of September 30, 2015, of which 183,475 shares are vested as of such date.

(16) Consists of (i) 176,131,701 shares beneficially owned by our current executive officers and directors, of which 38,000 may be repurchased by us at the original price within 60 days of September 30, 2015, and (ii) 9,229,931 shares subject to options exercisable within 60 days of September 30, 2015, of which 4,204,099 are vested as of such date.
DESCRIPTION OF CAPITAL STOCK

The following is a summary of our capital stock and certain terms of our certificate of incorporation and bylaws as they will be in effect upon the completion of this offering. This discussion summarizes some of the important rights of our stockholders but does not purport to be a complete description of these rights and may not contain all of the information regarding our capital stock that is important to you. These rights can only be determined in full, and the descriptions herein are qualified in their entirety, by reference to our proposed amended and restated certificate of incorporation and amended and restated bylaws, copies of which are filed with the SEC as exhibits to the registration statement of which this prospectus is a part.

General

Upon the completion of this offering, our authorized capital stock will consist of shares of capital stock, $0.0000001 par value per share, of which:

- shares are designated to Class A common stock;
- shares are designated as Class B common stock; and
- shares are designated as preferred stock.

As of June 30, 2015, there were no shares of our Class A common stock and 291,005,896 shares of our Class B common stock outstanding, held by 611 stockholders of record, and no shares of our preferred stock outstanding, assuming the automatic conversion and reclassification of all outstanding shares of our convertible preferred stock into shares of our Class B common stock effective immediately prior to the completion of this offering.

The following description summarizes the material terms of our securities. Because it is only a summary, it may not contain all the information that is important to you.

Capital Stock

Class A and Class B Common Stock

All issued and outstanding shares of our common stock will be duly authorized, validly issued, fully paid, and non-assessable. All authorized but unissued shares of our common stock will be available for issuance by our board of directors without any further stockholder action, except as required by the listing standards of the New York Stock Exchange. Our amended and restated certificate of incorporation will provide that, except with respect to voting rights and conversion rights, the Class A common stock and Class B common stock are treated equally and identically.

Voting Rights. Holders of Class A common stock will be entitled to one vote per share on all matters to be voted upon by the stockholders. The holders of our Class A common stock and Class B common stock will generally vote together as a single class on all matters submitted to a vote of our stockholders, unless otherwise required by Delaware law or our amended and restated certificate of incorporation. The holders of common stock will not have cumulative voting rights in the election of directors.
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*Dividend Rights.* Holders of common stock will be entitled to ratably receive dividends if, as, and when declared from time to time by our board of directors at its own discretion out of funds legally available for that purpose, after payment of dividends required to be paid on outstanding preferred stock, if any. Under Delaware law, we can only pay dividends either out of “surplus” or out of the current or the immediately preceding year’s net profits. Surplus is defined as the excess, if any, at any given time, of the total assets of a corporation over its total liabilities and statutory capital. The value of a corporation’s assets can be measured in a number of ways and may not necessarily equal their book value.

*Right to Receive Liquidation Distributions.* Upon our dissolution, liquidation, or winding-up, the assets legally available for distribution to our stockholders are distributable ratably among the holders of our common stock, subject to prior satisfaction of all outstanding debt and liabilities and the preferential rights and payment of liquidation preferences, if any, on any outstanding shares of preferred stock.

*Conversion.* Each share of our Class B common stock is convertible at any time at the option of the holder into one share of our Class A common stock. In addition, each share of our Class B common stock will convert automatically into one share of our Class A common stock upon any transfer, whether or not for value, except for transfers to existing holders of Class B common stock and certain other transfers described in our amended and restated certificate of incorporation, or upon the affirmative vote of a majority of the voting power of the outstanding shares of our Class B common stock, voting separately as a class. All outstanding shares of our Class B common stock will convert into shares of our Class A common stock when the shares of our Class B common stock represent less than 5% of the combined voting power of our Class A common stock and Class B common stock.

*Other Matters.* The common stock will have no preemptive rights pursuant to the terms of our amended and restated certificate of incorporation and our amended and restated bylaws. There will be no redemption or sinking fund provisions applicable to the common stock. All outstanding shares of our Class A common stock will be fully paid and non-assessable, and the shares of our Class A common stock offered in this offering, upon payment and delivery in accordance with the underwriting agreement, will be fully paid and non-assessable.

**Preferred Stock**

Pursuant to our amended and restated certificate of incorporation, shares of preferred stock will be issuable from time to time, in one or more series, with the designations of the series, the voting rights of the shares of the series (if any), the powers, preferences, or relative, participation, optional, or other special rights (if any), and any qualifications, limitations, or restrictions thereof as our board of directors from time to time may adopt by resolution (and without further stockholder approval), subject to certain limitations. Each series will consist of that number of shares as will be stated and expressed in the certificate of designations providing for the issuance of the stock of the series.

**Options**

As of June 30, 2015, we had outstanding options to purchase an aggregate of 103,627,701 shares of our Class B common stock, with a weighted-average exercise price of approximately $6.51 per share, under our equity compensation plans.

**RSUs**

As of June 30, 2015, there were no shares of our Class B common stock issuable upon the vesting of RSUs under our equity compensation plans.

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Warrants

As of June 30, 2015, we had outstanding warrants to purchase an aggregate of 15,848,260 shares of our capital stock, with a weighted-average exercise price of approximately $12.29 per share.

Registration Rights

After the completion of this offering, certain holders of our Class B common stock will be entitled to rights with respect to the registration of their shares under the Securities Act. These registration rights are contained in our amended and restated investors’ rights agreement (IRA). We and certain holders of our Class B common stock and preferred stock are parties to the IRA. The registration rights set forth in the IRA will expire five years following the completion of this offering, or, with respect to any particular stockholder, when such stockholder is able to sell all of its shares entitled to registration rights pursuant to Rule 144 or another similar exemption under the Securities Act during any 90-day period. We will pay the registration expenses (other than underwriting discounts and commissions and stock transfer taxes) of the holders of the shares registered pursuant to the registrations described below.

Demand Registration Rights

After the completion of this offering, the holders of up to [number] shares of our Class B common stock will be entitled to certain demand registration rights. At any time beginning 180 days after the effective date of this offering, the holders of at least a majority of these shares then outstanding can request that we file a registration statement to register the offer and sale of their shares. We are obligated to effect only two such registrations. Each such request for registration must cover securities the anticipated aggregate public offering price of which, before payment of underwriting discounts and commissions, is at least $5.0 million. If we determine that it would be seriously detrimental to us and our stockholders to effect such a demand registration, we have the right to defer such registration, not more than once in any 12-month period, for a period of up to 120 days.

Piggyback Registration Rights

After the completion of this offering, the holders of up to [number] shares of our Class B common stock will be entitled to certain “piggyback” registration rights. If we propose to register the offer and sale of shares of our common stock under the Securities Act, all holders of these shares then outstanding can request that we include their shares in such registration, subject to certain marketing and other limitations. As a result, whenever we propose to file a registration statement under the Securities Act, other than with respect to (1) a registration related to any employee benefit plan or a corporate reorganization or other transaction covered by Rule 145 promulgated under the Securities Act, (2) a registration in which the only stock being registered is common stock issuable upon conversion of debt securities also being registered, or (3) a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of our common stock, the holders of these shares are entitled to notice of the registration and have the right, subject to certain limitations, to include their shares in the registration.
S-3 Registration Rights

After the completion of this offering, the holders of up to ___ shares of our Class B common stock will be entitled to certain Form S-3 registration rights. Any holder of these shares then outstanding can request that we register the offer and sale of their shares of our common stock on a registration statement on Form S-3 if we are eligible to file a registration statement on Form S-3 so long as the request covers securities the anticipated aggregate public offering price of which, before payment of underwriting discounts and commissions, is at least $10 million. These stockholders may make an unlimited number of requests for registration on a registration statement on Form S-3. However, we will not be required to effect a registration on Form S-3 if we have effected two such registrations within the 12-month period preceding the date of the request. Additionally, if we determine that it would be seriously detrimental to us and our stockholders to effect such a registration, we have the right to defer such registration, not more than once in any 12-month period, for a period of up to 120 days. In addition, we are not obligated to effect any such registration within 180 days following the effective date of a registration pursuant to which holders have “piggyback” registration rights as described above.

Anti-Takeover Effects of Certain Provisions of Delaware Law, Our Amended and Restated Certificate of Incorporation, and Our Amended and Restated Bylaws

Certain provisions of Delaware law and certain provisions that will be included in our amended and restated certificate of incorporation and amended and restated bylaws summarized below may be deemed to have an anti-takeover effect and may delay, deter, or prevent a tender offer or takeover attempt that a stockholder might consider to be in its best interests, including attempts that might result in a premium being paid over the market price for the shares held by stockholders.

Dual Class Stock

As described above in “—Class A Common Stock and Class B Common Stock—Voting Rights,” our amended and restated certificate of incorporation provides for a dual class common stock structure, which will provide our founders, current investors, executives, and employees with significant influence over all matters requiring stockholder approval, including the election of directors and significant corporate transactions, such as a merger or other sale of our company or our assets.

Preferred Stock

Our amended and restated certificate of incorporation will contain provisions that permit our board of directors to issue, without any further vote or action by the stockholders, shares of preferred stock in one or more series and, with respect to each such series, to fix the number of shares constituting the series and the designation of the series, the voting rights (if any) of the shares of the series, and the powers, preferences, or relative, participation, optional, and other special rights, if any, and any qualifications, limitations, or restrictions, of the shares of such series.

Classified Board

Our amended and restated certificate of incorporation will provide that our board of directors is divided into three classes, designated Class I, Class II, and Class III. Each class will be an equal number of directors, as nearly as possible, consisting of one-third of the total number of directors constituting the entire board of directors. The term of initial Class I
directors shall terminate on the date of the 2016 annual meeting, the term of the initial Class II directors shall terminate on the date of the 2017 annual meeting, and the term of the initial Class III directors shall terminate on the date of the 2018 annual meeting. At each annual meeting of stockholders beginning in 2016, successors to the class of directors whose term expires at that annual meeting will be elected for a three-year term.

**Removal of Directors**

Our amended and restated certificate of incorporation will provide that stockholders may only remove a director for cause by a vote of no less than a majority of the shares present in person or by proxy at the meeting and entitled to vote.

**Director Vacancies**

Our amended and restated certificate of incorporation will authorize only our board of directors to fill vacant directorships.

**No Cumulative Voting**

Our amended and restated certificate of incorporation will provide that stockholders do not have the right to cumulate votes in the election of directors.

**Special Meetings of Stockholders**

Our amended and restated certificate of incorporation and amended and restated bylaws will provide that, except as otherwise required by law, special meetings of the stockholders may be called only by an officer at the request of a majority of our board of directors, by the chairman of the board of directors, or by our Chief Executive Officer.

**Advance Notice Procedures for Director Nominations**

Our amended and restated bylaws will provide that stockholders seeking to nominate candidates for election as directors at an annual or special meeting of stockholders must provide timely notice thereof in writing. To be timely, a stockholder’s notice generally will have to be delivered to and received at our principal executive offices before notice of the meeting is issued by our secretary, with such notice being served not less than 90 nor more than 120 days before the meeting. Although our amended and restated bylaws will not give the board of directors the power to approve or disapprove stockholder nominations of candidates to be elected at an annual meeting, our amended and restated bylaws may have the effect of precluding the conduct of certain business at a meeting if the proper procedures are not followed or may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect its own slate of directors or otherwise attempting to obtain control of our company.

**Action by Written Consent**

Our amended and restated certificate of incorporation and amended and restated bylaws will provide that any action to be taken by the stockholders must be effected at a duly called annual or special meeting of stockholders and may not be effected by written consent.
Amending our Certificate of Incorporation and Bylaws

Our amended and restated certificate of incorporation may be amended or altered in any manner provided by the Delaware General Corporation Law (DGCL). Our amended and restated bylaws may be adopted, amended, altered, or repealed by stockholders only upon approval of at least majority of the voting power of all the then outstanding shares of the common stock, except for any amendment of the above provisions, which would require the approval of a two-thirds majority of our then outstanding common stock. Additionally, our amended and restated certificate of incorporation will provide that our bylaws may be amended, altered, or repealed by the board of directors.

Authorized but Unissued Shares

Our authorized but unissued shares of Class A common stock and preferred stock will be available for future issuances without stockholder approval, except as required by the listing standards of the New York Stock Exchange, and could be utilized for a variety of corporate purposes, including future offerings to raise additional capital, acquisitions, and employee benefit plans. The existence of authorized but unissued and unreserved common stock and preferred stock could render more difficult or discourage an attempt to obtain control of our company by means of a proxy contest, tender offer, merger, or otherwise.

Exclusive Jurisdiction

Our amended and restated bylaws will provide that, unless we consent to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for any derivative action or proceeding brought on our behalf, any action asserting a claim of breach of fiduciary duty owed by any of our directors, officers, or other employees to us or to our stockholders, any action asserting a claim arising pursuant to the DGCL, or any action asserting a claim governed by the internal affairs doctrine.

Business Combinations with Interested Stockholders

Subject to certain exceptions, Section 203 of the DGCL prohibits a public Delaware corporation from engaging in a business combination (as defined in such section) with an “interested stockholder” (defined generally as any person who beneficially owns 15% or more of the outstanding voting stock of such corporation or any person affiliated with such person) for a period of three years following the time that such stockholder became an interested stockholder, unless (i) prior to such time the board of directors of such corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder; (ii) upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of such corporation at the time the transaction commenced (excluding for purposes of determining the voting stock of such corporation outstanding (but not the outstanding voting stock owned by the interested stockholder) those shares owned (A) by persons who are directors and also officers of such corporation and (B) by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer); or (iii) at or subsequent to such time the business combination is approved by the board of directors of such corporation and authorized at a meeting of stockholders (and not by written consent) by the affirmative vote of at least $66 \( \frac{2}{3} \) % of the outstanding voting stock of such corporation not owned by the interested stockholder.

Our amended and restated certificate of incorporation and our amended and restated bylaws will provide that we must indemnify our directors and officers to the fullest extent authorized by the DGCL. We are expressly authorized to, and do,
carry directors’ and officers’ insurance providing coverage for our directors, officers, and certain employees for some liabilities. We believe that these indemnification provisions and insurance are useful to attract and retain qualified directors and executive directors.

The limitation on liability and indemnification provisions in our certificate of incorporation and bylaws may discourage stockholders from bringing a lawsuit against directors for breach of their fiduciary duty. These provisions may also have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit us and our stockholders. In addition, your investment may be adversely affected to the extent we pay the costs of settlement and damage awards against directors and officers pursuant to these indemnification provisions.

**Listing and Trading**

Our Class A common stock is currently not listed on any securities exchange. We intend to apply to have our common stock approved for listing on the New York Stock Exchange under the symbol “SQ.”

**Limitations of Liability and Indemnification**

See the section titled “Certain Relationships, Related Party And Other Transactions—Limitation of Liability and Indemnification of Officers and Directors.”

**Transfer Agent and Registrar**

Upon the completion of the offering, the transfer agent and registrar for our Class A common stock will be . The transfer agent and registrar’s address is .
SHARES ELIGIBLE FOR FUTURE SALE

Prior to the completion of this offering, there has been no public market for our Class A common stock, and we cannot predict the effect, if any, that market sales of shares of our Class A common stock or the availability of shares of our Class A common stock for sale will have on the market price of our Class A common stock prevailing from time to time. Future sales of our Class A common stock in the public market, or the availability of such shares for sale in the public market, could adversely affect market prices prevailing from time to time. As described below, only a limited number of shares of our Class A common stock will be available for sale shortly after this offering due to contractual and legal restrictions on resale. Nevertheless, sales of our Class A common stock in the public market after such restrictions lapse, or the perception that those sales may occur, could adversely affect the prevailing market price at such time and our ability to raise equity capital in the future.

Following the completion of this offering, based on the number of shares of our common stock outstanding as of June 30, 2015, a total of shares of our Class A common stock, and a total of shares of our Class B common stock will be outstanding. Of these shares, all shares of our Class A common stock sold in this offering will be eligible for sale in the public market without restriction under the Securities Act, except that any shares of our Class A common stock purchased in this offering by our “affiliates,” as that term is defined in Rule 144 under the Securities Act, would only be able to be sold in compliance with the conditions of Rule 144 described below.

The Class B common stock outstanding after this offering will be, and shares subject to stock options will be upon issuance, deemed “restricted securities,” as that term is defined in Rule 144 under the Securities Act. These restricted securities will be eligible for sale in the public market only if they are registered or if they qualify for an exemption from registration under Rule 144 or Rule 701 under the Securities Act, which rules are summarized below. All of our executive officers, directors, and holders of substantially all of our capital stock and securities convertible into or exchangeable for our capital stock have entered into market standoff agreements with us or will enter into lock-up agreements with the underwriters under which they have agreed or will agree, subject to specific exceptions, not to sell any of our stock for at least 180 days following the date of this prospectus. Subject to the lock-up agreements described below, the provisions of our IRA described under the section titled “Description of Capital Stock—Registration Rights,” the applicable conditions of Rule 144 or Rule 701, and our insider trading policy, these restricted securities will be eligible for sale in the public market as follows:

- beginning on the date of this prospectus, all shares of our Class A common stock sold in this offering will be immediately available for sale in the public market; and

- beginning days after the date of this prospectus, the remainder of the shares of our common stock will be eligible for sale in the public market from time to time thereafter, subject in some cases to the volume and other restrictions of Rule 144, as described below.

Lock-Up Agreements

Our officers, directors, and the holders of substantially all of our capital stock, options, and warrants, have agreed with the underwriters, subject to certain exceptions, not to dispose of or hedge any of their common stock or securities convertible into or exchangeable for shares of common stock during the period from the date of this prospectus continuing through the date 180 days after the date of this prospectus, except with the prior consent of Goldman, Sachs & Co.
Rule 144

Rule 144, as currently in effect, generally provides that, once we have been subject to the public company reporting requirements of Section 13 or Section 15(d) of the Exchange Act for at least 90 days, a stockholder who is not deemed to have been one of our affiliates at any time during the preceding 90 days and who has beneficially owned the shares of our capital stock proposed to be sold for at least six months is entitled to sell such shares in reliance upon Rule 144 without complying with the volume limitation, manner of sale or notice conditions of Rule 144. If such stockholder has beneficially owned the shares of our capital stock proposed to be sold for at least one year, then such person is entitled to sell such shares in reliance upon Rule 144 without complying with any of the conditions of Rule 144.

Rule 144 also provides that a stockholder who is deemed to have been one of our affiliates at any time during the preceding 90 days and who has beneficially owned the shares of our common stock proposed to be sold for at least six months is entitled to sell such shares in reliance upon Rule 144 within any three-month period beginning 90 days after the date of this prospectus a number of shares that does not exceed the greater of the following:

• 1% of the number of shares of our capital stock then outstanding, which will equal shares immediately after the completion of this offering; or

• the average weekly trading volume of our common stock during the four calendar weeks preceding the filing of a notice on Form 144 with respect to such sale.

Sales of our capital stock made in reliance upon Rule 144 by a stockholder who is deemed to have been one of our affiliates at any time during the preceding 90 days are also subject to the current public information, manner of sale, and notice conditions of Rule 144.

Rule 701

Rule 701 generally provides that, once we have been subject to the public company reporting requirements of Section 13 or Section 15(d) of the Exchange Act for at least 90 days, a stockholder who purchased shares of our common stock pursuant to a written compensatory benefit plan or contract and who is not deemed to have been one of our affiliates at any time during the preceding 90 days may sell such shares in reliance upon Rule 144 without complying with the current public information or holding period conditions of Rule 144. Rule 701 also provides that a stockholder who purchased shares of our common stock pursuant to a written compensatory benefit plan or contract and who is deemed to have been one of our affiliates during the preceding 90 days may sell such shares under Rule 144 without complying with the holding period condition of Rule 144. However, all stockholders who purchased shares of our common stock pursuant to a written compensatory benefit plan or contract are required to wait until 90 days after the date of this prospectus before selling such shares pursuant to Rule 701.

Registration Rights

After the completion of this offering, the holders of up to shares of our common stock will be entitled to certain rights with respect to the registration of such shares under the Securities Act. The registration of these shares of our common stock under the Securities Act would result in these shares becoming eligible for sale in the public market without restriction under the Securities Act immediately upon the effectiveness of such registration, subject to the Rule 144
After the completion of this offering, we intend to file a registration statement on Form S-8 under the Securities Act to register all of the shares of our common stock subject to equity awards outstanding or reserved for issuance under our equity compensation plans. The shares of our common stock covered by such registration statement will be eligible for sale in the public market without restriction under the Securities Act immediately upon the effectiveness of such registration statement, subject to vesting restrictions, the conditions of Rule 144 applicable to affiliates, and any applicable market standoff agreements and lock-up agreements. See the section titled "Executive Compensation—Employee Benefit and Stock Plans" for a description of our equity compensation plans.
MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES TO NON-U.S. HOLDERS OF OUR CLASS A COMMON STOCK

The following is a general discussion of material U.S. federal income tax considerations with respect to the ownership and disposition of our Class A common stock applicable to non-U.S. holders who acquire such shares in this offering. This discussion is based on current provisions of the Internal Revenue Code of 1986, as amended (the Code), U.S. Treasury regulations promulgated thereunder, and administrative rulings and court decisions in effect as of the date hereof, all of which are subject to change at any time, possibly with retroactive effect.

For purposes of this discussion, the term “non-U.S. holder” means a beneficial owner of our Class A common stock that is not, for U.S. federal income tax purposes, a partnership or any of the following:

- a citizen or resident of the United States;
- a corporation, or other entity taxable as a corporation for U.S. federal income tax purposes, created or organized in the United States or under the laws of the United States, any state thereof, or the District of Columbia;
- an estate, the income of which is includible in gross income for U.S. federal income tax purposes regardless of its source; or
- a trust if (1) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust, or (2) it has a valid election in effect under applicable U.S. Treasury regulations to be treated as a U.S. person for U.S. federal income tax purposes.

If an entity or arrangement treated as a partnership for U.S. federal income tax purposes holds shares of our common stock, the tax treatment of a person treated as a partner generally will depend on the status of the partner and the activities of the partnership. Persons that for U.S. federal income tax purposes are treated as a partner in a partnership holding shares of our Class A common stock should consult their tax advisors.

This discussion assumes that a non-U.S. holder holds shares of our Class A common stock as a capital asset within the meaning of Section 1221 of the Code (generally, property held for investment). This discussion does not address all aspects of U.S. federal income taxation that may be important to a non-U.S. holder in light of that holder’s particular circumstances or that may be applicable to holders subject to special treatment under U.S. federal income tax law (including, for example, financial institutions, dealers in securities, traders in securities that elect mark-to-market treatment, insurance companies, tax-exempt entities, holders who acquired our Class A common stock pursuant to the exercise of employee stock options or otherwise as compensation, entities or arrangements treated as partnerships for U.S. federal income tax purposes, holders liable for the alternative minimum tax, certain former citizens or former long-term residents of the United States, holders who hold our Class A common stock as part of a hedge, straddle, constructive sale, or conversion transaction, and holders who own or have owned (directly, indirectly, or constructively) 5% or more of our Class A common stock (by vote or value). In addition, this discussion does not address U.S. federal tax laws other than those pertaining to the U.S. federal income tax, nor does it address any aspects of the unearned income Medicare contribution tax pursuant to Section 1411 of the Code, or U.S. state, local, or non-U.S. taxes. Accordingly, prospective investors should consult with their own tax advisors regarding the U.S. federal, state, local, non-U.S. income, and other tax considerations of acquiring, holding, and disposing of shares of our Class A common stock.
THIS SUMMARY IS NOT INTENDED TO CONSTITUTE A COMPLETE DESCRIPTION OF ALL TAX CONSEQUENCES RELATING TO THE OWNERSHIP AND DISPOSITION OF OUR CLASS A COMMON STOCK. WE RECOMMEND THAT PROSPECTIVE HOLDERS OF OUR CLASS A COMMON STOCK CONSULT WITH THEIR TAX ADVISORS REGARDING THE TAX CONSEQUENCES TO THEM (INCLUDING THE APPLICATION AND EFFECT OF ANY STATE, LOCAL, NON-U.S. INCOME, AND OTHER TAX LAWS) OF THE OWNERSHIP AND DISPOSITION OF OUR CLASS A COMMON STOCK.

Dividends

In general, any distributions we make to a non-U.S. holder with respect to its shares of our Class A common stock that constitute dividends for U.S. federal income tax purposes will be subject to U.S. withholding tax at a rate of 30% of the gross amount (or a reduced rate prescribed by an applicable income tax treaty), unless the dividends are effectively connected with a trade or business carried on by the non-U.S. holder within the United States (and, if an income tax treaty applies, are attributable to a permanent establishment of the non-U.S. holder within the United States). A distribution will constitute a dividend for U.S. federal income tax purposes to the extent of our current or accumulated earnings and profits as determined for U.S. federal income tax purposes. Any distribution not constituting a dividend will be treated as first reducing the adjusted basis in the non-U.S. holder’s shares of our Class A common stock and, to the extent it exceeds the adjusted basis in the non-U.S. holder’s shares of our Class A common stock, as gain from the sale or exchange of such shares.

Dividends effectively connected with a U.S. trade or business (and, if an income tax treaty applies, attributable to a U.S. permanent establishment) of a non-U.S. holder generally will not be subject to U.S. withholding tax if the non-U.S. holder complies with applicable certification and disclosure requirements. Instead, such dividends generally will be subject to U.S. federal income tax on a net income basis, in the same manner as if the non-U.S. holder were a resident of the United States. A non-U.S. holder that is a corporation may be subject to an additional “branch profits tax” at a rate of 30% (or such lower rate as may be specified by an applicable income tax treaty) on its “effectively connected earnings and profits,” subject to certain adjustments.

Gain on Sale or Other Disposition of Our Class A Common Stock

In general, a non-U.S. holder will not be subject to U.S. federal income or, subject to the discussion below under the heading “Information Reporting and Backup Withholding” and “Foreign Account Tax Compliance Act,” withholding tax on any gain realized upon the sale or other disposition of our Class A common stock unless:

- the gain is effectively connected with a trade or business carried on by the non-U.S. holder within the United States and, if required by an applicable income tax treaty, is attributable to a U.S. permanent establishment of the non-U.S. holder;
- the non-U.S. holder is an individual and is present in the United States for 183 days or more in the taxable year of disposition and certain other conditions are satisfied; or
- we are or have been a U.S. real property holding corporation for U.S. federal income tax purposes at any time within the shorter of the five-year period ending on the date of the disposition and the non-U.S. holder’s holding period and certain other conditions are satisfied.
Gain that is effectively connected with the conduct of a trade or business in the United States generally will be subject to U.S. federal income tax, net of certain deductions, at regular U.S. federal income tax rates. If the non-U.S. holder is a foreign corporation, the branch profits tax described above also may apply to such effectively connected gain. An individual non-U.S. holder who is subject to U.S. federal income tax because the non-U.S. holder was present in the United States for 183 days or more during the year of sale or other disposition of our Class A common stock will be subject to a flat 30% tax on the gain derived from such sale or other disposition, which may be offset by U.S. source capital losses.

Information Reporting and Backup Withholding

We must report annually to the Internal Revenue Service and to each non-U.S. holder the amount of dividends paid to, and the tax withheld with respect to, each non-U.S. holder. These reporting requirements apply regardless of whether withholding was reduced or eliminated by an applicable tax treaty. Copies of this information also may be made available under the provisions of a specific treaty or agreement with the tax authorities in the country in which the non-U.S. holder resides or is established.

U.S. backup withholding tax (currently, at a rate of 28%) is imposed on certain payments to persons that fail to furnish the information required under the U.S. information reporting rules. Dividends paid to a non-U.S. holder generally will be exempt from backup withholding if the non-U.S. holder provides a properly executed IRS Form W-8BEN, IRS Form W-8BEN-E, or otherwise establishes an exemption.

Under U.S. Treasury regulations, the payment of proceeds from the disposition of our Class A common stock by a non-U.S. holder effected at a U.S. office of a broker generally will be subject to information reporting and backup withholding, unless the beneficial owner, under penalties of perjury, certifies, among other things, its status as a non-U.S. holder or otherwise establishes an exemption. The payment of proceeds from the disposition of our Class A common stock by a non-U.S. holder effected at a non-U.S. office of a broker generally will not be subject to backup withholding and information reporting, except as noted below. In the case of proceeds from a disposition of our Class A common stock by a non-U.S. holder effected at a non-U.S. office of a broker that is:

• a U.S. person;
• a "controlled foreign corporation" for U.S. federal income tax purposes;
• a foreign person 50% or more of whose gross income from certain periods is effectively connected with a U.S. trade or business; or
• a foreign partnership if at any time during its tax year (a) one or more of its partners are U.S. persons who, in the aggregate, hold more than 50% of the income or capital interests of the partnership or (b) the foreign partnership is engaged in a U.S. trade or business;

information reporting will apply unless the broker has documentary evidence in its files that the owner is a non-U.S. holder and certain other conditions are satisfied, or the beneficial owner otherwise establishes an exemption (and the broker has no knowledge or reason to know to the contrary). Backup withholding will apply if the sale is subject to information reporting and the broker has actual knowledge that you are a United States person.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules from a payment to a non-U.S. holder can be refunded or credited against the non-U.S. holder’s U.S. federal income tax liability, if any, provided that the required information is furnished to the Internal Revenue Service in a timely manner.
Foreign Account Tax Compliance Act

Under Sections 1471 through 1474 of the Code and the Treasury regulations promulgated thereunder (collectively, FATCA), a U.S. federal withholding tax of 30% generally will be imposed on certain payments made to a "foreign financial institution" (as specifically defined under these rules) unless such institution enters into an agreement with the U.S. tax authorities to withhold on certain payments and to collect and provide to the U.S. tax authorities substantial information regarding U.S. account holders of such institution (which includes certain equity and debt holders of such institution, as well as certain account holders that are foreign entities with U.S. owners) or meets other exceptions. Under the legislation and administrative guidance, a U.S. federal withholding tax of 30% generally also will be imposed on certain payments made to a non-financial foreign entity unless such entity provides the withholding agent with a certification identifying its direct and indirect U.S. owners or meets other exceptions. Foreign entities located in jurisdictions that have an intergovernmental agreement with the United States governing these withholding and reporting requirements may be subject to different rules. Under certain circumstances, a non-U.S. holder might be eligible for refunds or credits of such taxes. These withholding taxes would be imposed on dividends paid with respect to our common stock to, and, beginning on January 1, 2019, on gross proceeds from sales or other dispositions of our Class A common stock by foreign financial institutions or non-financial entities (including in their capacity as agents or custodians for beneficial owners of our Class A common stock) that fail to satisfy the above requirements. Prospective non-U.S. holders should consult with their tax advisors regarding the possible implications of FATCA on their investment in our Class A common stock.

Each prospective investor should consult its own tax advisor regarding the particular U.S. federal, state and local and non-U.S. tax consequences of purchasing, holding and disposing of our Class A common stock, including the consequences of any proposed change in applicable laws.
UNDERWRITING (CONFLICTS OF INTEREST)

We, the selling stockholder, and the underwriters named below have entered into an underwriting agreement with respect to the shares being offered. Subject to certain conditions, each underwriter has severally agreed to purchase the number of shares indicated in the following table. Goldman, Sachs & Co., Morgan Stanley & Co. LLC, and J.P. Morgan Securities LLC are the representatives of the underwriters.

<table>
<thead>
<tr>
<th>Underwriters</th>
<th>Number of Shares</th>
</tr>
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<tbody>
<tr>
<td>Goldman, Sachs &amp; Co.</td>
<td></td>
</tr>
<tr>
<td>Morgan Stanley &amp; Co. LLC</td>
<td></td>
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<tr>
<td>J.P. Morgan Securities LLC</td>
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<tr>
<td>Barclays Capital Inc.</td>
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<tr>
<td>Deutsche Bank Securities Inc.</td>
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<tr>
<td>Jefferies LLC</td>
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<tr>
<td>RBC Capital Markets, LLC</td>
<td></td>
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<tr>
<td>Stifel, Nicolaus &amp; Company</td>
<td></td>
</tr>
<tr>
<td>LOYAL3 Securities, Inc.</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
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</tbody>
</table>

The underwriters are committed to take and pay for all of the shares being offered, if any are taken, other than the shares covered by the option described below, unless and until this option is exercised.

The underwriters have an option to buy up to an additional shares from us to cover sales by the underwriters of a greater number of shares than the total number set forth in the table above. They may exercise that option for 30 days. If any shares are purchased pursuant to this option, the underwriters will severally purchase shares in approximately the same proportion as set forth in the table above.

The following tables show the per share and total underwriting discounts and commissions to be paid to the underwriters by us and the selling stockholder. Such amounts are shown assuming both no exercise and full exercise of the underwriters’ option to purchase additional shares.

<table>
<thead>
<tr>
<th>Paid by the Company</th>
<th>No Exercise</th>
<th>Full Exercise</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Share</td>
<td>$</td>
<td>$</td>
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<tr>
<td>Total</td>
<td>$</td>
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</table>

<table>
<thead>
<tr>
<th>Paid by the Selling Stockholder</th>
<th>No Exercise</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Share</td>
<td>$</td>
</tr>
<tr>
<td>Total</td>
<td>$</td>
</tr>
</tbody>
</table>

Shares sold by the underwriters to the public will initially be offered at the initial public offering price set forth on the cover of this prospectus. Any shares sold by the underwriters to securities dealers may be sold at a discount of up to per share from the initial public offering price. After the initial offering of the shares, the representatives may change the offering price and the other selling terms. The offering of the shares by the underwriters is subject to receipt and acceptance, and subject to the underwriters’ right to reject any order in whole or in part.
We, our officers, directors, and the holders of substantially all of our common stock, options, and warrants, including the selling stockholder, have agreed with the underwriters, subject to certain exceptions, not to dispose of or hedge any of their common stock or securities convertible into or exchangeable for shares of common stock during the period from the date of this prospectus continuing through the date 180 days after the date of this prospectus, except with the prior written consent of Goldman, Sachs & Co. This agreement does not apply to any existing employee benefit plans. See the section titled “Shares Available for Future Sale” for a discussion of certain transfer restrictions.

Prior to the offering, there has been no public market for the shares. The initial public offering price has been negotiated among us, the selling stockholder, and the representatives. Among the factors to be considered in determining the initial public offering price of the shares, in addition to prevailing market conditions, will be our historical performance, estimates of our business potential and earnings prospects, an assessment of our management, and the consideration of the above factors in relation to market valuation of companies in related businesses.

An application has been made to list the Class A common stock on the New York Stock Exchange under the symbol “SQ”. In order to meet one of the requirements for listing the Class A common stock on the New York Stock Exchange, the underwriters have undertaken to sell lots of 100 or more shares to a minimum of 400 beneficial holders.

In connection with the offering, the underwriters may purchase and sell shares of Class A common stock in the open market. These transactions may include short sales, stabilizing transactions, and purchases to cover positions created by short sales. Short sales involve the sale by the underwriters of a greater number of shares than they are required to purchase in the offering, and a short position represents the amount of such sales that have not been covered by subsequent purchases. A “covered short position” is a short position that is not greater than the amount of additional shares for which the underwriters’ option described above may be exercised. The underwriters may cover any covered short position by either exercising their option to purchase additional shares or purchasing shares in the open market. In determining the source of shares to cover the covered short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase additional shares pursuant to the option described above. “Naked” short sales are any short sales that create a short position greater than the amount of additional shares for which the option described above may be exercised. The underwriters must cover any such naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market after pricing that could adversely affect investors who purchase in the offering. Stabilizing transactions consist of various bids for or purchases of common stock made by the underwriters in the open market prior to the completion of the offering.

The underwriters may also impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it, because the representatives have repurchased shares sold by or for the account of such underwriter in stabilizing or short covering transactions.

Purchases to cover a short position and stabilizing transactions, as well as other purchases by the underwriters for their own accounts, may have the effect of preventing or retarding a decline in the market price of our stock, and together with the imposition of the penalty bid, may stabilize, maintain, or otherwise affect the market price of the common stock. As a result, the price of the Class A common stock may be higher than the price that otherwise might exist in the open market. The underwriters are not required to engage in these activities and may end any of these activities at any time. These transactions may be effected on the New York Stock Exchange, in the over-the-counter market, or otherwise.
Directed Share Program

At our request, the underwriters have reserved for sale, at our initial public offering price, up to % of the Class A common stock offered hereby to our existing sellers. The sales will be made through a directed share program through a platform administered by LOYAL3 Securities, Inc., which we refer to in this prospectus as the “LOYAL3 Platform.” The shares being made available for this program are being sold by the Start Small Foundation as the selling stockholder. We do not know if our sellers will choose to purchase all or any portion of these reserved shares, but any purchases they do make will reduce the number of shares available to the general public. Any reserved shares not so purchased will be offered by the underwriters to the general public on the same terms as the other shares of Class A common stock offered hereby. None of our directors or executive officers will participate in the directed share program. Shares purchased as part of the program will be freely tradable and will not be subject to a lock-up agreement. Any purchase of our Class A common stock in this offering through the underwriter administering program will be at the same initial public offering price, and at the same time, as any other purchases in this offering, including purchases by institutions and other large investors. Such purchases of shares in this offering through the LOYAL3 Platform will be at the initial public offering price, will be otherwise fee-free to investors, and will be in dollar amounts that may include fractional shares. Subsequent sales of our Class A common stock by investors in this offering using the LOYAL3 Platform will be completed through a batch or combined order process typically only once per day. LOYAL3 Securities, Inc. is a U.S.-registered broker-dealer unaffiliated with our company and is acting as a co-manager of this offering.

European Economic Area

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a Relevant Member State), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State no offer of shares which are the subject of the offering contemplated by this prospectus may be made to the public in that Relevant Member State other than:

(a) to any legal entity which is a “qualified investor” as defined in the Prospectus Directive;

(b) to fewer than 150 natural or legal persons (other than “qualified investors” as defined in the Prospectus Directive), per Relevant Member State, subject to obtaining the prior consent of the underwriters; or

(c) in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of shares shall result in a requirement for us or any underwriter to publish a prospectus pursuant to Article 3 of the Prospectus Directive or a supplemental prospectus pursuant to Article 16 of the Prospectus Directive and each person who initially acquires any shares or to whom any offer is made will be deemed to have represented, warranted, and agreed to and with each of the underwriters and us that it is a “qualified investor” within the meaning of the law in that Relevant Member State implementing Article 2(1)(e) of the Prospectus Directive.

For the purposes of this provision, the expression an “offer of shares to the public” in relation to any shares in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the shares to be offered so as to enable an investor to decide to purchase or subscribe for the shares, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State. The expression “Prospectus Directive” means Directive 2003/71/EC (as amended, including by Directive 2010/73/EU), and includes any relevant implementing measure in the Relevant Member State.
United Kingdom

In the United Kingdom, this prospectus in relation to the shares described herein is being directed only at persons who are "qualified investors" (as defined in the Prospectus Directive) who are (i) persons having professional experience in matters relating to investments falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the Order), or (ii) high net worth entities falling within Article 49(2)(a) to (d) of the Order, or (iii) persons to whom it would otherwise be lawful to distribute it, all such persons together being referred to as Relevant Persons. The shares described herein are only available to, and any invitation, offer or agreement to subscribe, purchase or otherwise acquire such shares will be engaged in only with, Relevant Persons. This prospectus and its contents are confidential and should not be distributed, published, or reproduced (in whole or in part), or disclosed by any recipients to any other person in the United Kingdom. Any person in the United Kingdom that is not a Relevant Person should not act or rely on this prospectus or its contents.

Hong Kong

The shares may not be offered or sold by means of any document other than (i) in circumstances which do not constitute an offer to the public within the meaning of the Companies Ordinance (Cap.32, Laws of Hong Kong), (ii) to "professional investors" within the meaning of the Securities and Futures Ordinance (Cap.571, Laws of Hong Kong) and any rules made thereunder, or (iii) in other circumstances which do not result in the document being a "prospectus" within the meaning of the Companies Ordinance (Cap.32, Laws of Hong Kong), and no advertisement, invitation, or document relating to the shares may be issued or may be in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the laws of Hong Kong) other than with respect to shares which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" within the meaning of the Securities and Futures Ordinance (Cap. 571, Laws of Hong Kong) and any rules made thereunder.

Singapore

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares may not be circulated or distributed, nor may the shares be offered or sold or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore (the SFA), (ii) to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the shares are subscribed or purchased under Section 275 by a relevant person which is: (a) a corporation (which is not an accredited investor) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary is an accredited investor, shares, debentures, and units of shares and debentures of that corporation or the beneficiaries' rights and interest in that trust shall not be transferable for six months after that corporation or that trust has acquired the shares under Section 275 except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA; (2) where no consideration is given for the transfer; or (3) by operation of law.

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Japan

The securities have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (the Financial Instruments and Exchange Law) and the securities may not be offered or sold, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Law and any other applicable laws, regulations, and ministerial guidelines of Japan.

Canada

The securities may be sold in Canada only to purchasers purchasing, or deemed to be purchasing, as principal that are accredited investors, as defined in National Instrument 45-106 Prospectus Exemptions or subsection 73.3(1) of the Securities Act (Ontario), and are permitted clients, as defined in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations. Any resale of the securities must be made in accordance with an exemption from, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this prospectus (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser’s province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser’s province or territory for particulars of these rights or consult with a legal advisor.

Pursuant to section 3A.3 of National Instrument 33-105 Underwriting Conflicts (NI 33-105), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

The underwriters do not expect sales to discretionary accounts to exceed five percent of the total number of shares offered.

We estimate that our share of the total expenses of the offering, excluding underwriting discounts and commissions, will be approximately $ .

We and the selling stockholder have agreed to indemnify the several underwriters against certain liabilities, including liabilities under the Securities Act of 1933.

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage, and other financial and non-financial activities and services. Certain of the underwriters and their respective affiliates have provided, and may in the future provide, a variety of these services to the issuer and to persons and entities with relationships with the issuer, for which they received or will receive customary fees and expenses. In April 2014, we entered into a revolving credit agreement with affiliates of Goldman, Sachs & Co., Morgan Stanley & Co. LLC, and J.P. Morgan Securities LLC, under which these underwriters and/or affiliates have been, and may be
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in the future, paid customary fees. For additional information on our revolving credit facility, see the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources.”

In addition, David Viniar, a member of our board of directors, also serves as a member of the board of directors of Goldman, Sachs & Co.

In September 2012 and October 2014, an affiliate of Goldman, Sachs & Co., one of the underwriters, purchased an aggregate of 453,960 shares of Series D Convertible Preferred Stock and 1,293,372 shares of Series E Convertible Preferred Stock, respectively, all of which shares of convertible preferred stock will convert into an aggregate of 1,747,332 shares of Class B common stock in connection with this offering. From January 2010 to October 2014, affiliates of J.P. Morgan Securities LLC, one of the underwriters, purchased an aggregate of 462,380 shares of Series A Convertible Preferred Stock, 13,893,330 shares of Series B Convertible Preferred Stock, 1,015,980 shares of Series D Convertible Preferred Stock, and 646,686 shares of Series E Convertible Preferred Stock, all of which shares of convertible preferred stock will convert into an aggregate of 16,018,376 shares of Class B common stock in connection with this offering.

In addition, since 2010, an affiliate of J.P. Morgan Securities LLC has provided us with payment processing services for a significant portion of our payment volumes and in connection with such arrangements, has received, and may in the future receive, certain customary fees.

In the ordinary course of their various business activities, the underwriters and their respective affiliates, officers, directors, and employees may purchase, sell, or hold a broad array of investments and actively trade securities, derivatives, loans, commodities, currencies, credit default swaps, and other financial instruments for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to assets, securities, and/or instruments of the issuer (directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with the issuer. The underwriters and their respective affiliates may also communicate independent investment recommendations, market color, or trading ideas, and/or publish or express independent research views in respect of such assets, securities, or instruments, and may at any time hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities, and instruments.

Conflicts of Interest

Because J.P. Morgan Securities LLC is an underwriter in this offering and its affiliates collectively beneficially own more than 10% of our outstanding convertible preferred stock, all of which will convert into shares of Class B common stock in connection with this offering, J.P. Morgan Securities LLC is deemed to have a “conflict of interest” under Rule 5121 of Financial Industry Regulatory Authority Inc. (Rule 5121). Accordingly, this offering will be made in compliance with the applicable provisions of Rule 5121. The rule requires that a “qualified independent underwriter” meeting certain standards participate in the preparation of the registration statement and prospectus and exercise the usual standards of due diligence with respect thereto. Morgan Stanley & Co. LLC has agreed to act as a “qualified independent underwriter” within the meaning of Rule 5121 in connection with this offering. Morgan Stanley & Co. LLC will not receive any additional fees for serving as a qualified independent underwriter in connection with this offering. We have agreed to indemnify Morgan Stanley & Co. LLC against liabilities incurred in connection with acting as qualified independent underwriter, including liabilities under the Securities Act. J.P. Morgan Securities LLC will not confirm sales of the shares to any account over which they exercise discretionary authority without the prior written approval of the customer.

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LEGAL MATTERS

Wilson Sonsini Goodrich & Rosati, P.C., Palo Alto, California, will pass upon the validity of the shares of our Class A common stock being offered by this prospectus, and certain legal matters in connection with this offering will be passed upon for us by Wachtell, Lipton, Rosen & Katz, New York, New York. Simpson Thacher & Bartlett LLP, Palo Alto, California, is acting as counsel for the underwriters.

EXPERTS

The consolidated financial statements as of December 31, 2013 and 2014, and for each of the years in the three year period ended December 31, 2014, have been included herein in reliance upon the report of KPMG LLP, independent registered public accounting firm, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing.

WHERE YOU CAN FIND ADDITIONAL INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of our common stock offered by this prospectus. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement, as permitted by the rules and regulations of the SEC. For further information with respect to us and our Class A common stock, we refer you to the registration statement, including the exhibits filed as a part of the registration statement. Statements contained in this prospectus concerning the contents of any contract or any other document are not necessarily complete. If a contract or document has been filed as an exhibit to the registration statement, please see the copy of the contract or document that has been filed. Each statement in this prospectus relating to a contract or document filed as an exhibit is qualified in all respects by the filed exhibit. You may obtain copies of this information by mail from the Public Reference Section of the SEC, 100 F Street, N.E., Room 1580, Washington, D.C. 20549, at prescribed rates or view them online. You may obtain information on the operation of the public reference rooms by calling the SEC at 1-800-SEC-0330. The SEC also maintains an Internet website that contains the registration statement of which this prospectus forms a part, as well as the exhibits thereto. These documents, along with future reports, proxy statements, and other information about us, are available at the SEC's website, www.sec.gov.

As a result of this offering, we will become subject to the information and reporting requirements of the Securities Exchange Act of 1934 and, in accordance with this law, will file periodic reports, proxy statements, and other information with the SEC. These periodic reports, proxy statements, and other information will be available for inspection and copying at the SEC’s public reference facilities and the website of the SEC referred to above. We also maintain a website at www.squareup.com. Upon the completion of this offering, you may access these materials free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. Information contained on our website is not a part of this prospectus, and the inclusion of our website address in this prospectus is an inactive textual reference only.

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**SQUARE, INC.**

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</tbody>
</table>
REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
Square, Inc.:  

We have audited the accompanying consolidated balance sheets of Square, Inc. and subsidiaries (the Company) as of December 31, 2013 and 2014, and the related consolidated statements of operations, comprehensive loss, stockholders’ equity, and cash flows for each of the years in the three-year period ended December 31, 2014. These consolidated financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Square, Inc. and subsidiaries as of December 31, 2013 and 2014, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2014, in conformity with U.S. generally accepted accounting principles.

/s/ KPMG LLP

San Francisco, California
March 27, 2015

F-2
## SQUARE, INC.
### CONSOLIDATED BALANCE SHEETS
(In thousands, except share and per share data)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Assets</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current assets:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$166,176</td>
<td>$225,300</td>
<td>$197,940</td>
<td>$197,940</td>
</tr>
<tr>
<td>Restricted cash</td>
<td>$10,000</td>
<td>$11,950</td>
<td>$11,951</td>
<td>$11,951</td>
</tr>
<tr>
<td>Settlements receivable</td>
<td>$64,968</td>
<td>$115,481</td>
<td>$171,845</td>
<td>$171,845</td>
</tr>
<tr>
<td>Merchant cash advance receivable, net</td>
<td>—</td>
<td>$29,302</td>
<td>$32,486</td>
<td>$32,486</td>
</tr>
<tr>
<td>Other current assets</td>
<td>$12,658</td>
<td>$27,834</td>
<td>$32,583</td>
<td>$32,583</td>
</tr>
<tr>
<td>Total current assets</td>
<td>$253,802</td>
<td>$409,867</td>
<td>$446,805</td>
<td>$446,805</td>
</tr>
<tr>
<td>Property and equipment, net</td>
<td>$51,656</td>
<td>$63,733</td>
<td>$81,294</td>
<td>$81,294</td>
</tr>
<tr>
<td>Goodwill</td>
<td>$602</td>
<td>$40,267</td>
<td>$54,279</td>
<td>$54,279</td>
</tr>
<tr>
<td>Acquired intangible assets, net</td>
<td>$612</td>
<td>$10,279</td>
<td>$19,618</td>
<td>$19,618</td>
</tr>
<tr>
<td>Restricted cash</td>
<td>$9,270</td>
<td>$14,394</td>
<td>$14,394</td>
<td>$14,394</td>
</tr>
<tr>
<td>Other assets</td>
<td>$2,399</td>
<td>$3,348</td>
<td>$2,169</td>
<td>$2,169</td>
</tr>
<tr>
<td>Total assets</td>
<td>$318,341</td>
<td>$541,888</td>
<td>$618,559</td>
<td>$618,559</td>
</tr>
</tbody>
</table>

| **Liabilities and Stockholders’ Equity** |                   |                   |               |               |
| Current liabilities:   |                   |                   |               |               |
| Accounts payable       | $4,541            | $5,436            | $8,864        | $8,864        |
| Customers payable     | $95,794           | $148,648          | $215,892      | $215,892      |
| Accrued transaction losses | $7,488           | $8,452            | $15,844       | $15,844       |
| Accrued expenses       | $9,272            | $17,368           | $26,595       | $26,595       |
| Other current liabilities | $12,646          | $11,202           | $10,952       | $10,952       |
| Total current liabilities | $129,741         | $191,106          | $278,147      | $278,147      |
| Debt                   | —                 | $30,000           | $30,000       | $30,000       |
| Other liabilities      | $26,306           | $47,110           | $48,365       | $48,365       |
| Total liabilities      | $156,047          | $268,216          | $356,512      | $356,512      |

| Stockholders’ equity: |                   |                   |               |               |
| Convertible preferred stock, $0.0000001 par value, 135,333,610, 135,339,499 and 135,339,499 shares authorized at December 31, 2013, December 31, 2014, and June 30, 2015, respectively; 134,528,520, 135,252,809, and 135,252,809 issued and outstanding at December 31, 2013, December 31, 2014, and June 30, 2015, respectively. Liquidation preference of $370,967, $520,967, and $520,967 at December 31, 2013, December 31, 2014, and June 30, 2015, respectively. No shares authorized, issued and outstanding, pro forma June 30, 2015. | $366,197 | $514,945 | $514,945 | — |
| Common stock, $0.0000001 par value, 370,000,000, 445,000,000, and 445,000,000 shares authorized at December 31, 2013, December 31, 2014, and June 30, 2015, respectively; 138,017,900, 154,603,883, 155,753,087, and 291,005,896 issued and outstanding at December 31, 2013, December 31, 2014, June 30, 2015, and pro forma June 30, 2015, respectively. | — | — | — | — |
| Additional paid-in capital | $38,329 | $155,166 | $221,491 | $736,436 |
| Accumulated other comprehensive loss | (693) | (807) | (1,159) | (1,159) |
| Accumulated deficit | $(241,559) | $(395,632) | $(473,230) | $(473,230) |
| Total stockholders’ equity | $318,341 | $541,888 | $618,559 | $618,559 |
| Total liabilities and stockholders’ equity | $318,341 | $541,888 | $618,559 | $618,559 |

See accompanying notes to consolidated financial statements.

F-3
## SQUARE, INC.
### CONSOLIDATED STATEMENTS OF OPERATIONS
**(In thousands, except per share data)**

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31</th>
<th></th>
<th>Six Months Ended June 30</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>2013</td>
<td>2014</td>
<td>2014</td>
</tr>
<tr>
<td><strong>Revenue:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transaction revenue</td>
<td>$193,978</td>
<td>$433,737</td>
<td>$707,799</td>
<td>$309,908</td>
</tr>
<tr>
<td>Starbucks transaction revenue</td>
<td>9,471</td>
<td>114,456</td>
<td>123,024</td>
<td>56,613</td>
</tr>
<tr>
<td>Software and data product revenue</td>
<td>—</td>
<td>—</td>
<td>12,046</td>
<td>2,289</td>
</tr>
<tr>
<td>Hardware revenue</td>
<td>—</td>
<td>4,240</td>
<td>7,323</td>
<td>3,068</td>
</tr>
<tr>
<td><strong>Total net revenue</strong></td>
<td>$203,449</td>
<td>$552,433</td>
<td>$850,192</td>
<td>$371,878</td>
</tr>
<tr>
<td><strong>Cost of revenue:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transaction costs</td>
<td>126,351</td>
<td>277,833</td>
<td>450,858</td>
<td>196,076</td>
</tr>
<tr>
<td>Starbucks transaction costs</td>
<td>12,547</td>
<td>139,803</td>
<td>150,955</td>
<td>70,512</td>
</tr>
<tr>
<td>Software and data product costs</td>
<td>—</td>
<td>—</td>
<td>2,973</td>
<td>45</td>
</tr>
<tr>
<td>Hardware costs</td>
<td>—</td>
<td>6,012</td>
<td>18,330</td>
<td>8,365</td>
</tr>
<tr>
<td>Amortization of acquired technology</td>
<td>—</td>
<td>—</td>
<td>1,002</td>
<td>272</td>
</tr>
<tr>
<td><strong>Total cost of revenue</strong></td>
<td>$138,898</td>
<td>$423,648</td>
<td>$624,118</td>
<td>$275,270</td>
</tr>
<tr>
<td><strong>Gross profit</strong></td>
<td>$64,551</td>
<td>$128,785</td>
<td>$226,074</td>
<td>$96,608</td>
</tr>
<tr>
<td><strong>Operating expenses:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Product development</td>
<td>46,568</td>
<td>82,864</td>
<td>144,637</td>
<td>65,484</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>56,648</td>
<td>64,162</td>
<td>112,577</td>
<td>55,790</td>
</tr>
<tr>
<td>General and administrative</td>
<td>36,184</td>
<td>68,942</td>
<td>94,220</td>
<td>44,071</td>
</tr>
<tr>
<td>Transaction and advance losses</td>
<td>10,512</td>
<td>15,329</td>
<td>24,081</td>
<td>10,968</td>
</tr>
<tr>
<td>Amortization of acquired customer assets</td>
<td>—</td>
<td>—</td>
<td>1,050</td>
<td>230</td>
</tr>
<tr>
<td>Impairment of intangible assets</td>
<td>—</td>
<td>2,430</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td><strong>Total operating expenses</strong></td>
<td>$149,912</td>
<td>$233,727</td>
<td>$376,565</td>
<td>$176,543</td>
</tr>
<tr>
<td><strong>Operating loss</strong></td>
<td>(85,361)</td>
<td>(104,942)</td>
<td>(150,491)</td>
<td>(79,935)</td>
</tr>
<tr>
<td><strong>Interest (income) and expense</strong></td>
<td>5</td>
<td>(12)</td>
<td>1,058</td>
<td>182</td>
</tr>
<tr>
<td>Other (income) and expense</td>
<td>(167)</td>
<td>(950)</td>
<td>1,104</td>
<td>(220)</td>
</tr>
<tr>
<td><strong>Loss before income tax</strong></td>
<td>(85,199)</td>
<td>(103,980)</td>
<td>(152,653)</td>
<td>(79,897)</td>
</tr>
<tr>
<td><strong>Provision (benefit) for income taxes</strong></td>
<td>—</td>
<td>513</td>
<td>1,440</td>
<td>(542)</td>
</tr>
<tr>
<td><strong>Net loss</strong></td>
<td>$ (85,199)</td>
<td>$104,493</td>
<td>$(154,093)</td>
<td>$(79,355)</td>
</tr>
<tr>
<td><strong>Net loss per share:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>$ (0.71)</td>
<td>$ (0.62)</td>
<td>$ (1.08)</td>
<td>$ (0.57)</td>
</tr>
<tr>
<td>Diluted</td>
<td>$ (0.71)</td>
<td>$ (0.62)</td>
<td>$ (1.08)</td>
<td>$ (0.57)</td>
</tr>
<tr>
<td><strong>Weighted-average shares used to compute net loss per share:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>119,220</td>
<td>127,845</td>
<td>142,042</td>
<td>138,158</td>
</tr>
<tr>
<td>Diluted</td>
<td>119,220</td>
<td>127,845</td>
<td>142,042</td>
<td>138,158</td>
</tr>
<tr>
<td><strong>Pro forma net loss per share attributable to common stockholders (unaudited):</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>$ (0.56)</td>
<td></td>
<td>$ (0.56)</td>
<td>$ (0.27)</td>
</tr>
<tr>
<td>Diluted</td>
<td>$ (0.56)</td>
<td></td>
<td>$ (0.56)</td>
<td>$ (0.27)</td>
</tr>
</tbody>
</table>

See accompanying notes to consolidated financial statements.

F-4
SQUARE, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
(In thousands)

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31</th>
<th>Six Months Ended June 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>2013</td>
</tr>
<tr>
<td>Net loss</td>
<td>$(85,199)</td>
<td>$(104,493)</td>
</tr>
<tr>
<td>Net foreign currency translation adjustments</td>
<td>(4)</td>
<td>(689)</td>
</tr>
<tr>
<td>Total comprehensive loss</td>
<td>$(85,203)</td>
<td>$(105,182)</td>
</tr>
</tbody>
</table>

See accompanying notes to consolidated financial statements.

F-5
<table>
<thead>
<tr>
<th>Shares</th>
<th>Amount</th>
<th>Shares</th>
<th>Amount</th>
<th>Additional paid-in capital</th>
<th>Accumulated other comprehensive loss</th>
<th>Accumulated deficit</th>
<th>Total stockholders’ equity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convertible preferred stock</td>
<td>114,364,310</td>
<td>$144,442</td>
<td>128,816,360</td>
<td>$3,941</td>
<td>$51,847</td>
<td>$85,199</td>
<td>$96,536</td>
</tr>
<tr>
<td>Common stock</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Additional paid-in capital</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Accumulated other comprehensive loss</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Accumulated deficit</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Total stockholders’ equity</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

Net loss: $(85,199)

Shares issued in connection with:

- Exercise of stock options: 4,574,860
- Vesting of early exercised stock options: 2,035
- Issuance of common stock in connection with business combination: 242,700
- Repurchase of common stock: (3,145,840)
- Change in foreign currency translation: (689)
- Share-based compensation: 14,658

Balance at December 31, 2012: 134,528,520

Net loss: $(104,493)

Shares issued in connection with:

- Exercise of stock options: 7,900,670
- Vesting of early exercised stock options: 3,052
- Issuance of common stock: 50,400
- Repurchase of common stock: (3,145,840)
- Change in foreign currency translation: (689)
- Share-based compensation: 14,658

Balance at December 31, 2013: 134,528,520

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### Table of Contents

<table>
<thead>
<tr>
<th></th>
<th>Shares</th>
<th>Amount</th>
<th>Shares</th>
<th>Amount</th>
<th>Additional paid-in capital</th>
<th>Accumulated other comprehensive loss</th>
<th>Accumulated deficit</th>
<th>Total stockholders’ equity</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Convertible preferred stock</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shares issued in connection with:</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Exercise of stock options</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Vesting of early exercised stock options</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Issuance of common stock in connection with business combinations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Series E preferred stock financing</td>
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<tr>
<td>Contribution of preferred stock</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Repurchase of common stock</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Change in foreign currency translation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Share-based compensation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax benefit from share-based award activity</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Common stock</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shares issued in connection with:</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Exercise of stock options</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Vesting of early exercised stock options</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Issuance of common stock in connection with business combinations (unaudited)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>Contribution of common stock (unaudited)</td>
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<td>Repurchase of common stock (unaudited)</td>
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<td>Change in foreign currency translation (unaudited)</td>
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<td>Share-based compensation (unaudited)</td>
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<tr>
<td><strong>Additional paid-in capital</strong></td>
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<td>Exercise of stock options</td>
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<td>Vesting of early exercised stock options</td>
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<td>Issuance of common stock in connection with business combinations</td>
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<td>Share-based compensation</td>
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<td>Tax benefit from share-based award activity</td>
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<tr>
<td><strong>Accumulated other comprehensive loss</strong></td>
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<td>Tax benefit from share-based award activity</td>
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<tr>
<td><strong>Accumulated deficit</strong></td>
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<td>Share-based compensation</td>
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<tr>
<td>Tax benefit from share-based award activity</td>
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<tr>
<td><strong>Total stockholders’ equity</strong></td>
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</tbody>
</table>

Balance at December 31, 2014

<table>
<thead>
<tr>
<th>Shares</th>
<th>Amount</th>
<th>Shares</th>
<th>Amount</th>
<th>Additional paid-in capital</th>
<th>Accumulated other comprehensive loss</th>
<th>Accumulated deficit</th>
<th>Total stockholders’ equity</th>
</tr>
</thead>
</table>

Balance at June 30, 2015 (unaudited)

<table>
<thead>
<tr>
<th>Shares</th>
<th>Amount</th>
<th>Shares</th>
<th>Amount</th>
<th>Additional paid-in capital</th>
<th>Accumulated other comprehensive loss</th>
<th>Accumulated deficit</th>
<th>Total stockholders’ equity</th>
</tr>
</thead>
</table>

See accompanying notes to consolidated financial statements.

F-7
<table>
<thead>
<tr>
<th>Cash flows from operating activities:</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net loss</td>
<td>$(85,199)</td>
<td>$(104,493)</td>
<td>$(154,093)</td>
<td>$79,355</td>
<td>$(77,598)</td>
</tr>
<tr>
<td>Adjustments to reconcile net loss to net cash used in operating activities:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>3,579</td>
<td>8,272</td>
<td>18,586</td>
<td>7,713</td>
<td>11,955</td>
</tr>
<tr>
<td>Share-based compensation</td>
<td>8,114</td>
<td>14,658</td>
<td>36,100</td>
<td>14,321</td>
<td>28,693</td>
</tr>
<tr>
<td>Starbucks share-based incentive</td>
<td>1,999</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Excess tax benefit from share-based payment activity</td>
<td></td>
<td></td>
<td></td>
<td>(1,348)</td>
<td></td>
</tr>
<tr>
<td>Provision for transaction losses</td>
<td>10,512</td>
<td>15,080</td>
<td>18,478</td>
<td>7,983</td>
<td>21,592</td>
</tr>
<tr>
<td>Provision for uncollectible receivables related to merchant cash advances</td>
<td></td>
<td></td>
<td>2,431</td>
<td>1,285</td>
<td>3,137</td>
</tr>
<tr>
<td>Deferred tax assets</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impairment of intangible assets</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Changes in operating assets and liabilities:</td>
<td>(19,854)</td>
<td>(27,704)</td>
<td>(50,361)</td>
<td>(38,039)</td>
<td>(56,326)</td>
</tr>
<tr>
<td>Settlements receivable</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Merchandise payable</td>
<td>2,028</td>
<td>(942)</td>
<td>179</td>
<td>1,241</td>
<td>3,408</td>
</tr>
<tr>
<td>Other current assets</td>
<td>(7,605)</td>
<td>(2,384)</td>
<td>(14,190)</td>
<td>(6,299)</td>
<td>(4,733)</td>
</tr>
<tr>
<td>Other assets</td>
<td>(1,615)</td>
<td>2,668</td>
<td>(636)</td>
<td>(1,593)</td>
<td>1,177</td>
</tr>
<tr>
<td>Accrued expenses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other current liabilities</td>
<td></td>
<td>143</td>
<td>103</td>
<td>3,007</td>
<td>1,012</td>
</tr>
<tr>
<td>Other liabilities</td>
<td>8</td>
<td>14,288</td>
<td>23,295</td>
<td>16,415</td>
<td>7,388</td>
</tr>
<tr>
<td>Net cash used in operating activities</td>
<td>(42,925)</td>
<td>(60,577)</td>
<td>(109,394)</td>
<td>(50,733)</td>
<td>(10,739)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cash flows from investing activities:</th>
<th></th>
<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Purchase of property and equipment</td>
<td>(13,033)</td>
<td>(47,931)</td>
<td>(28,794)</td>
<td>(14,640)</td>
<td>(20,520)</td>
</tr>
<tr>
<td>Payment for acquisition of intangible assets</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Increases) decreases in restricted cash</td>
<td>(34,758)</td>
<td>40,000</td>
<td>(7,075)</td>
<td>(3,402)</td>
<td></td>
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<tr>
<td>Business acquisitions (net of cash acquired)</td>
<td></td>
<td>(2,872)</td>
<td>11,715</td>
<td>71</td>
<td>(3,750)</td>
</tr>
<tr>
<td>Net cash used in investing activities</td>
<td>(47,791)</td>
<td>(10,803)</td>
<td>(24,554)</td>
<td>(18,371)</td>
<td>(24,380)</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Cash flows from financing activities:</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Proceeds from issuance of preferred stock, net</td>
<td>221,754</td>
<td>1</td>
<td>148,748</td>
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<td></td>
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<tr>
<td>Principal payments on capital lease obligation</td>
<td>(190)</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Proceeds from debt</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Proceeds from the exercise of stock options</td>
<td>5,616</td>
<td>18,906</td>
<td>14,056</td>
<td>8,633</td>
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</tr>
<tr>
<td>Excess tax benefit from share-based payment award</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Net cash provided by financing activities</td>
<td>227,180</td>
<td>18,907</td>
<td>194,152</td>
<td>41,277</td>
<td>8,633</td>
</tr>
<tr>
<td>Effect of foreign exchange rate on cash and cash equivalents</td>
<td>(4)</td>
<td>(760)</td>
<td>(1,080)</td>
<td>214</td>
<td>(874)</td>
</tr>
<tr>
<td>Net increase (decrease) in cash and cash equivalents</td>
<td>136,460</td>
<td>(53,233)</td>
<td>59,124</td>
<td>(27,613)</td>
<td>(27,360)</td>
</tr>
<tr>
<td>Cash and cash equivalents, beginning of period</td>
<td>82,949</td>
<td>219,409</td>
<td>166,176</td>
<td>166,176</td>
<td>225,300</td>
</tr>
<tr>
<td>Cash and cash equivalents, end of period</td>
<td>$219,409</td>
<td>$166,176</td>
<td>$225,300</td>
<td>$138,563</td>
<td>$197,940</td>
</tr>
</tbody>
</table>

See accompanying notes to consolidated financial statements.

F-8
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1—DESCRIPTION OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Business

Square, Inc. (together with its subsidiaries, “Square” or the “Company”) was founded in 2009. The Company has extended its solution from payments and point-of-sale services to financial services and marketing services.

Basis of Presentation

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”) and include the accounts of the Company and its subsidiaries. All intercompany transactions and balances have been eliminated in consolidation.

Use of Estimates

The preparation of the Company’s consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses, as well as related disclosure of contingent assets and liabilities. Actual results could differ from the Company’s estimates. To the extent that there are material differences between these estimates and actual results, the Company’s financial condition or operating results will be materially affected. The Company bases its estimates on past experience and other assumptions that the Company believes are reasonable under the circumstances, and the Company evaluates these estimates on an ongoing basis.

Significant estimates, judgments and assumptions in these consolidated financial statements include those related to provisions for uncollectible receivables related to merchant cash advances (“MCAs”), provisions for transaction losses, useful lives for depreciation and amortization, valuation of acquired intangible assets, testing of goodwill impairment, valuation of long lived assets, acquisition accruals and preacquisition contingencies, valuation of deferred tax assets, provisions for uncertain tax positions, capitalization of software costs, and assumptions used for the recording of share-based compensation.

Unaudited Interim Financial Statements

The accompanying consolidated balance sheet as of June 30, 2015, the consolidated statements of operations, comprehensive loss and cash flows for the six months ended June 30, 2014 and 2015, and the consolidated statement of stockholders’ equity for the six months ended June 30, 2015 and related note information are unaudited. The unaudited interim financial statements have been prepared on the same basis as the annual consolidated financial statements and, in the opinion of management, reflect all adjustments, which include only normal recurring adjustments, necessary to present fairly the Company’s financial position and stockholders’ equity as of June 30, 2015, and the results of operations, comprehensive loss and cash flows for the six months ended June 30, 2014 and 2015. The financial data and the other information disclosed in these notes to the consolidated financial statements related to these six-month periods are unaudited. The results of the six months ended June 30, 2015 are not necessarily indicative of the results to be expected for the year ending December 31, 2015 or for any other future period.
Unaudited Pro Forma Balance Sheet

Upon the consummation of the initial public offering contemplated by the Company, all of the outstanding shares of convertible preferred stock will automatically convert into shares of common stock. The June 30, 2015 unaudited pro forma consolidated balance sheet data has been prepared assuming the conversion of the convertible preferred stock outstanding into 135,252,809 shares of common stock at the then effective conversion rate.

Revenue Recognition

The Company recognizes revenue when persuasive evidence of an arrangement exists, delivery of obligations to its customers has occurred, the related fees are fixed or determinable, and collectability is reasonably assured.

Transaction revenue

Transaction revenue consists of fees a seller pays the Company to process their payment transactions and is recognized upon authorization of a transaction. Revenue is recognized net of refunds, which are reversals of transactions initiated by sellers. The Company acts as the merchant of record for its sellers, and works directly with payment card networks and banks so that its sellers do not need to manage the complex systems, rules, and requirements of the payments industry. As the merchant of record, Square is liable for settlement of the transactions the Company processes for its sellers.

The Company charges its sellers a transaction fee for payment processing services equal to 2.75% of the total transaction amount for processing card-present transactions and for processing payments with Square Invoices, and 3.5% of the total transaction amount plus $0.15 per transaction for processing manually entered (card-not-present) transactions. The Company also selectively offers custom pricing for larger sellers.

The gross transaction fees collected from sellers are recognized as revenue on a gross basis as the Company is the primary obligor to the seller and is responsible for processing the payment, has latitude in establishing pricing with respect to the sellers and other terms of service, has sole discretion in selecting the third party to perform the settlement, and assumes the credit risk for the transaction processed.

Starbucks transaction revenue

The Company entered into a payment processing agreement with Starbucks Corporation (“Starbucks”) to provide payment processing services for a portion of their retail locations. Starbucks transaction revenue consists of fees paid by Starbucks, net of refunds, to process their payment transactions and is recognized upon authorization of a transaction. Revenue is recognized on a gross basis as the Company is the primary obligor to the seller and is responsible for processing the payments, has latitude in establishing pricing, has sole discretion in selecting the third party to perform the settlement, and assumes the credit risk for the transactions processed.

Software and data product revenue

Software and data product revenue primarily consists of revenue related to services provided through software offerings, or revenue derived through the use of underlying data, as follows:

- Software as a service, which includes Square Appointments and Square Customer Engagement. The Company provides the use of software for a fee which is recognized ratably over the relevant service period.
• Square Capital, which offers sellers a cash advance in exchange for a fixed amount of future receivables. For the cash advances in which the Company retains the right to receivables, the difference between the aggregate amount of the future receivables and the cash advance is recognized as revenue ratably as cash is collected. The Company also sells a portion of its future receivables related to its merchant cash advances to third parties. The Company collects and recognizes upfront fees, which are a fixed percentage of the cash advanced when the receivables are sold. The Company also charges third parties an ongoing servicing fee for facilitating the repayment of these receivables through its payment processing platform. The servicing fee is calculated as a fixed percentage of each repayment transaction processed and is collected and recognized as the servicing is performed.

• Caviar, which is a courier order management app that facilitates food delivery services for restaurants. The Company charges restaurants a commission fee based on total food order value for these services. The Company also charges consumers a fixed delivery fee per transaction, as well as a service fee which is based on total food order value. All fees are recognized upon delivery of the food, net of refunds.

Hardware revenue

Hardware revenue is generated from sales of Square Stand and third-party peripherals and Square Readers for EMV chip cards and NFC. Hardware revenue is recorded net of returns and is recognized upon delivery of hardware to the end customer.

Cost of Revenue

Transaction costs

Transaction costs consist primarily of interchange fees set by payment card networks that are paid to the card-issuing financial institution, assessment fees paid to payment networks, fees paid to third-party payment card processors, and bank settlement fees. The Company’s contracts with third-party payment processors are typically for a term of two to four years.

Starbucks transaction costs

Starbucks transaction costs are made up of the same components as the Company’s overall transaction costs.

Software and data product costs

Software and data products costs consist primarily of Caviar-related costs, which include payments to third-party couriers for deliveries and seller-facing equipment. Cost of revenue for other software and data products consist primarily of the allocated portion of costs related to third-party data center facilities and depreciation, as well as personnel-related and facilities costs related to customer support.

Hardware costs

Hardware costs consist of all product costs associated with Square Stand, Square Readers for EMV chip cards and NFC, and third-party peripherals. Product costs include manufacturing-related overhead and personnel costs, certain royalties, packaging, and fulfillment costs.
Amortization of acquired technology

Amortization of acquired technology costs consists of amortization related to technologies acquired through acquisitions that have the capability of producing revenue.

Marketing Expenses

Marketing expenses are expensed as incurred and include customer acquisition costs and advertising costs. Customer acquisition costs include manufacturing and distribution costs associated with the Company’s credit card readers, which are offered for free on the Company’s website and provided through various marketing events and distribution channels. The Company also offers rebates to new sellers for the retail price of the credit card readers purchased. The expected future rebates related to card readers distributed are accrued in other current liabilities on the consolidated balance sheets. These costs are partially offset by amounts received from distribution partners. Customer acquisition costs also include costs associated with the Company’s Square Cash app, which enables individuals to initiate peer-to-peer cash transfers free of charge. Customer acquisition costs are expensed as incurred.

Total customer acquisition costs for the years ended December 31, 2012, 2013, and 2014 were $20.9 million, $18.5 million, and $23.7 million, respectively. Total customer acquisition costs for the six months ended June 30, 2014 and 2015 were $12.4 million and $15.2 million, respectively.

Total advertising costs for the years ended December 31, 2012, 2013, and 2014 were $21.4 million, $24.8 million, and $38.2 million, respectively. Total advertising costs for the six months ended June 30, 2014 and 2015 totaled $22.0 million and $21.2 million, respectively.

Share-based Compensation

The Company measures compensation expense for all share-based payment awards, including stock options granted to employees, directors, and non-employees based on the estimated fair values on the date of each grant. The fair value of each stock option granted is estimated using the Black-Scholes-Merton option valuation model. Share-based compensation is recognized on a straight-line basis over the requisite service period, net of estimated forfeitures.

The Company has historically issued unvested restricted shares to employee stockholders of certain acquired companies. A portion of these awards is generally subject to continued post-acquisition employment, and this portion has been accounted for as post-acquisition share-based compensation expense. The Company recognizes compensation expense equal to the grant date fair value of the common stock on a straight-line basis over the period during which the employee is required to perform service in exchange for the award.

Income Taxes

The Company reports income taxes in accordance with Financial Accounting Standards Board Accounting Standards Codification (FASB ASC) 740, Income Taxes, which requires an asset and liability approach in accounting for income taxes. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases, as well as net operating loss and tax credit carryforwards. Deferred tax amounts are determined by using the enacted tax rates expected
to be in effect when the temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. A valuation allowance reduces the deferred tax assets to the amount that is more likely than not to be realized.

The Company uses financial projections to support its net deferred tax assets, which contain significant assumptions and estimates of future operations. If such assumptions were to differ significantly from actual future results of operations, it may have a material impact on the Company's ability to realize its deferred tax assets. At the end of each period, the Company assesses the ability to realize the deferred tax assets. If it is more likely than not that the Company would not realize the deferred tax assets, then the Company would establish a valuation allowance for all or a portion of the deferred tax assets.

The Company recognizes the effect of uncertain income tax positions only if those positions are more likely than not of being sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs.

The Company records interest and penalties related to uncertain tax positions in the provision for income tax expense on the consolidated statements of operations.

**Cash and Cash Equivalents and Restricted Cash**

The Company considers all highly liquid investments, including money market funds, with an original maturity of three months or less when purchased to be cash equivalents.

As of December 31, 2013, December 31, 2014, and June 30, 2015, restricted cash of $10.0 million, $12.0 million, and $12.0 million, respectively, is related to pledged cash deposited into savings accounts at the financial institutions that process the Company's sellers' payment transactions. The Company uses the restricted cash to secure letters of credit with the financial institution to provide collateral for cash flow timing differences in the processing of these payments. The Company has recorded this amount as a current asset on the consolidated balance sheets due to the short-term nature of these cash flow timing differences and that there is no minimum time frame during which the cash must remain restricted.

As of December 31, 2013, the remaining restricted cash of $9.3 million is related to cash deposited into money market funds that is used as collateral pursuant to multi-year lease agreements entered into in 2012 (note 16). As of both December 31, 2014 and June 30, 2015, the remaining restricted cash of $14.4 million is related to cash deposited into money market funds that is used as collateral pursuant to multi-year lease agreements entered into in 2012 and 2014 (note 16). The Company has recorded this amount as a non-current asset on the consolidated balance sheets as the terms of the related leases extend beyond one year.

**Concentration of Credit Risk**

For the year ended December 31, 2012, no individual customer accounted for greater than 10% of total net revenue. For the years ended December 31, 2013 and 2014, the Company had no customer other than Starbucks who accounted for greater than 10% of total net revenue. For the six months ended June 30, 2014 and 2015, the Company had no customer other than Starbucks who accounted for greater than 10% of total net revenue.
The Company had two third-party processors that represented approximately 69% and 28% of settlements receivable as of December 31, 2013. The Company had three third-party processors that represented approximately 50%, 33%, and 12% of settlements receivable as of December 31, 2014. The Company had three third-party processors that represented approximately 57%, 24%, and 11% of settlements receivable as of June 30, 2015.

The Company places its cash and cash equivalents with large financial institutions. Balances in these accounts exceed federally insured limits at times.

**Fair Value of Financial Instruments**

The Company applies the provisions of ASC 820, *Fair Value Measurement* (ASC 820), to its assets and liabilities that are required to be measured at fair value pursuant to other accounting standards. (see note 2).

**Settlements Receivable**

Settlements receivable represents the amounts that are owed to the Company as a result of customer transactions that have not yet been paid to the Company by third-party payment processors. Settlements receivable are typically received within one to three business days of the consolidated balance sheet date. No valuation allowances have been established related to the receivable balances as the funds are owed from large, well-established financial institutions, and the Company has had no historical issues collecting the funds owed from these financial institutions.

**Provision for Uncollectible Receivables Related to MCAs**

Merchant cash advance receivable, net represents the aggregate amount of MCA-related receivables owed by sellers as of the consolidated balance sheet date, net of an allowance for potential uncollectible receivables. The Company is not exposed to losses for the receivables that are sold to third parties in accordance with the Company’s arrangements with them. For the remaining receivables, the Company is generally exposed to losses related to uncollectibility, and, similar to the accrued transaction loss, the Company establishes losses for uncollectible receivables. The Company estimates the allowance based on an assessment of various factors, including historical experience, merchants’ current processing volume, and other factors that may affect the sellers’ ability to make future payments on the receivables. Additions to the allowance are reflected in current operating results, while charges against the allowance are made when losses are recognized. These additions are classified within transaction and advance losses on the consolidated statements of operations. Recoveries are reflected as a reduction in the allowance for uncollectible receivables when the recovery occurs. No provision existed prior to 2014, as Square Capital launched in 2014.

**Capitalized Software**

Costs of internal-use software are accounted for in accordance with FASB ASC Subtopic 350-40, *Internal-Use Software*, and FASB ASC Subtopic 350-50, *Intangibles—Website Development Costs*, which require the Company to expense software development costs as they are incurred during the preliminary project stage. Once the capitalization criteria as directed by ASC 350 have been met, external direct costs of materials and services consumed in developing or obtaining internal-use computer software and the payroll and payroll-related costs for employees who are directly associated with and who devote time to the internal-use computer software, are capitalized. Capitalized costs are
The Company capitalized $0.9 million, $2.4 million, and $6.4 million of internally developed software during the years ended December 31, 2012, 2013, and 2014, respectively, and recognized $0.2 million, $0.5 million, and $2.7 million of amortization expense during the years ended December 31, 2012, 2013, and 2014, respectively. The Company capitalized $3.5 million and $2.6 million of internally developed software during the six months ended June 30, 2014 and 2015, respectively, and recognized $0.7 million and $1.1 million of amortization expense during the six months ended June 30, 2014 and 2015, respectively.

Deferred Reader Costs

The Company capitalizes the cost of its magnetic stripe readers on its consolidated balance sheets until they are shipped to a third-party distributor or an end-customer, at which point they are recorded as marketing expense on the consolidated statements of operations. The amount capitalized represents the cost of the readers, including packaging and shipping costs, held on-hand by the Company as of each consolidated balance sheet date. These amounts are included in other current assets on the consolidated balance sheets.

Property and Equipment

Property and equipment are recorded at historical cost less accumulated depreciation, which is computed on a straight-line basis over the asset’s estimated useful life.

The estimated useful lives of property and equipment are described below:

<table>
<thead>
<tr>
<th>Property and Equipment</th>
<th>Useful Life</th>
</tr>
</thead>
<tbody>
<tr>
<td>Computer and data center equipment</td>
<td>Three years</td>
</tr>
<tr>
<td>Furniture and fixtures</td>
<td>Seven years</td>
</tr>
<tr>
<td>Leasehold improvements</td>
<td>Lesser of estimated useful life or remaining lease term</td>
</tr>
</tbody>
</table>

When assets are retired or otherwise disposed of, the cost and related accumulated depreciation are removed from their respective accounts, and any gain or loss on such sale or disposal is reflected in operating expenses.

Leases

The Company leases various office space and equipment. The Company classifies its leases as either operating or capital lease arrangements in accordance with the criteria of FASB ASC 840, Leases. Certain of these arrangements contain provisions under which monthly rent escalates over time and certain leases also contain provisions for reimbursement of a specified amount of leasehold improvements. When lease agreements contain escalating rent clauses, the Company recognizes rent expense on a straight-line basis over the term of the lease. When lease agreements provide allowances for leasehold improvements, the Company capitalizes the leasehold improvement assets and recognizes the related depreciation expense on a straight-line basis over the lesser of the lease term or the estimated useful life of the asset, and reduces rent expense on a straight-line basis over the term of the lease by the amount of the allowances provided.
Impairment of Long-Lived Assets

The Company evaluates the recoverability of property and equipment and other assets, including identifiable intangible assets with definite lives, whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets held and used is measured by comparing the carrying amount of an asset or an asset group to estimate undiscounted future net cash flows expected to be generated by the asset or asset group. If the carrying amount of an asset exceeds these estimated future cash flows, an impairment charge is recognized as the amount by which the carrying amount of the assets exceeds the fair value of the asset or asset group, based on discounted cash flows. Assets to be disposed of are reported at the lower of their carrying amount or fair value less cost to sell. The Company recorded an impairment charge of $2.4 million during the year ended December 31, 2013. There were no such charges during any other period presented.

Business Combinations, Goodwill, and Intangible Assets

The Company applies the provisions of ASC 805, Business Combinations, in the accounting for acquisitions. It requires the Company to recognize separately from goodwill the assets acquired and the liabilities assumed at their acquisition date fair values. Goodwill as of the acquisition date is measured as the excess of consideration transferred over the net of the acquisition date fair values of the assets acquired and the liabilities assumed. While the Company uses its best estimates and assumptions to accurately value assets acquired and liabilities assumed at the acquisition date as well as contingent consideration, where applicable, the Company’s estimates are inherently uncertain and subject to refinement. As a result, during the measurement period, which may be up to one year from the acquisition date, the Company may record adjustments to the assets acquired and liabilities assumed with the corresponding offset to goodwill. Upon the conclusion of the measurement period or final determination of the values of assets acquired or liabilities assumed, whichever comes first, any subsequent adjustments would be recorded to the Company’s consolidated statements of operations.

Uncertain tax positions and tax related valuation allowances assumed in connection with a business combination are initially estimated as of the acquisition date. The Company reviews these items during the measurement period as the Company continues to actively seek and collect information relating to facts and circumstances that existed at the acquisition date. Changes to these uncertain tax positions and tax related valuation allowances made subsequent to the measurement period, or if they relate to facts and circumstances that did not exist at the acquisition date, are recorded in the Company’s provision for income taxes in the consolidated statements of operations.

The Company performs a goodwill impairment test annually on December 31 and more frequently if events and circumstances indicate that the asset might be impaired. The impairment test is performed in accordance with FASB ASC 350—Intangibles—Goodwill and Other, and an impairment loss is recognized to the extent that the carrying amount exceeds the reporting unit’s fair value. The Company has the option to first assess qualitative factors to determine whether events or circumstances indicate that it is more likely than not that the fair value of a reporting unit is less than its carrying amount and determine whether further action is needed. If, after assessing the totality of events or circumstances, the Company determines it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, then performing the two-step impairment test is unnecessary. For the periods presented the Company had recorded no impairment charges.

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Acquired intangibles consist of acquired technology and customer relationships associated with various acquisitions. Acquired technology is initially recorded at fair value based on the present value of the estimated net future income-producing capabilities of software products acquired on acquisitions. The Company amortizes the acquired technology over its estimated useful life on a straight-line basis within cost of revenue. Customer relationships represent relationships that the Company has with customers of the acquired companies and are either based upon contractual or legal rights or are considered separable; that is, capable of being separated from the acquired entity and being sold, transferred, licensed, rented, or exchanged. These customer relationships are initially recorded at their fair value based on the present value of expected future cash flows. The Company amortizes customer relationships on a straight-line basis over their estimated useful lives within the Company’s operating expenses. The Company evaluates the remaining estimated useful life of its intangible assets being amortized on an ongoing basis to determine whether events and circumstances warrant a revision to the remaining period of amortization.

Customers Payable

Customers payable represents the transaction amounts, less revenue earned by the Company, owed to sellers. The payable amount comprises amounts owed to customers due to timing differences, amounts held by the Company in accordance with its risk management policies and amounts held for customers who have not yet linked a bank account.

Accrued Transaction Losses

The Company is exposed to transaction losses due to chargebacks which represent a potential loss due to a dispute between a seller and their customer or due to a fraudulent transaction. The Company establishes reserves for estimated losses arising from processing payment transactions. These reserves represent the estimated amounts necessary to provide for transaction losses incurred as of the reporting date, including those for which the Company has not yet been notified.

The reserves are based on known facts and circumstances as of the reporting date, including subsequent events, and historical trends related to loss rates. Additions to the reserve are reflected in current operating results, while charges to the reserve are made when losses are recognized. These amounts are classified within transaction and advance losses on the consolidated statements of operations.

The establishment of appropriate reserves for transaction losses is an estimate based on the available data and is inherently an uncertain process. Ultimately, losses may vary from the current estimates. The Company regularly updates its reserve estimates as new facts become known and events occur that may impact the settlement or recovery of losses.

Recently Issued Accounting Standards

In May 2014, the FASB issued Accounting Standards Update (ASU) No. 2014-09, Revenue from Contracts with Customers, a new accounting standard update on revenue recognition from contracts with customers. The new guidance will replace all current U.S. GAAP guidance on this topic and eliminate all industry-specific guidance. According to the new guidance, revenue is recognized when promised goods or services are transferred to customers in an amount that reflects the consideration for which the Company expects to be entitled in exchange for those goods or services. This guidance will be effective for annual reporting periods beginning after December 15, 2017, and interim periods within annual periods.
beginning after December 15, 2018. The guidance can be applied either retrospectively to each period presented or as a cumulative-effect adjustment as of the date of adoption. The Company has not yet selected a transition method and is evaluating the impact of adopting this new accounting standard update on the consolidated financial statements and related disclosures.

In August 2014, the FASB issued ASU No. 2014-15, "Presentation of Financial Statements—Going Concern". The new guidance provides guidance on management’s responsibility in evaluating whether there is substantial doubt about a company’s ability to continue as a going concern and about related footnote disclosures. For each reporting period, management will be required to evaluate whether there are conditions or events that raise substantial doubt about a company’s ability to continue as a going concern within one year from the date the consolidated financial statements are issued. This guidance will be effective for the Company’s fiscal year ending December 31, 2016, with early adoption permitted. The Company does not believe the pending adoption of ASU 2014-15 will have a material impact on the consolidated financial statements.

In April 2015, the FASB issued ASU No. 2015-03, "Interest—Imputation of Interest", accounting standards update under which the debt issuance costs related to a recognized debt liability will be required to be presented in the balance sheet as a direct deduction from the carrying amount of that debt liability, consistent with debt discounts. The amendment is effective for financial statements issued for fiscal years beginning after December 15, 2015, and interim periods within those fiscal years, with early adoption permitted. The Company early adopted this new guidance and it did not have any effect on the consolidated financial statements.

In April 2015, the FASB issued ASU No. 2015-05, "Intangibles—Goodwill and Other—Internal-Use Software". The new guidance will help entities evaluate the accounting for fees paid by a customer in a cloud computing arrangement by providing guidance as to whether an arrangement includes the sale or license of software. This guidance will be effective for the Company’s fiscal year ending December 31, 2016, with early adoption permitted. The Company does not believe the pending adoption of ASU 2015-05 will have a material impact on its consolidated financial statements.

In July 2015, the FASB issued ASU No. 2015-11, "Simplifying the Measurement of Inventory", as part of its simplification initiative. The current guidance requires an entity to measure inventory at the lower of cost or market. Market could be replacement cost, net realizable value, or net realizable value less an approximately normal profit margin. Under the new guidance, inventory is measured at the lower of cost and net realizable value, which would eliminate the other two options that currently exist for market replacement cost and net realizable value less an approximately normal profit margin. The amendment is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years, with early adoption permitted. The Company is currently evaluating the impact this new guidance may have on the consolidated financial statements.

NOTE 2—FAIR VALUE OF FINANCIAL INSTRUMENTS

FASB ASC 820, "Fair Value Measurements", provides a consistent framework to define, measure, and disclose the fair value of assets and liabilities in financial statements. ASC 820 establishes a three-level hierarchy priority for disclosure of assets and liabilities recorded at fair value. The ordering of priority reflects the degree to which objective prices in external active markets are available to measure fair value. The classification of assets and liabilities within the hierarchy is based on whether the inputs to the valuation methodology used for measurement are observable or unobservable.

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The Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company determines fair value based on assumptions that market participants would use in pricing an asset or liability in the principal or most advantageous market. When considering market participant assumptions in fair value measurements, the following fair value hierarchy distinguishes between observable and unobservable inputs, which are categorized in one of the following levels:

- **Level 1 Inputs**: Unadjusted quoted prices in active markets for identical assets or liabilities accessible to the reporting entity at the measurement date
- **Level 2 Inputs**: Other than quoted prices included in Level 1 inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the asset or liability
- **Level 3 Inputs**: Unobservable inputs for the asset or liability used to measure fair value to the extent that observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at measurement date.

As of December 31, 2014 and June 30, 2015, the fair value of the Company’s financial instruments, with the exception of cash equivalents, are categorized as Level 2. Cash and restricted cash are categorized as Level 1.

The carrying amounts of the Company’s financial instruments, which include cash equivalents, settlements receivable, merchant cash advance receivable, accounts payable, customers payable, and debt, approximate their fair values (a Level 2 measurement) due to their short-term nature.

**Financial Assets and Liabilities Measured at Fair Value on a Recurring Basis:**

The Company’s cash equivalents that are measured at fair value on a recurring basis are classified as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Level 1</td>
<td>Level 2</td>
<td>Level 3</td>
</tr>
<tr>
<td><strong>Cash and Cash Equivalents:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Money market funds</td>
<td>$94,810</td>
<td>$—</td>
<td>$—</td>
</tr>
<tr>
<td></td>
<td>$94,810</td>
<td>$—</td>
<td>$—</td>
</tr>
</tbody>
</table>

**Assets Measured at Fair Value on a Non-recurring Basis**

The Company measures certain assets at fair value on a non-recurring basis. These assets are recognized at fair value when they are deemed to be other-than-temporarily impaired. During the years ended December 31, 2012, 2013, and 2014 and the six months ended June 30, 2014 and 2015, no indications of other-than-temporary impairment were identified and therefore no fair value measurements were required.

If applicable, the Company will recognize transfers into and out of levels within the fair value hierarchy at the end of the reporting period in which the actual event or change in circumstance occurs. During the years ended December 31, 2012, 2013, and 2014 and the six months ended June 30, 2014 and 2015, the Company did not have any transfers in or out of Level 2 or Level 3 assets.
NOTE 3—MERCHANT CASH ADVANCE RECEIVABLE, NET

The Company enters into purchase and sale transactions with pre-qualified sellers in which the Company purchases a designated amount of future receivables for an upfront cash purchase price. The delivery of the future receivables purchased in exchange for the advance cash purchase price is facilitated through the merchant’s payment processing activities with the Company. There is no economic recourse to the seller in the event that the future receivables are not generated. There is also no fixed period of time in which the seller must deliver the purchased future receivables to the Company, as delivery of the purchased future receivables is contingent on the sellers’ generation of such receivables. The Company does have limited contractual remedies in the event that a seller breaches its agreement with the Company (e.g. where a seller does not use the Company as its exclusive processor while future receivables purchased by the Company remain outstanding). Although there is no economic recourse to the seller in the event that the future receivables are not generated, the degree of uncertainty related to this economic benefit is mitigated by the extensive due diligence performed by the Company prior to purchasing the seller’s future receivables, and is further mitigated by limited contractual remedies. The Company’s due diligence includes, but is not limited to: detailed analyses of the seller’s historical processing volumes, transaction count, chargebacks, growth, and account longevity.

The Company is exposed to losses related to uncollectible receivables purchased by the Company other than receivables that are sold to third parties in accordance with the Company’s arrangements with these third parties.

The Company establishes reserves for uncollectible receivables based on historical trends, adverse economic conditions, and specific merchant activity. Subsequent delivery to the Company of a previously designated uncollectable receivable is reflected as a reduction in the allowance for uncollectible receivables when the delivery of the receivable occurs. No provision existed prior to fiscal year 2014.

The following table summarizes the activities of the Company’s allowance for uncollectible receivables (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31, 2014</th>
<th>Six Months Ended June 30, 2015 (Unaudited)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allowance for uncollectible receivables, beginning of the period</td>
<td>$2,431</td>
<td>$2,431</td>
</tr>
<tr>
<td>Provision for uncollectible receivables</td>
<td>2,431</td>
<td>3,148</td>
</tr>
<tr>
<td>Receivables charged off</td>
<td></td>
<td>(302)</td>
</tr>
<tr>
<td>Allowance for uncollectible receivables, end of the period</td>
<td>$2,431</td>
<td>$5,277</td>
</tr>
</tbody>
</table>

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NOTE 4—PROPERTY AND EQUIPMENT, NET

The following is a summary of property, equipment, and internally-developed software at cost, less accumulated depreciation and amortization (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2013</th>
<th>December 31, 2014</th>
<th>June 30, 2015 (Unaudited)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Computer equipment</td>
<td>$ 21,339</td>
<td>$ 31,596</td>
<td>$ 40,009</td>
</tr>
<tr>
<td>Office furniture and equipment</td>
<td>5,182</td>
<td>6,488</td>
<td>7,324</td>
</tr>
<tr>
<td>Leasehold improvements</td>
<td>31,815</td>
<td>40,771</td>
<td>47,369</td>
</tr>
<tr>
<td>Internally-developed software</td>
<td>3,597</td>
<td>10,034</td>
<td>12,619</td>
</tr>
<tr>
<td>Construction in process</td>
<td>—</td>
<td>1,391</td>
<td>9,441</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>61,933</td>
<td>90,280</td>
<td>116,762</td>
</tr>
<tr>
<td>Less: Accumulated depreciation and amortization</td>
<td>(10,277)</td>
<td>(26,547)</td>
<td>(35,468)</td>
</tr>
<tr>
<td><strong>Property and equipment, net</strong></td>
<td>$ 51,656</td>
<td>$ 63,733</td>
<td>$ 81,294</td>
</tr>
</tbody>
</table>

Depreciation and amortization expense on property and equipment was $3.5 million, $8.2 million, and $16.5 million, for the years ended December 31, 2012, 2013, and 2014, respectively. Depreciation and amortization expense on property and equipment was $7.2 million and $9.2 million, for the six months ended June 30, 2014 and 2015, respectively.

Construction in Process

Construction in process consists of leasehold improvements and furniture at the Company’s offices under construction, as of December 31, 2014 and June 30, 2015. Upon completion of construction, the assets will be depreciated over their useful lives.

NOTE 5—ACQUISITIONS

Fiscal 2015 (unaudited)

During the six months ended June 30, 2015, the Company completed acquisitions for a total consideration of $26.6 million, consisting of 2,626,953 shares of common stock, options to purchase 26,173 shares of common stock, and $3.8 million in cash. Acquisition-related costs of $0.5 million were recognized in general and administrative expenses. Of the total purchase price, 355,284 shares of common stock and 22,818 options have been accounted for as post-combination compensation expense.

These acquisitions were accounted for as business combinations. This method requires, among other things, that assets acquired and liabilities assumed be recognized at their fair values as of the acquisition date. Of the total purchase consideration of $26.6 million, $14.0 million has been allocated to goodwill, $12.0 million to acquired intangible assets, $0.8 million to property and equipment, and $0.2 million to deferred tax liabilities. As of June 30, 2015, 618,383 shares of the total share consideration remain withheld for indemnification purposes.

Goodwill from these acquisitions is primarily attributable to expected synergies and cost reductions. $24.5 million of the intangible assets and goodwill generated from these acquisitions is deductible for tax purposes.
The results of operations from these acquisitions have been consolidated with those of Square as of the acquisition date. The acquisitions’ impact on revenue and net earnings for the six months ended June 30, 2015 were not material. There was also no material impact on the Company’s revenue and net earnings on a pro forma basis for all periods presented.

**Fiscal 2014**

**Caviar, Inc.**

On August 1, 2014, the Company acquired 100% of the outstanding shares of Caviar, Inc. ("Caviar"), a San Francisco-based food delivery service. This acquisition deepens the Company’s commitment to driving more commerce through innovative marketing services such as enabling delivery for restaurants that do not currently deliver.

Pursuant to the merger agreement, the Company issued 6,223,536 shares of common stock and 168,834 replacement stock options (including 1,296,701 shares and 119,409 replacement stock options related to replacement share-based awards that have been accounted for as post-combination compensation expense). During the year ended December 31, 2014, acquisition-related costs of $0.3 million were recognized in general and administrative expense. The results of Caviar’s operations have been included in the consolidated financial statements since the closing date.

The acquisition was accounted for as a business combination. This method requires, among other things, that assets acquired and liabilities assumed be recognized at their fair values as of the acquisition date.

The following table summarizes the consideration paid for Caviar and the estimated fair value of the assets acquired and liabilities assumed at the closing date (in thousands, except share data):

<table>
<thead>
<tr>
<th>Consideration:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Stock (4,926,701 shares of common stock)</td>
<td>$44,143</td>
</tr>
<tr>
<td>Options (49,425 common stock options)</td>
<td>173</td>
</tr>
<tr>
<td></td>
<td>$44,316</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Recognized amounts of identifiable assets acquired and liabilities assumed:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Current assets (inclusive of cash acquired of $11,644)</td>
<td>$11,823</td>
</tr>
<tr>
<td>Non-current assets</td>
<td>667</td>
</tr>
<tr>
<td>Intangible customer assets</td>
<td>5,300</td>
</tr>
<tr>
<td>Intangible technology assets</td>
<td>2,500</td>
</tr>
<tr>
<td>Total liabilities assumed</td>
<td>(3,026)</td>
</tr>
<tr>
<td>Total identifiable net assets acquired</td>
<td>17,264</td>
</tr>
<tr>
<td>Goodwill</td>
<td>27,052</td>
</tr>
<tr>
<td>Total</td>
<td>$44,316</td>
</tr>
</tbody>
</table>

The fair value of the acquired liabilities and goodwill is provisional, pending any adjustments related to potential unrecorded liabilities and any tax related impacts on the valuation of these items. The Company is continuing to assess the potential outcome of certain contingencies that existed at the time of acquisition.
As of December 31, 2014, 1,292,207 shares of the total share consideration remain withheld for indemnification purposes.

Goodwill from the Caviar acquisition is primarily attributable to expected synergies as the Company continues to develop integrated business management tools for sellers in the restaurant vertical. None of the goodwill generated from the Caviar acquisition is deductible for tax purposes.

The results of operations from the Caviar acquisition have been consolidated with those of the Company as of the acquisition date. The Caviar acquisition’s impact on revenue and net earnings were not material for the year ended December 31, 2014 or for the six months ended June 30, 2015. Similarly, its impact on the Company’s revenue and net earnings on a pro forma basis for all periods presented were not material.

**BookFresh, LLC**

On February 21, 2014, the Company acquired 100% of the outstanding shares of BookFresh, LLC (“BookFresh”), a San Francisco based company specializing in online appointment booking and scheduling software for small businesses. The acquisition of BookFresh accelerated the Company’s plans for Square Appointments.

Pursuant to the merger agreement, the Company issued 2,160,620 shares of common stock (including 57,060 shares related to replacement share-based awards that have been accounted for as post-combination compensation expense). Acquisition-related costs of $0.2 million were recognized in general and administrative expenses. The results of BookFresh’s operations have been included in the consolidated financial statements since the closing date.

The acquisition was accounted for as a business combination. This method requires, among other things, that assets acquired and liabilities assumed be recognized at their fair values as of the acquisition date.

The following table summarizes the consideration paid for BookFresh and the estimated fair value of the assets acquired and liabilities assumed at the closing date (in thousands, except share data):

<table>
<thead>
<tr>
<th>Consideration:</th>
<th>$15,259</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stock (2,103,560 shares of common stock)</td>
<td></td>
</tr>
<tr>
<td>Recognized amounts of identifiable assets acquired and liabilities assumed:</td>
<td></td>
</tr>
<tr>
<td>Current assets (inclusive of cash acquired of $71)</td>
<td>$128</td>
</tr>
<tr>
<td>Non-current assets</td>
<td>9</td>
</tr>
<tr>
<td>Intangible customer assets</td>
<td>1,300</td>
</tr>
<tr>
<td>Intangible technology assets</td>
<td>2,300</td>
</tr>
<tr>
<td>Total liabilities assumed</td>
<td>(1,091)</td>
</tr>
<tr>
<td>Total identifiable net assets assumed</td>
<td>2,646</td>
</tr>
<tr>
<td>Goodwill</td>
<td>12,613</td>
</tr>
<tr>
<td>Total</td>
<td>$15,259</td>
</tr>
</tbody>
</table>

As of December 31, 2014, 540,170 shares of the total share consideration remain withheld for indemnification purposes.

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Goodwill from the BookFresh acquisition is primarily attributable to expected synergies from future growth opportunities. None of the goodwill generated from the BookFresh acquisition is deductible for tax purposes.

The results of operations from the BookFresh acquisition have been consolidated with those of the Company as of the acquisition date. The BookFresh acquisition’s impact on revenue and net earnings for the year ended December 31, 2014 or for the six months ended June 30, 2015 were not material. Similarly, its impact on the Company’s revenue and net earnings on a pro forma basis for all periods were not material.

**Fiscal 2013**

**Minetta, LLC**

On November 29, 2013, the Company acquired certain assets and liabilities of Minetta, LLC (“Minetta”). Minetta’s main business purpose was to develop and support the Viewfinder mobile application, a tool for photo-sharing and social networking. The purpose of the transaction was to acquire technology and employees. The aggregate purchase price was $3.2 million and was paid in cash and equity of 24,270 shares of common stock (17,902 of the shares related to post combination compensation expense). Acquisition related costs of $0.2 million were recognized in general and administrative expenses.

The acquisition was accounted for as a business combination. This method requires, among other things, that assets acquired and liabilities assumed be recognized at their fair values as of the acquisition date.

The following table summarizes the consideration paid for Minetta and the estimated fair value of the assets acquired and liabilities assumed at the closing date (in thousands, except share data):

<table>
<thead>
<tr>
<th>Consideration:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
<td>$2,872</td>
</tr>
<tr>
<td>Stock (63,680 shares of common stock)</td>
<td>278</td>
</tr>
<tr>
<td>Fair value of total consideration transferred</td>
<td>$3,150</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Recognized amounts of identifiable assets acquired and liabilities assumed:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Current assets</td>
<td>$ 91</td>
</tr>
<tr>
<td>Property and equipment</td>
<td>27</td>
</tr>
<tr>
<td>Intangible assets</td>
<td>2,430</td>
</tr>
<tr>
<td>Total identifiable net assets assumed</td>
<td>2,548</td>
</tr>
<tr>
<td>Goodwill</td>
<td>602</td>
</tr>
<tr>
<td>Total</td>
<td>$3,150</td>
</tr>
</tbody>
</table>

Goodwill of $0.6 million arising from the acquisition consists primarily of the benefit of incorporating engineering talent from Minetta, and the full amount is deductible for tax purposes.

The Company fair valued the acquired intangible assets totaling $2.4 million using the cost approach. The market and income approaches were not used given (1) there are no comparable transactions for technology at a similar development stage, and (2) Minetta had not generated any revenue as of the acquisition date.
During December 2013, the Company determined that it needed to wind down the Minetta business and had no plans to utilize Minetta’s technology in its own products. As the acquired intangible assets were not expected to contribute directly or indirectly to the future cash flows of the Company, and there were no other ways to monetize the technology, the Company recorded an impairment charge of $2.4 million to reduce the carrying value of the Minetta intangible assets to zero. The Company recorded the impairment charge within operating expenses during the year ended December 31, 2013.

NOTE 6—GOODWILL

Goodwill is recorded when the consideration paid for an acquisition of a business exceeds the fair value of identifiable net tangible and intangible assets acquired.

The following table summarizes activities related to the carrying value of goodwill (in thousands):

<table>
<thead>
<tr>
<th>Description</th>
<th>December 31, 2012</th>
<th>Acquisition of Minetta, LLC</th>
<th>December 31, 2013</th>
<th>Acquisition of Minetta, LLC</th>
<th>December 31, 2014</th>
<th>Acquisitions completed during the six months ended June 30, 2015</th>
<th>June 30, 2015 (unaudited)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance at December 31, 2012</td>
<td>$ —</td>
<td></td>
<td>$ 602</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acquisition of Minetta, LLC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Balance at December 31, 2013</td>
<td>$ 602</td>
<td></td>
<td>$ 12,613</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acquisition of BookFresh, LLC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acquisition of Caviar, Inc.</td>
<td></td>
<td></td>
<td>$ 27,052</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Balance at December 31, 2014</td>
<td>$40,267</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acquisitions completed during the six months ended June 30, 2015</td>
<td></td>
<td></td>
<td>$14,012</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Balance at June 30, 2015 (unaudited)</td>
<td>$54,279</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The Company performed its annual goodwill impairment test as of December 31, 2014. The Company determined that the consolidated business is represented by a single reporting unit and concluded that it was more likely than not that the fair value of the reporting unit was greater than its carrying amount. As a result, the two-step goodwill impairment test was not required, and no impairments of goodwill were recognized during the year ended December 31, 2014.

NOTE 7—ACQUIRED INTANGIBLE ASSETS

The following table presents the detail of acquired intangible assets as of the periods presented (in thousands):

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
<th>Accumulated Amortization</th>
<th>Net</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patents</td>
<td>$1,285</td>
<td>$(296)</td>
<td>$989</td>
</tr>
<tr>
<td>Technology Assets</td>
<td>16,730</td>
<td>(2,746)</td>
<td>13,984</td>
</tr>
<tr>
<td>Customer Assets</td>
<td>6,645</td>
<td>(2,000)</td>
<td>4,645</td>
</tr>
<tr>
<td>Total</td>
<td>$24,660</td>
<td>$(5,042)</td>
<td>$19,618</td>
</tr>
</tbody>
</table>

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### Table of Contents

<table>
<thead>
<tr>
<th>Patents</th>
<th>Cost</th>
<th>Accumulated Amortization</th>
<th>Net</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$ 1,175</td>
<td>(244)</td>
<td>$ 931</td>
</tr>
<tr>
<td>Technology Assets</td>
<td>4,800</td>
<td>(1,002)</td>
<td>3,798</td>
</tr>
<tr>
<td>Customer Assets</td>
<td>6,600</td>
<td>(1,050)</td>
<td>5,550</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$12,575</strong></td>
<td><strong>(2,296)</strong></td>
<td><strong>$10,279</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Patents</th>
<th>Cost</th>
<th>Accumulated Amortization</th>
<th>Net</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$ 775</td>
<td>(163)</td>
<td>$ 612</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$775</strong></td>
<td><strong>(163)</strong></td>
<td><strong>$612</strong></td>
</tr>
</tbody>
</table>

The weighted-average amortization periods for acquired patents, acquired technology, and customer intangible assets are approximately thirteen years, four years, and six years, respectively.

Amortization expense associated with other intangible assets was $0.1 million, $0.1 million, and $2.1 million for the years ended December 31, 2012, 2013, and 2014, respectively. Amortization expense associated with other intangible assets was $0.5 million and $2.7 million for the six months ended June 30, 2014 and 2015, respectively.

The total estimated annual future amortization expense of these intangible assets as of December 31, 2014, are as follows (in thousands):

<table>
<thead>
<tr>
<th>Year</th>
<th>Amortization Expense (in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>$ 3,409</td>
</tr>
<tr>
<td>2016</td>
<td>2,533</td>
</tr>
<tr>
<td>2017</td>
<td>1,232</td>
</tr>
<tr>
<td>2018</td>
<td>634</td>
</tr>
<tr>
<td>2019</td>
<td>634</td>
</tr>
<tr>
<td>Thereafter</td>
<td>1,837</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$10,279</strong></td>
</tr>
</tbody>
</table>

The total estimated annual future amortization expense of these intangible assets as of June 30, 2015, are as follows (unaudited, in thousands):

<table>
<thead>
<tr>
<th>Year</th>
<th>Amortization Expense (in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015 (remaining 6 months)</td>
<td>$ 3,146</td>
</tr>
<tr>
<td>2016</td>
<td>4,895</td>
</tr>
<tr>
<td>2017</td>
<td>3,481</td>
</tr>
<tr>
<td>2018</td>
<td>2,883</td>
</tr>
<tr>
<td>2019</td>
<td>2,883</td>
</tr>
<tr>
<td>Thereafter</td>
<td>2,330</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$19,618</strong></td>
</tr>
</tbody>
</table>

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Other Current Assets

The following table presents the detail of other current assets (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2013</th>
<th>December 31, 2014</th>
<th>June 30, 2015 (Unaudited)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounts receivable</td>
<td>$2,269</td>
<td>$1,784</td>
<td>$2,154</td>
</tr>
<tr>
<td>Prepaid expenses</td>
<td>3,120</td>
<td>5,108</td>
<td>6,071</td>
</tr>
<tr>
<td>Deferred reader costs</td>
<td>855</td>
<td>2,488</td>
<td>2,134</td>
</tr>
<tr>
<td>Inventory</td>
<td>1,050</td>
<td>2,991</td>
<td>4,433</td>
</tr>
<tr>
<td>Tenant improvement reimbursement receivable</td>
<td>2,092</td>
<td>10,139</td>
<td>6,882</td>
</tr>
<tr>
<td>Deferred hardware costs</td>
<td>1,585</td>
<td>2,265</td>
<td>2,239</td>
</tr>
<tr>
<td>Other</td>
<td>1,687</td>
<td>3,059</td>
<td>8,670</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$12,658</strong></td>
<td><strong>$27,834</strong></td>
<td><strong>$32,583</strong></td>
</tr>
</tbody>
</table>

Other Current Liabilities

The following table presents the detail of other current liabilities (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2013</th>
<th>December 31, 2014</th>
<th>June 30, 2015 (Unaudited)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee early exercised stock options</td>
<td>$9,446</td>
<td>$5,827</td>
<td>$1,976</td>
</tr>
<tr>
<td>Accrued redemptions</td>
<td>1,900</td>
<td>2,020</td>
<td>2,024</td>
</tr>
<tr>
<td>Current portion of deferred rent</td>
<td>699</td>
<td>1,567</td>
<td>1,830</td>
</tr>
<tr>
<td>Deferred tax liabilities</td>
<td>—</td>
<td>454</td>
<td>447</td>
</tr>
<tr>
<td>Other</td>
<td>601</td>
<td>1,334</td>
<td>4,675</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$12,646</strong></td>
<td><strong>$11,202</strong></td>
<td><strong>$10,952</strong></td>
</tr>
</tbody>
</table>

Other Non-Current Assets

The following table presents the detail of other non-current assets (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2013</th>
<th>December 31, 2014</th>
<th>June 30, 2015 (Unaudited)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deposits</td>
<td>$1,784</td>
<td>$2,663</td>
<td>$706</td>
</tr>
<tr>
<td>Deferred tax assets</td>
<td>—</td>
<td>454</td>
<td>459</td>
</tr>
<tr>
<td>Other</td>
<td>615</td>
<td>231</td>
<td>1,004</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,399</strong></td>
<td><strong>$3,348</strong></td>
<td><strong>$2,169</strong></td>
</tr>
</tbody>
</table>
### Other Non-Current Liabilities

The following table presents the detail of other non-current liabilities (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>December 31, 2013</th>
<th>December 31, 2014</th>
<th>June 30, [Unaudited]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deferred rent</td>
<td>$14,671</td>
<td>$26,625</td>
<td>$26,314</td>
</tr>
<tr>
<td>Statutory liabilities</td>
<td>6,023</td>
<td>16,023</td>
<td>19,653</td>
</tr>
<tr>
<td>Other</td>
<td>111</td>
<td>1,099</td>
<td>1,339</td>
</tr>
<tr>
<td>Total</td>
<td>$26,306</td>
<td>$47,110</td>
<td>$48,365</td>
</tr>
</tbody>
</table>

### NOTE 10—DEBT

The Company entered into a revolving credit agreement with certain lenders in April 2014, which provided for a $225.0 million revolving unsecured credit facility maturing on April 4, 2019. As of December 31, 2014, $30.0 million was drawn under the credit facility, with $195.0 million remaining available. As of June 30, 2015, $30.0 million was drawn under the credit facility, with $195.0 million remaining available.

Loans under the credit facility bear interest, at the Company’s option, at (i) a base rate based on the highest of the prime rate, the federal funds rate plus 0.50% and an adjusted LIBOR rate for a one-month interest period plus 1.00%, in each case plus a margin ranging from 0.00% to 0.75% or (ii) an adjusted LIBOR rate plus a margin ranging from 1.00% to 1.75%. This margin is determined based on the Company’s total leverage ratio for the preceding four fiscal quarters and the Company’s status as a public or non-public company. The Company is obligated to pay other customary fees for a credit facility of this size and type including an annual administrative agent fee of $0.1 million and an unused commitment fee ranging from 0.10% to 0.25% depending on its leverage ratio. The Company paid $0.4 million in unused commitment fees during the year ended December 31, 2014. At December 31, 2014, the interest rate on the $30.0 million drawn amount was 4.00% and the commitment fee on the remaining available balance was 0.25%. At June 30, 2015, the interest rate on the $30.0 million drawn amount was 2.02% and the commitment fee on the remaining available balance was 0.25%.

### NOTE 11—ACCRUED TRANSACTION LOSSES

The Company is exposed to transaction losses due to chargebacks as a result of fraud or uncollectibility. Recoveries are reflected as a reduction in the reserve for transaction losses when the recovery occurs.

The following table summarizes the activities of the Company’s reserve for transaction losses (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
<th>Six Months Ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>2013</td>
</tr>
<tr>
<td>Accrued transaction losses, beginning of the period</td>
<td>$2,844</td>
<td>$6,021</td>
</tr>
<tr>
<td>Provision for transaction losses</td>
<td>10,512</td>
<td>15,080</td>
</tr>
<tr>
<td>Charge-offs and recoveries to accrued transaction losses</td>
<td>(7,335)</td>
<td>(13,613)</td>
</tr>
<tr>
<td>Accrued transaction losses, end of the period</td>
<td>$6,021</td>
<td>$7,488</td>
</tr>
</tbody>
</table>

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NOTE 12—INCOME TAXES

The domestic and foreign components of loss before income taxes are as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
</tr>
<tr>
<td>Domestic</td>
<td>$(83,081)</td>
</tr>
<tr>
<td>Foreign</td>
<td>(2,118)</td>
</tr>
<tr>
<td>Loss before income taxes</td>
<td>$(85,199)</td>
</tr>
</tbody>
</table>

The components of the provision for income taxes are as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
</tr>
<tr>
<td>Current:</td>
<td></td>
</tr>
<tr>
<td>Federal</td>
<td>$—</td>
</tr>
<tr>
<td>State</td>
<td>—</td>
</tr>
<tr>
<td>Foreign</td>
<td>—</td>
</tr>
<tr>
<td>Total current provision for income taxes</td>
<td>—</td>
</tr>
<tr>
<td>Deferred:</td>
<td></td>
</tr>
<tr>
<td>Federal</td>
<td>—</td>
</tr>
<tr>
<td>State</td>
<td>—</td>
</tr>
<tr>
<td>Foreign</td>
<td>—</td>
</tr>
<tr>
<td>Total deferred provision for income taxes</td>
<td>—</td>
</tr>
<tr>
<td>Total provision for income taxes</td>
<td>$—</td>
</tr>
</tbody>
</table>

The following is a reconciliation of the statutory federal income tax rate to the Company’s effective tax rate:

<table>
<thead>
<tr>
<th></th>
<th>Balance at December 31,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
</tr>
<tr>
<td>Tax at federal statutory rate</td>
<td>34.0%</td>
</tr>
<tr>
<td>State taxes, net of federal benefit</td>
<td>—</td>
</tr>
<tr>
<td>Foreign rate differential</td>
<td>—</td>
</tr>
<tr>
<td>Nondeductible expenses</td>
<td>—</td>
</tr>
<tr>
<td>Credits</td>
<td>—</td>
</tr>
<tr>
<td>Other items</td>
<td>—</td>
</tr>
<tr>
<td>Change in valuation allowance</td>
<td>(34.0)</td>
</tr>
<tr>
<td>Total</td>
<td>—%</td>
</tr>
</tbody>
</table>
The tax effects of temporary differences and related deferred tax assets and liabilities are as follows (in thousands):

<table>
<thead>
<tr>
<th>Deferred tax assets:</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capitalized costs</td>
<td>$416</td>
<td>$468</td>
<td>$28,102</td>
</tr>
<tr>
<td>Accrued expenses</td>
<td>2,498</td>
<td>5,746</td>
<td>19,714</td>
</tr>
<tr>
<td>Net operating loss carryforwards</td>
<td>47,565</td>
<td>53,505</td>
<td>54,528</td>
</tr>
<tr>
<td>Tax credit carryforwards</td>
<td>1,493</td>
<td>7,699</td>
<td>11,662</td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>—</td>
<td>2,381</td>
<td>—</td>
</tr>
<tr>
<td>Share-based compensation</td>
<td>2,981</td>
<td>5,085</td>
<td>13,153</td>
</tr>
<tr>
<td>Other</td>
<td>—</td>
<td>—</td>
<td>542</td>
</tr>
<tr>
<td>Total deferred tax assets</td>
<td>54,953</td>
<td>74,884</td>
<td>127,701</td>
</tr>
</tbody>
</table>

Valuation allowance                             |
(54,943)                                        |
(74,884)                                        |
(125,368)                                       |

Total deferred tax assets, net of valuation allowance | 10 | — | 2,333 |

Deferred tax liabilities:
| Property, equipment and intangible assets       | (10)     | —     | (2,333) |
| Total deferred tax liabilities                  | (10)     | —     | (2,333) |

Net deferred tax assets                         |
$—                                                |
$—                                                |
$—                                                |

Realization of deferred tax assets is dependent upon the generation of future taxable income, the timing and amount of which are uncertain. Due to the history of losses the Company has generated in the past, the Company believed as of December 31, 2014, that it is more likely than not that its deferred tax assets would not be realized. Accordingly, the Company retained a full valuation allowance on its deferred tax assets. The amount of deferred tax assets considered realizable in future periods may change as management continues to reassess the underlying factors it uses in estimating future taxable income.

The valuation allowance increased by approximately $34.0 million, $19.9 million, and $50.5 million during the years ended December 31, 2012, 2013, and 2014, respectively.

As of December 31, 2014, the Company had $45.7 million of federal, $123.3 million of state, and $31.3 million of foreign net operating loss carryforwards, which will begin to expire in 2032 for federal and 2019 for state tax purposes. The foreign net operating loss carryforwards do not expire.

The benefit of stock options will only be recorded to stockholders’ equity when cash taxes payable is reduced. As of December 31, 2014, approximately $62.3 million of net operating loss is attributable to certain employee stock option deductions. This amount will be credited to stockholders’ equity when it is realized on the tax return.

As of December 31, 2014, the Company also had $6.9 million of federal and $5.4 million of state research credit carryforwards. The federal credit carryforward will begin to expire in 2029 while the state credit carryforward has no expiration date.
The Company also has California Enterprise Zone credit carryforwards of $1.8 million, which will begin to expire in 2023.

An annual limitation may apply to the use of the net operating loss and credit carryforwards, under provisions of the Internal Revenue Code and similar state tax provisions that are applicable if the Company experiences an “ownership change.” As of December 31, 2014, the Company has performed an analysis on the potential limitations on the utilization of net operating losses and determined that they are not subject to any limitations that would preclude the use of the net operating losses.

As of December 31, 2014, the unrecognized tax benefit was $78.0 million, of which $1.0 million would impact the annual effective tax rate if recognized and the remainder of which would result in a corresponding adjustment to the valuation allowance. As of June 30, 2015, the Company had an unrecognized tax benefit of $100.2 million, of which $1.3 million would impact the annual effective tax rate if recognized and the remainder of which would result in a corresponding adjustment to the valuation allowance.

A reconciliation of the beginning and ending amount of unrecognized tax benefit is presented below (in thousands):

<table>
<thead>
<tr>
<th>Year Ended December 31.</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance at the beginning of the year</td>
<td>$ 45</td>
<td>$ 105</td>
<td>$14,152</td>
</tr>
<tr>
<td>Additions related to prior year tax positions</td>
<td>—</td>
<td>513</td>
<td>27,080</td>
</tr>
<tr>
<td>Reductions related to prior year tax positions</td>
<td>—</td>
<td>—</td>
<td>(390)</td>
</tr>
<tr>
<td>Additions related to current year tax positions</td>
<td>60</td>
<td>13,534</td>
<td>37,189</td>
</tr>
<tr>
<td>Balance at the end of the year</td>
<td>$ 105</td>
<td>$14,152</td>
<td>$78,031</td>
</tr>
</tbody>
</table>

The Company recognizes interest and penalties related to income tax matters as a component of income tax expense. As of December 31, 2014, there were no significant accrued interest and penalties related to uncertain tax positions. The Company does not believe that it will release any significant unrecognized tax benefits within the next 12 months.

The Company is subject to taxation in the United States and various state and foreign jurisdictions. The Company’s various tax years starting with 2009 to 2014 remain open in various taxing jurisdictions.

As of December 31, 2014, the Company has not provided deferred U.S. income taxes or foreign withholding taxes on temporary differences resulting from earnings for certain non-U.S. subsidiaries, which are permanently reinvested outside the U.S. Those earnings and the unrecognized deferred tax liability associated with these temporary differences were not material at December 31, 2014.

NOTE 13—STOCKHOLDERS’ EQUITY

Retirement of Preferred Stock

In January 2014, the Company's Chief Executive Officer contributed 8,976,000 shares of preferred stock back to the Company for no consideration. The purpose of the contribution was to retire such shares in order to offset stock ownership dilution to existing investors in connection with future issuances under the 2009 Stock Plan.
Convertible Preferred Stock

At both December 31, 2014 and June 30, 2015, convertible preferred stock consisted of the following (in thousands, except share data):

<table>
<thead>
<tr>
<th>Series</th>
<th>Authorized Shares</th>
<th>Outstanding Shares</th>
<th>Liquidation amount</th>
<th>Proceeds, net of issuance costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Series A</td>
<td>46,787,400</td>
<td>46,700,710</td>
<td>$10,100</td>
<td>$9,970</td>
</tr>
<tr>
<td>Series B-1</td>
<td>13,893,330</td>
<td>13,893,330</td>
<td>10,000</td>
<td>9,949</td>
</tr>
<tr>
<td>Series B-2</td>
<td>27,030,040</td>
<td>27,030,040</td>
<td>25,778</td>
<td>21,637</td>
</tr>
<tr>
<td>Series C</td>
<td>17,764,230</td>
<td>17,764,230</td>
<td>103,000</td>
<td>102,886</td>
</tr>
<tr>
<td>Series D</td>
<td>20,164,210</td>
<td>20,164,210</td>
<td>222,089</td>
<td>221,755</td>
</tr>
<tr>
<td>Series E</td>
<td>9,700,289</td>
<td>9,700,289</td>
<td>150,000</td>
<td>148,748</td>
</tr>
<tr>
<td>Total</td>
<td>135,339,499</td>
<td>135,252,809</td>
<td>$520,967</td>
<td>$514,945</td>
</tr>
</tbody>
</table>

Liquidation Preference

In the event of any liquidation or winding up of the Company, the holders of Series E convertible preferred stock shall be entitled to receive, in preference of the common stock holders and other preferred stock holders, an amount equal to $15.46345 per share of Series E preferred stock. After this Series E distribution, other holders of convertible preferred stock shall be entitled to receive, in preference to the common stock holders, an amount per share equal to $0.21627 per share for Series A, $0.71977 per share for Series B-1, $0.95369 per share for Series B-2, $5.79817 per share for Series C, and $11.014 per share for Series D. Thereafter remaining assets shall be distributed ratably to the holders of common stock.

Conversion

Each share of convertible preferred stock is convertible into common stock at the option of the holder on a one-for-one basis. Series A convertible preferred stock will be automatically converted into common stock upon the earlier of (i) the vote or written consent of the holders of a majority of the then-outstanding shares of Series A convertible preferred stock, voting together as a separate class or (ii) the consummation of a firmly underwritten public offering pursuant to the Securities Act of 1933, as amended, with aggregate cash proceeds to the Company in such offering of not less than $50 million. Series B convertible preferred stock will be automatically converted into common stock upon the earlier of (i) the vote or written consent of the holders of at least 60% of the then-outstanding shares of Series B convertible preferred stock, voting together as a separate class on an as-converted basis or (ii) the consummation of a firmly underwritten public offering pursuant to the Securities Act of 1933, as amended, with aggregate cash proceeds to the Company in such offering of not less than $50 million. Series C convertible preferred stock will be automatically converted into common stock upon the earlier of (i) the vote or written consent of the holders of at least 60% of the then-outstanding shares of Series C convertible preferred stock, voting together as a separate class on an as-converted basis or (ii) the consummation of a firmly underwritten public offering pursuant to the Securities Act of 1933, as amended, with aggregate cash proceeds to the Company in such offering of not less than $50 million, provided that the offering price per share in such public offering is not less than $6.957804 per share (adjusted for stock splits, stock dividends, etc.). Series D convertible preferred stock will be automatically converted into common stock upon the earlier of (i) the vote or written consent of the holders of a majority of
the holders of the then-outstanding shares of Series D convertible preferred stock, voting together as a separate class on an as-converted basis or
(ii) the consummation of a firmly underwritten public offering pursuant to the Securities Act of 1933, as amended, with aggregate cash proceeds to
the Company in such offering not less than $50 million, provided the offering price per share in such public offering is not less than $13.217 (adjusted
for stock splits, stock dividends, etc.). Series E convertible preferred stock will be automatically converted into common stock upon the earlier of
(i) the vote or written consent of the holders of a majority of the then-outstanding shares of Series E convertible preferred stock, voting together as a
separate class on an as-converted basis or (ii) the consummation of a firmly underwritten public offering pursuant to the Securities Act of 1933, as
amended, with aggregate cash proceeds to the Company in such offering of not less than $50 million.

The initial conversion price for the convertible preferred stock is $0.21627 for the Series A preferred stock, $0.71977 for the Series B-1 preferred stock, $0.95369 for the Series B-2 preferred stock, $5.79817 for the Series C preferred stock, $11.014 for the Series D preferred stock, and
$15.46345 for the Series E preferred stock. In the event the Company issues shares of additional stock, subject to customary exceptions, after the
preferred stock original issue date without consideration or for a consideration per share less than the initial conversion price in effect immediately
prior to such issuance, then in each such event the conversion price shall be reduced to a price equal to such conversion price multiplied by the
following fraction:

- the numerator of which is equal to the deemed number of shares of common stock outstanding plus the number of shares of common
  stock, that the aggregate consideration received by the Company for the total number of additional shares of common stock so issued
  would purchase at the conversion price immediately prior to such issuance; and
- the denominator of which is equal to the deemed number of shares of common stock outstanding immediately prior to such issuance plus
  the deemed number of additional shares of common stock so issued.

Series E preferred stock contains a provision for the adjustment of conversion price upon a public offering. In the event of such offering, in
which the price per share of the Company’s common stock is less than $18.55614 (adjusted for stock splits, stock dividends, etc.), then the then-
existing conversion price for the Series E preferred stock shall be adjusted so that, as of immediately prior to the completion of such public offering,
each share of Series E preferred stock shall convert into (A) the number of shares of common stock issuable on conversion of such share of Series E
preferred stock; and (B) an additional number of shares of common stock equal to (x) the difference between $18.55614 and the public offering price,
y divided by the public offering share price.

Voting

The holders of the convertible preferred stock are entitled to the number of votes equal to the number of shares of common stock into which
the preferred stock is convertible.

Dividends

The holders of convertible preferred stock are entitled to receive, when and if declared by the board of directors, dividends at an annual per
share rate of $0.01730 for Series A, $0.05758 for Series B-1, $0.07630 for Series B-2, $0.46385 for Series C, $0.88112 for Series D, and $15.46345
for Series E. Dividends are paid on a pari passu basis with other
convertible preferred stock holders and in preference to the payment of dividends to holders of common stock of the Company. After payment of dividends on shares of convertible preferred stock, any additional dividends will be distributed among the holders of convertible preferred stock and common stock pro rata based on the number of shares of common stock then held by each holder (assuming conversion of all preferred stock into common stock). No dividends have been declared or paid by the Company as of December 31, 2014 or as of June 30, 2015. Dividends are noncumulative.

Protective Provisions

So long as at least 8,620,000 shares of convertible preferred stock are outstanding (as adjusted for stock splits, dividends, reclassification, etc.), the Company may not, without first obtaining the approval of the holders of a majority of the then outstanding shares of convertible preferred stock voting together as a single class and on an as-converted basis: (i) alter or change the rights, preferences, or privileges of the shares of any outstanding series of convertible preferred stock; (ii) increase or decrease (other than by conversion) the total number of authorized shares of convertible preferred stock or any series thereof, or common stock; (iii) authorize or issue or obligate itself to issue any other equity security, including any security convertible into or exercisable for any equity security, having a preference over, or being on a parity with, any outstanding series of convertible preferred stock with respect to voting, dividends, redemption, conversion, or upon liquidation; (iv) redeem, purchase, or otherwise acquire any share of convertible preferred stock or common stock; provided, however, that this restriction does not apply to the repurchase of shares of common stock from employees, officers, directors, consultants, or other persons or entities performing services for the Company or any subsidiary pursuant to agreements under which the Company has the option to repurchase such shares at no greater than cost upon the occurrence of certain events, such as the termination of employment, or through the exercise of any right of first refusal; (v) declare or pay a dividend or other distribution with respect to any shares of the Company’s capital stock; (vi) change the number of directors of the Company; (vii) effect a change of control, liquidation, dissolution, or winding up of the Company, or the acquisition of another company or business by the Company unless (a) the cash consideration payable or the then-fair market value of securities issuable by the Company for such acquisition of another company or business is less than or equal to $75 million, and (b) such acquisition is approved by the board of directors; (viii) materially change the compensation of, or grant equity to, any member of the management team of the Company, or the founders of the Company, unless such change or grant is approved by the board of directors (including a majority of the directors elected by the holders of convertible preferred stock); or (ix) amend the Company’s Certificate of Incorporation or Bylaws.

So long as any shares of Series B-1 or B-2 convertible preferred stock are outstanding, the Company may not, without first obtaining the approval of the holders of at least 60% of the then-outstanding shares of Series B-1 and B-2 convertible preferred stock, voting together as a single class and on an as-converted basis: effect a change of control, liquidation, dissolution, or winding up of the Company in which the holders of Series B-1 and Series B-2 convertible preferred stock would receive an amount per share less than the original issue price plus any declared but unpaid dividends on such shares of Series B-1 and Series B-2 convertible preferred stock.

So long as any shares of Series C convertible preferred stock are outstanding, the Company may not, without first obtaining the approval of the holders of at least 60% of the then-outstanding shares of Series C convertible preferred stock, voting together as a single class and on an as-converted basis: (i) alter or change the powers, preferences, or special rights of the shares of Series C convertible preferred stock so as to affect them adversely (provided, however, that the authorization or issuance of a new series of preferred stock by the Company shall not, on its own, be deemed to adversely affect the powers, preferences or special rights of the Series C convertible preferred stock); (ii) create or authorize the...
creation of additional shares of Series C convertible preferred stock; or (iii) effect a change of control, liquidation, dissolution, or winding up of the Company in which the holders of Series C convertible preferred stock would receive an amount per share less than the original issue price plus any declared but unpaid dividends on such shares of Series C convertible preferred stock.

So long as any shares of Series D convertible preferred stock are outstanding, the Company may not, without first obtaining the approval of the holders of a majority of the then-outstanding shares of Series D convertible preferred stock, voting together as a single class and on an as-converted basis: (i) alter or change the powers, preferences, or special rights of the shares of Series D convertible preferred stock so as to affect them adversely (provided, however, that the authorization or issuance of a new series of preferred stock by the Company shall not, on its own, be deemed to adversely affect the powers, preferences, or special rights of the Series D convertible preferred stock); (ii) create or authorize the creation of additional shares of Series D convertible preferred stock; or (iii) effect a change of control, liquidation, dissolution, or winding up of the Company in which the holders of Series D convertible preferred stock would receive an amount per share less than the original issue price plus any declared but unpaid dividends on such shares of Series D convertible preferred stock.

So long as any shares of Series E convertible preferred stock are outstanding, the Company may not, without first obtaining the approval of the holders of a majority of the then-outstanding shares of Series E convertible preferred stock, voting together as a single class and on an as-converted basis is required on the following matters: (i) alter or change the powers, preferences, or special rights of the shares of Series E convertible preferred stock so as to affect them adversely (provided, however, that the authorization or issuance of a new series of senior or pari passu preferred stock by the Company shall not, on its own, be deemed to (x) adversely affect the powers, preferences, or special rights of the Series E convertible preferred stock, or (y) adversely affect the Series E preferred stock in a manner different than the other series of preferred stock, such that no vote or consent of the Series E Preferred Stock, voting as a separate class, will be required for the authorization or issuance of a new series of senior or pari passu preferred stock by the Company); or (ii) create or authorize the creation of additional shares of Series E convertible preferred stock.

**Redemption**

The convertible preferred shares are not redeemable.

**Common stock**

Holders of common stock are entitled to one vote per share, and to receive dividends and, upon liquidation or dissolution, are entitled to receive all assets available for distribution to common stockholders. The holders have no preemptive or other subscription rights and there are no redemption or sinking fund provisions with respect to such shares. Common stock is subordinate to the preferred stock with respect to dividend rights and rights upon liquidation, winding up and dissolution of the Company. As of December 31, 2013 and 2014, there were 370,000,000 and 445,000,000 shares of common stock authorized for each period presented and 138,017,900 and 154,603,683 shares issued and outstanding, respectively. As of June 30, 2015 there were 445,000,000 shares of common stock authorized and 155,753,087 shares issued and outstanding.

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Common Stock Subject to Repurchase

In 2011, the Company gave service providers the option of amending their existing stock option agreements to allow them to exercise stock options prior to vesting. This amendment was not considered to be a modification of a stock option for accounting purposes. After the amendment was made, the Company offered this option to all new service providers that received stock option grants. The Company has the right to repurchase at the original purchase price any unvested (but outstanding) common shares upon termination of service of a service provider. The consideration received for an early exercise of a stock option is considered to be a deposit of the exercise price and the related amount is recorded as a liability. The liability is reclassified into equity on a ratable basis as the stock options vest. The Company has recorded a liability, in other current and other non-current liabilities, of $9.2 million as of December 31, 2014 for the 16,455,816 shares that were early exercised by service providers in 2011 through 2014 and initially subject to repurchase by the Company. Unvested shares of 2,465,866 at December 31, 2014 were subject to a repurchase right held by the Company at the original issuance price in the event the optionees’ employment is terminated either voluntarily or involuntarily. The Company has recorded a liability, in other current and other non-current liabilities, of $3.0 million as of June 30, 2015 for the 16,893,307 shares that were early exercised by employees in 2011 through June 30, 2015 and initially subject to repurchase by the Company. Unvested shares of 704,004 at June 30, 2015 were subject to a repurchase right held by the Company at the original issuance price in the event the optionees’ employment is terminated either voluntarily or involuntarily. The shares that are subject to a repurchase right held by the Company are legally issued and outstanding shares as of each period presented.

Warrants

On August 7, 2012, the Company entered into a payment processing agreement with Starbucks and issued it three warrants to purchase common stock, which warrants become exercisable if certain performance thresholds under the agreement are achieved prior to the termination of the agreement. The first warrant is exercisable for up to 9,456,950 shares of the Company’s common stock at $11.01 per share, if the Company’s payment processing solution is available in 33% of Starbucks’ owned and operated stores in the United States. The second warrant is exercisable for up to 3,152,310 shares of the Company’s common stock at $14.37 per share, if the Company’s payment processing solution is available in 25% of Starbucks’ owned and operated stores in the United Kingdom. The third warrant is exercisable for up to 3,152,310 shares of the Company’s common stock at $14.37 per share, if the Company’s payment processing solution is available in 25% of Starbucks’ owned and operated stores in Japan. The warrants also become exercisable even if such performance thresholds are not achieved if the Company consummates a change of control transaction, which does not include an initial public offering of the Company’s equity securities. The warrants expire on the earlier of: (1) five years from the date of exercisability; (2) the termination of the related commercial agreement; or (3) the consummation of a change of control transaction.

On November 8, 2012, the performance threshold related to the warrant to purchase 9,456,950 shares was reached. As such, the Company recognized the fair value of the warrant in the amount of $2.2 million, using a Black-Scholes option pricing model, as a share-based customer incentive, a contra-revenue component of the Company’s Starbucks transaction revenue. Due to certain provisions contained within the original warrant agreements, the Company was required to remeasure the fair value of the warrants through earnings each reporting period. The Company recognized the changes in fair value within other income and expense.

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On September 30, 2013, the Company and Starbucks entered into an amendment to the warrant agreements, which included the removal of a financing down round protection provision. As a result, the warrants were thereafter considered to be indexed to the Company’s own common stock valuation, and liability-classification is no longer required. On September 30, 2013, the Company performed a final remeasurement of the fair value of the warrants and reclassified the balance from liability to equity. The Company recognized the change in fair value within other income and expense.

The exercisability of the remaining two warrants is contingent upon the achievement of certain performance thresholds, which the Company does not expect to be achieved, or the closing of a change of control transaction. As a result, the Company does not believe it to be probable that these warrants will become exercisable. Accordingly, the Company has not assigned any value to the remaining two warrants in its consolidated financial statements as of December 31, 2014 or as of June 30, 2015.

Stock Option Plan

Under the 2009 Stock Option Plan (the “Plan”), shares of common stock are reserved for the issuance of incentive stock options (ISOs) or non-statutory stock options (NSOs) to eligible participants. The options may be granted at a price per share not less than the fair market value at the date of grant. Options granted generally vest over a four-year term from the date of grant, at a rate of 25% after one year, then monthly on a straight-line basis thereafter. Generally, options granted are exercisable for up to 10 years from the date of grant. The Plan allows for early exercise of employee stock options whereby the option holder is allowed to exercise prior to vesting. Any unvested shares are subject to repurchase by the Company at their original exercise prices.

Common shares purchased under the Plan are subject to certain restrictions, including the right of first refusal by the Company for sale or transfer of shares to outside parties. The Company’s right of first refusal terminates upon completion of an initial public offering of common stock.

As of December 31, 2014, the Plan authorized 133,592,790 shares of common stock to be reserved for issuance on the exercise of stock options to purchase common stock, of which the right to purchase 4,535,900 shares remains available for issuance. As of June 30, 2015, the Plan authorized 162,561,028 shares of common stock to be reserved for issuance on the exercise of stock options to purchase common stock, of which the right to purchase 13,697,671 shares remains available for issuance.

In January 2015, the Company’s Chief Executive Officer contributed 5,068,238 shares of common stock back to the Company for no consideration. The purpose of the contribution was to retire such shares in order to offset stock ownership dilution to existing investors in connection with future issuances under the 2009 Stock Plan.
A summary of stock option activity for the year ended December 31, 2014 is as follows (in thousands, except share and per share data):

<table>
<thead>
<tr>
<th></th>
<th>Number of stock options outstanding</th>
<th>Weighted average exercise price</th>
<th>Weighted average remaining contractual term (in years)</th>
<th>Aggregate intrinsic value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Balance at December 31, 2013</strong></td>
<td>71,463,130</td>
<td>$2.40</td>
<td>7.67</td>
<td>$479,434</td>
</tr>
<tr>
<td>Granted</td>
<td>32,697,751</td>
<td>8.09</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exercised</td>
<td>(9,403,147)</td>
<td>1.57</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forfeited</td>
<td>(7,286,321)</td>
<td>4.39</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Balance at December 31, 2014</strong></td>
<td>87,471,413</td>
<td>$4.46</td>
<td>8.36</td>
<td>$490,227</td>
</tr>
</tbody>
</table>

Options vested and expected to vest at December 31, 2014

<table>
<thead>
<tr>
<th></th>
<th>Number of stock options outstanding</th>
<th>Weighted average exercise price</th>
<th>Weighted average remaining contractual term (in years)</th>
<th>Aggregate intrinsic value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Options vested and expected to vest at December 31, 2014</strong></td>
<td>77,857,421</td>
<td>$4.46</td>
<td>8.36</td>
<td>$490,227</td>
</tr>
</tbody>
</table>

Options exercisable at December 31, 2014

<table>
<thead>
<tr>
<th></th>
<th>Number of stock options outstanding</th>
<th>Weighted average exercise price</th>
<th>Weighted average remaining contractual term (in years)</th>
<th>Aggregate intrinsic value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Options exercisable at December 31, 2014</strong></td>
<td>86,431,063</td>
<td>$4.46</td>
<td>8.36</td>
<td>$490,227</td>
</tr>
</tbody>
</table>

A summary of stock option activity for the six months ended June 30, 2015 is as follows (unaudited, in thousands, except share and per share data):

<table>
<thead>
<tr>
<th></th>
<th>Number of stock options outstanding</th>
<th>Weighted average exercise price</th>
<th>Weighted average remaining contractual term (in years)</th>
<th>Aggregate intrinsic value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Balance at December 31, 2014</strong></td>
<td>87,471,413</td>
<td>$4.46</td>
<td>8.36</td>
<td>$490,227</td>
</tr>
<tr>
<td>Granted</td>
<td>26,828,885</td>
<td>12.37</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exercised</td>
<td>(4,474,669)</td>
<td>2.69</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forfeited</td>
<td>(6,197,928)</td>
<td>5.63</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Balance at June 30, 2015</strong></td>
<td>103,627,701</td>
<td>$6.51</td>
<td>8.38</td>
<td>$769,851</td>
</tr>
</tbody>
</table>

Options vested and expected to vest at June 30, 2015

<table>
<thead>
<tr>
<th></th>
<th>Number of stock options outstanding</th>
<th>Weighted average exercise price</th>
<th>Weighted average remaining contractual term (in years)</th>
<th>Aggregate intrinsic value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Options vested and expected to vest at June 30, 2015</strong></td>
<td>85,557,963</td>
<td>$5.81</td>
<td>8.10</td>
<td>$695,614</td>
</tr>
</tbody>
</table>

Options exercisable at June 30, 2015

<table>
<thead>
<tr>
<th></th>
<th>Number of stock options outstanding</th>
<th>Weighted average exercise price</th>
<th>Weighted average remaining contractual term (in years)</th>
<th>Aggregate intrinsic value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Options exercisable at June 30, 2015</strong></td>
<td>103,627,701</td>
<td>$6.51</td>
<td>8.38</td>
<td>$769,851</td>
</tr>
</tbody>
</table>

Aggregate intrinsic value represents the difference between the Company’s estimated fair value of its common stock and the exercise price of outstanding, “in-the-money” options. Aggregate intrinsic value for stock options exercised through December 31, 2012, 2013, and 2014 was $2.9 million, $10.9 million, and $47.8 million, respectively. Aggregate intrinsic value for stock options exercised through June 30, 2015 was $39.1 million.
The total weighted average grant-date fair value of options granted was $1.05, $1.61, $3.84, $3.50, and $5.91 per share for the years ended December 31, 2012, 2013, 2014, and the six months ended June 30, 2014 and June 30, 2015, respectively.

### Restricted Stock Awards

The Company issued restricted stock awards to certain employees in fiscal year 2011 and prior. These awards typically vested over a term of two to four years. No restricted stock awards have been issued under the Plan since 2011.

Activity related to restricted stock units and awards is set forth below:

<table>
<thead>
<tr>
<th>Number of restricted stock</th>
<th>Weighted average grant date price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-vested restricted stock at December 31, 2013</td>
<td>152,580</td>
</tr>
<tr>
<td>Vested</td>
<td>(152,580)</td>
</tr>
<tr>
<td>Non-vested restricted stock at December 31, 2014</td>
<td>—</td>
</tr>
</tbody>
</table>

There was no such activity during the six months ended June 30, 2015.

### Share-Based Compensation

The fair value of stock options granted to employees is estimated on the date of grant using the Black-Scholes-Merton option valuation model. This share-based compensation expense valuation model requires the Company to make assumptions and judgments regarding the variables used in the calculation. These variables include the expected term (weighted average period of time that the options granted are expected to be outstanding), the expected volatility of the Company's stock, expected risk-free interest rate, expected dividends, and the estimated forfeitures of unvested stock options. To the extent actual results differ from the estimates, the difference will be recorded as a cumulative adjustment in the period estimates are revised. The Company uses the simplified calculation of expected term, as the Company does not have sufficient historical data to use any other method to estimate expected term. Expected volatility is based on an average of the historical volatilities of the common stock of several entities with characteristics similar to those of the Company. The expected risk-free rate is based on the U.S. Treasury yield curve in effect at the time of grant for periods corresponding with the expected life of the option. Expected forfeitures are based on the Company's historical experience. Share-based compensation expense is recorded net of estimated forfeitures on a straight-line basis over the requisite service period.

The fair value of stock options granted to non-employees, including consultants, is initially measured upon the date of grant and remeasured over the vesting period using the same methodology described above. These non-employees provide service to the Company on an ongoing basis, therefore, the performance commitment for each non-employee grant is not considered probable until the award is earned over time. The expected term for non-employee grants is the contractual term, and share-based compensation expense is recognized on a straight-line basis over this term. Share-based compensation expense related to non-employees has not been material for any of the periods presented.

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The fair value of stock options was estimated using the following weighted-average assumptions:

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
<th>Six Months Ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>2013</td>
</tr>
<tr>
<td>Fair value of common stock</td>
<td>$1.60-$2.80</td>
<td>$2.80-$5.26</td>
</tr>
<tr>
<td>Dividend yield</td>
<td>—%</td>
<td>—%</td>
</tr>
<tr>
<td>Risk-free interest rate</td>
<td>0.96%</td>
<td>1.55%</td>
</tr>
<tr>
<td>Expected volatility</td>
<td>44.34%</td>
<td>46.47%</td>
</tr>
<tr>
<td>Expected term (years)</td>
<td>6.05</td>
<td>6.09</td>
</tr>
</tbody>
</table>

The following table summarizes the effects of share-based compensation on the Company's consolidated statements of operations (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
<th>Six Months Ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>2013</td>
</tr>
<tr>
<td>Product development</td>
<td>$3,984</td>
<td>$8,820</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>668</td>
<td>1,235</td>
</tr>
<tr>
<td>General and administrative</td>
<td>3,462</td>
<td>4,603</td>
</tr>
<tr>
<td>Total</td>
<td>$8,114</td>
<td>$14,658</td>
</tr>
</tbody>
</table>

As of December 31, 2014, there was $177.9 million of total unrecognized compensation cost related to outstanding stock options and restricted stock awards that is expected to be recognized over a weighted average period of 2.86 years. As of June 30, 2015, there was $178.6 million of total unrecognized compensation cost related to outstanding stock options and restricted stock awards that is expected to be recognized over a weighted average period of 3.51 years.
### NOTE 14—NET LOSS PER SHARE

Basic net loss per share is computed by dividing the net loss by the weighted-average number of shares of common stock outstanding during the period. Diluted loss per share is the same as basic loss per share for all years presented because the effects of potentially dilutive items were anti-dilutive given the Company’s net loss.

The following table presents the calculation of basic and diluted net loss per share (in thousands, except per share data):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
<th>Six Months Ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>2013</td>
</tr>
<tr>
<td>Net loss</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic shares:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weighted-average common shares outstanding</td>
<td>131,261</td>
<td>132,562</td>
</tr>
<tr>
<td>Weighted-average unvested shares</td>
<td>(12,041)</td>
<td>(4,717)</td>
</tr>
<tr>
<td>Weighted-average shares used to compute basic net loss per share</td>
<td>119,220</td>
<td>127,845</td>
</tr>
<tr>
<td>Diluted shares:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weighted-average shares used to compute diluted net loss per share</td>
<td>119,220</td>
<td>127,845</td>
</tr>
</tbody>
</table>

| Loss per share:          |      |      |      |      |      |
| Basic                    |      |      |      |      |      |
| Diluted                  |      |      |      |      |      |

The following potential common shares were excluded from the calculation of diluted net loss per share attributable to common stockholders because their effect would have been anti-dilutive for the periods presented (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31,</th>
<th>Six Months Ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>2013</td>
</tr>
<tr>
<td>Stock options</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Common stock warrants</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preferred stock warrants</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Convertible preferred stock</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total anti-dilutive securities</td>
<td>202,065</td>
<td>221,841</td>
</tr>
</tbody>
</table>

### Unaudited Pro Forma Net Loss Per Share

Pro forma basic and diluted net loss per share were computed to give effect to the conversion of the preferred stock using the as-if converted method into common shares as though the conversion had occurred as of the beginning of the first period presented or the original date of issuance, if later.
The following table presents the calculation of basic and diluted pro forma net loss per share (in thousands, except per share data):

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Net loss</td>
<td>(154,093)</td>
</tr>
<tr>
<td>Basic shares:</td>
<td></td>
</tr>
<tr>
<td>Weighted-average shares used to compute basic net loss per share</td>
<td>142,042</td>
</tr>
<tr>
<td>Pro forma adjustment to reflect assumed conversion of preferred stock to occur upon completion of the Company’s initial public offering</td>
<td>135,253</td>
</tr>
<tr>
<td>Weighted-average shares used to compute basic pro forma net loss per share</td>
<td>277,295</td>
</tr>
<tr>
<td>Diluted shares:</td>
<td></td>
</tr>
<tr>
<td>Weighted-average shares used to compute diluted pro forma net loss per share</td>
<td>277,295</td>
</tr>
<tr>
<td>Loss per share:</td>
<td></td>
</tr>
<tr>
<td>Basic</td>
<td>(0.56)</td>
</tr>
<tr>
<td>Diluted</td>
<td>(0.56)</td>
</tr>
</tbody>
</table>

NOTE 15—OTHER INCOME AND EXPENSE

Other income and expense, net, is comprised of the following (in thousands):

<table>
<thead>
<tr>
<th>Year Ended December 31</th>
<th>Six Months Ended June 30</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>2013</td>
</tr>
<tr>
<td>Net (gain) loss on foreign exchange</td>
<td>$18</td>
</tr>
<tr>
<td>Starbucks warrant liability remeasurement</td>
<td>(185)</td>
</tr>
<tr>
<td>Other</td>
<td>—</td>
</tr>
<tr>
<td>Total other (income) and expense</td>
<td>(167)</td>
</tr>
</tbody>
</table>

NOTE 16—COMMITMENTS AND CONTINGENCIES

Operating and Capital Leases

The Company has entered into various non-cancelable operating leases for certain offices with contractual lease periods expiring between 2014 and 2025. The Company recognized total rental expenses under operating leases of $1.6 million, $6.1 million, and $11.4 million during the years ended December 31, 2012, 2013, and 2014, respectively. The Company recognized total rental expenses under operating leases of $4.9 million and $6.8 million during the six months ended June 30, 2014 and 2015, respectively.
Future minimum lease payments under non-cancelable operating leases (with initial or remaining lease terms in excess of one year) and future minimum capital lease payments as of December 31, 2014 are as follows (in thousands):

<table>
<thead>
<tr>
<th>Year</th>
<th>Capital</th>
<th>Operating</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>$57</td>
<td>$14,541</td>
</tr>
<tr>
<td>2016</td>
<td>57</td>
<td>15,163</td>
</tr>
<tr>
<td>2017</td>
<td>42</td>
<td>15,232</td>
</tr>
<tr>
<td>2018</td>
<td>3</td>
<td>15,306</td>
</tr>
<tr>
<td>2019</td>
<td></td>
<td>15,206</td>
</tr>
<tr>
<td>Thereafter</td>
<td></td>
<td>66,601</td>
</tr>
<tr>
<td>Total</td>
<td>$159</td>
<td>$142,049</td>
</tr>
</tbody>
</table>

Less amount representing interest

Present value of capital lease obligations 146

Less current portion of capital lease obligation (50)

Non-current portion of capital lease obligation $96

Future minimum lease payments under non-cancelable operating leases (with initial or remaining lease terms in excess of one year) and future minimum capital lease payments as of June 30, 2015 are as follows (unaudited, in thousands):

<table>
<thead>
<tr>
<th>Year</th>
<th>Capital</th>
<th>Operating</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015 (remaining 6 months)</td>
<td>$30</td>
<td>$7,355</td>
</tr>
<tr>
<td>2016</td>
<td>60</td>
<td>14,612</td>
</tr>
<tr>
<td>2017</td>
<td>45</td>
<td>14,724</td>
</tr>
<tr>
<td>2018</td>
<td>4</td>
<td>14,897</td>
</tr>
<tr>
<td>2019</td>
<td></td>
<td>15,152</td>
</tr>
<tr>
<td>Thereafter</td>
<td></td>
<td>67,237</td>
</tr>
<tr>
<td>Total</td>
<td>$139</td>
<td>$133,977</td>
</tr>
</tbody>
</table>

Less amount representing interest (10)

Present value of capital lease obligations 129

Less current portion of capital lease obligation (60)

Non-current portion of capital lease obligation $ (69)

**Litigation**

On December 1, 2010, the Company, along with co-founder Jim McKelvey, filed a complaint in the United States District Court for the Eastern District of Missouri (Civil Action No. 4:10-cv-02243) against REM Holdings 3, LLC (“REM”) that, as amended, seeks to correct the inventorship of three patents. The patents named Robert Morley as the sole
inventor and REM as their assignee of rights, and the Company filed suit to have Mr. McKelvey added as an inventor. REM subsequently filed
counterclaims alleging that the Company had infringed those same three patents. The litigation was stayed pending the outcome of reexamination
proceedings before the U.S. Patent and Trademark Office (“PTO”) with respect to the three patents. With the exception of five recently amended
claims, which have not yet progressed beyond preliminary reexamination, all of the claims from the three patents asserted in Mr. Morley’s 2010
complaint have either been canceled or otherwise found unpatentable by the Patent Office Trial and Appeals Board.

On January 30, 2014, Mr. Morley and REM filed a complaint against the Company, Jack Dorsey, and Mr. McKelvey, again in the United
States District Court for the Eastern District of Missouri (Civil Action No. 4:14-CV-00172), alleging that the formation of the Company and the
development of its card reader and decoding technologies constituted, among other things, breach of an oral joint venture, fraud, negligent
misrepresentation, civil conspiracy, unjust enrichment, and misappropriation of trade secrets, as well as other related claims. Mr. Morley also alleges
infringement of an additional patent from the same family as those in the prior litigation, and he seeks correction of inventorship of certain of our
patents. This lawsuit has now been consolidated with the prior litigation, and the patent-related claims have been stayed pending the outcome of
PTO proceedings.

The Company is vigorously defending against the claims of REM and Mr. Morley in both cases. Given the early stage of the District Court
proceedings, the Company cannot reliably determine the potential liability that could result from this matter.

On March 19, 2015, Jeffry Levin filed a putative class action lawsuit against Caviar, Inc. (a wholly owned subsidiary of Square), alleging that
Caviar misclassified Mr. Levin and other similarly situated couriers as independent contractors under the provisions of the California Labor Code and
claiming that certain expenses should have been borne by Caviar. This lawsuit was filed in the United States District Court for the Northern District of
California (Civil Action No. 3:15-cv-01285). The Company’s motion to compel arbitration is pending.

The Company is vigorously defending against the claims of Mr. Levin. Given the early stage of the proceedings, it is not yet possible to
reliably determine the potential liability that could result from this matter.

The Company is also involved from time to time in various claims and legal actions arising in the ordinary course of business. While it is not
feasible to predict or determine the ultimate outcome of these matters, the Company believes that none of its current legal proceedings will have a
material adverse effect on its financial position.

NOTE 17—SEGMENT AND GEOGRAPHICAL INFORMATION

Operating segments are defined as components of an enterprise for which discrete financial information is available that is evaluated regularly
by the chief operating decision maker (“CODM”) for purposes of allocating resources and evaluating financial performance. The Company’s CODM
reviews financial information presented on a consolidated basis for purposes of allocating resources and evaluating financial performance. As such,
the Company’s operations constitute a single operating segment and one reportable segment.
Revenue

Revenue by geography is based on the billing addresses of the merchants. The following table sets forth revenue by geographic area (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31</th>
<th></th>
<th>Six Months Ended June 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>2013</td>
<td>2014</td>
</tr>
<tr>
<td>Revenue</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>United States</td>
<td>$203,449</td>
<td>$546,553</td>
<td>$825,578</td>
</tr>
<tr>
<td>International</td>
<td>—</td>
<td>5,880</td>
<td>24,614</td>
</tr>
<tr>
<td>Total net revenue</td>
<td>$203,449</td>
<td>$552,433</td>
<td>$850,192</td>
</tr>
</tbody>
</table>

No individual country from the international markets contributed in excess of 10% of total revenue for the years ended December 31, 2012, 2013, and 2014 and the six months ended June 30, 2014 and 2015.

Long-Lived Assets

The following table sets forth long-lived assets by geographic area (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>December 31</th>
<th></th>
<th>June 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2013</td>
<td>2014</td>
<td>2015</td>
</tr>
<tr>
<td>Long-lived assets</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>United States</td>
<td>$52,149</td>
<td>$112,988</td>
<td>$153,603</td>
</tr>
<tr>
<td>International</td>
<td>721</td>
<td>1,291</td>
<td>1,588</td>
</tr>
<tr>
<td>Total long-lived assets</td>
<td>$52,870</td>
<td>$114,279</td>
<td>$155,191</td>
</tr>
</tbody>
</table>

NOTE 18—SUPPLEMENTAL CASH FLOW INFORMATION

The supplemental disclosures of cash flow information consists of the following (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended December 31</th>
<th></th>
<th>Six Months Ended June 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>2013</td>
<td>2014</td>
</tr>
<tr>
<td>Cash paid for interest</td>
<td>$9</td>
<td>$3</td>
<td>$940</td>
</tr>
<tr>
<td>Cash paid for income taxes</td>
<td>—</td>
<td>25</td>
<td>2,442</td>
</tr>
<tr>
<td>Purchases of property and equipment in accounts payable and accrued expenses</td>
<td>1,054</td>
<td>215</td>
<td>—</td>
</tr>
<tr>
<td>Fair value of shares issued related to acquisitions of businesses</td>
<td>—</td>
<td>278</td>
<td>59,576</td>
</tr>
<tr>
<td>Reclassification of customer common stock warrants to permanent equity</td>
<td>—</td>
<td>764</td>
<td>—</td>
</tr>
</tbody>
</table>

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NOTE 19—SUBSEQUENT EVENTS

The Company has evaluated subsequent events from the consolidated balance sheet date through March 27, 2015, and September 11, 2015, the date at which the respective audit and unaudited consolidated financial statements were available to be issued, respectively.

On July 9, 2015, the Company approved a modification to all nonstatutory stock option grants to extend the exercise term for terminated employees who have completed two years of service. The modified expiration date in respect of a termination event will be the earlier of (i) three years from termination or (ii) one year following an initial public offering, if in each case, the date of termination occurs between August 31, 2015 and the nine-month anniversary of the initial public offering. In all cases, the grants remain subject to earlier expiration in accordance with their original terms. The Company is currently assessing the additional share-based compensation expense which will be taken as a result of the modification.

Effective August 21, 2015, the Company amended its payment processing agreement with Starbucks such that, as of October 1, 2015, the Company is no longer Starbucks’ exclusive payment processing provider, Starbucks can terminate the agreement upon 30 days’ notice, and any payment processing volumes will be subject to increased rates beginning on October 1, 2015. In addition, the previously unvested warrants related to processing targets in the United Kingdom and Japan have been canceled.
I just pop it in, open it up, and everybody says, 'Wow you're so cutting edge.'

James Brock
Boston Home Inspectors, Boston, MA
PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution.

The following table sets forth all expenses to be paid by the Registrant, other than underwriting discounts and commissions, upon the completion of this offering. All amounts shown are estimates except for the SEC registration fee, the FINRA filing fee, and the exchange listing fee.

<table>
<thead>
<tr>
<th>Amount</th>
<th>to be Paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEC registration fee</td>
<td>$27,693</td>
</tr>
<tr>
<td>FINRA filing fee</td>
<td>41,750</td>
</tr>
<tr>
<td>NYSE listing fee</td>
<td></td>
</tr>
<tr>
<td>Printing and engraving expenses</td>
<td></td>
</tr>
<tr>
<td>Legal fees and expenses</td>
<td></td>
</tr>
<tr>
<td>Accounting fees and expenses</td>
<td></td>
</tr>
<tr>
<td>Transfer agent and registrar fees</td>
<td></td>
</tr>
<tr>
<td>Miscellaneous expenses</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$</td>
</tr>
</tbody>
</table>

* To be provided by amendment.


Section 145 of the Delaware General Corporation Law authorizes a corporation’s board of directors to grant, and authorizes a court to award, indemnity to officers, directors, and other corporate agents.

On the completion of this offering, as permitted by Section 102(b)(7) of the Delaware General Corporation Law, the Registrant’s amended and restated certificate of incorporation will include provisions that eliminate the personal liability of its directors and officers for monetary damages for breach of their fiduciary duty as directors and officers.

In addition, as permitted by Section 145 of the Delaware General Corporation Law, the amended and restated certificate of incorporation and amended and restated bylaws of the Registrant to be in effect upon the completion of this offering provide that:

• The Registrant shall indemnify its directors and officers for serving the Registrant in those capacities or for serving other business enterprises at the Registrant’s request, to the fullest extent permitted by Delaware law. Delaware law provides that a corporation may indemnify such person if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Registrant and, with respect to any criminal proceeding, had no reasonable cause to believe such person’s conduct was unlawful.

• The Registrant may, in its discretion, indemnify employees and agents in those circumstances where indemnification is permitted by applicable law.

• The Registrant is required to advance expenses, as incurred, to its directors and officers in connection with defending a proceeding, except that such director or officer shall undertake to repay such advances if it is ultimately determined that such person is not entitled to indemnification.
• The Registrant will not be obligated pursuant to the amended and restated bylaws to indemnify a person with respect to proceedings initiated by that person, except with respect to proceedings authorized by the Registrant’s board of directors or brought to enforce a right to indemnification.

• The rights conferred in the amended and restated certificate of incorporation and amended and restated bylaws are not exclusive, and the Registrant is authorized to enter into indemnification agreements with its directors, officers, employees, and agents and to obtain insurance to indemnify such persons.

• The Registrant may not retroactively amend the bylaw provisions to reduce its indemnification obligations to directors, officers, employees, and agents.

The Registrant’s policy is to enter into separate indemnification agreements with each of its directors and officers that provide the maximum indemnity allowed to directors and executive officers by Section 145 of the Delaware General Corporation Law and also to provide for certain additional procedural protections. The Registrant also maintains directors and officers insurance to insure such persons against certain liabilities.

These indemnification provisions and the indemnification agreements entered into between the Registrant and its officers and directors may be sufficiently broad to permit indemnification of the Registrant’s officers and directors for liabilities (including reimbursement of expenses incurred) arising under the Securities Act of 1933, as amended (Securities Act).

The underwriting agreement to be filed as Exhibit 1.1 to this registration statement will provide for indemnification by the underwriters of the Registrant and its officers and directors for certain liabilities arising under the Securities Act and otherwise.

**Item 15. Recent Sales of Unregistered Securities.**

**Common Stock Issuances**

In July 2015, the Registrant sold 3,777 shares of its common stock, in consideration for services previously rendered by a deceased employee, to a beneficiary of the employee, at a purchase price of approximately $0.01 per share, for an aggregate purchase price of approximately $37.77.

**Preferred Stock Issuances**

From July 2012 through September 2012, the Registrant sold an aggregate of 20,164,210 shares of its Series D convertible preferred stock to 21 accredited investors at a purchase price of approximately $11.014 per share, for an aggregate purchase price of approximately $222.1 million.

From September 2014 through October 2014, the Registrant sold an aggregate of 9,700,289 shares of its Series E convertible preferred stock to 10 accredited investors at a purchase price of approximately $15.46345 per share, for an aggregate purchase price of approximately $150.0 million.

**Option and RSU Issuances**

Since June 1, 2012, the Registrant granted to its directors, officers, employees, consultants, and other service providers options to purchase an aggregate of 119,702,056 shares of its common stock under its equity compensation plans at exercise prices ranging from approximately $2.728 to $15.39 per share.

Since June 1, 2012, the Registrant granted to its directors, officers, employees, consultants, and other service providers an aggregate of 100,900 restricted stock units to be settled in shares of its common stock under its equity compensation plans.
Warrants
Since June 1, 2012, the Registrant issued to one accredited investor warrants to purchase an aggregate of 15,761,570 shares of its common stock at exercise prices ranging from $11.01 to $14.37 per share, for an aggregate purchase price of approximately $194.7 million.

Shares Issued in Connection with Acquisitions
Since June 1, 2012, the Registrant issued an aggregate of 12,157,347 shares of its common stock in connection with acquisitions of certain companies or their assets and as consideration to individuals and entities who were former service providers and/or stockholders of such companies. In connection with the Registrant’s acquisitions of four companies, the Registrant issued shares to 3, 11, 27, and 12 individuals or entities, respectively. In each of these transactions recipients of shares represented to the Registrant that they are “accredited investors,” as defined in Regulation D promulgated under Section 4(a)(2) of the Securities Act, formerly Section 4(2), or that they have appointed a purchaser representative (as defined in Rule 501(h)). In connection with the Registrant’s acquisitions of certain assets, the Registrant issued shares to one entity in each instance. The Registrant believes that each recipient of shares was sophisticated and capable of understanding and evaluating the risks of acquiring the Registrant’s securities.

None of the foregoing transactions involved any underwriters, underwriting discounts or commissions, or any public offering. The Registrant believes the offers, sales, and issuances of the above securities, including the transaction described under the title “Common Stock Issuances,” were exempt from registration under the Securities Act by virtue of Section 4(a)(2), formerly 4(2), of the Securities Act, because the issuance of securities to the recipients did not involve a public offering, or were offered in reliance on Rule 701 because the transactions were pursuant to compensatory benefit plans or contracts relating to compensation, as provided under such rule. The recipients of the securities in each of these transactions represented their intentions to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof, and appropriate legends were placed upon the stock certificates issued in these transactions. All recipients had adequate access, through their relationships with the Registrant or otherwise, to information about the Registrant. The sales of these securities were made without any general solicitation or advertising.


(a) Exhibits.
We have filed the exhibits listed on the accompanying Exhibit Index of this Registration Statement.

(b) Financial Statement Schedules.
All financial statement schedules are omitted because the information called for is not required or is shown either in the consolidated financial statements or in the notes thereto.

Item 17. Undertakings.
The undersigned Registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers, and controlling persons of the registrant pursuant to the foregoing provisions, or
otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person of the registrant in the successful defense of any action, suit, or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

The undersigned Registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this registration statement on Form S-1 to be signed on its behalf by the undersigned, thereunto duly authorized, in San Francisco, California, on the 14th day of October, 2015.

SQUARE, INC.

By: /s/ Jack Dorsey
    Jack Dorsey
    President, Chief Executive Officer, and Chairman

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Jack Dorsey, Sarah Friar, and Dana Wagner, and each of them, as his or her true and lawful attorney-in-fact and agent with full power of substitution, for him or her in any and all capacities, to sign any and all amendments to this registration statement (including post-effective amendments or any abbreviated registration statement and any amendments thereto filed pursuant to Rule 462(b) under the Securities Act of 1933 increasing the number of securities for which registration is sought), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact, proxy, and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully for all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact, proxy, and agent, or his or her substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement on Form S-1 has been signed by the following persons in the capacities and on the dates indicated.

<table>
<thead>
<tr>
<th>Signature</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>/s/ Jack Dorsey</td>
<td>President, Chief Executive Officer, and Chairman</td>
<td>October 14, 2015</td>
</tr>
<tr>
<td>Jack Dorsey</td>
<td>(Principal Executive Officer)</td>
<td></td>
</tr>
<tr>
<td>/s/ Sarah Friar</td>
<td>Chief Financial Officer</td>
<td>October 14, 2015</td>
</tr>
<tr>
<td>Sarah Friar</td>
<td>(Principal Accounting and Financial Officer)</td>
<td></td>
</tr>
<tr>
<td>/s/ Roelof Botha</td>
<td>Director</td>
<td>October 14, 2015</td>
</tr>
<tr>
<td>Roelof Botha</td>
<td></td>
<td></td>
</tr>
<tr>
<td>/s/ Earvin Johnson</td>
<td>Director</td>
<td>October 14, 2015</td>
</tr>
<tr>
<td>Earvin Johnson</td>
<td></td>
<td></td>
</tr>
<tr>
<td>/s/ Vinod Khosla</td>
<td>Director</td>
<td>October 14, 2015</td>
</tr>
<tr>
<td>Vinod Khosla</td>
<td></td>
<td></td>
</tr>
<tr>
<td>/s/ Jim McKelvey</td>
<td>Director</td>
<td>October 14, 2015</td>
</tr>
<tr>
<td>Jim McKelvey</td>
<td></td>
<td></td>
</tr>
<tr>
<td>/s/ Mary Meeker</td>
<td>Director</td>
<td>October 14, 2015</td>
</tr>
<tr>
<td>Mary Meeker</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table of Contents

<table>
<thead>
<tr>
<th>Signature</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>/s/ Ruth Simmons</td>
<td>Director</td>
<td>October 14, 2015</td>
</tr>
<tr>
<td>Ruth Simmons</td>
<td></td>
<td></td>
</tr>
<tr>
<td>/s/ Lawrence Summers</td>
<td>Director</td>
<td>October 14, 2015</td>
</tr>
<tr>
<td>Lawrence Summers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>/s/ David Viniar</td>
<td>Director</td>
<td>October 14, 2015</td>
</tr>
<tr>
<td>David Viniar</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

II-6
## EXHIBIT INDEX

<table>
<thead>
<tr>
<th>Exhibit Number</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1*</td>
<td>Form of Underwriting Agreement.</td>
</tr>
<tr>
<td>3.1</td>
<td>Restated Certificate of Incorporation of the Registrant, as amended, as currently in effect.</td>
</tr>
<tr>
<td>3.2*</td>
<td>Form of Amended and Restated Certificate of Incorporation of the Registrant, to be in effect upon the completion of this offering.</td>
</tr>
<tr>
<td>3.3</td>
<td>Bylaws of the Registrant, as currently in effect.</td>
</tr>
<tr>
<td>3.4*</td>
<td>Form of Amended and Restated Bylaws of the Registrant, to be in effect upon the completion of this offering.</td>
</tr>
<tr>
<td>4.1*</td>
<td>Form of Class A common stock certificate of the Registrant.</td>
</tr>
<tr>
<td>4.2</td>
<td>Fifth Amended and Restated Investors’ Rights Agreement among the Registrant and certain holders of its capital stock, dated as of September 9, 2014.</td>
</tr>
<tr>
<td>4.3</td>
<td>Warrant to purchase shares of convertible preferred stock issued to TriplePoint Capital LLC, dated as of March 17, 2010.</td>
</tr>
<tr>
<td>5.1*</td>
<td>Opinion of Wilson Sonsini Goodrich &amp; Rosati, P.C.</td>
</tr>
<tr>
<td>10.1+*</td>
<td>Form of Indemnification Agreement between the Registrant and each of its directors and executive officers.</td>
</tr>
<tr>
<td>10.2+*</td>
<td>Square, Inc. 2015 Equity Incentive Plan and related form agreements.</td>
</tr>
<tr>
<td>10.3+*</td>
<td>Square, Inc. 2015 Employee Stock Purchase Plan and related form agreements.</td>
</tr>
<tr>
<td>10.4+</td>
<td>Square, Inc. 2009 Stock Plan and related form agreements.</td>
</tr>
<tr>
<td>10.5+</td>
<td>Square, Inc. Executive Incentive Compensation Plan.</td>
</tr>
<tr>
<td>10.6+*</td>
<td>Square, Inc. Outside Director Compensation Policy.</td>
</tr>
<tr>
<td>10.7+</td>
<td>Form of Change of Control and Severance Agreement between the Registrant and certain of its executive officers.</td>
</tr>
<tr>
<td>10.8+*</td>
<td>Offer Letter between the Registrant and Jack Dorsey.</td>
</tr>
<tr>
<td>10.9+*</td>
<td>Offer Letter between the Registrant and Sarah Friar.</td>
</tr>
<tr>
<td>10.10+*</td>
<td>Offer Letter between the Registrant and Dana Wagner.</td>
</tr>
<tr>
<td>10.11+*</td>
<td>Offer Letter between the Registrant and Françoise Brougher.</td>
</tr>
<tr>
<td>10.12+*</td>
<td>Offer Letter between the Registrant and Alyssa Henry.</td>
</tr>
<tr>
<td>10.14*</td>
<td>Revolving Credit Agreement dated as of April 4, 2014 among the Registrant, the Lenders Party Thereto, and Goldman Sachs Lending Partners LLC, as Administrative Agent.</td>
</tr>
<tr>
<td>10.15#</td>
<td>Master Development and Supply Agreement by and between the Registrant and TDK Corporation, dated as of October 1, 2013.</td>
</tr>
<tr>
<td>10.16#</td>
<td>Master Manufacturing Agreement by and between the Registrant and Cheng Uei Precision Industry Co., Ltd., dated as of June 27, 2012.</td>
</tr>
<tr>
<td>10.17#</td>
<td>ASIC Development and Supply Agreement by and between the Registrant, Semiconductor Components Industries, LLC (d/b/a ON Semiconductor) and ON Semiconductor Trading, Ltd, dated as of March 25, 2013.</td>
</tr>
<tr>
<td>21.1</td>
<td>List of subsidiaries of the Registrant.</td>
</tr>
<tr>
<td>Exhibit Number</td>
<td>Description</td>
</tr>
<tr>
<td>----------------</td>
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</tr>
<tr>
<td>23.1</td>
<td>Consent of KPMG LLP, Independent Registered Public Accounting Firm.</td>
</tr>
<tr>
<td>23.2*</td>
<td>Consent of Wilson Sonsini Goodrich &amp; Rosati, P.C. (included in Exhibit 5.1).</td>
</tr>
<tr>
<td>24.1</td>
<td>Power of Attorney (see the signature page to this Registration Statement on Form S-1).</td>
</tr>
</tbody>
</table>

* To be filed by amendment.
+ Indicates management contract or compensatory plan.
# Confidential treatment has been requested as to certain portions of this exhibit, which portions have been omitted and submitted separately to the Securities and Exchange Commission.
EXHIBIT 3.1

RESTATED CERTIFICATE OF INCORPORATION

OF

SQUARE, INC.

The undersigned, Jack Dorsey, hereby certifies that:

1. He is the duly elected and acting Chief Executive Officer of Square, Inc., a Delaware corporation.

2. The Certificate of Incorporation of this corporation was originally filed with the Secretary of State of Delaware on June 17, 2009, under the name of Seashell, Inc.

3. The Restated Certificate of Incorporation of this corporation shall be restated to read in full as follows:

ARTICLE I

The name of this corporation is Square, Inc. (the “Corporation”).

ARTICLE II

The address of the Corporation’s registered office in the State of Delaware is 160 Greentree Drive, Suite 101, in the City of Dover, County of Kent, 19904. The name of its registered agent at such address is National Registered Agents, Inc.

ARTICLE III

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Law.

ARTICLE IV

(A) Classes of Stock. The Corporation is authorized to issue two classes of stock to be designated, respectively, “Common Stock” and “Preferred Stock.” For purposes of clarification, the term “Preferred Stock” includes Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock (each as defined below). The total number of shares which the Corporation is authorized to issue is 572,106,071 shares, each with a par value of $0.0000001 per share. 440,000,000 shares shall be Common Stock and 132,106,071 shares shall be Preferred Stock.

(B) Rights, Preferences and Restrictions of Preferred Stock. 46,787,400 shares of Preferred Stock shall be designated “Series A Preferred Stock.” 13,893,330 shares of Preferred Stock shall be designated “Series B-1 Preferred Stock.” 27,030,040 shares of Preferred Stock shall be designated “Series B-2 Preferred Stock.” 17,764,230 shares of Preferred Stock shall be designated “Series C Preferred Stock.” 20,164,210 shares of Preferred Stock shall be designated “Series D Preferred Stock.” and 6,466,861 shares of Preferred Stock shall be designated “Series E Preferred Stock.” The Series B-1 Preferred Stock and the Series B-2 Preferred Stock are collectively referred to herein as the “Series B.”
Preferred Stock. ’’ The rights, preferences, privileges, and restrictions granted to and imposed on the Preferred Stock are as set forth below in this Article IV(B).

1. Dividend Provisions. The holders of shares of Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of Common Stock of the Corporation) on the Common Stock of the Corporation, at the rate of $0.01730 per share, $0.05758 per share, $0.07630 per share, $0.46385 per share, $0.88112 per share and $15.46345 per share for the Series A Preferred Stock, the Series B-1 Preferred Stock, the Series B-2 Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock and the Series E Preferred Stock, respectively (in each case, as adjusted for stock splits, stock dividends, reclassification and the like with respect to such series of Preferred Stock), per annum on each outstanding share of Preferred Stock then held by them, payable when, as and if declared by the Board of Directors of the Corporation (the “Board of Directors”). Such dividends shall not be cumulative. After payment of such dividends, any additional dividends shall be distributed among the holders of Preferred Stock and Common Stock pro rata based on the number of shares of Common Stock then held by each holder (assuming conversion of all such Preferred Stock into Common Stock). No dividends or distributions (other than a dividend payable solely in Common Stock and other than a distribution pursuant to Section 2 below) shall be paid with respect to the Common Stock until equal or greater dividends or distributions on the Preferred Stock have been paid in full to the holders of Preferred Stock.

2. Liquidation.
   (a) Preference.
      (i) Series E Preferred Stock. In the event of a Liquidation Transaction (as defined below), and subject to the rights of any other preferred stock that may be authorized from time to time, pursuant to the terms herein, the holders of Series E Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of any other securities of the Corporation by reason of their ownership thereof, an amount per share equal to $15.46345 per share for the Series E Preferred Stock (as adjusted for stock splits, stock dividends, reclassification and the like with respect to such series of Preferred Stock, the “Original Issue Price”), for each outstanding share of Series E Preferred Stock then held by them, plus declared but unpaid dividends. If, upon the occurrence of such event, the assets and funds thus distributed among the holders of Series E Preferred Stock shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then the entire assets and funds of the Corporation legally available for distribution shall be distributed ratably among the holders of Series E Preferred Stock in proportion to the preferential amount each such holder is otherwise entitled to receive.
      (ii) Remaining Preferred Stock. Upon the completion of the distribution required by Section 2(a)(i) above and subject to the rights of any other preferred stock that may be authorized from time to time pursuant to the terms herein, if assets remain in the Corporation, the holders of Series A Preferred Stock, Series B-1 Preferred Stock, Series B-2 Preferred Stock, Series C Preferred Stock and Series D Preferred Stock (together, the “Remaining Preferred Stock”) shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of Common Stock by reason of their ownership thereof, an amount per share equal to $0.21627 per share, $0.71977 per share, $0.95369 per share, $5.79817 per share and $11.014 per share for the Series A Preferred Stock, the Series B-1 Preferred Stock, the Series B-2 Preferred Stock, the Series C Preferred Stock and the Series D Preferred Stock, respectively (as adjusted for stock splits, stock dividends, reclassification and the like with respect to such series of Preferred Stock, also the “Original...
(b) Remaining Assets. Upon the completion of the distribution required by Section 2(a) above, if assets remain in the Corporation, the holders of the Common Stock of the Corporation shall receive all of the remaining assets of the Corporation on a pro rata basis based on the number of shares of Common Stock held by each. Notwithstanding the above, for purposes of determining the amount each holder of shares of Preferred Stock is entitled to receive with respect to a Liquidation Transaction, as defined below, each such holder of shares of a series of Preferred Stock shall be deemed to have converted (regardless of whether such holder actually converted) such holder’s shares of such series into shares of Common Stock immediately prior to the Liquidation Transaction if, as a result of an actual conversion, such holder would receive, in the aggregate, an amount greater than the amount that would be distributed to such holder if such holder did not convert such series of Preferred Stock into shares of Common Stock. If any such holder shall be deemed to have converted shares of Preferred Stock into Common Stock pursuant to this paragraph, then such holder shall not be entitled to receive any distribution that would otherwise be made to holders of Preferred Stock that have not converted (or have not been deemed to have converted) into shares of Common Stock.

(c) Certain Acquisitions.

(i) Deemed Liquidation. For purposes of this Section 2, a liquidation, dissolution, or winding up of the Corporation shall be deemed to occur if the Corporation shall (i) sell, convey, exclusively license or otherwise dispose of all or substantially all of its property, assets or business, (ii) merge with or into or consolidate with any other corporation, limited liability company or other entity (other than a wholly-owned subsidiary of the Corporation), (iii) close in a transfer (whether by merger, consolidation or otherwise), in one transaction or a series of related transactions to which the Corporation is a party, to a person or group of affiliated persons (other than an underwriter of the Corporation's securities) if, after such closing, such person or group of affiliated persons would hold 50% or more of the outstanding voting stock of the Corporation (or the surviving or acquired entity) or (iv) effect a liquidation, dissolution or winding up of the Corporation (any such transaction, a “Liquidation Transaction”), provided that none of the following shall be considered a Liquidation Transaction: (i) a merger effected exclusively for the purpose of changing the domicile of the Corporation, (ii) an equity financing in which the Corporation is the surviving corporation, or (iii) a transaction in which the stockholders of the Corporation immediately prior to the transaction own 50% or more of the voting power of the surviving corporation following the transaction. In the event of a merger or consolidation of the Corporation that is deemed pursuant to this section to be a Liquidation Transaction, all references in this Section 2 to “assets of the Corporation” shall be deemed instead to refer to the aggregate consideration to be paid to the holders of the Corporation’s capital stock in such merger or consolidation. Nothing in this subsection 2(c)(i) shall require the distribution to stockholders of anything other than proceeds of such transaction in the event of a merger or consolidation of the Corporation.

(ii) Valuation of Consideration. In the event of a deemed liquidation as described in Section 2(c)(i) above, if the consideration received by the Corporation is other than cash, its value will be deemed its fair market value. Any securities shall be valued as follows:
(A) Securities not subject to investment letter or other similar restrictions on free marketability:

1. If traded on a securities exchange or The Nasdaq Stock Market (“Nasdaq”), the value shall be based on a formula approved by the Board of Directors and derived from the closing prices of the securities on such exchange or Nasdaq over a specified time period;

2. If actively traded over-the-counter, the value shall be based on a formula approved by the Board of Directors and derived from the closing bid or sales prices (whichever is applicable) of such securities over a specified time period; and

3. If there is no active public market, the value shall be the fair market value thereof, as determined reasonably and in good faith by the Board of Directors.

(B) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder’s status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as specified above in Section 2(c)(ii)(A) to reflect the approximate fair market value thereof, as determined in good faith by the Board of Directors.

(iii) Notice of Liquidation Transaction. The Corporation shall give each holder of record of Preferred Stock written notice of any impending Liquidation Transaction not later than 10 days prior to the stockholders’ meeting called to approve such Liquidation Transaction, or 10 days prior to the closing of such Liquidation Transaction, whichever is earlier, and shall also notify such holders in writing of the final approval of such Liquidation Transaction. The first of such notices shall describe the material terms and conditions of the impending Liquidation Transaction and the provisions of this Section 2, and the Corporation shall thereafter give such holders prompt notice of any material changes. Unless such notice requirements are waived, the Liquidation Transaction shall not take place sooner than 10 days after the Corporation has given the first notice provided for herein. Notwithstanding the other provisions of this Restated Certificate (as defined below), all notice periods or requirements in this Restated Certificate may be shortened or waived, either before or after the action for which notice is required, upon the written consent of the holders of a majority of the voting power of the outstanding shares of Preferred Stock, voting together as a class on an as-converted basis, that are entitled to such notice rights.

(iv) Effect of Noncompliance. In the event the requirements of this Section 2(c) or the notice requirements hereof are not complied with (or otherwise properly waived), the Corporation shall forthwith either cause the closing of the Liquidation Transaction to be postponed until such requirements have been complied with, or cancel such Liquidation Transaction, in which event the rights, preferences, privileges and restrictions of the holders of Preferred Stock shall revert to and be the same as such rights, preferences, privileges and restrictions existing immediately prior to such Liquidation Transaction or, if earlier, any amendment of this Restated Certificate of Incorporation (this “Restated Certificate”) in connection with such Liquidation Transaction.

3. Redemption. The Preferred Stock is not redeemable.

4. Conversion. The holders of shares of Preferred Stock shall be entitled to conversion rights as follows (the “Preferred Stock Conversion Rights”):
(a) **Right to Convert.** Subject to Section 4(c), each share of Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of the Corporation or any transfer agent for such stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Original Issue Price for such series of Preferred Stock by the Preferred Stock Conversion Price for such series of Preferred Stock, determined as hereafter provided, in effect on the date the certificate is surrendered for conversion. The initial Preferred Stock Conversion Price per share shall be $0.21627, $0.71977, $0.95369, $5.79817, $11.014 and $15.46345 per share for the Series A Preferred Stock, the Series B-1 Preferred Stock, the Series B-2 Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock and the Series E Preferred Stock, respectively. Such initial Preferred Stock Conversion Price shall be subject to adjustment as set forth in Section 4(d).

(b) **Automatic Conversion.** Each share of Series A Preferred Stock shall automatically be converted into shares of Common Stock at the Conversion Price then in effect for such share immediately upon the earlier of (i) except as provided below in Section 4(c), the Corporation’s sale of its Common Stock in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act of 1933, as amended, (the “Securities Act”) which results in aggregate cash proceeds to the Corporation of not less than $50,000,000 (net of underwriting discounts and commissions) (a “Qualifying IPO”) or (ii) the date specified by vote or written consent of the holders of a majority of the then outstanding shares of Series A Preferred Stock, voting as a separate class.

Each share of Series B Preferred Stock shall automatically be converted into shares of Common Stock at the Conversion Price then in effect for such share immediately upon the earlier of (i) except as provided below in Section 4(c), a Qualifying IPO or (ii) the date specified by vote or written consent of the holders of at least sixty percent (60%) of the then outstanding shares of Series B Preferred Stock, voting together as a separate class on an as-converted basis. Each share of Series C Preferred Stock shall automatically be converted into shares of Common Stock at the Conversion Price then in effect for such share immediately upon the earlier of (i) except as provided below in Section 4(c), a Qualifying IPO provided that the offering price per share in such Qualifying IPO is not less than $6.957804 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Common Stock) or (ii) the date specified by vote or written consent of the holders of at least sixty percent (60%) of the then outstanding shares of Series C Preferred Stock, voting together as a separate class on an as-converted basis. Each share of Series D Preferred Stock shall automatically be converted into shares of Common Stock at the Conversion Price then in effect for such share immediately upon the earlier of (i) except as provided below in Section 4(c), a Qualifying IPO provided that the offering price per share in such Qualifying IPO is not less than $13.217 (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Common Stock) or (ii) the date specified by vote or written consent of the holders of at least a majority of the then outstanding shares of Series D Preferred Stock, voting together as a separate class on an as-converted basis. Each share of Series E Preferred Stock shall automatically be converted into shares of Common Stock at the Conversion Price then in effect for such share immediately upon the earlier of (i) except as provided below in Section 4(c) and subject to Section 4(g), a Qualifying IPO, or (ii) the date specified by vote or written consent of the holders of at least a majority of the then outstanding shares of Series E Preferred Stock, voting together as a separate class on an as-converted basis.

(c) **Mechanics of Conversion.** Before any holder of Preferred Stock shall be entitled to convert such Preferred Stock into shares of Common Stock, the holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for such series of Preferred Stock, and shall give written notice to the Corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock, or to the nominee.
or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of such series of Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with a firm commitment underwritten public offering of securities the conversion may, at the option of any holder tendering such Preferred Stock for conversion, be conditioned upon the closing of the sale of securities pursuant to such offering, in which event any persons entitled to receive Common Stock upon conversion of such Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities.

(d) **Preferred Stock Conversion Price Adjustments for Certain Dilutive Issuances, Splits and Combinations.** The Preferred Stock Conversion Price of the Preferred Stock shall be subject to adjustment from time to time as follows:

(i) **Issuance of Additional Stock below Purchase Price.** If the Corporation shall issue, on or after the date upon which this Restated Certificate is accepted for filing by the Secretary of State of the State of Delaware (the “Filing Date”), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Preferred Stock Conversion Price of a series of Preferred Stock in effect immediately prior to the issuance of such Additional Stock (as adjusted for stock splits, stock dividends, reclassification and the like), the Preferred Stock Conversion Price for such series in effect immediately prior to each such issuance shall automatically be adjusted as set forth in this Section 4(d)(i), unless otherwise provided in this Section 4(d)(i).

(A) **Adjustment Formula.** Whenever the Preferred Stock Conversion Price is adjusted pursuant to this Section 4(d)(i), the new Preferred Stock Conversion Price shall be determined by multiplying the Preferred Stock Conversion Price then in effect by a fraction, (x) the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance (the “Outstanding Common”) plus the number of shares of Common Stock that the aggregate consideration received by the Corporation for such issuance would purchase at such Preferred Stock Conversion Price; and (y) the denominator of which shall be the number of shares of Outstanding Common plus the number of shares of such Additional Stock. For purposes of the foregoing calculation, the term “Outstanding Common” shall include shares of Common Stock deemed issued pursuant to Section 4(d)(i)(E) below.

(B) **Definition of “Additional Stock.”** For purposes of this Section 4(d)(i), “Additional Stock” shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to Section 4(d)(i)(E)) by the Corporation after the Filing Date) other than:

(1) Common Stock issued pursuant to stock dividends, stock splits or similar transactions, as described in Section 4(d)(ii) and (iii) hereof;

(2) Common Stock or Preferred Stock issuable upon conversion, exchange or exercise of convertible, exchangeable or exercisable securities outstanding as of the Filing Date including, without limitation, warrants, notes or options;

(3) Common Stock issued or issuable to employees, consultants, officers or directors of the Corporation directly or pursuant to a stock option plan or restricted stock plan approved by the Board of Directors;
(4) Common Stock issued in a Qualifying IPO;

(5) Capital stock, or warrants or options to purchase capital stock, issued in connection with bona fide acquisitions, mergers or similar transactions, provided that such issuances are primarily for non-equity financing purposes and are approved by the Board of Directors;

(6) Capital stock, or options or warrants to purchase capital stock, issued to financial institutions, equipment lessors, brokers or similar persons in connection with commercial credit arrangements, equipment financings, commercial property lease transactions or similar transactions, that are primarily for non-equity financing purposes and are approved by the Board of Directors;

(7) Capital stock issued or issuable to an entity as a component of any business relationship with such entity primarily for the purpose of (A) joint venture, technology licensing or development activities, (B) distribution, supply or manufacture of the Corporation’s products or services or (C) any other arrangements involving corporate partners that are primarily for purposes other than raising capital, the terms of which business relationship with such entity are approved by the Board of Directors, including the vote or written consent of a majority of the Preferred Directors;

(8) Common Stock issued or issuable upon conversion of the Preferred Stock, including without limitation pursuant to Section 4(g) hereof; and

(9) Common Stock issued or issuable with the affirmative vote of the holders of at least a majority of the then outstanding shares of Preferred Stock, voting together as a class on an as-converted basis, where such holders explicitly state that such shares shall not be Additional Stock; provided, however, that (x) no such exclusion under this clause (9) from the definition of Additional Stock shall be effective against the Series D Preferred Stock without the approval of at least a majority of the then outstanding shares of Series D Preferred Stock; and (y) no such exclusion under this clause (9) from the definition of Additional Stock shall be effective against the Series E Preferred Stock without the approval of at least a majority of the then outstanding shares of Series E Preferred Stock.

(C) **No Fractional Adjustments.** No adjustment of the Preferred Stock Conversion Price for the Preferred Stock shall be made in an amount less than one cent per share, provided that any adjustments which are not required to be made by reason of this sentence shall be carried forward and shall be either taken into account in any subsequent adjustment made prior to three years from the date of the event giving rise to the adjustment being carried forward, or shall be made at the end of three years from the date of the event giving rise to the adjustment being carried forward.

(D) **Determination of Consideration.** In the case of the issuance of Common Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor before deducting any reasonable discounts, commissions or other expenses allowed, paid or incurred by the Corporation for any underwriting or otherwise in connection with the issuance and sale thereof. In the case of the issuance of the Common Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair value thereof as determined by the Board of Directors irrespective of any accounting treatment.

(E) **Deemed Issuances of Common Stock.** In the case of the issuance of securities or rights convertible into, or entitling the holder thereof to receive directly or
indirectly, additional shares of Common Stock (the “Common Stock Equivalents”), the following provisions shall apply for all purposes of this Section 4(d)(i):

(1) The aggregate maximum number of shares of Common Stock deliverable upon conversion, exchange or exercise (assuming the satisfaction of any conditions to convertibility, exchangeability or exercisability, including, without limitation, the passage of time, but without taking into account potential antidilution adjustments) of any Common Stock Equivalents and subsequent conversion, exchange or exercise thereof shall be deemed to have been issued at the time such securities were issued or such Common Stock Equivalents were issued and for a consideration equal to the consideration, if any, received by the Corporation for any such securities and related Common Stock Equivalents (excluding any cash received on account of accrued interest or accrued dividends), plus the minimum additional consideration, if any, to be received by the Corporation (without taking into account potential antidilution adjustments) upon the conversion, exchange or exercise of any Common Stock Equivalents (the consideration in each case to be determined in the manner provided in Section 4(d)(i)(D)).

(2) In the event of any change in the number of shares of Common Stock deliverable or in the consideration payable to the Corporation upon conversion, exchange or exercise of any Common Stock Equivalents, other than a change resulting from the antidilution provisions thereof, the Preferred Stock Conversion Price of any series of Preferred Stock, to the extent in any way affected by or computed using such Common Stock Equivalents, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the conversion, exchange or exercise of such Common Stock Equivalents.

(3) Upon the termination or expiration of the convertibility, exchangeability or exercisability of any Common Stock Equivalents, the Conversion Price of any series of Preferred Stock, to the extent in any way affected by or computed using such Common Stock Equivalents, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and Common Stock Equivalents that remain convertible, exchangeable or exercisable) actually issued upon the conversion, exchange or exercise of such Common Stock Equivalents.

(4) The number of shares of Common Stock deemed issued and the consideration deemed paid therefor pursuant to Section 4(d)(i)(E)(1) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either Section 4(d)(i)(E)(2) or 4(d)(i)(E)(3).

(F) No Increased Preferred Stock Conversion Price. Notwithstanding any other provisions of this Section (4)(d)(i), except to the limited extent provided for in Sections 4(d)(i)(E)(2) and 4(d)(i)(E)(3), no adjustment of the Preferred Stock Conversion Price pursuant to this Section 4(d)(i) shall have the effect of increasing the Preferred Stock Conversion Price above the Preferred Stock Conversion Price in effect immediately prior to such adjustment.

(ii) Stock Splits and Dividends. In the event the Corporation should at any time after the Filing Date fix a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or Common Stock Equivalents without payment of any consideration by such holder for the additional shares of Common Stock or the Common Stock Equivalents (including the additional shares of Common Stock issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Preferred Stock Conversion Price of each series of
Preferred Stock that is convertible into Common Stock shall be appropriately decreased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be increased in proportion to such increase of the aggregate number of shares of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents with the number of shares issuable with respect to Common Stock Equivalents determined from time to time in the manner provided for deemed issuances in Section 4(d)(i)(E).

(iii) **Reverse Stock Splits**. If the number of shares of Common Stock outstanding at any time after the Filing Date is decreased by a combination of the outstanding shares of Common Stock, then, following the record date of such combination, the Preferred Stock Conversion Price for each series of Preferred Stock that is convertible into Common Stock shall be appropriately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in outstanding shares.

(e) **Other Distributions**. In the event the Corporation shall declare a distribution payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in Section 4(d)(i) or 4(d)(ii), then, in each such case for the purpose of this Section 4(e), the holders of each series of Preferred Stock that is convertible into Common Stock shall be entitled to a proportionate share of any such distribution as though they were the holders of the number of shares of Common Stock of the Corporation into which their shares of Preferred Stock are convertible as of the record date fixed for the determination of the holders of Common Stock of the Corporation entitled to receive such distribution.

(f) **Recapitalizations**. If at any time or from time to time there shall be a recapitalization of the Common Stock (other than a subdivision, combination or merger or sale of assets transaction provided for elsewhere in this Section 4 or in Section 2) provision shall be made so that the holders of each series of Preferred Stock that is convertible into Common Stock shall thereafter be entitled to receive upon conversion of such Preferred Stock the number of shares of stock or other securities or property of the Corporation or otherwise, to which a holder of Common Stock deliverable upon conversion would have been entitled on such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 with respect to the rights of the holders of such Preferred Stock after the recapitalization to the end that the provisions of this Section 4 (including adjustment of the Preferred Stock Conversion Price then in effect and the number of shares issuable upon conversion of such Preferred Stock) shall be applicable after that event and be as nearly equivalent as practicable.

(g) **Possible Adjustment of Conversion Price of Series E Preferred Stock Upon Qualifying IPO**. In the event of a Qualifying IPO in which the initial price per share to the public for the Company’s Common Stock as set forth in the prospectus for such Qualifying IPO (the “IPO Price”) is less than $18.55614 (as adjusted for stock splits, stock dividends, reclassification and the like with respect to such series of Preferred Stock) (the “Target Price”), then the then-existing Conversion Price for the Series E Preferred Stock shall be adjusted so that, as of immediately prior to the completion of such Qualifying IPO, each share of Series E Preferred Stock shall convert into (A) the number of shares of Common Stock issuable on conversion of such share of Series Preferred Stock pursuant to the other provisions of this Section 4; and (B) an additional number of shares of Common Stock equal to (x) the difference between the Target Price and the IPO Price, (y) divided by the IPO Price.

(h) **No Fractional Shares and Certificate as to Adjustments**.

(i) No fractional shares shall be issued upon the conversion of any share or shares of Preferred Stock, and the number of shares of Common Stock to be issued shall be
rounded down to the nearest whole share. The number of shares issuable upon such conversion shall be determined on the basis of the total number of shares of Preferred Stock the holder is at the time converting into Common Stock and the number of shares of Common Stock issuable upon such aggregate conversion. If the conversion would result in any fractional share, the Corporation shall, in lieu of issuing any such fractional share, pay the holder thereof an amount in cash equal to the fair market value of such fractional share on the date of conversion, as determined in good faith by the Board of Directors.

(ii) Upon the occurrence of each adjustment or readjustment of the Preferred Stock Conversion Price of Preferred Stock pursuant to this Section 4, the Corporation, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of such Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of such Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (A) such adjustment and readjustment, (B) the Preferred Stock Conversion Price for such series of Preferred Stock at the time in effect, and (C) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of a share of such series of Preferred Stock.

(i) **Notices of Record Date.** In the event of any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right, the Corporation shall mail to each holder of Preferred Stock, at least 10 days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend, distribution or right, and the amount and character of such dividend, distribution or right.

(j) **Reservation of Stock Issuable Upon Conversion.** The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of each series of Preferred Stock that is convertible into Common Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of such series of Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of such series of Preferred Stock, in addition to such other remedies as shall be available to the holder of such Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Restated Certificate.

(k) **Notices.** Any notice required by the provisions of this Section 4 to be given to the holders of shares of Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at his address appearing on the books of the Corporation.

5. **Voting Rights.**

   (a) Except as expressly provided by this Restated Certificate or as provided by law, the holders of Preferred Stock shall have the same voting rights as the holders of Common Stock and shall be entitled to notice of any stockholders’ meeting in accordance with the Bylaws of the Corporation, and the holders of Common Stock and the holders of Preferred Stock shall vote together as a
single class on all matters. Each holder of Common Stock shall be entitled to one vote for each share of Common Stock held and each holder of Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which such shares of Preferred Stock could be converted. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward).

(b) At each meeting of stockholders at which members of the Board of Directors are to be elected, or whenever members of the Board of Directors are to be elected by written consent of the stockholders, (i) the holders of the Common Stock, voting together as a separate class, shall be entitled to elect four (4) members of the Board of Directors (the “Common Directors”), (ii) the holders of the Series B Preferred Stock, voting together as a separate class on an as-converted basis, shall be entitled to elect one (1) member of the Board of Directors (the “Series B Director”), (iii) the holders of the Series C Preferred Stock, voting together as a separate class on an as-converted basis, shall be entitled to elect one (1) member of the Board of Directors (the “Series C Director”) and together with the Series B Director, the “Preferred Directors”) and (iv) the holders of a majority of each of the Common Stock and the Preferred Stock, voting as separate classes and, in the case of the Preferred Stock, on an as-converted basis, shall be entitled to elect the remaining members of the Board of Directors (the “Additional Directors”).

(c) Notwithstanding the provisions of Section 223(a)(1) and 223(a)(2) of the Delaware General Corporation Law, any vacancy, including newly created directorships resulting from any increase in the authorized number of directors or amendment of this Restated Certificate, and vacancies created by removal or resignation of a director, may be filled by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, and the directors so chosen shall hold office until the next annual election and until their successors are duly elected and shall qualify, unless sooner displaced; provided, however, that where such vacancy occurs among the directors elected by the holders of a class or series of stock, the holders of shares of such class or series may override the Board of Director’s action to fill such vacancy by (i) voting for their own designee to fill such vacancy at a meeting of the Corporation’s stockholders or (ii) written consent, if the consenting stockholders hold a sufficient number of shares to elect their designee at a meeting of the stockholders. Any director may be removed during his or her term of office, either with or without cause, by, and only by, the affirmative vote of the holders of the shares of the class or series of stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders, and any vacancy thereby created may be filled by the holders of that class or series of stock represented at the meeting or pursuant to written consent.


(a) Preferred Stock Protective Provisions. So long as at least 8,620,000 shares of Preferred Stock are outstanding (as adjusted for stock splits, stock dividends, reclassification and the like), the Corporation shall not (whether by amendment, reclassification, merger, consolidation, recapitalization or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a majority of the then outstanding shares of Preferred Stock, voting together as a single class and on an as-converted basis:

(i) alter or change the rights, preferences or privileges of the shares of any outstanding series of Preferred Stock;

(ii) increase or decrease (other than by conversion) the total number of authorized shares of Preferred Stock or any series thereof or Common Stock;
(iii) authorize or issue, or obligate itself to issue, any other equity security, including any security (other than the issuance of shares of Preferred Stock authorized in this Restated Certificate) convertible into or exercisable for any equity security, having a preference over, or being on a parity with, any outstanding series of Preferred Stock with respect to voting (other than the pari passu voting rights of Common Stock), dividends, redemption, conversion or upon liquidation;

(iv) redeem, purchase or otherwise acquire (or pay into or set funds aside for a sinking fund for such purpose) any share or shares of Preferred Stock or Common Stock; provided, however, that this restriction shall not apply to the repurchase of shares of Common Stock from employees, officers, directors, consultants or other persons or entities performing services for the Corporation or any subsidiary pursuant to agreements under which the Corporation has the option to repurchase such shares at no greater than cost upon the occurrence of certain events, such as the termination of employment, or through the exercise of any right of first refusal;

(v) declare or pay a dividend or other distribution with respect to any shares of the Corporation’s capital stock;

(vi) change the number of directors of the Corporation;

(vii) effect a Liquidation Transaction or other liquidation, dissolution or winding up of the Corporation, or the acquisition of another company or business by the Corporation (unless (a) the cash consideration payable and/or then-fair market value of securities issuable by the Corporation for such acquisition of another company or business is less than or equal to 575,000,000, and (b) such acquisition is approved by the Board of Directors);

(viii) materially change the compensation of, or grant equity to, any member of the management team of the Corporation (or, if not members of the management team at such time, Jack Dorsey and Jim McKelvey), unless such change or grant is approved by the Board of Directors, including a majority of the Preferred Directors; or

(ix) amend the Corporation’s Certificate of Incorporation or Bylaws.

(b) **Series B Preferred Stock Protective Provision.** So long as any shares of Series B Preferred Stock are outstanding (as adjusted for stock splits, stock dividends, reclassification and the like), the Corporation shall not (by amendment, reclassification, merger, consolidation, recapitalization or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least sixty percent (60%) of the then outstanding shares of Series B Preferred Stock, voting together as a single class and on an as-converted basis, effect a Liquidation Transaction or other liquidation, dissolution or winding up of the Corporation in which, pursuant to Section 2 hereof, the holders of Series B Preferred Stock would be entitled to receive by reason of their ownership thereof an amount per share of Series B Preferred Stock less than the Original Issue Price of the Series B Preferred Stock, plus any declared but unpaid dividends on such share of Series B Preferred Stock.

(c) **Series C Preferred Stock Protective Provision.** So long as any shares of Series C Preferred Stock are outstanding (as adjusted for stock splits, stock dividends, reclassification and the like), the Corporation shall not (by amendment, reclassification, merger, consolidation, recapitalization or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least sixty percent (60%) of the then outstanding shares of Series C Preferred Stock, voting together as a single class and on an as-converted basis, (i) alter or change the powers, preferences or special rights of the shares of Series C Preferred Stock so as to affect them adversely (provided, however, that for clarity it is acknowledged that the authorization or issuance of a new series...
of preferred stock by the Corporation shall not, on its own, be deemed to adversely affect the powers, preferences or special rights of the Series C Preferred Stock; (ii) create or authorize the creation of additional shares of Series C Preferred Stock; or (iii) effect a Liquidation Transaction or other liquidation, dissolution or winding up of the Corporation in which, pursuant to Section 2 hereof, the holders of Series C Preferred Stock would be entitled to receive by reason of their ownership thereof an amount per share of Series C Preferred Stock less than the Original Issue Price of the Series C Preferred Stock, plus any declared but unpaid dividends on such share of Series C Preferred Stock.

(d) Series D Preferred Stock Protective Provision. So long as any shares of Series D Preferred Stock are outstanding (as adjusted for stock splits, stock dividends, reclassification and the like), the Corporation shall not (by amendment, reclassification, merger, consolidation, recapitalization or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a majority of the then outstanding shares of Series D Preferred Stock, voting together as a separate class and on an as-converted basis, (i) alter or change the powers, preferences or special rights of the shares of Series D Preferred Stock so as to affect them adversely (provided, however, that for clarity it is acknowledged that the authorization or issuance of a new series of preferred stock by the Corporation shall not, on its own, be deemed to adversely affect the powers, preferences or special rights of the Series D Preferred Stock); (ii) create or authorize the creation of additional shares of Series D Preferred Stock; or (iii) effect a Liquidation Transaction or other liquidation, dissolution or winding up of the Corporation in which, pursuant to Section 2 hereof, the holders of Series D Preferred Stock would be entitled to receive by reason of their ownership thereof an amount per share of Series D Preferred Stock less than the Original Issue Price of the Series D Preferred Stock, plus any declared but unpaid dividends on such share of Series D Preferred Stock.

(e) Series E Preferred Stock Protective Provision. So long as any shares of Series E Preferred Stock are outstanding (as adjusted for stock splits, stock dividends, reclassification and the like), the Corporation shall not (by amendment, reclassification, merger, consolidation, recapitalization or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a majority of the then outstanding shares of Series E Preferred Stock, voting together as a separate class and on an as-converted basis, (i) alter or change the powers, preferences or special rights of the shares of Series E Preferred Stock so as to affect them adversely (provided, however, that for clarity it is acknowledged that the authorization or issuance of a new series of senior or pari passu preferred stock by the Corporation shall not, on its own, be deemed to adversely affect the powers, preferences or special rights of the Series E Preferred Stock, or (y) adversely affect the Series E Preferred Stock in a manner different than the other series of preferred stock, such that no vote or consent of the Series E Preferred Stock, voting as a separate class, will be required pursuant to this Section 6(e) for the authorization or issuance of a new series of senior or pari passu preferred stock by the Corporation); or (ii) create or authorize the creation of additional shares of Series E Preferred Stock.

7. Status of Converted Stock. In the event any shares of Preferred Stock shall be converted pursuant to Section 4 hereof, the shares so converted shall be cancelled and shall not be issuable by the Corporation. This Restated Certificate shall be appropriately amended to effect the corresponding reduction in the Corporation’s authorized capital stock.

(C) Common Stock.

1. Dividend Rights. Subject to the prior rights of holders of all classes of stock at the time outstanding having prior rights as to dividends, the holders of the Common Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of any assets of the
Corporation legally available therefor, such dividends as may be declared from time to time by the Board of Directors.

2. **Liquidation Rights.** Upon the liquidation, dissolution or winding up of the Corporation, or the occurrence of a Liquidation Transaction, the assets of the Corporation shall be distributed as provided in Section 2 of Article IV(B).

3. **Redemption.** The Common Stock is not mandatorily redeemable.

4. **Voting Rights.** Each holder of Common Stock shall have the right to one vote per share of Common Stock, and shall be entitled to notice of any stockholders’ meeting in accordance with the Bylaws of the Corporation, and shall be entitled to vote upon such matters and in such manner as may be provided by law. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of shares of stock of the Corporation representing a majority of the votes represented by all outstanding shares of stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the Delaware General Corporation Law.

**ARTICLE V**

Except as otherwise set forth herein, the Board of Directors is expressly authorized to make, alter or repeal Bylaws of the Corporation.

**ARTICLE VI**

Elections of directors need not be by written ballot unless otherwise provided in the Bylaws of the Corporation.

**ARTICLE VII**

(A) To the fullest extent permitted by the Delaware General Corporation Law, as the same exists or as may hereafter be amended, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

(B) The Corporation shall indemnify to the fullest extent permitted by law any person made or threatened to be made a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he, his testator or intestate is or was a director or officer of the Corporation or any predecessor of the Corporation, or serves or served at any other enterprise as a director or officer at the request of the Corporation or any predecessor to the Corporation.

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

**ARTICLE VIII**

The Corporation renounces any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, or in being informed about, an Excluded Opportunity. An “Excluded Opportunity” is any matter, transaction or interest that is presented to, or acquired, created or developed
by, or which otherwise comes into the possession of, (i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (ii) any holder of Preferred Stock or any affiliate, partner, member, director, stockholder, employee, agent or other related person of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, “Covered Persons”), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person’s capacity as a director of the Corporation.

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The foregoing Restated Certificate of Incorporation has been duly adopted by the Board of Directors and stockholders in accordance with the applicable provisions of Sections 228, 242 and 245 of the Delaware General Corporation Law.

Executed at San Francisco, California, September 8, 2014.

/s/ Jack Dorsey  
Jack Dorsey, Chief Executive Officer
CERTIFICATE OF AMENDMENT
OF
RESTATED CERTIFICATE OF INCORPORATION
OF
SQUARE, INC.

Square, Inc., a Delaware corporation (the “Corporation”), does hereby certify that the following amendment to the Corporation’s Restated Certificate of Incorporation has been duly adopted by the Board of Directors and stockholders of the Corporation in accordance with the provisions of Section 242 of the Delaware General Corporation Law, with the approval of such amendment by the Corporation’s stockholders having been given by written consent without a meeting in accordance with Sections 228(d) and 242 of the Delaware General Corporation Law:

Article IV, Section (A) of the Restated Certificate of Incorporation is hereby amended and restated in its entirety to read as follows:

“Classes of Stock. The Corporation is authorized to issue two classes of stock to be designated, respectively, “Common Stock” and “Preferred Stock”. For purposes of clarification, the term “Preferred Stock” includes Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock (each as defined below). The total number of shares which the Corporation is authorized to issue is 580,339,499 shares, each with a par value of $0.0000001 per share. 445,000,000 shares shall be Common Stock and 135,339,499 shares shall be Preferred Stock.”

The first sentence of Article IV, Section (B) of the Restated Certificate of Incorporation is hereby amended and restated in its entirety to read as follows:


IN WITNESS WHEREOF, said Corporation has caused this Certificate of Amendment to be signed by its duly authorized officer this 3rd day of October, 2014 and the foregoing facts stated herein are true and correct.

SQUARE, INC.

By: /s/ Jack Dorsey
Name: Jack Dorsey
Title: Chief Executive Officer
SECOND CERTIFICATE OF AMENDMENT
OF
RESTATED CERTIFICATE OF INCORPORATION
OF
SQUARE, INC.

Square, Inc., a Delaware corporation (the “Corporation”), does hereby certify that the following amendment to the Corporation’s Restated Certificate of Incorporation has been duly adopted by the Board of Directors and stockholders of the Corporation in accordance with the provisions of Section 242 of the Delaware General Corporation Law, with the approval of such amendment by the Corporation’s stockholders having been given by written consent without a meeting in accordance with Sections 228(d) and 242 of the Delaware General Corporation Law:

Article IV, Section B(5)(b) of the Restated Certificate of Incorporation is hereby amended and restated in its entirety to read as follows:

“(b) At each meeting of stockholders at which members of the Board of Directors are to be elected, or whenever members of the Board of Directors are to be elected by written consent of the stockholders, (i) the holders of the Common Stock, voting together as a separate class, shall be entitled to elect six (6) members of the Board of Directors (the “Common Directors”), (ii) the holders of the Series B Preferred Stock, voting together as a separate class on an as-converted basis, shall be entitled to elect one (1) member of the Board of Directors (the “Series B Director”), (iii) the holders of the Series C Preferred Stock, voting together as a separate class on an as-converted basis, shall be entitled to elect one (1) member of the Board of Directors (the “Series C Director” and together with the Series B Director, the “Preferred Directors”) and (iv) the holders of a majority of each of the Common Stock and the Preferred Stock, voting as separate classes and, in the case of the Preferred Stock, on an as-converted basis, shall be entitled to elect the remaining members of the Board of Directors (the “Additional Directors”).”

IN WITNESS WHEREOF, said Corporation has caused this Certificate of Amendment to be signed by its duly authorized officer this 1st day of July, 2015 and the foregoing facts stated herein are true and correct.

SQUARE, INC.

By: /s/ Jack Dorsey
Name: Jack Dorsey
Title: Chief Executive Officer
BYLAWS

OF

SQUARE, INC.

(as amended November 13, 2009, April 27, 2011, and October 6, 2011)
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BYLAWS
OF
SQUARE, INC.

ARTICLE I
CORPORATE OFFICES

1.1 Registered Office.

The registered office of the corporation shall be in the City of Dover, County of Kent, State of Delaware. The name of the registered agent of the corporation at such location is National Registered Agents, Inc.

1.2 Other Offices.

The Board of Directors may at any time establish other offices at any place or places where the corporation is qualified to do business.

ARTICLE II
MEETINGS OF STOCKHOLDERS

2.1 Place Of Meetings.

Meetings of stockholders shall be held at any place, within or outside the State of Delaware, designated by the Board of Directors. In the absence of any such designation, stockholders’ meetings shall be held at the registered office of the corporation.

2.2 Annual Meeting.

The annual meeting of stockholders shall be held on such date, time and place, either within or without the State of Delaware, as may be designated by resolution of the Board of Directors each year. At the meeting, directors shall be elected and any other proper business may be transacted.

2.3 Special Meeting.

A special meeting of the stockholders may be called at any time by the Board of Directors, the chairman of the board, the president or by one or more stockholders holding shares in the aggregate entitled to cast not less than ten percent of the votes at that meeting.
If a special meeting is called by any person or persons other than the Board of Directors, the president or the chairman of the board, the request shall be in writing, specifying the time of such meeting and the general nature of the business proposed to be transacted, and shall be delivered personally or sent by registered mail or by telegraphic or other facsimile transmission to the chairman of the board, the president, any vice president, or the secretary of the corporation. No business may be transacted at such special meeting otherwise than specified in such notice. The officer receiving the request shall cause notice to be promptly given to the stockholders entitled to vote, in accordance with the provisions of Sections 2.4 and 2.5 of this Article II, that a meeting will be held at the time requested by the person or persons calling the meeting, not less than thirty-five (35) nor more than sixty (60) days after the receipt of the request. If the notice is not given within twenty (20) days after the receipt of the request, the person or persons requesting the meeting may give the notice. Nothing contained in this paragraph of this Section 2.3 shall be construed as limiting, fixing, or affecting the time when a meeting of stockholders called by action of the Board of Directors may be held.

2.4 Notice Of Stockholders' Meetings.

All notices of meetings with stockholders shall be in writing and shall be sent or otherwise given in accordance with Section 2.5 of these Bylaws not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting. The notice shall specify the place (if any), date and hour of the meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called.

2.5 Manner Of Giving Notice; Affidavit Of Notice.

Written notice of any meeting of stockholders, if mailed, is given when deposited in the United States mail, postage prepaid, directed to the stockholder at his address as it appears on the records of the corporation. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic mail or other electronic transmission, in the manner provided in Section 232 of the Delaware General Corporation Law. An affidavit of the secretary or an assistant secretary or of the transfer agent of the corporation that the notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

2.6 Quorum.

The holders of a majority of the shares of stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by statute or by the certificate of incorporation. If, however, such quorum is not present or represented at any meeting of the stockholders, then either (a) the chairman of the meeting or (b) holders of a majority of the shares of stock entitled to vote who are present, in person or by proxy, shall have power to adjourn the meeting to another place (if any), date or time.

2.7 Adjourned Meeting; Notice.

When a meeting is adjourned to another place (if any), date or time, unless these Bylaws otherwise require, notice need not be given of the adjourned meeting if the time and
place (if any), thereof and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present and vote at such adjourned meeting, are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business that might have been transacted at the original meeting. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, notice of the place (if any), date and time of the adjourned meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present and vote at such adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

2.8 **Organization; Conduct of Business.**

(a) Such person as the Board of Directors may have designated or, in the absence of such a person, the President of the Corporation or, in his or her absence, such person as may be chosen by the holders of a majority of the shares entitled to vote who are present, in person or by proxy, shall call to order any meeting of the stockholders and act as Chairman of the meeting. In the absence of the Secretary of the Corporation, the Secretary of the meeting shall be such person as the Chairman of the meeting appoints.

(b) The Chairman of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including the manner of voting and the conduct of business. The date and time of opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting.

2.9 **Voting.**

The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of Section 2.12 of these Bylaws, subject to the provisions of Sections 217 and 218 of the General Corporation Law of Delaware (relating to voting rights of fiduciaries, pledgors and joint owners of stock and to voting trusts and other voting agreements).

Except as may be otherwise provided in the certificate of incorporation, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder. All elections shall be determined by a plurality of the votes cast, and except as otherwise required by law, all other matters shall be determined by a majority of the votes cast affirmatively or negatively.

2.10 **Waiver Of Notice.**

Whenever notice is required to be given under any provision of the General Corporation Law of Delaware or of the certificate of incorporation or these Bylaws, a written waiver thereof, signed by the person entitled to notice, or waiver by electronic mail or other electronic transmission by such person, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of,
any regular or special meeting of the stockholders need be specified in any written waiver of notice, or any waiver of notice by electronic transmission, unless so required by the certificate of incorporation or these Bylaws.

2.11 **Stockholder Action By Written Consent Without A Meeting**

Unless otherwise provided in the certificate of incorporation, any action required to be taken at any annual or special meeting of stockholders of the corporation, or any action that may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice, and without a vote if a consent in writing, setting forth the action so taken, is (i) signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted, and (ii) delivered to the Corporation in accordance with Section 228(a) of the Delaware General Corporation Law.

Every written consent shall bear the date of signature of each stockholder who signs the consent and no written consent shall be effective to take the corporate action referred to therein unless, within 60 days of the date the earliest dated consent is delivered to the Corporation, a written consent or consents signed by a sufficient number of holders to take action are delivered to the Corporation in the manner prescribed in this Section. A telegram, cablegram, electronic mail or other electronic transmission consenting to an action to be taken and transmitted by a stockholder or proxyholder, or by a person or persons authorized to act for a stockholder or proxyholder, shall be deemed to be written, signed and dated for purposes of this Section to the extent permitted by law. Any such consent shall be delivered in accordance with Section 228(d)(1) of the Delaware General Corporation Law.

Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing (including by electronic mail or other electronic transmission as permitted by law). If the action which is consented to is such as would have required the filing of a certificate under any section of the General Corporation Law of Delaware if such action had been voted on by stockholders at a meeting thereof, then the certificate filed under such section shall state, in lieu of any statement required by such section concerning any vote of stockholders, that written notice and written consent have been given as provided in Section 228 of the General Corporation Law of Delaware.

2.12 **Record Date For Stockholder Notice; Voting; Giving Consents**

In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in
respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action.

If the Board of Directors does not so fix a record date:

(a) The record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

(b) The record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent (including consent by electronic mail or other electronic transmission as permitted by law) is delivered to the corporation.

(c) The record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting, if such adjournment is for thirty (30) days or less; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

2.13 Proxies.

Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by an instrument in writing or by an electronic transmission permitted by law filed with the secretary of the corporation, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A proxy shall be deemed signed if the stockholder’s name is placed on the proxy (whether by manual signature, typewriting, facsimile, electronic or telegraphic transmission or otherwise) by the stockholder or the stockholder’s attorney-in-fact. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212(e) of the General Corporation Law of Delaware.

ARTICLE III

DIRECTORS

3.1 Powers.

Subject to the provisions of the General Corporation Law of Delaware and any limitations in the certificate of incorporation or these Bylaws relating to action required to be
approved by the stockholders or by the outstanding shares, the business and affairs of the corporation shall be managed and all corporate powers shall be exercised by or under the direction of the Board of Directors.

3.2 **Number Of Directors.**

The number of directors constituting the entire Board of Directors shall be five (5). This number may be changed by a resolution of the Board of Directors or of the stockholders, subject to Section 3.4 of these Bylaws. No reduction of the authorized number of directors shall have the effect of removing any director before such director’s term of office expires.

3.3 **Election, Qualification And Term Of Office Of Directors.**

Except as provided in Section 3.4 of these Bylaws, and unless otherwise provided in the certificate of incorporation, directors shall be elected at each annual meeting of stockholders to hold office until the next annual meeting. Directors need not be stockholders unless so required by the certificate of incorporation or these Bylaws, wherein other qualifications for directors may be prescribed. Each director, including a director elected to fill a vacancy, shall hold office until his or her successor is elected and qualified or until his or her earlier resignation or removal.

Unless otherwise specified in the certificate of incorporation, elections of directors need not be by written ballot.

3.4 **Resignation And Vacancies.**

Any director may resign at any time upon written notice to the attention of the Secretary of the corporation. When one or more directors so resigns and the resignation is effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office as provided in this section in the filling of other vacancies.

Unless otherwise provided in the certificate of incorporation or these Bylaws:

(a) Vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director.

(b) Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the certificate of incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.
If at any time, by reason of death or resignation or other cause, the corporation should have no directors in office, then any officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the certificate of incorporation or these Bylaws, or may apply to the Court of Chancery for a decree summarily ordering an election as provided in Section 211 of the General Corporation Law of Delaware.

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

3.5 Place Of Meetings; Meetings By Telephone.

The Board of Directors of the corporation may hold meetings, both regular and special, either within or outside the State of Delaware.

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

3.6 Regular Meetings.

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

3.7 Special Meetings; Notice.

Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the chairman of the board, the president, any vice president, the secretary or any two directors.

Notice of the time and place of special meetings shall be delivered personally or by telephone to each director or sent by first-class mail, facsimile, electronic transmission, or telegram, charges prepaid, addressed to each director at that director’s address as it is shown on the records of the corporation. If the notice is mailed, it shall be deposited in the United States mail at least four days before the time of the holding of the meeting. If the notice is delivered personally or by facsimile, electronic transmission, telephone or telegram, it shall be delivered at least 48 hours before the time of the holding of the meeting. Any oral notice given personally or
by telephone may be communicated either to the director or to a person at the office of the director who the person giving the notice has reason to believe will promptly communicate it to the director. The notice need not specify the purpose of the meeting. The notice need not specify the place of the meeting, if the meeting is to be held at the principal executive office of the corporation. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a special meeting.

3.8 **Quorum.**

At all meetings of the Board of Directors, a majority of the total number of directors shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute or by the certificate of incorporation. If a quorum is not present at any meeting of the Board of Directors, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

3.9 **Waiver Of Notice.**

Whenever notice is required to be given under any provision of the General Corporation Law of Delaware or of the certificate of incorporation or these Bylaws, a written waiver thereof, signed by the person entitled to notice, or waiver by electronic mail or other electronic transmission by such person, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the directors, or members of a committee of directors, need be specified in any written waiver of notice unless so required by the certificate of incorporation or these Bylaws.

3.10 **Board Action By Written Consent Without A Meeting.**

Unless otherwise restricted by the certificate of incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the board or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original

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writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

3.11 **Fees And Compensation Of Directors.**

Unless otherwise restricted by the certificate of incorporation or these Bylaws, the Board of Directors shall have the authority to fix the compensation of directors. No such compensation shall preclude any director from serving the corporation in any other capacity and receiving compensation therefor.

3.12 **Approval Of Loans To Officers.**

The corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the corporation or of its subsidiary, including any officer or employee who is a director of the corporation or its subsidiary, whenever, in the judgment of the directors, such loan, guaranty or assistance may reasonably be expected to benefit the corporation. The loan, guaranty or other assistance may be with or without interest and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the corporation. Nothing in this section shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the corporation at common law or under any statute.

3.13 **Removal Of Directors.**

Unless otherwise restricted by statute, by the certificate of incorporation or by these Bylaws, any director or the entire Board of Directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors; provided, however, that if the stockholders of the corporation are entitled to cumulative voting, if less than the entire Board of Directors is to be removed, no director may be removed without cause if the votes cast against his removal would be sufficient to elect him if then cumulatively voted at an election of the entire Board of Directors.

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

3.14 **Chairman Of The Board Of Directors.**

The corporation may also have, at the discretion of the Board of Directors, a chairman of the Board of Directors who shall not be considered an officer of the corporation.
ARTICLE IV

COMMITTEES

4.1 Committees Of Directors.

The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation. The Board may designate 1 or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors, or in these Bylaws, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to the following matters: (i) approving or adopting, or recommending to the stockholders, any action or matter expressly required by the General Corporate Law of Delaware to be submitted to stockholders for approval or (ii) adopting, amending or repealing any Bylaw of the corporation.

4.2 Committee Minutes.

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

4.3 Meetings And Action Of Committees.

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of Section 3.5 (place of meetings and meetings by telephone), Section 3.6 (regular meetings), Section 3.7 (special meetings and notice), Section 3.8 (quorum), Section 3.9 (waiver of notice), and Section 3.10 (action without a meeting) of these Bylaws, with such changes in the context of such provisions as are necessary to substitute the committee and its members for the Board of Directors and its members; provided, however, that the time of regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee, that special meetings of committees may also be called by resolution of the Board of Directors and that notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board of Directors may adopt rules for the government of any committee not inconsistent with the provisions of these Bylaws.
ARTICLE V

OFFICERS

5.1 Officers.

The officers of the corporation shall be a president, a secretary, and a chief financial officer. The corporation may also have, at the discretion of the Board of Directors, a chief executive officer, one or more vice presidents, one or more assistant secretaries, one or more assistant treasurers, and any such other officers as may be appointed in accordance with the provisions of Section 5.3 of these Bylaws. Any number of offices may be held by the same person.

5.2 Appointment Of Officers.

The officers of the corporation, except such officers as may be appointed in accordance with the provisions of Sections 5.3 or 5.5 of these Bylaws, shall be appointed by the Board of Directors, subject to the rights, if any, of an officer under any contract of employment.

5.3 Subordinate Officers.

The Board of Directors may appoint, or empower the chief executive officer or the president to appoint, such other officers and agents as the business of the corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these Bylaws or as the Board of Directors may from time to time determine.

5.4 Removal And Resignation Of Officers.

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

Any officer may resign at any time by giving written notice to the corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

5.5 Vacancies In Offices.

Any vacancy occurring in any office of the corporation shall be filled by the Board of Directors.
5.6 Chief Executive Officer.

Subject to such supervisory powers, if any, as may be given by the Board of Directors to the chairman of the board, if any, the chief executive officer of the corporation (if such an officer is appointed) shall, subject to the control of the Board of Directors, have general supervision, direction, and control of the business and the officers of the corporation. He or she shall preside at all meetings of the stockholders and, in the absence or nonexistence of a chairman of the board, at all meetings of the Board of Directors and shall have the general powers and duties of management usually vested in the office of chief executive officer of a corporation and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

5.7 President.

Subject to such supervisory powers, if any, as may be given by the Board of Directors to the chairman of the board (if any) or the chief executive officer, the president shall have general supervision, direction, and control of the business and other officers of the corporation. He or she shall have the general powers and duties of management usually vested in the office of president of a corporation and such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

5.8 Vice Presidents.

In the absence or disability of the chief executive officer and president, the vice presidents, if any, in order of their rank as fixed by the Board of Directors or, if not ranked, a vice president designated by the Board of Directors, shall perform all the duties of the president and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board of Directors, these Bylaws, the president or the chairman of the board.

5.9 Secretary.

The secretary shall keep or cause to be kept, at the principal executive office of the corporation or such other place as the Board of Directors may direct, a book of minutes of all meetings and actions of directors, committees of directors, and stockholders. The minutes shall show the time and place of each meeting, the names of those present at directors’ meetings or committee meetings, the number of shares present or represented at stockholders’ meetings, and the proceedings thereof.

The secretary shall keep, or cause to be kept, at the principal executive office of the corporation or at the office of the corporation’s transfer agent or registrar, as determined by resolution of the Board of Directors, a share register, or a duplicate share register, showing the names of all stockholders and their addresses, the number and classes of shares held by each, the number and date of certificates evidencing such shares, and the number and date of cancellation of every certificate surrendered for cancellation.
The secretary shall give, or cause to be given, notice of all meetings of the stockholders and of the Board of Directors required to be given by law or by these Bylaws. He or she shall keep the seal of the corporation, if one be adopted, in safe custody and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by these Bylaws.

5.10 **Chief Financial Officer.**

The chief financial officer shall be the treasurer and shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital retained earnings, and shares. The books of account shall at all reasonable times be open to inspection by any director.

The chief financial officer shall deposit all moneys and other valuables in the name and to the credit of the corporation with such depositories as may be designated by the Board of Directors. He or she shall disburse the funds of the corporation as may be ordered by the Board of Directors, shall render to the president, the chief executive officer, or the directors, upon request, an account of all his or her transactions as chief financial officer and of the financial condition of the corporation, and shall have other powers and perform such other duties as may be prescribed by the Board of Directors or the bylaws.

5.11 **Representation Of Shares Of Other Corporations.**

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

5.12 **Authority And Duties Of Officers.**

In addition to the foregoing authority and duties, all officers of the corporation shall respectively have such authority and perform such duties in the management of the business of the corporation as may be designated from time to time by the Board of Directors or the stockholders.
ARTICLE VI

INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

6.1 Indemnification Of Directors And Officers.

The corporation shall, to the maximum extent and in the manner permitted by the General Corporation Law of Delaware, indemnify each of its directors and officers against expenses (including attorneys’ fees), judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason of the fact that such person is or was an agent of the corporation. For purposes of this Section 6.1, a “director” or “officer” of the corporation includes any person (a) who is or was a director or officer of the corporation, (b) who is or was serving at the request of the corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, or (c) who was a director or officer of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation.

6.2 Indemnification Of Others.

The corporation shall have the power, to the maximum extent and in the manner permitted by the General Corporation Law of Delaware, to indemnify each of its employees and agents (other than directors and officers) against expenses (including attorneys’ fees), judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason of the fact that such person is or was an agent of the corporation. For purposes of this Section 6.2, an “employee” or “agent” of the corporation (other than a director or officer) includes any person (a) who is or was an employee or agent of the corporation, (b) who is or was serving at the request of the corporation as an employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or (c) who was an employee or agent of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation.

6.3 Payment Of Expenses In Advance.

Expenses incurred in defending any action or proceeding for which indemnification is required pursuant to Section 6.1 or for which indemnification is permitted pursuant to Section 6.2 following authorization thereof by the Board of Directors shall be paid by the corporation in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of the indemnified party to repay such amount if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that the indemnified party is not entitled to be indemnified as authorized in this Article VI.

6.4 Indemnity Not Exclusive.

The indemnification provided by this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in an
official capacity and as to action in another capacity while holding such office, to the extent that such additional rights to indemnification are authorized in the certificate of incorporation.

6.5 Insurance .

The corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liability under the provisions of the General Corporation Law of Delaware.

6.6 Conflicts .

No indemnification or advance shall be made under this Article VI, except where such indemnification or advance is mandated by law or the order, judgment or decree of any court of competent jurisdiction, in any circumstance where it appears:

(a) That it would be inconsistent with a provision of the certificate of incorporation, these Bylaws, a resolution of the stockholders or an agreement in effect at the time of the accrual of the alleged cause of the action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

ARTICLE VII

RECORDS AND REPORTS

7.1 Maintenance And Inspection Of Records .

The corporation shall, either at its principal executive offices or at such place or places as designated by the Board of Directors, keep a record of its stockholders listing their names and addresses and the number and class of shares held by each stockholder, a copy of these Bylaws as amended to date, accounting books, and other records.

Any stockholder of record, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right during the usual hours for business to inspect for any proper purpose the corporation’s stock ledger, a list of its stockholders, and its other books and records and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to such person’s interest as a stockholder. In every instance where an attorney or other agent is the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing that authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under
oath shall be directed to the corporation at its registered office in Delaware or at its principal place of business.

A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order for each class of stock and showing the address of each such stockholder and the number of shares registered in each such stockholder’s name, shall be open to the examination of any such stockholder for a period of at least ten (10) days prior to the meeting in the manner provided by law. The stock list shall also be open to the examination of any stockholder during the whole time of the meeting as provided by law. This list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

7.2 Inspection By Directors.

Any director shall have the right to examine the corporation’s stock ledger, a list of its stockholders, and its other books and records for a purpose reasonably related to his or her position as a director. The Court of Chancery is hereby vested with the exclusive jurisdiction to determine whether a director is entitled to the inspection sought. The Court may summarily order the corporation to permit the director to inspect any and all books and records, the stock ledger, and the stock list and to make copies or extracts therefrom. The Court may, in its discretion, prescribe any limitations or conditions with reference to the inspection, or award such other and further relief as the Court may deem just and proper.

ARTICLE VIII

GENERAL MATTERS

8.1 Checks.

From time to time, the Board of Directors shall determine by resolution which person or persons may sign or endorse all checks, drafts, other orders for payment of money, notes or other evidences of indebtedness that are issued in the name of or payable to the corporation, and only the persons so authorized shall sign or endorse those instruments.

8.2 Execution Of Corporate Contracts And Instruments.

The Board of Directors, except as otherwise provided in these Bylaws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.
8.3 Stock Certificates;Partly Paid Shares

The shares of a corporation shall be represented by certificates, provided that the Board of Directors of the corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if he or she were such officer, transfer agent or registrar at the date of issue.

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

8.4 Special Designation On Certificates

If the corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the corporation shall issue to represent such class or series of stock; provided, however, that, except as otherwise provided in Section 202 of the General Corporation Law of Delaware, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the corporation shall issue to represent such class or series of stock a statement that the corporation will furnish without charge to each stockholder who so requests the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

8.5 Lost Certificates

Except as provided in this Section 8.5, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the corporation and cancelled at the same time. The corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate previously issued by it, alleged to have been lost, stolen or destroyed, and the corporation may require the owner of the lost, stolen or destroyed certificate, or the owner’s legal representative, to give the corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.
8.6 **Construction: Definitions.**

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the Delaware General Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term “person” includes both a corporation and a natural person.

8.7 **Dividends.**

The directors of the corporation, subject to any restrictions contained in (a) the General Corporation Law of Delaware or (b) the certificate of incorporation, may declare and pay dividends upon the shares of its capital stock. Dividends may be paid in cash, in property, or in shares of the corporation’s capital stock.

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

8.8 **Fiscal Year.**

The fiscal year of the corporation shall be fixed by resolution of the Board of Directors and may be changed by the Board of Directors.

8.9 **Seal.**

The corporation may adopt a corporate seal, which may be altered at pleasure, and may use the same by causing it or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

8.10 **Transfer Of Stock.**

Upon surrender to the corporation or the transfer agent of the corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer, it shall be the duty of the corporation to issue a new certificate to the person entitled thereto, cancel the old certificate, and record the transaction in its books.

8.11 **Stock Transfer Agreements.**

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

The corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner, shall be entitled to hold liable for calls and assessments the person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

8.13 Facsimile Signature.

In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these Bylaws, facsimile signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board of Directors or a committee thereof.

8.14 Restriction on Transfer.

The holder of any security of the Corporation (a “Security Holder”) shall not transfer, assign, encumber or otherwise dispose of any security of the Corporation (a “Security”), other than by means of a Permitted Transfer. If any provision(s) of any agreement(s) currently in effect by and between the Corporation and any Security Holder (the “Security Holder Agreement(s)”) conflicts with this Section 8.14 of the Bylaws, this Section 8.14 shall govern, and the non-conflicting remainder of the Security Holder Agreement(s) shall continue in full force and effect. A “Permitted Transfer” as used in this Section 8.14 shall be defined as:

(a) any repurchase of a Security by the Corporation: (i) at cost, upon the occurrence of certain events, such as the termination of employment or services; or (ii) at any price pursuant to the Corporation’s exercise of a right of first refusal to repurchase such shares;

(b) any transfer to a Security Holder’s Immediate Family (as defined below) or a trust for the benefit of the Security Holder or the Security Holder’s Immediate Family (”Immediate Family”) as used herein shall mean any child, stepchild, grandchild or other descendent, any parent, stepparent, grandparent or other ancestor, any spouse, former spouse, sibling, niece, nephew, uncle, aunt, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law, including adoptive relationships, or any person deemed to be a Spousal Equivalent (as defined below). As used herein, a person is deemed to be a “Spousal Equivalent” provided the following circumstances are true: (i) irrespective of whether or not the relevant person and the Spousal Equivalent are the same sex, they are the sole spousal equivalent of the other for the last twelve (12) months, (ii) they intend to remain so indefinitely, (iii) neither are married to anyone else, (iv) both are at least 18 years of age and mentally competent to consent to contract, (v) they are not related by blood to a degree of closeness that which would prohibit legal marriage in the state in which they legally reside, and (vi) they are jointly responsible for each other’s common welfare and financial obligations.

(c) any transfer effected pursuant to the Security Holder’s will or the laws of intestate succession;
(d) if the Security Holder is a trust, partnership, limited liability company, or corporation, any transfer to the beneficiaries, partners, members, retired partners, retired members, stockholders, and/or Affiliates (as defined below) of such Security Holder (“Affiliate” as used herein shall mean any person or entity who or which, directly or indirectly, controls, is controlled by, or is under common control with such Security Holder, including without limitation any general partner, managing partner, officer or director of such Security Holder or any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, or shares the same management company with, such Security Holder); and/or

(e) any transfer approved by the Corporation’s Board of Directors; notwithstanding the foregoing, if a Permitted Transfer is approved pursuant to this Section 8.14(e) and the Securities of the transferring party are subject to co-sale rights (the “Co-Sale Rights”), the persons and/or entities entitled to the Co-Sale Rights shall be permitted to exercise their respective Co-Sale Rights in conjunction with this specific Permitted Transfer without any additional approval of the Board.

The foregoing restriction on transfer shall lapse upon the earlier of (i) immediately prior to a Liquidation Transaction (as defined in the Corporation’s Restated Certificate of Incorporation), or (ii) immediately prior to a Qualifying IPO (as defined in the Corporation’s Restated Certificate of Incorporation).

**ARTICLE IX**

**AMENDMENTS**

The Bylaws of the corporation may be adopted, amended or repealed by the stockholders entitled to vote; provided, however, that the corporation may, in its certificate of incorporation, confer the power to adopt, amend or repeal Bylaws upon the directors. The fact that such power has been so conferred upon the directors shall not divest the stockholders of the power, nor limit their power to adopt, amend or repeal Bylaws.
This Fifth Amended and Restated Investors’ Rights Agreement (this “Agreement”) is made and entered into as of September 9, 2014, by and among Square, Inc., a Delaware corporation (the “Company”), Jack Dorsey as Trustee of The Jack Dorsey Revocable Trust U/A/D 12/8/10, the Jack Dorsey 2010 Annuity Trust II U/A/D 6/23/10 and Jim McKelvey (the “Founders”), and the investors in the Company listed on Schedule 1 hereto (the “Investors”).

RECITALS

A. The Company, the Founders and certain of the Investors (the “Prior Investors”) are parties to that certain Fourth Amended and Restated Investors’ Rights Agreement dated as of June 27, 2011, as amended by that certain Amendment Agreement dated August 7, 2012 and Amendment No. 2 to the Fourth Amended and Restated Investors’ Rights Agreement, dated as of August 29, 2012 (collectively, the “Prior Agreement”).

B. The Company and certain of the Investors (the “Series E Investors”) have entered into a Series E Preferred Stock Purchase Agreement (as may be amended from time to time, the “Purchase Agreement”) dated as of the date hereof, pursuant to which the Company desires to sell to the Series E Investors and the Series E Investors desire to purchase from the Company shares of the Company’s Series E Preferred Stock (the “Series E Preferred Stock”). A condition to the Series E Investors’ obligations under the Purchase Agreement is that the Company, the Founders and the Investors enter into this Agreement in order to provide the Investors (i) certain rights to register shares of the Company’s common stock (the “Common Stock”) issuable upon conversion of the Company’s preferred stock (the “Preferred Stock”) and exercise of the Warrants (as defined below) held by certain of the Investors, (ii) certain rights to receive or inspect information pertaining to the Company, and (iii) a right of first offer with respect to certain issuances by the Company of its securities.

C. The Company, the Founders and the Prior Investors desire to induce the Series E Investors to purchase shares of Series E Preferred Stock pursuant to the Purchase Agreement by amending, restating and replacing their respective rights and obligations under the Prior Agreement and to grant the Founders and the Investors the rights and obligations set forth in this Agreement.

AGREEMENT

The parties agree as follows:

1. Registration Rights.

1.1 Definitions. For purposes of this Section 1:

(a) The term “Affiliates,” means, (i) with respect to a Holder that is a venture capital fund, a limited liability company or a limited partnership, an affiliated venture capital
fund, fund or entity managed by the same manager or managing member or general partner or management company or by an entity controlling, controlled by, or under common control with such manager or managing member or general partner or management company and (ii) with respect to a Holder that is a corporation, any limited liability company or limited partnership or other entity controlling, controlled by or under common control with such Holder.

(b) The term “Exchange Act” means the Securities Exchange Act of 1934, as amended (and any successor thereto) and the rules and regulations promulgated thereunder.

c) The term “Form S-3” means such form under the Securities Act as in effect on the date hereof or any successor form under the Securities Act that permits significant incorporation by reference of the Company’s subsequent public filings under the Exchange Act.

d) The term “Founders’ Stock” means the shares of Common Stock issued or issuable to the Founders.

e) The term “Holder” means any person owning or having an agreement to acquire Registrable Securities or any assignee thereof in accordance with Section 1.12 of this Agreement.

(f) The term “Qualified IPO” means the Company’s sale of its Common Stock in a firm commitment public offering pursuant to a registration statement under the Securities Act of 1933, as amended, in connection with which all the then-outstanding shares of Preferred Stock are converted into shares of Common Stock pursuant to the Company’s Amended and Restated Certificate of Incorporation as such Amended and Restated Certificate of Incorporation may be amended from time to time (the “Restated Certificate”).

g) The terms “register,” “registered,” and “registration” refer to a registration effected by preparing and filing a registration statement or similar document in compliance with the Securities Act, and the declaration or ordering of effectiveness of such registration statement or document.

(h) The term “Registrable Securities” means (i) the shares of Common Stock issuable or issued upon conversion of the Preferred Stock, other than shares for which registration rights have terminated pursuant to Section 1.15 hereof, (ii) the shares of Founders’ Stock, provided, however, that for the purposes of Sections 1.2, 1.4 and 1.13, the Founders’ Stock shall not be deemed Registrable Securities and the Founders shall not be deemed Holders, (iii) any shares of Common Stock issued upon exercise of, or that are vested and exercisable under, (A) the Warrant to Purchase Stock, dated as of August 7, 2012, issued by the Company to Starbucks Corporation (“Starbucks”) exercisable for up to 9,456,950 shares of the Company’s Common Stock (as may be adjusted pursuant to the terms thereof), (B) the Warrant to Purchase Stock, dated as of August 7, 2012, issued by the Company to Starbucks exercisable for up to 3,152,310 shares of the Company’s Common Stock (as may be adjusted pursuant to the terms thereof), and (C) the Warrant to Purchase Stock, dated as of August 7, 2012, issued by the Company to Starbucks exercisable for up to 3,152,310 shares of the Company’s Common Stock (as may be adjusted pursuant to the terms thereof), ((A), (B) and (C), collectively, the “Warrants”), and (iv) any other shares of Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a
dividend or other distribution with respect to, or in exchange for or in replacement of, the shares listed in (i), (ii) and (iii); provided, however, that the foregoing definition shall exclude in all cases any Registrable Securities sold by a person in a transaction in which such person's rights under this Agreement are not assigned. Notwithstanding the foregoing, Common Stock or other securities shall only be treated as Registrable Securities if and so long as (A) they have not been sold to or through a broker or dealer or underwriter in a public distribution or a public securities transaction, (B) they have not been sold in a transaction exempt from the registration and prospectus delivery requirements of the Securities Act under Section 4(1) thereof so that all transfer restrictions, and restrictive legends with respect thereto, if any, are removed upon the consummation of such sale, or (C) the Holder thereof is entitled to exercise any right provided in Section 1 in accordance with Section 1.12 below.

(i) The number of shares of “Registrable Securities then outstanding” shall be determined by the number of shares of Common Stock outstanding which are, and the number of shares of Common Stock issuable pursuant to then exercisable or convertible securities which are, Registrable Securities.


(k) The term “Securities Act” means the U.S. Securities Act of 1933, as amended (and any successor thereto) and the rules and regulations promulgated thereunder.

1.2 Request for Registration.

(a) If the Company shall receive at any time after the earlier of (i) July 17, 2016 or (ii) six months after the effective date of the first registration statement for a public offering of securities of the Company (other than a registration statement relating either to the sale of securities to employees of the Company pursuant to a stock option, stock purchase or similar plan or an SEC Rule 145 transaction), a written request from the Holders of a majority of the Registrable Securities then outstanding that the Company file a registration statement under the Securities Act covering the registration of at least such number of the Registrable Securities having an anticipated aggregate offering price, net of underwriting discounts and commissions, of at least $5,000,000, then the Company shall, within 10 days of the receipt thereof, give written notice of such request to all Holders and shall, subject to the limitations of subsection 1.2(b), use its best efforts to file as soon as practicable, and in any event within 90 days of the receipt of such request, a registration statement under the Securities Act covering all Registrable Securities which the Holders request to be registered within 20 days of the mailing of such notice by the Company.

(b) If the Holders initiating the registration request hereunder (“Initiating Holders”) intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to this Section 1.2 and the Company shall include such information in the written notice referred to in subsection 1.2(a). The underwriter will be selected by a majority in interest of the Initiating Holders and shall be reasonably acceptable to the Company. In such event, the right of any Holder to include its Registrable Securities in such registration shall be conditioned upon such Holder’s participation in such underwriting and the inclusion of such Holder’s Registrable Securities in the underwriting (unless otherwise mutually agreed by a majority in interest of the
Initiating Holders and such Holder) to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in subsection 1.5(f)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting. Notwithstanding any other provision of this Section 1.2, if the underwriter advises the Initiating Holders in writing that marketing factors require a limitation of the number of shares to be underwritten, then the Initiating Holders shall so advise all Holders of Registrable Securities that would otherwise be underwritten pursuant hereto, and the number of shares of Registrable Securities that may be included in the underwriting shall be allocated among all participating Holders thereof, including the Initiating Holders, in proportion (as nearly as practicable) to the amount of Registrable Securities of the Company owned by each participating Holder; provided, however, that the number of shares of Registrable Securities to be included in such underwriting shall not be reduced unless all other securities are first entirely excluded from the underwriting.

(c) Notwithstanding the foregoing, if the Company shall furnish to Holders requesting a registration statement pursuant to this Section 1.2, a certificate signed by the President of the Company stating that in the good faith judgment of the Board of Directors of the Company, it would be seriously detrimental to the Company and its holders of capital stock for such registration statement to be filed and it is therefore essential to defer the filing of such registration statement, the Company shall have the right to defer such filing for a period of not more than 120 days after receipt of the request of the Initiating Holders; provided, however, that the Company may not utilize this right more than once in any twelve-month period; and provided, further, that the Company shall not register any securities for the account of itself or any other stockholder during such 120-day period.

(d) In addition, the Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to this Section 1.2:

(i) after the Company has effected 2 registrations pursuant to this Section 1.2 and such registrations have been declared or ordered effective, provided, however, that either (A) the conditions of Section 1.5(a) have been satisfied or (B) the registration statements remain effective and there are no stop orders in effect to such registration statements;

(ii) during the period starting with the date 90 days prior to the Company’s good faith estimate of the date of filing of, and ending on a date 90 days after the effective date of, a registration subject to Section 1.3 unless such offering is the initial public offering of the Company’s securities, in which case, ending on a date 180 days after the effective date of such registration subject to Section 1.3; provided that the Company is actively employing in good faith all reasonable efforts to cause such registration statement to become effective; or

(iii) if the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made pursuant to Section 1.4.

1.3 Company Registration. If (but without any obligation to do so) the Company proposes to register (including for this purpose a registration effected by the Company for holders of capital stock other than the Holders) any of its stock under the Securities Act in connection with the public offering of such securities solely for cash (other than a registration
relating solely to the sale of securities to participants in a Company stock plan or a transaction covered by Rule 145 under the Securities Act, a registration in which the only stock being registered is Common Stock issuable upon conversion of debt securities which are also being registered, or any registration on any form which does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities, the Company shall, at such time, promptly give each Holder written notice of such registration. Upon the written request of each Holder given within 20 days after mailing of such notice by the Company in accordance with Section 4.4, the Company shall, subject to the cut back provisions of Section 1.8 cause to be registered under the Securities Act all of the Registrable Securities that each such Holder has requested to be registered.

1.4 Form S-3 Registration. In case the Company shall receive from any Holder or Holders of the Registrable Securities then outstanding a written request or requests that the Company effect a registration on Form S-3 (a “Holder Shelf Demand”) and any related qualification or compliance with respect to all or a part of the Registrable Securities owned by such Holder or Holders, the Company will:

(a) promptly give written notice of the proposed registration, and any related qualification or compliance, to all other Holders; and

(b) as soon as practicable, effect such registration and all such qualifications and compliances as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Holder’s or Holders’ Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any other Holder or Holders joining in such request as are specified in a written request given within 15 days after receipt of such written notice from the Company; provided, however, that the Company shall not be obligated to effect any such registration, qualification or compliance, pursuant to this Section 1.4: (i) if Form S-3 is not available for such offering by the Holders; (ii) if the Holders, together with the holders of any other securities of the Company entitled to inclusion in such registration, propose to sell Registrable Securities and such other securities (if any) at an aggregate price to the public (net of any underwriters’ discounts or commissions) of less than $10,000,000; (iii) if the Company shall furnish to the Holders a certificate signed by the President of the Company stating that in the good faith judgment of the Board of Directors of the Company, it would be seriously detrimental to the Company and its holders of capital stock for such Form S-3 registration to be effected at such time, in which event the Company shall have the right to defer the filing of the Form S-3 registration statement for a period of not more than 120 days after receipt of the request of the Holder or Holders under this Section 1.4; provided, however, that the Company shall not utilize this right more than once in any 12-month period; (iv) if the Company has, within the 12-month period preceding the date of such request, already effected two registrations on Form S-3 for the Holders pursuant to this Section 1.4; (v) in any particular jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance; or (vi) during the period ending 180 days after the effective date of a registration statement subject to Section 1.3.

(c) Subject to the foregoing, the Company shall file a registration statement covering the Registrable Securities and other securities so requested to be registered as soon as practicable after receipt of the request or requests of the Holders. Registrations effected pursuant
to this Section 1.4 shall not be counted as demands for registration or registrations effected pursuant to Sections 1.2 or 1.3, respectively.

1.5 Obligations of the Company. Whenever required under this Section 1 to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) Prepare and file with the SEC a registration statement with respect to such Registrable Securities and use its best efforts to cause such registration statement to become effective, and, upon the request of the Holders of a majority of the Registrable Securities registered thereunder keep such registration statement effective for up to 120 days, or until the distribution described in such registration statement is completed, if earlier.

(b) Prepare and file with the SEC such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement for up to 120 days, or until the distribution described in such registration statement is completed, if earlier.

(c) Promptly notify the Holders of the effectiveness of such registration statement, and furnish to the Holders such number of copies of a prospectus, including a preliminary prospectus, in conformity with the requirements of the Securities Act, and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned by them.

(d) Following the effective date of such registration statement, notify the Holders of any request by the SEC that the Company amend or supplement such registration statement, or the associated prospectus.

(e) Use its best efforts to register and qualify the securities covered by such registration statement under such other securities or Blue Sky laws of such jurisdictions as shall be reasonably requested by the Holders, provided that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions.

(f) In the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing underwriter of such offering. Each Holder participating in such underwriting shall also enter into and perform its obligations under such an agreement.

(g) Notify each Holder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing, and, at the request of any such Holder, the Company will, as soon as reasonably practicable, file and furnish to all such Holders a supplement or amendment to such prospectus so that, as thereafter delivered to the purchasers
of such Registrable Securities, such prospectus will not contain an untrue statement of a material fact or omit to state any fact necessary to make the statements therein not misleading in light of the circumstances under which they were made.

(h) Cause all such Registrable Securities registered pursuant hereunder to be listed on each securities exchange on which similar securities issued by the Company are then listed.

(i) Provide a transfer agent and registrar for all Registrable Securities registered pursuant hereunder and a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration.

(j) Use its best efforts to furnish, at the request of any Holder requesting registration of Registrable Securities pursuant to this Section 1, on the date that such Registrable Securities are delivered to the underwriters for sale in connection with a registration pursuant to this Section 1, if such securities are being sold through underwriters, (i) an opinion, dated such date, of the counsel representing the Company for the purposes of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering, addressed to the underwriters and (ii) a letter dated such date, from the independent certified public accountants of the Company, in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to the underwriters.

1.6 Furnish Information. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 1 with respect to the Registrable Securities of any selling Holder that such Holder shall furnish to the Company such information regarding itself, the Registrable Securities held by it, and the intended method of disposition of such securities as shall be required to effect the registration of such Holder’s Registrable Securities. The Company shall have no obligation with respect to any registration requested pursuant to Section 1.2 or Section 1.4 of this Agreement if, as a result of the application of the preceding sentence, the number of shares or the anticipated aggregate offering price of the Registrable Securities to be included in the registration does not equal or exceed the number of shares or the anticipated aggregate offering price required to originally trigger the Company’s obligation to initiate such registration as specified in subsection 1.2(a) or subsection 1.4(b), whichever is applicable.

1.7 Expenses of Registration.

(a) Demand Registration. All expenses other than underwriting discounts and commissions incurred in connection with registrations, filings or qualifications pursuant to Section 1.2, including (without limitation) all registration, filing and qualification fees, printers’ and accounting fees, fees and disbursements of counsel for the Company, and the reasonable fees and disbursements of one counsel for the selling Holders selected by them with the approval of the Company, which approval shall not be unreasonably withheld, conditioned or delayed, shall be borne by the Company; provided, however, that the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Section 1.2 if the registration request is subsequently withdrawn at the request of the Holders of a majority of the Registrable Securities to be registered (in which case all participating Holders shall bear such expenses),
unless the Holders of a majority of the Registrable Securities agree to forfeit their right to one demand registration pursuant to Section 1.2; provided further, however, that if at the time of such withdrawal, the Holders (i) have learned of a material adverse change in the condition, business, or prospects of the Company that was not known to the Holders at the time of their request and (ii) have withdrawn the request with reasonable promptness following disclosure by the Company of such material adverse change, then the Holders shall not be required to pay any of such expenses and shall not forfeit their rights pursuant to Section 1.2.

(b) **Company Registration.** All expenses other than underwriting discounts and commissions incurred in connection with registrations, filings or qualifications of Registrable Securities pursuant to Section 1.3 for each Holder (which right may be assigned as provided in Section 1.12), including (without limitation) all registration, filing, and qualification fees, printers’ and accounting fees, fees and disbursements of counsel for the Company and the reasonable fees and disbursements of one counsel for the selling Holder or Holders selected by them with the approval of the Company, which approval shall not be unreasonably withheld, conditioned or delayed, shall be borne by the Company.

(c) **Registration on Form S-3.** All expenses incurred in connection with a registration requested pursuant to Section 1.4, including (without limitation) all registration, filing, qualification, printers’ and accounting fees and the reasonable fees and disbursements of one counsel for the selling Holder or Holders selected by them with the approval of the Company, which approval shall not be unreasonably withheld, conditioned or delayed, and counsel for the Company, and any underwriters’ discounts or commissions associated with Registrable Securities, shall be borne pro rata by the Holder or Holders participating in the Form S-3 registration, except for one registration on Form S-3 per calendar year pursuant to a Holder Shelf Demand, the expenses of which shall be borne by the Company.

1.8 **Underwriting Requirements.** In connection with any offering involving an underwriting of shares of the Company’s capital stock, the Company shall not be required under Section 1.3 to include any of the Holders’ securities in such underwriting unless they accept the terms of the underwriting as agreed upon between the Company and the underwriters selected by it (or by other persons entitled to select the underwriters), and then only in such quantity as the underwriters determine in their sole discretion will not jeopardize the success of the offering by the Company. If the total amount of securities, including Registrable Securities, requested by holders of capital stock to be included in such offering exceeds the amount of securities sold other than by the Company that the underwriters determine in their sole discretion is compatible with the success of the offering, then the Company shall be required to include in the offering only that number of such securities, including Registrable Securities, which the underwriters determine in their sole discretion will not jeopardize the success of the offering (the securities so included to be apportioned pro rata among the selling security holders according to the total amount of securities entitled to be included therein owned by each selling security holder or in such other proportions as shall mutually be agreed to by such selling security holders) but in no event shall (a) the amount of securities of the selling Holders included in the offering be reduced below 25% of the total amount of securities included in such offering, unless such offering is the initial public offering of the Company’s securities, in which case, the selling security holders may be excluded if the underwriters make the determination described above and no other holder’s securities are included, (b) the number of Registrable Securities included in the offering...
be reduced unless all other securities (other than securities sold by the Company) are first entirely excluded from the offering or (c) any securities held by a Founder be included if any securities held by any selling Holder are excluded. For purposes of the preceding parenthetical concerning apportionment, for any selling security holder which is a holder of Registrable Securities and which is a partnership or corporation, the partners, retired partners and holders of capital stock of such holder, or the estates and family members of any such partners and retired partners and any trusts for the benefit of any of the foregoing persons shall be deemed to be a single “selling security holder,” and any pro-rata reduction with respect to such “selling security holder” shall be based upon the aggregate amount of shares carrying registration rights owned by all entities and individuals included in such “selling security holder,” as defined in this sentence.

1.9 Delay of Registration. No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any such registration as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 1.

1.10 Indemnification. In the event any Registrable Securities are included in a registration statement under this Section 1:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each Holder, the partners, officers, members, directors and security holders of each Holder, legal counsel and accountants for each Holder, and any underwriter (as defined in the Securities Act) for such Holder and each person, if any, who controls such Holder or underwriter within the meaning of the Securities Act or the Exchange Act, against any losses, claims, damages, or liabilities (joint or several) to which they may become subject under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereof) arise out of or are based upon any of the following statements, omissions or violations (collectively a “Violation”): (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, any issuer information (as defined in Rule 433 of the Securities Act) filed or required to be filed pursuant to Rule 433(d) under the Securities Act or any other document incident to such registration prepared by or on behalf of the Company or used or referred to by the Company, (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading, or (iii) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any state securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or any state securities law; and the Company will pay to each such Holder, the partners, officers, members, directors and security holders of each Holder, legal counsel and accountants for each Holder, and any underwriter controlling such holder, as incurred, any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability, or action; provided, however, that the indemnity agreement contained in this subsection 1.10(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability, or action if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed), nor shall the Company be liable to any Holder, partners, officers, members, directors and security holders of each Holder, legal counsel and accountants for each Holder, or any underwriter controlling such holder for any such loss, claim, damage, liability, or action to the extent that it arises out of or is based upon a Violation which
occurs in reliance upon and in conformity with written information furnished expressly for use in connection with such registration by any such Holder, underwriter or controlling person.

(b) To the extent permitted by law, each selling Holder will, severally and not jointly, indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the registration statement, each person, if any, who controls the Company within the meaning of the Securities Act, any underwriter, any other Holder selling securities in such registration statement and any controlling person of any such underwriter or other Holder, against any losses, claims, damages, or liabilities (joint or several) to which any of the foregoing persons may become subject, under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereto) arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that such Violation occurs in reliance upon and in conformity with written information furnished by such Holder expressly for use in connection with such registration; and each such Holder will pay, as incurred, any legal or other expenses reasonably incurred by any person intended to be indemnified pursuant to this subsection 1.10(b), in connection with investigating or defending any such loss, claim, damage, liability, or action; provided, however, that the indemnity agreement contained in this subsection 1.10(b) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Holder, which consent shall not be unreasonably withheld, conditioned or delayed; provided that in no event shall any indemnity under this subsection 1.10(b) exceed the net proceeds from the offering received by such Holder, except in the case of willful fraud by such Holder.

(c) Promptly after receipt by an indemnified party under this Section 1.10 of notice of the commencement of any action (including any governmental action), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 1.10, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume the defense thereof with counsel mutually satisfactory to the parties; provided, however, that an indemnified party (together with all other indemnified parties which may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the reasonable fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action, if prejudicial to its ability to defend such action, shall relieve such indemnifying party of any liability to the indemnified party under this Section 1.10, but the omission so to deliver written notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 1.10.

(d) If the indemnification provided for in this Section 1.10 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any loss, liability, claim, damage or expense referred to therein, then the indemnifying party, in lieu of indemnifying such indemnified party hereunder, shall contribute to the amount paid or payable
by such indemnified party as a result of such loss, liability, claim, damage, or expense in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other in connection with the statements or omissions that resulted in such loss, liability, claim, damage or expense as well as any other relevant equitable considerations; provided that in no event shall any contribution by a Holder under this Subsection 1.10(d) exceed the net proceeds from the offering received by such Holder (including any amounts paid or payable by such Holder pursuant to Section 1.10(b)), except in the case of willful fraud by such Holder. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties’ relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission.

(c) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control; provided, however, that the failure of the underwriting agreement to address or provide for a matter addressed or provided for by this Agreement shall not be deemed a conflict between the provisions of the underwriting agreement and the foregoing provisions.

(f) The obligations of the Company and Holders under this Section 1.10 shall survive the completion of any offering of Registrable Securities in a registration statement under this Section 1, and otherwise.

1.11 Reports Under the Exchange Act. With a view to making available to the Holders the benefits of Rule 144 promulgated under the Securities Act and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company agrees to:

(a) make and keep public information available, as those terms are understood and defined in SEC Rule 144, at all times after 90 days after the effective date of the first registration statement filed by the Company for the offering of its securities to the general public so long as the Company remains subject to the periodic reporting requirements under Sections 13 or 15(d) of the Exchange Act;

(b) take such action, including the voluntary registration of its Common Stock under Section 12 of the Exchange Act, as is necessary to enable the Holders to utilize Form S-3 for the sale of their Registrable Securities, such action to be taken as soon as practicable after the end of the fiscal year in which the first registration statement filed by the Company for the offering of its securities to the general public is declared effective;

(c) file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act; and

(d) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request (i) a written statement by the Company that it has complied
with the reporting requirements of SEC Rule 144 (at any time after 90 days after the effective date of the first registration statement filed by the Company), the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after it so qualifies), (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC which permits the selling of any such securities without registration or pursuant to such form.

1.12 Assignment of Registration Rights. The rights to cause the Company to register Registrable Securities pursuant to this Section 1 may be assigned (but only with all related obligations) by a Holder to a transferee or assignee (a) of at least 25% of the transferring Holder’s aggregate Registrable Securities originally obtained from the Company (or if the transferring Holder then owns less than 25% of such originally acquired securities, then all remaining Registrable Securities then held by the transferring Holder), (b) that is a subsidiary, parent, partner, limited partner, retired partner, member, retired member or holder of capital stock of a Holder, (c) that is an Affiliate of the Holder, (d) who is a Holder’s child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law (such a relation, a Holder’s “Immediate Family Member”, which term shall include adoptive relationships), or (e) that is a trust for the benefit of an individual Holder or such Holder’s Immediate Family Member, provided the Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee or assignee and the securities with respect to which such registration rights are being assigned; and provided, further, that such assignment shall be effective only if the transferee agrees to be bound by this Agreement and immediately following such transfer the further disposition of such securities by the transferee or assignee is restricted under the Securities Act. For the purposes of determining the number of shares of Registrable Securities held by a transferee or assignee, the holdings of transferees and assignees of (i) a partnership who are partners or retired partners of such partnership or (ii) a limited liability company who are members or retired members of such limited liability company (including Immediate Family Members of such partners or members who acquire Registrable Securities by gift, will or intestate succession) shall be aggregated together and with the partnership or limited liability company; provided that all assignees and transferees who would not qualify individually for assignment of registration rights shall have a single attorney-in-fact for the purpose of exercising any rights, receiving notices or taking any action under Section 1.

1.13 Limitations on Subsequent Registration Rights. From and after the date of this Agreement, the Company shall not, without the prior written consent of the Holders of a majority of the outstanding Registrable Securities enter into any agreement with any holder or prospective holder of any securities of the Company which would allow such holder or prospective holder any registration rights, the terms of which are pari passu with or senior to the registration rights granted to the Holders in Sections 1.2, 1.3 or 1.4.

1.14 Lock-Up Agreement.

(a) Lock-Up Period ; Agreement. In connection with the initial public offering of the Company’s securities and upon request of the Company or the underwriters managing such offering of the Company’s securities, Holder hereby agrees not to sell, make any
short sale of, loan, grant any option for the purchase of, or otherwise dispose of any securities of the Company (other than those included in the registration) without the prior written consent of the Company or such underwriters, as the case may be, for such period of time (not to exceed 270 days with respect to the shares of Series E Preferred Stock and the shares of Common Stock issued upon conversion thereof) (such time period under this clause (i) hereinafter referred to as the “Qualified Lock-Up”), and (ii) 180 days with respect to all other securities of the Company (such time period under this clause (ii) hereinafter referred to as the “Standard Lock-Up”) unless otherwise provided for in an agreement between the Company and Holder) from the effective date of such registration as may be requested by the Company or the underwriters and to execute an agreement reflecting the foregoing as may be requested by the underwriters at the time of the Company’s initial public offering; provided, however, that the foregoing restrictions shall not apply to shares acquired by Holder in open market transactions upon or after the completion of the initial public offering. In addition, upon request of the Company or the underwriters managing a public offering of the Company’s securities (other than the initial public offering), Holder hereby agrees to be bound by similar restrictions, and to sign a similar agreement, in connection with no more than one additional registration statement filed within 12 months after the closing date of the initial public offering, provided that the duration of the lockup period with respect to such additional registration shall not exceed 90 days from the effective date of such additional registration statement. Any waiver or termination of the restrictions of any or all of such agreements by the Company or the underwriters shall apply to all security holders subject to such agreements proportionately based on the number of shares subject to such agreements.

(b) Limitations. The obligations described in Section 1.14(a) shall apply only if all officers, directors and 5% security holders of the Company enter into similar agreements (which shall include for the purposes of this Section 1.14(b), a lock-up period of not less than 180 days), and shall not apply to a registration relating solely to employee benefit plans, or to a registration relating solely to a transaction pursuant to Rule 145 under the Securities Act.

(c) Proportional Release from Lock-Up. To the extent that any Key Holder (as defined below) sells its Registrable Securities during the period of time between the expiration of the Standard Lock-Up and the expiration of the Qualified Lock-Up (the “Measurement Period”), then the holders of Registrable Securities issuable upon conversion of the Series E Preferred Stock (the “Series E Holders”) shall be released from the restrictions set forth in Section 1.14(a)(i) up to an amount that is equal to the product obtained by multiplying (i) the highest percentage of Registrable Securities sold by any Key Holder during the Measurement Period (calculated based on the Registrable Securities sold by any Key Holder during the Measurement Period in proportion to the total Registrable Securities held by such Key Holder as of the commencement of the Measurement Period) by (ii) each such Series E Holders’ shares of Series E Preferred Stock held as of the commencement of the Measurement Period. For example, if a Key Holder holds an aggregate of 100,000 shares of Registrable Securities during the Measurement Period and sells an aggregate of 10,000 shares of Registrable Securities during the Measurement Period (and no other Key Holder sells a higher percentage of their Registrable Securities), then each Series E Holder will be released from restrictions set forth in Section 1.14(a)(i) as to 10% of the Registrable Securities issuable upon conversion of the Series E Preferred Stock. In the event that any Key Holder sells any Registrable Securities during the Measurement Period and does not timely file a public report pursuant to Section
of the Exchange Act, such Key Holder and the Company shall promptly provide notice of such sale to each holder of Registrable Securities issuable upon conversion of the Series E Preferred Stock. As used in this Section 1.14(c), the term “Key Holder” shall mean any of the following persons or entities (including affiliates thereof): Jack Dorsey as Trustee of The Jack Dorsey Revocable Trust U/A/D 12/8/10, the Jack Dorsey 2010 Annuity Trust II U/A/D 6/23/10, KPCB Holdings, Inc., Khosla Ventures III, LP, Sequoia Capital U.S. Venture 2010 Fund, LP, Sequoia Capital U.S. Venture 2010 Partners Fund, LP, and Sequoia Capital U.S. Venture 2010 Partners Fund (Q), LP.

(d) Stop-Transfer Instructions. In order to enforce the foregoing covenants, the Company may impose stop-transfer instructions with respect to the securities of each Holder (and the securities of every other person subject to the restrictions in Section 1.14(a)).

(e) Transferees Bound. Each Holder agrees that it will not transfer securities of the Company unless each transferee agrees in writing to be bound by all of the provisions of this Section 1.14; provided that this Section 1.14(d) shall not apply to transfers pursuant to a registration statement or transfers after the 12-month anniversary of the effective date of the Company’s initial registration statement subject to this Section 1.14.

(f) Each Holder acknowledges, understands and agrees that by entering into this Agreement, the Holder has received written notice of the qualifications, limitations and restrictions on the transfer or registration of transfer of the Registrable Securities of such Holder pursuant to sections 151(f) and 202(a) of the Delaware General Corporation Law (“DGCL”) and waives any right to receive future notices pursuant to sections 151(f) and 202(a) of the DGCL with respect to the Registrable Securities of such Holder (and the shares or securities of every other person subject to the restriction contained in this Section 1.14). Each Holder further acknowledges that in addition to the qualifications, limitations and restrictions on the transfer or registration of transfer of the Registrable Securities provided in this Agreement, the Registrable Securities are subject to the following qualifications, limitations and restrictions on the transfer or registration of transfer of the Registrable Securities:

For shares of Series E Preferred Stock and shares of Common Stock issued upon conversion thereof:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A LOCK-UP PERIOD OF UP TO 270 DAYS AFTER THE EFFECTIVE DATE OF THE ISSUER’S REGISTRATION STATEMENT FILED UNDER THE ACT, AS AMENDED, AS SET FORTH IN AN AGREEMENT BETWEEN THE COMPANY AND THE ORIGINAL HOLDER OF THESE SECURITIES, A COPY OF WHICH MAY BE OBTAINED AT THE ISSUER’S PRINCIPAL OFFICE. SUCH LOCK-UP PERIOD IS BINDING ON TRANSFEREES OF THESE SHARES.

For all other Registrable Securities (unless otherwise provided for in an agreement between the Company and Holder):

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A LOCK-UP PERIOD OF UP TO 180 DAYS AFTER THE EFFECTIVE
DATE OF THE ISSUER’S REGISTRATION STATEMENT FILED UNDER THE ACT, AS AMENDED, AS SET FORTH IN AN AGREEMENT BETWEEN THE COMPANY AND THE ORIGINAL HOLDER OF THESE SECURITIES, A COPY OF WHICH MAY BE OBTAINED AT THE ISSUER’S PRINCIPAL OFFICE. SUCH LOCK-UP PERIOD IS BINDING ON TRANSFEREES OF THESE SHARES.

Each Holder further acknowledges and agrees that in the event the Company issues a stock certificate to represent the Registrable Securities, such stock certificate shall bear legends substantially similar to the qualifications, limitations and restrictions on the transfer or registration of transfer provided above or such legends required by applicable state and federal corporate and securities laws. Upon request from the Holder, the Company will furnish without charge to the Holder the powers, designations, preferences and relative participating, optional or other special rights of each class or series of the Company’s capital stock and the qualifications, limitations or restrictions of such preferences or right.

1.15 Termination of Registration Rights. No Holder shall be entitled to exercise any right provided for in this Section 1 after the earlier of (a) five (5) years following the consummation of a Qualified IPO, (b) such time as Rule 144 or another similar exemption under the Securities Act is available for the sale of all of such Holder’s Registrable Securities during a three-month period without registration, or (c) upon termination of this Agreement, as provided in Section 3.

2. Covenants of the Company.

2.1 Delivery of Financial Statements. Upon the request by a Major Investor (as hereinafter defined), the Company shall deliver to each Major Investor (other than a Major Investor reasonably deemed by the Company to be a competitor of the Company, it being expressly understood that neither (i) Khosla Ventures or any of its Affiliates (collectively, “Khosla”), (ii) Sequoia Capital U.S. Venture 2010 Fund, LP or any of its Affiliates (collectively, “Sequoia”), (iii) LabMorgan Corporation (“LabMorgan”), (iv) Visa International Service Association or any of its Affiliates (collectively, “Visa”), (v) KPCB or any of its Affiliates (collectively, “KPCB”), (vi) Rizvi Opportunistic Equity Fund II, L.P., Rizvi Traverse Partners II, LLC and RT Spartan IV, LLC (collectively, “RTM”), (vii) Citi Ventures Inc. (collectively, “Citi”); nor (viii) Coral Blue Investment Private Limited (“CBI”) nor (ix) AI Palma Holdings LLC (“Access”) shall be considered to be a competitor of the Company):

(a) as soon as practicable, but in any event within 90 days after the end of each fiscal year of the Company, an income statement for such fiscal year, a balance sheet of the Company and statement of stockholders’ equity as of the end of such year, and a statement of cash flows for such year, such year-end financial reports to be in reasonable detail, prepared in accordance with generally accepted accounting principles (“GAAP”) consistently applied, audited and certified by an independent public accounting firm of nationally recognized standing selected by the Board of Directors;

(b) as soon as practicable, but in any event within 30 days after the end of each of the first three quarters of each fiscal year of the Company, an unaudited profit or loss statement, a statement of cash flows for such fiscal quarter and an unaudited balance sheet as of
the end of such fiscal quarter;

(c) within 30 days of the end of each month, an unaudited income statement and a statement of cash flows and balance sheet for and as of the end of such month, in reasonable detail;

(d) as soon as practicable, but in any event 30 days prior to the end of each fiscal year, a budget and business plan for the next fiscal year, prepared on a monthly basis, an updated list of all stockholders of the Company that includes the name of each stockholder and the number and class of shares held by each stockholder, and, as soon as prepared, any other budgets or revised budgets prepared by the Company; and

(e) with respect to any unaudited financial statements called for in this Section 2.1, an instrument executed by the Chief Financial Officer or President of the Company and certifying that such financials were prepared in accordance with GAAP consistently applied with prior practice for earlier periods (with the exception of footnotes that may be required by GAAP) and fairly present the financial condition of the Company and its results of operation for the period specified, subject to year-end audit adjustment, provided that the foregoing shall not restrict the right of the Company to change its accounting principles consistent with GAAP, if the Board of Directors determines that it is in the best interest of the Company to do so. Notwithstanding anything else in this Section 2.1 to the contrary, the Company may cease providing the information set forth in this Section 2.1 during the period starting with the date 60 days before the Company’s good-faith estimate of the date of filing of a registration statement if it reasonably concludes it must do so to comply with the SEC rules applicable to such registration statement and related offering; provided that the Company’s covenants under this Section 2.1 shall be reinstated at such time as the Company is no longer actively employing its commercially reasonable efforts to cause such registration statement to become effective.

2.2 Inspection. The Company shall permit each Major Investor (except for a Major Investor reasonably deemed by the Company to be a competitor of the Company, it being expressly understood that neither Khosla, Sequoia, LabMorgan, Visa, KPCB, Access nor RTM shall be considered to be a competitor of the Company), at such Major Investor’s expense, to visit and inspect the Company’s properties, to examine its books of account and records and to discuss the Company’s affairs, finances and accounts with its officers, all at such reasonable times as may be requested by the Major Investor; provided, however, that the Company shall not be obligated pursuant to this Section 2.2 to provide access to any information which it reasonably considers in good faith to be privileged or a trade secret or similar confidential information.

2.3 Right of First Offer. Subject to the terms and conditions specified in this Section 2.3, the Company hereby grants to each Major Investor a right of first offer with respect to future sales by the Company of its Shares (as hereinafter defined). For purposes of this Agreement, a “Major Investor” shall mean any person who holds at least 5,000,000 shares (subject to adjustment for stock splits, stock dividends, reclassifications or the like) of Registrable Securities (excluding shares of Founders’ Stock and any other shares of Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, shares of Founders’ Stock). Notwithstanding the foregoing, Visa shall be deemed a Major Investor for the purposes of this Agreement as long as it holds all of the shares
originally purchased from the Company (subject to adjustment for stock splits, stock dividends, reclassifications or the like) of Registrable Securities (excluding shares of Founders’ Stock and any other shares of Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, shares of Founders’ Stock).

Notwithstanding the foregoing, Starbucks shall be deemed a Major Investor for purposes of this Agreement so long as it continues to be the record holder of unexpired Warrants (or the shares issuable upon exercise thereof). Notwithstanding the foregoing, Citi shall be deemed a Major Investor as long as it holds all of the shares of Registrable Securities (subject to adjustment for stock splits, stock dividends, reclassifications or the like). Notwithstanding the foregoing, Access shall be deemed a Major Investor as long as it holds all of the shares of Registrable Securities (subject to adjustment for stock splits, stock dividends, reclassifications or the like). Notwithstanding the foregoing, GIC shall be deemed a Major Investor as long as it holds at least seventy-five percent (75%) of the shares of Registrable Securities (subject to adjustment for stock splits, stock dividends, reclassifications or the like).

Notwithstanding the foregoing, Visa shall be deemed a Major Investor as long as it holds any general partners, managing members and affiliates of a person that is otherwise a Major Investor, including Affiliates. A Major Investor who chooses to exercise the right of first offer may designate as purchasers under such right itself or its partners or affiliates, including Affiliates, in such proportions as it deems appropriate. Each time the Company proposes to offer any shares of, or securities convertible into or exercisable for any shares of, any class of its capital stock (“Shares”), the Company shall first make an offering of such Shares to each Major Investor in accordance with the following provisions:

(a) The Company shall deliver a notice (the “RFO Notice”) to the Major Investors stating (i) its bona fide intention to offer such Shares, (ii) the number of such Shares to be offered, and (iii) the price and terms, if any, upon which it proposes to offer such Shares.

(b) Within 15 calendar days after delivery of the RFO Notice, the Major Investor may elect to purchase or obtain, at the price and on the terms specified in the RFO Notice, up to that portion of such Shares which equals the proportion that the number of shares of Common Stock issued and held, or issuable upon conversion and exercise of all convertible or exercisable securities then held, by such Major Investor bears to the sum of (i) the total number of shares of Common Stock then outstanding (assuming full conversion and exercise of all convertible or exercisable securities) and (ii) shares of Common Stock issuable to employees, consultants or directors pursuant to a stock option plan, restricted stock plan, or other stock plan approved by the Board of Directors. Such purchase shall be completed at the same closing as that of any third party purchasers or at an additional closing thereunder. The Company shall promptly, in writing, inform each Major Investor that purchases all the shares available to it (each, a “Fully-Exercising Investor”) if any other Major Investor’s failure to do likewise. During the 10-day period commencing after receipt of such information, each Fully-Exercising Investor shall be entitled to obtain that portion of the Shares for which Major Investors were entitled to subscribe but which were not subscribed for by the Major Investors that is equal to the proportion that the number of shares of Common Stock issued and held, or issuable upon conversion and exercise of all convertible or exercisable securities then held, by such Fully Exercising Investor bears to the total number of shares of Common Stock then outstanding.
(assuming full conversion and exercise of all convertible or exercisable securities) issued and held, or issuable upon conversion of the Preferred Stock then held, by all the Major Investors.

(c) The Company may, during the 45-day period following the expiration of the period provided in subsection 2.3(b) hereof, offer the remaining unsubscribed portion of the Shares to any person or persons at a price not less than, and upon terms no more favorable to the offeree than those specified in the RFO Notice. If the Company does not enter into an agreement for the sale of the Shares within such period, or if such agreement is not consummated within 60 days of the execution thereof, the right provided hereunder shall be deemed to be revived and such Shares shall not be offered unless first reoffered to the Major Investors in accordance herewith.

(d) The right of first offer in this Section 2.3 shall not be applicable to issuances of any equity securities that would not constitute “Additional Stock” as defined under the Restated Certificate.

(e) Notwithstanding anything to the contrary in this Agreement, if (i) the right of first offer in this Section 2.3 is waived by the holders of Preferred Stock in accordance with Section 4.3 and (ii) any Major Investor purchases Shares in the transaction to which such waiver applies (a “Participating Investor”), then the Company shall provide written notice to all other Major Investors of such purchase and each Major Investor shall have a period of up to ten (10) days following its receipt of such notice to elect in writing to purchase a number of Shares equal to the product obtained by multiplying the total number of shares of Common Stock issued and held, or issuable upon conversion and exercise of all convertible or exercisable securities then held, by such Major Investor by a fraction, the numerator of which is the total number of Shares purchased or to be purchased by the Participating Investor in such transaction (purchasing the highest number of Shares as a percentage of such Participating Investor’s aggregate shareholdings) and the denominator of which is the total number of shares of Common Stock issued and held, or issuable upon conversion and exercise of all convertible or exercisable securities then held, by such Participating Investor. The closing of any such additional issuance and sale of Shares pursuant to this Section 2.3(e) may occur at, or within twenty (20) days following, the closing of the Participating Investors’ purchase of Shares.

(f) In addition to the foregoing, the right of first offer in this Section 2.3 shall not be applicable with respect to any Major Investor and any subsequent securities issuance, if (i) at the time of such subsequent securities issuance, the Major Investor is not an “accredited investor,” as that term is then defined in Rule 501(a) under the Securities Act, and (ii) such subsequent securities issuance is otherwise being offered only to accredited investors.

2.4 Stock Vesting. Unless otherwise approved by the Board of Directors (including at least one of the Preferred Directors (as defined in the Restated Certificate)), all stock options and other stock equivalents issued after the date of this Agreement to employees, directors, consultants and other service providers shall be subject to vesting as follows: (a) twenty-five percent (25%) of such stock shall vest at the end of the first year following the earlier of the date of issuance or such person’s services commencement date with the Company, and (b) seventy-five percent (75%) of such stock shall vest over the remaining three (3) years. If employees, directors, consultants and other service providers are permitted to exercise unvested options, the Company (or its permitted assignees) shall have the option to repurchase any shares that are
unvested as of the termination of such service provider at the lesser of the original purchase price or fair market value of such shares.

2.5 Confidential Information and Invention Assignment Agreements. The Company shall ensure that each current and future employee and consultant shall enter into a confidentiality and invention assignment agreement or consulting agreement in a form approved by the Company’s Board of Directors or executive officers.

2.6 Expenses. The Company shall reimburse each non-employee member of the Board of Directors for such director’s reasonable and documented expenses associated with attending Board of Directors meetings and attending to Company-related business.

2.7 Directors and Officers’ Insurance. The Company will cause to be maintained, with sound and reputable insurers, directors’ and officers’ liability insurance in the minimum amount of $25,000,000, if such coverage is available at commercially reasonable rates unless the Board of Directors (including the Series B Director and the Series C Director, each as defined in the Restated Certificate) agrees not to obtain coverage. Such policy shall be owned by the Company and all benefits thereunder shall be payable to the Company. The obligation of the Company to obtain coverage pursuant to this Section 2.7 shall continue for so long as any representative of Khosla and/or Sequoia and/or KPCB serves as a member of the Board of Directors of the Company.

2.8 Directors and Officers’ Indemnification. For so long as any representative of Khosla and/or Sequoia and/or KPCB serves on the Company’s Board of Directors, the Restated Certificate and the Company’s bylaws shall provide (a) for the elimination of the liability of directors and officers to the maximum extent permitted by law and (b) for indemnification of directors and officers for acts on behalf of the Company to the maximum extent permitted by law.

2.9 Key Man Insurance. The Company will cause to be maintained, with sound and reputable insurers, “key man” insurance on Jack Dorsey in the minimum amount of $5,000,000, if such coverage is available at commercially reasonable rates unless the Board of Directors (including at least one of the Preferred Directors) agrees not to maintain such coverage. Such policy shall be owned by the Company and all benefits thereunder shall be payable to the Company.

2.10 General Liability Insurance. The Company will cause to be maintained, with sound and reputable insurers, general liability and other customary business insurance in an amount that is customary for companies in the industry in which the Company operates, unless the Board of Directors (including at least one of the Preferred Directors) agrees not to maintain such coverage. Such policy shall be owned by the Company and all benefits thereunder shall be payable to the Company.

2.11 Reserved.

2.12 Assignment. Notwithstanding anything herein to the contrary:
(a) Information Rights. The rights of a Major Investor under Sections 2.1 and 2.2 hereof may be assigned only to an Affiliate of such Major Investor who either (a) is, prior to such assignment, a party to this Agreement as an Investor, (b) holds (together with any shares acquired from such Major Investor or such Major Investor’s permitted assigns) at least 5,000,000 shares (subject to adjustment for stock splits, stock dividends, reclassifications or the like) of Registrable Securities (excluding shares of Founders’ Stock and any other shares of Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, shares of Founders’ Stock) or (c) in the event such Major Investor owns less than 5,000,000 shares (subject to adjustment for stock splits, stock dividends, reclassifications or the like) of Registrable Securities (excluding shares of Founders’ Stock and any other shares of Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, shares of Founders’ Stock), acquires all of such Major Investor’s shares of Registrable Securities. Any other purported assignment of the rights of a Major Investor under Sections 2.1 and 2.2 shall be null and void.

(b) Right of First Offer. The rights of a Major Investor under Section 2.3 hereof may be assigned only to an Affiliate of such Major Investor who (a) is, prior to such assignment, a party to this Agreement as an Investor, (b) holds (together with any shares acquired from such Major Investor or such Major Investor’s permitted assigns) at least 5,000,000 shares (subject to adjustment for stock splits, stock dividends, reclassifications or the like) of Registrable Securities (excluding shares of Founders’ Stock and any other shares of Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, shares of Founders’ Stock), or (c) in the event such Major Investor owns less than 5,000,000 shares (subject to adjustment for stock splits, stock dividends, reclassifications or the like) of Registrable Securities (excluding shares of Founders’ Stock and any other shares of Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, shares of Founders’ Stock), acquires all of such Major Investor’s shares of Registrable Securities. Any other purported assignment of the rights of a Major Investor under Section 2.3 shall be null and void.

2.13 Confidentiality.

(a) Each Investor shall keep confidential and shall not disclose, divulge or use for any purpose (other than to monitor its investment in the Company or to enforce its rights under the Transaction Agreements (as defined in the Purchase Agreement) to which it is party) any confidential information obtained from the Company pursuant to the terms of this Agreement (including notice of the Company’s intention to file a registration statement), unless such confidential information (a) is known or becomes known to the public in general (other than as a result of a breach of this Section 2.13 by such Investor), (b) is or has been independently developed or conceived by the Investor without use of the Company’s confidential information, or (c) is or has been made known or disclosed to the Investor by a third party without a breach of any obligation of confidentiality such third party may have to the Company; provided, however, that an Investor may disclose confidential information (i) to its attorneys, accountants,
consultants, and other professionals to the extent necessary to obtain their services in connection with monitoring its investment in the Company or enforcing its rights under the Transaction Agreements; (ii) to any prospective purchaser of any Registrable Securities from such Investor, if such prospective purchaser agrees to be bound by the provisions of this Section 2.13; (iii) to any Affiliate, partner, member, stockholder, or wholly owned subsidiary of such Investor in the ordinary course of business, provided that such Investor informs such person that such information is confidential and directs such person to maintain the confidentiality of such information; or (iv) as may otherwise be required by law, provided that the Investor promptly notifies the Company of such disclosure and takes reasonable steps to minimize the extent of any such required disclosure. Notwithstanding the foregoing, each Investor that is a limited partnership or limited liability company may disclose such proprietary or confidential information to any former partners or members who retained an economic interest in such Investor, current or prospective partner of the partnership or any subsequent partnership under common investment management, limited partner, general partner, member or management company of such Investor (or any employee or representative of any of the foregoing) (each of the foregoing persons, a “Permitted Disclosee”) or legal counsel, accountants or representatives for such Investor, provided, in each case, that such Investor informs such person that such information is confidential and directs such person to maintain the confidentiality of such information. Furthermore, nothing contained herein shall prevent any Investor or any Permitted Disclosee from (i) entering into any business, entering into any agreement with a third party, or investing in or engaging in investment discussions with any other company (whether or not competitive with the Company), provided that such Investor or Permitted Disclosee does not, except as permitted in accordance with this Section 2.13, disclose or otherwise make use of any proprietary or confidential information of the Company in connection with such activities, or (ii) making any disclosures required by law, rule, regulation or court or other governmental order. The Company acknowledges that the Investors and their affiliates, members, equity holders, director representatives, partners, employees, agents and other related persons are engaged in the business of investing in private and public companies in a wide range of industries, including the industry segment in which the Company operates (the “Company Industry Segment”). Accordingly, the Company and the Investors acknowledge and agree that a Covered Person shall:

(1) have no duty to the Company to refrain from participating as a director, investor or otherwise with respect to any company or other person or entity that is engaged in the Company Industry Segment or is otherwise competitive with the Company, and

(2) in connection with making investment decisions, to the fullest extent permitted by law, have no obligation of confidentiality or other duty to the Company to refrain from using any information, including, but not limited to, market trend and market data, which comes into such Covered Person’s possession, whether as a director, investor or otherwise (the “Information Waiver”), provided that the Information Waiver shall not apply, and therefore such Covered Person shall be subject to such obligations and duties as would otherwise apply to such Covered Person under applicable law, if the information at issue (i) constitutes material non-public information concerning the Company, or (ii) is covered by a contractual obligation of confidentiality to which the Company is subject.
Notwithstanding anything in this Section 2.13 to the contrary, nothing herein shall be construed as a waiver of any Covered Person’s duty of loyalty or obligation of confidentiality with respect to the disclosure of confidential information of the Company.

Notwithstanding anything to the contrary in this Agreement, LabMorgan and Visa shall be entitled to disclose any confidential information obtained from the Company to any regulator having jurisdiction over LabMorgan or Visa, as applicable, whether required by law or not, without prior notice to any other party hereto, provided that, to the extent legally permissible and practicable, subsequent notice may be provided.

For the purposes of this Section 2.13, “Covered Persons” shall have the meaning set forth in the Restated Certificate.

2.14 Termination of Certain Covenants.

(a) Each of the covenants set forth in this Section 2 (other than the covenants set forth in Sections 2.7, 2.8 and 2.13) shall terminate as to each Holder and be of no further force or effect (i) immediately prior to the consummation of a Qualified IPO, or (ii) upon termination of this Agreement, as provided in Section 3.

(b) The covenants set forth in Sections 2.1 and 2.2 shall terminate as to each Holder and be of no further force or effect when the Company first becomes subject to the periodic reporting requirements of Sections 13 or 15(d) of the Exchange Act, if this occurs earlier than the events described in Section 2.14(a).

3. Termination of Agreement.

3.1 Termination Events. This Agreement shall terminate and have no further force or effect upon the earlier of:

(a) the liquidation, dissolution or winding up of the business operations of the Company;

(b) the execution by the Company of a general assignment for the benefit of creditors or the appointment of a receiver or trustee to take possession of the property and assets of the Company; or

(c) a Liquidation Transaction, as defined in the Restated Certificate.

4. Miscellaneous.

4.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, and supersedes any and all other written or oral agreements relating to the subject matter hereof existing between the parties hereto.

4.2 Successors and Assigns; Third Party Beneficiaries. Except as otherwise provided in this Agreement, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors, assigns and legal representatives of the parties.
4.3 Amendments and Waivers. Any term of this Agreement (other than Sections 2.1, 2.2, 2.3 and 2.12) may be amended or waived only with the written consent of (a) the Company, (b) the holders of at least a majority of the Founders’ Stock (or their respective successors, assigns and legal representatives) and (c) the holders of at least a majority of the Company’s outstanding Preferred Stock (or their respective successors and assigns) voting together as a single class and on an as-converted basis. Sections 2.1, 2.2, 2.3 and 2.12 may be amended or waived only with the written consent of (a) the Company and (b) Major Investors holding at least a majority of the shares of Registrable Securities held by all Major Investors; provided, however, that no waiver of the right of first offer set forth in Section 2.3 shall affect any Major Investor’s rights under Section 2.3(e) without the prior written consent of Major Investors holding at least a majority of the shares of Registrable Securities held by all Major Investors that are not Participating Investors with respect to any applicable transaction. Notwithstanding the foregoing, (w) any amendment or waiver of this Agreement that relates solely to the Warrants held by Starbucks or solely to the shares of Common Stock issuable thereunder, shall require the prior written consent of Starbucks, (x) any amendment or waiver of the sixth sentence of Section 2.3 or the reference to Access in Sections 2.1(ix) and 2.2 shall require the prior written consent of Access, (y) any amendment or waiver of the seventh sentence of Section 2.3 or the reference to GIC in Sections 2.1(viii) and 2.2 shall require the prior written consent of GIC, and (z) this Agreement may be amended with only the written consent of the Company for the purpose of including additional purchasers of Series E Preferred Stock under the Purchase Agreement as “Investors” hereunder. Any amendment or waiver effected in accordance with this Section 4.3 shall be binding upon the Company, the Founders, the Investors, and each of their respective successors and assigns, whether or not such party entered into or approved such amendment or waiver.

4.4 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon delivery, when delivered personally or by overnight courier or sent by email or fax (upon customary confirmation of receipt), or forty-eight (48) hours after being deposited in the U.S. mail as certified or registered mail with postage prepaid, addressed to the party to be notified at such party’s address or fax number as set forth on the signature page or on Schedule 1 hereto, or as subsequently modified by written notice.

4.5 Aggregation of Stock. All shares of capital stock of the Company held or acquired by Affiliated entities or persons shall be aggregated together for the purpose of determining the availability of any rights under this Agreement and such Affiliated persons may apportion such rights as among themselves in any manner they deem appropriate.

4.6 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Agreement, (b) the balance of this Agreement shall be interpreted as if such provision were so excluded and (c) the balance of this Agreement shall be enforceable in accordance with its terms.
4.7 Governing Law. This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, without giving effect to principles of conflicts of law.

4.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

4.9 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

4.10 Waiver of Right of First Offer. The Major Investors holding at least a majority of the shares of Registrable Securities held by all Major Investors (including Major Investors holding at least a majority of the shares of Registrable Securities held by all Major Investors that are not Participating Investors) hereby waive the right of first offer under Section 2.3 of the Prior Agreement with respect to the sale and issuance by the Company of the Series E Preferred Stock issued under the Purchase Agreement (and any Common Stock issuable upon the conversion thereof), including any notice requirement under Section 2.3 of the Prior Agreement with respect thereto.

4.11 Prior Agreement Superseded. Pursuant to Section 4.3 of the Prior Agreement, the undersigned parties who are parties to the Prior Agreement hereby amend and restate the Prior Agreement to read in its entirety as set forth in this Agreement, all with the intent and effect that the Prior Agreement shall hereby be terminated and entirely replaced and superseded by this Agreement and shall be of no further force and effect.

[Signature Page Follows]
The parties have executed this Fifth Amended and Restated Investors' Rights Agreement as of the date first written above.

**THE COMPANY:**

**SQUARE, INC.**

By: /s/ Jack Dorsey

(Signature)

Name: Jack Dorsey
Title: Chief Executive Officer

Address:
1455 Market Street, Suite 600
San Francisco, CA 94103
Attn: Chief Executive Officer

[SIGNATURE PAGE TO SQUARE INC., FIFTH AMENDED AND RESTATED INVESTORS’ RIGHTS AGREEMENT]
The parties have executed this Fifth Amended and Restated Investors’ Rights Agreement as of the date first written above.

**THE INVESTORS:**

**CORAL BLUE INVESTMENT PRIVATE LIMITED**

By: /s/ Arjun Khullar
    (Signature of Person Signing for Investor)

Name: ARJUN KHULLAR
    (Print Name of Person Signing for Investor)

Title: DIRECTOR
    (Print Title of Person Signing for Investor)

[SIGNATURE PAGE TO FIFTH AMENDED AND RESTATE INVESTORS’ RIGHTS AGREEMENT]
The parties have executed this Fifth Amended and Restated Investors’ Rights Agreement as of the date first written above.

THE INVESTORS:

AI PALMA HOLDINGS LLC
By: Access Industries Management LLC, its manager

By: /s/ Alejandro Moreno
Name: Alejandro Moreno
Title: Executive Vice President

By: /s/ Peter L. Thoren
Name: Peter L. Thoren
Title: Executive Vice President

[SIGNATURE PAGE TO FIFTH AMENDED AND RESTATED INVESTORS’ RIGHTS AGREEMENT]
The parties have executed this Fifth Amended and Restated Investors’ Rights Agreement as of the date first written above.

**THE INVESTORS:**

**G.S. DIRECT, LLC**

By: /s/ Daniel Dees  
Name: Daniel Dees  
Title: Vice President
The parties have executed this Fifth Amended and Restated Investors’ Rights Agreement as of the date first written above.

THE INVESTORS:

KHOSLA VENTURES III, LP

By: Khosla Ventures Associates III, LLC, a Delaware limited liability company and general partner of Khosla Ventures, III, LP

By: /s/ Vinod Khosla (Signature)

Name: Vinod Khosla
Title: Member

[Signature Page to Fifth Amended and Restated Investors’ Rights Agreement]
The parties have executed this Fifth Amended and Restated Investors’ Rights Agreement as of the date first written above.

THE INVESTORS:

Sequoia Capital U.S. Venture 2010 Fund, LP
Sequoia Capital U.S. Venture 2010 Partners Fund, LP
Sequoia Capital U.S. Venture 2010 Partners Fund (Q), LP
(all Cayman Islands exempted limited partnerships)

By: SC U.S. VENTURE 2010 MANAGEMENT, L.P.,
a Cayman Islands exempted limited partnership
General Partner of each

By: SC USV 2010 TT, LTD.,
a Cayman Islands exempted company
its General Partner

By:

/s/ RF Botha
Managing Director
The parties have executed this Fifth Amended and Restated Investors’ Rights Agreement as of the date first written above.

THE INVESTORS:

KPCB HOLDINGS, INC., AS NOMINEE

By: /s/ Paul M. Vronsky
Name: Paul M. Vronsky
Title: General Counsel

[Signature Page to Fifth Amended and Restated Investors’ Rights Agreement]
The parties have executed this Fifth Amended and Restated Investors’ Rights Agreement as of the date first written above.

THE INVESTORS:

RT SQ CO-INVEST II, LLC

By: Rizvi Traverse CI GP, LLC, its Manager

By: /s/ Suhail Rizvi

Name: Suhail Rizvi

Title: Manager

[Signature Page to Squared Inc. Fifth Amended and Restated Investors’ Rights Agreement]
The parties have executed this Fifth Amended and Restated Investors’ Rights Agreement as of the date first written above.

THE INVESTORS:

GRANITE GLOBAL VENTURES III L.P.

By: Granite Global Ventures III L.L.C., its General Partner

By: /s/ Glenn Solomon
    Glenn Solomon
    Managing Director

GGV III ENTREPRENEURS FUND L.P.

By: Granite Global Ventures III L.L.C., its General Partner

By: /s/ Glenn Solomon
    Glenn Solomon
    Managing Director

[Signature Page to Fifth Amended and Restated Investors’ Rights Agreement]
The parties have executed this Fifth Amended and Restated Investors’ Rights Agreement as of the date first written above.

THE INVESTORS:

SOZO VENTURES – TRUEBRIDGE FUND I, L.P.

By: /s/ Phil Wickham
Name: Phil Wickham
Title: Managing Member

SOZO-TRUEBRIDGE CO-INVEST FUND I, L.P.

By: /s/ Phil Wickham
Name: Phil Wickham
Title: Managing Member

[Signature Page to Fifth Amended and Restated Investors’ Rights Agreement]
The parties have executed this Fifth Amended and Restated Investors’ Rights Agreement as of the date first written above.

**THE INVESTORS:**

**SAP VENTURES FUND II, L.P.**
a Delaware limited partnership

By: SAP VENTURES (GPE) II, L.L.C.,
a Delaware limited liability company
its General Partner

By: /s/ Jai Das
Name: Jai Das
Title: 

By: SAP VENTURES (GPE) II, L.L.C.,
a Delaware limited liability company
its General Partner

By: /s/ Nino Marakovic
Name: Nino Marakovic
Title: 

[Signature Page to Fifth Amended and Restated Investors’ Rights Agreement]
The parties have executed this Fifth Amended and Restated Investors’ Rights Agreement as of the date first written above.

THE INVESTOR:

LABMORGAN CORPORATION

By: /s/ Luis Valdich
Name: Luis Valdich
Title: Managing Director

[Signature Page to Square Inc. Fifth Amended and Restated Investors’ Rights Agreement]
The parties have executed this Fifth Amended and Restated Investors’ Rights Agreement as of the date first written above.

THE FOUNDERS:

JACK DORSEY, TRUSTEE OF THE JACK DORSEY REVOCABLE TRUST
U/A/D 12/8/10

By: /s/ Jack Dorsey

JACK DORSEY ANNUITY TRUST II
U/A/D 6/23/10

By: /s/ Jack Dorsey

[Signature Page to Fifth Amended and Restated Investors’ Rights Agreement]
The parties have executed this Fifth Amended and Restated Investors’ Rights Agreement as of the date first written above.

THE FOUNDERS:

JIM MCKELVEY

By: /s/ Jim McKelvey

[Signature Page to Square Inc. Fifth Amended and Restated Investors’ Rights Agreement]
The parties have executed this Amended and Restated Investors’ Rights Agreement as of the date first written above.

**THE FOUNDERS:**

**JAMES M. MCKELVEY, JR. REVOCABLE TRUST**

By: /s/ James McKelvey  
Name: James McKelvey  
Title: Trustee

[Signature Page to Square Inc. Fifth Amended and Restated Investors’ Rights Agreement]
PLAIN ENGLISH WARRANT AGREEMENT

This is a PLAIN ENGLISH WARRANT AGREEMENT dated March 17, 2010 by and between SQUARE, INC., a Delaware corporation, and TRIPLEPOINT CAPITAL LLC, a Delaware limited liability company.

The words “We”, “Us”, or “Our” refer to the warrant holder, which is TRIPLEPOINT CAPITAL LLC. The words “You” or “Your” refers to the issuer, which is SQUARE, INC., and not to any individual. The words “The Parties” refers to both TRIPLEPOINT CAPITAL LLC and SQUARE, INC. This Plain English Warrant Agreement may he referred to as the “Warrant Agreement”.

The Parties have entered into a Plain English Jump Start Lease Agreement dated as of March 17, 2010, and related Summary Schedules, which are collectively referred to in this Warrant Agreement as the “Lease Agreement”.

In consideration of such Lease Agreement, the Parties agree to the following mutual agreements and conditions set forth below:

WARRANT INFORMATION

<table>
<thead>
<tr>
<th>Effective Date</th>
<th>Warrant Number</th>
<th>Lease Facility Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 17, 2010</td>
<td>0628-W-01</td>
<td>0628-JS-01H</td>
</tr>
</tbody>
</table>

Warrant Coverage: $18,750 (3.75% of $500,000)
Number of Shares: 8,669, subject to adjustment as set forth below.
Price Per Share: $2.1627, subject to adjustment as set forth below.

Type of Stock: Series A Preferred Stock

OUR CONTACT INFORMATION

Name: TriplePoint Capital LLC
Address For Notices: 
Tel: 
Fax: 
email: 

CUSTOMER CONTACT INFORMATION

Customer Name: Square, Inc.
Address For Notices: 2 Mint Plaza
Suite 1002
San Francisco, CA 94103

Contact Person: Jack Dorsey
Name: Jack Dorsey
Tel: 
Fax: 
email: 
1. WHAT YOU AGREE TO GRANT US

You grant to Us and We are entitled, upon the terms and subject to the conditions set forth in this Warrant Agreement, to purchase from You, at a price per share equal to the Exercise Price, that number of fully paid and non-assessable shares of Your Warrant Stock equal to Eighteen Thousand Seven Hundred Fifty Dollars ($18,750), divided by the Exercise Price.

The number of shares of Warrant Stock and the Exercise Price of such Warrant Stock are subject to adjustment as provided in Section 4 hereof.

For purposes of this Warrant Agreement, the following capitalized terms have the meanings given below:

“Exercise Price” means $2.1627.

“Warrant Stock” means Your Series A Preferred Stock.

The Parties agree that this Warrant Agreement to purchase the Warrant Stock has a fair market value equal to $100 and that 5100 of the issue price is included as part of the leased value and will be allocable to the Warrant Agreement and the original issue discount on the Lease Agreement shall be considered to be zero.

2. WHEN ARE WE ENTITLED TO PURCHASE YOUR WARRANT STOCK.

The term of this Warrant Agreement and our right to purchase Warrant Stock will begin the Effective Date, and shall be available until the greater of (i) 7 years from the Effective Date or (ii) 1 year from the effective date of Your initial public offering, but in no event longer than 12 years from the Effective Date.

Notwithstanding the foregoing, Our right to purchase the Warrant Stock shall be automatically and fully exercised via the net issuance method described below (without surrender of the Warrant Agreement) upon the occurrence of a Merger Event, as defined below, with a Person that is not one of Your affiliates, in which Your common stock is exchanged for cash and/or stock that is traded on a recognized public exchange or on the NASDAQ National Market, provided that, upon consummation of the Merger Event, the consideration payable to Us pursuant to such exercise and on account of the Warrant Stock consists of (i) cash or (ii) stock that is traded on a recognized public exchange or on the NASDAQ National Market and the total per share consideration is equal to or greater than two (2) times the aggregate Exercise Price (as adjusted). No less than ten (10) days prior to any Merger Event, You shall provide Us with written notice of the proposed Merger Event together with a copy of the executed merger agreement, or other definitive documentation (and all schedules and exhibits thereto) and information concerning Your expected capitalization immediately prior to the Merger Event. Upon consummation of the Merger Event, You shall promptly provide Us with (a) a copy of any modifications or amendments to the executed merger agreement, (b) any other documents in connection therewith, (c) updated information, if any, concerning Your capitalization immediately prior to the Merger Event, and, (d) upon request, by Us any other information reasonably necessary to an informed evaluation of Our rights under this Agreement.

3. HOW WE MAY PURCHASE YOUR WARRANT STOCK.

We may exercise Our purchase rights, in whole or in part, at any time, or from time to time, prior to the expiration of the term of this Warrant Agreement, by giving You a completed and executed Notice of Exercise in the form attached as Exhibit I. Promptly upon receipt of the Notice of Exercise and in any event no later than twenty-one (21) days after you have received Our Notice of Exercise and payment of the aggregate Exercise Price for the shares purchased, You will issue to Us a certificate for the number of shares of Warrant Stock that We have purchased and You will execute the Acknowledgment of Exercise in the form attached hereto as Exhibit H indicating the number of shares which will be available to Us for future purchases, if any.

We may pay for the Warrant Stock by either (i) cash or check, or (ii) by the net issuance method as determined below, if We elect the Net Issuance method, You will issue Warrant Stock using the following formula:

\[ X = \frac{Y(A-B)}{A} \]
Where:

- \( X \) = the number of shares of Warrant Stock to be issued to Us.
- \( Y \) = the number of shares of Warrant Stock We request to be exercised under this Warrant Agreement.
- \( A \) = the fair market value of one share of Warrant Stock.
- \( B \) = the Exercise Price.

For purposes of the above calculation, current fair market value of Warrant Stock shall mean with respect to each share of Warrant Stock:

If the exercise is in connection with the initial public offering of Your Common Stock, and if Your registration statement relating to such public offering has been declared effective by the SEC, then the fair market value per share shall be the product of (x) the initial “Price to Public” specified in the final prospectus of the offering and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible at the time of such exercise;

If this Warrant Agreement is exercised after, and not in connection with Your initial public offering, and:

- if traded on a securities exchange, the fair market value shall be the product of (x) the average of the closing prices over a five (5) day period ending three (3) days before the day the current fair market value of the securities is being determined and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible at the time of such exercise; or
- if actively traded over-the-counter, the fair market value shall be the product of (x) the average of the closing bid and asked prices quoted on the NASDAQ system (or similar system) over the five (5) day period ending three (3) days before the day the current fair market value of the securities is being determined and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible at the time of such exercise.

If this Warrant Agreement is exercised prior to or after Your initial public offering, and:

- Your Common Stock is not listed on any securities exchange or quoted in the NASDAQ System or the over-the-counter market, the current fair market value of Warrant Stock shall be the product of (x) the fair market value of a share of Your Common Stock, as determined in good faith by Your Board of Directors and (y) the number of shares of Common Stock into which each share of Warrant Stock is convertible at the time of such exercise, unless You shall become subject to a merger, acquisition or other consolidation pursuant to which You are not the surviving party, in which case the fair market value of Warrant Stock shall be deemed to be the value received by the holders of Your Warrant Stock on a common equivalent basis pursuant to such merger or acquisition or other consolidation.

During the term of this Warrant Agreement, You will at all times from and after the Effective Date have authorized and reserved a sufficient number of shares of (a) Warrant Stock to provide for the exercise of our rights to purchase Warrant Stock, and (b) Common Stock to provide for the conversion of the Warrant Stock.

If We elect to exercise part of the Warrant Agreement, You will promptly issue to Us an amended Warrant Agreement stating the remaining number of shares that are available. All other terms and conditions of that amended Warrant Agreement shall be identical to those contained in this Warrant Agreement.

If at the end of the term of this Warrant Agreement, the fair market value of one share of Warrant Stock (or other security issuable upon the exercise hereof) as determined in accordance herewith is greater than the Exercise Price in effect on such date, then this Warrant Agreement shall automatically be deemed on and as of such date to be converted pursuant hereto as to all shares of Warrant Stock (or such other securities) for which it shall not previously have been exercised or converted, and You shall promptly deliver a certificate representing the shares of Warrant Stock (or such other securities) issued upon such conversion to Us.

4. WHEN WILL THE NUMBER OF SHARES AND EXERCISE PRICE CHANGE.

- **If You are Acquired**: If at any time: (i) there is a reorganization of Your stock (other than a reclassification, exchange or subdivision of Your stock otherwise provided for in this Warrant Agreement); (ii) You merge or consolidate with or into another entity, whether or not You are the surviving entity; (iii) You sell or convey, or grant an exclusive license with respect
5. **WE CAN TRANSFER THIS PLAIN ENGLISH WARRANT AGREEMENT.**

Subject to the terms and conditions contained in Section 7, We (or any successor transferee) may transfer in whole or in part this Warrant Agreement and all its rights. You will record the transfer on Your books when You receive Our Notice of Transfer in the
6. REPRESENTATIONS, WARRANTIES, AND COVENANTS FROM YOU.

- **Reservation of Warrant Stock.** The Warrant Stock issuable upon exercise of Our rights under this Warrant Agreement will be duly and validly reserved and when issued in accordance with the provisions of this Warrant Agreement will be validly issued, fully paid and non-assessable, and will be free of any taxes, liens, charges or encumbrances of any nature whatsoever; provided, however, that the Warrant Stock issuable pursuant to this Warrant Agreement may be subject to restrictions on transfer under state and/or Federal securities laws. Upon Our exercise, You will issue to Us certificates for shares of Warrant Stock without charging Us any tax, or other cost incurred by You in connection with such exercise and the related issuance of shares of Warrant Stock. You will not be required to pay any tax, which may be payable in respect of any transfer involved and the issuance and delivery of any certificate in a name other than TriplePoint Capital LLC.

- **Due Authority.** Your execution and delivery of this Warrant Agreement and the performance of Your obligations hereunder, including the issuance to Us of the right to acquire the shares of Warrant Stock, have been duly authorized by all necessary corporate action on Your part and this Warrant Agreement is not inconsistent with Your Certificate of Incorporation or Bylaws, does not contravene any law or governmental rule, regulation or order applicable to it, do not and will not contravene any provision of, or constitute a default under, any indenture, mortgage, contract or other instrument to which You are a party or by which You are bound, and this Warrant Agreement constitutes a legal, valid and binding agreement, enforceable in accordance with its respective terms, subject to laws of general application relating to bankruptcy, insolvency and the relief of debtors and the rules of law or principles at equity governing specific performance, injunctive relief and other equitable remedies.

- **Consents and Approvals.** No consent or approval of, giving of notice to, registration with, or taking of any other action in respect of any state, Federal or other governmental authority or agency is required with respect to execution, delivery and Your performance of Your obligations under this Warrant Agreement, except for the filing of any required notices pursuant to Federal and state securities laws, which filings will be effective by the times required thereby.

- **Issued Securities.** All of Your issued and outstanding shares of Common Stock, Warrant Stock or any other securities have been duly authorized and validly issued and are fully paid and nonassessable. All outstanding shares of Common Stock and Warrant Stock were issued in full compliance with all Federal and state securities laws. In addition as of the Effective Date:

  Your authorized capital consists of (A) 23,000,000 shares of Common Stock, of which 12,782,559 shares of Common Stock are issued and outstanding, (B) 1,320,000 shares of Series FF preferred stock, all of which shares are issued and outstanding, and 4,700,000 shares of preferred stock, all of which are designated Series A preferred stock, of which 4,623,835 shares are issued and outstanding.

  You have reserved 2,983,266 shares of Common Stock for issuance under Your 2009 Stock Plan, under which no options are outstanding and 902,559 shares of Common Stock have been issued upon the restricted stock purchases. Except as otherwise provided in this Warrant Agreement and as noted above, there are no other options, warrants, conversion privileges or other rights presently outstanding to purchase or otherwise acquire any authorized but unissued shares of Your capital stock or other of Your securities.

  Except as set forth in Your Investor’s Rights Agreement, a true, correct and complete copy of which has been delivered to Us prior to the issuance of this Warrant, Your stockholders do not have preemptive rights to purchase new issuances of Your capital stock.

- **Other Commitments to Register Securities.** Except as set forth in this Warrant Agreement and the Investors’ Rights’ Agreement, You are not, pursuant to the terms of any other agreement currently in existence, under any obligation to register under the 1933 Act any of Your presently outstanding securities or any of Your securities which may hereafter be issued.

- **Exempt Transaction.** Subject to the accuracy of Our representations in Section 7 hereof, the issuance of the Warrant Stock upon exercise of this Warrant Agreement will constitute a transaction exempt from (i) the registration requirements of
Section 5 of the 1933 Act, in reliance upon Section 4(2) thereof, and (ii) the qualification requirements of the applicable state securities laws.

• **Compliance with Rule 144.** We may sell the Warrant Stock issuable hereunder in compliance with Rule 144 promulgated by the Securities and Exchange Commission. Within ten (10) days of Our request, You agree to furnish Us, a written statement confirming Your compliance with the filing requirements of the Securities and Exchange Commission as set forth in such Rule 144, as may be amended.

• **No Impairment.** You agree not to, by amendment of Your Certificate of Incorporation or through a reorganization, transfer of assets, consolidation, merger, 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 to be observed or performed under this Warrant by You, but shall at all times in good faith assist in carrying out all the provisions of this Warrant and in taking all such action as may be necessary or appropriate to protect Our rights under this Warrant against impairment. However, You shall not be deemed to have impaired Our rights if You amend Your Certificate of Incorporation, or the holders of Your preferred stock waive their rights thereunder, in a manner that does not (individually or when considered in the context of any other actions being taken in connection with such amendments or waivers) affect Us in a manner different from the effect that such amendments or waivers have on the rights of other holders of the same series and class as the Warrant Stock.

7. **OUR REPRESENTATIONS AND COVENANTS TO YOU.**

• **Investment Purpose.** The right to acquire Warrant Stock or the Warrant Stock issuable upon exercise of Our rights contained herein and the Common Stock issuable upon conversion will be acquired for investment purposes and not with a view to the sale or distribution of any part thereof, and We have no present intention of selling or engaging in any public distribution of the same in violation of the 1933 Act.

• **Private Issue.** We understand (i) that this Warrant Agreement, the Warrant Stock issuable upon exercise of this Warrant Agreement and the Common Stock issuable upon conversion of the Warrant Stock are not registered under the 1933 Act or qualified under applicable state securities laws on the ground that the issuance contemplated by this Warrant Agreement will be exempt from the registration and qualifications requirements thereof, and (ii) that Your reliance on such exemption is predicated on the representations set forth in this Section 7.

• **Disposition of Our Rights.** In no event will We make a disposition of any of Our rights to acquire Warrant Stock or Warrant Stock issuable upon exercise of such rights or the Common Stock issuable upon conversion of the Warrant Stock unless and until (i) We shall have notified You in writing of the proposed disposition, and (ii) the transferee agrees to be bound in writing to the applicable terms and conditions of this Warrant Agreement, and (iii) if You request, We shall have furnished You with an opinion of counsel satisfactory to You and Your counsel to the effect that (A) appropriate action necessary for compliance with the 1933 Act has been taken, or (B) an exemption from the registration requirements of the 1933 Act is available. Notwithstanding the foregoing, the restrictions imposed upon the transferability of any of Our rights to acquire Warrant Stock or Warrant Stock issuable on the exercise of such rights or the Common Stock issuable upon conversion of the Warrant Stock do not apply to transfers from the beneficial owner of any of the aforementioned securities to its nominee or from such nominee to its beneficial owner, and shall terminate as to any particular share of Warrant Stock when (1) such security shall have been effectively registered under the 1933 Act and sold by the holder thereof in accordance with such registration or (2) such security shall have been sold without registration in compliance with Rule 144 under the 1933 Act, or (3) a letter shall have been issued to You at Our request by the staff of the Securities and Exchange Commission or a ruling shall have been issued to the You at Our request by such Commission stating that no action shall be recommended by such staff or taken by such Commission, as the case may be, if such security is transferred without registration under the 1933 Act in accordance with the conditions set forth in such letter or ruling and such letter or ruling specifies that no subsequent restrictions on transfer are required. Whenever the restrictions imposed hereunder shall terminate, as hereinabove provided, the holder of a share of Warrant Stock then outstanding as to which such restrictions have terminated shall be entitled to receive from You, without expense to such holder, one or more new certificates for the Warrant or for such shares of Warrant Stock not bearing any restrictive legend referring to 1933 Act registration or exemption.

• **Financial Risk.** We have such knowledge and experience in financial and business matters and knowledge of Your business affairs and financial condition as to be capable of evaluating the merits and risks of Our investment, and have the ability to bear the economic risks of Our investment.
• **Risk of No Registration**. We understand that if You do not register with the Securities and Exchange Commission pursuant to Section 12 of the 1934 Act (the “1934 Act”), or file reports pursuant to Section 15(d), of the 1934 Act, or if a registration statement covering the securities under the 1934 Act is not in effect when We desire to sell (i) the rights to purchase Warrant Stock pursuant to this Warrant Agreement, or (ii) the Warrant Stock issuable upon exercise of the right to purchase, or (iii) the Common Stock issuable upon conversion of the Warrant Stock, We may be required to hold such securities for an indefinite period. We also understand that any sale of Our right to purchase Warrant Stock or Warrant Stock or Common Stock issuable upon conversion of the Warrant Stock, which might be made by it in reliance upon Rule 144 under the 1933 Act may be made only in accordance with the terms and conditions of that Rule.

• **Accredited Investor**. We are an “accredited investor” within the meaning of the Securities and Exchange Rule 501 of Regulation D of the 1933 Act, as presently in effect.

**Market Standoff**. We agree that We will not, without the prior written consent of the managing underwriter, during the period commencing on the date of the final prospectus relating to the closing of the IPO and ending on the date specified by You and the managing underwriter (such period not to exceed 180 days, which period may be extended upon the request of the managing underwriter, to the extent required by any rules of the securities exchange or trading system on which the Your securities are listed, for an additional period of up to 34 days if You issue or propose to issue an earnings or other public release within 18 days of the expiration of the 180-day lockup period), (a) lend, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right, or warrant to purchase or otherwise transfer or dispose of, directly or indirectly, any common stock, or any securities convertible into or exercisable or exchangeable (directly or indirectly) for common stock, held immediately before the effective date of the registration statement for the IPO or (b) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of such securities, whether any such transaction described in clause (a) or (b) above is to be settled by delivery of common stock or other securities, in cash, or otherwise. The foregoing provisions shall apply only to the IPO and shall not apply to (i) the sale of any shares to an underwriter pursuant to an underwriting agreement, (ii) donees pursuant to bona fide gifts, (iii) distributions or other transfers to Your affiliates, partners, members, stockholders or other equity holders, or (iv) sales of shares acquired in open market transactions; provided, that, in each of clauses (ii) and (iii) the recipient agrees to be similarly bound by this Section, and shall be applicable to Us only if all of Your officers, directors, members affiliated with officers and directors and holders of at least five percent (5%) of the Your voting securities are similarly bound prior to the IPO. The underwriters in connection with such registration are intended third party beneficiaries of this Section and shall have the right, power, and authority to enforce the provisions hereof as though they were a party hereto. We further agree to execute such agreements as may be reasonably requested by the underwriters in connection with such registration that are consistent with this Section or that are necessary to give further effect thereto.

8. **NOTICES YOU AGREE TO PROVIDE US.**

You agree to give Us at least twenty (20) days prior written notice of the following events:

- If You Pay a Dividend or distribution declaration upon your stock.
- If You offer for subscription pro-rata to the existing shareholders additional stock or other rights.
- If You consummate or sign definitive documents providing for a Merger Event.
- If You have an IPO.
- If You dissolve or liquidate.

All notices in this Section must set forth details of the event, how the event adjusts either Our number of shares or Our Exercise Price and the method used for such adjustment.

**Timely Notice**. Your failure to timely provide such notice required above shall entitle Us to retain the benefit of the applicable notice period notwithstanding anything to the contrary contained in any insufficient notice received by Us.
9. DOCUMENTS YOU WILL PROVIDE US.

Upon signing this Agreement You will provide Us with:

- Executed originals of this Agreement, and all other documents and instruments that We may reasonably require
- Secretary’s certificate of incumbency and authority
- Certified copy of resolutions of Your board of directors approving this Agreement
- Certified copy of Your Certificate of Incorporation and By-Laws as amended through the Effective Date
- Current Investor’s Rights Agreement

So long as this Warrant Agreement is in effect, You shall provide Us with the following:

- You will use best efforts to provide within five (5) Business Days after the closing of any equity financing, or extension of an existing round of equity financing, occurring after the Effective Date, in which You issue preferred stock or other securities You will provide Us with copies of the fully executed equity financing documents, including without limitation the related stock purchase agreement, investors rights agreement, voting agreement, amended or restated articles/certificates of incorporation, current capitalization table and other related documents. In the event You fail to provide within five (5) Business Days, You agree to promptly provide to Us upon Our request.
- You shall provide Us with any 409A Valuation Reports or other similar reports prepared for You upon Our request.
- You shall submit to Us any other documents and other information that We may reasonably request from time to time and are necessary to implement the provisions and purposes of this Warrant Agreement.

10. REGISTRATION RIGHTS UNDER THE 1933 ACT.

The shares of Your common stock into which the Warrant Stock is convertible shall have piggyback registration rights and responsibilities as set forth in Section 1.3 of the Investors’ Rights Agreement, dated as of November 13, 2009 (as amended, the “Investors’ Rights Agreement”). The provisions set forth in Your Investors’ Rights Agreement relating to such piggyback registration rights in effect as of the date of this Warrant Agreement may not be amended, modified or waived without Our prior written consent unless such amendment, modification or waiver affects the rights associated with the shares of common stock into which the Warrant Stock is convertible in the same manner as such amendment, modification, or waiver affects the rights associated with all other shares of the same series and class of stock as the Warrant Stock.

11. OTHER LEGAL PROVISIONS THE PARTIES WILL ABIDE BY.

Effective Date. This Warrant Agreement shall be construed and shall be given effect in all respects as if it had been executed and delivered by the Parties on the date hereof. This Warrant Agreement shall be binding upon any of the successors or assigns of the Parties.

Attorney’s Fees. In any litigation, arbitration or court proceeding between the Parties relating to this Warrant Agreement, the prevailing party shall be entitled to attorneys’ fees and expenses and all costs of proceedings incurred in enforcing this Warrant Agreement.

Governing Law. This Warrant Agreement shall be governed by and construed for all purposes under and in accordance with the laws of the State of California without giving effect to that body of law pertaining to conflicts of laws.

Consent to Jurisdiction and Venue. All judicial proceedings arising in or under or related to this Warrant Agreement may be brought in any state or federal court of competent jurisdiction located in the State of California. By execution and delivery of this agreement, each party hereto generally and unconditionally:
(a) consents to personal jurisdiction in San Mateo County, State of
California; (b) waives any objection as to jurisdiction or venue in San Mateo County, State of California; (c) agrees not to assert any defense based on lack of jurisdiction or venue in the aforesaid courts; and (d) irrevocably agrees to be bound by any judgment rendered thereby in connection with this Plain English Warrant Agreement. Service of process on any party hereto in any action arising out of or relating to this agreement shall be effective if given in accordance with the requirements for notice set forth in this Section, and shall be deemed effective and received as set forth therein. Nothing herein shall affect the right to serve process in any other manner permitted by law or shall limit the right of either party to bring proceedings in the courts of any other jurisdiction.

Mutual Waiver of Jury Trial; Judicial Reference. Because disputes arising in connection with complex financial transactions are most quickly and economically resolved by an experienced and expert person and The Parties wish applicable state and federal laws to apply (rather than arbitration rules), The Parties desire that their disputes be resolved by a judge applying such applicable laws. EACH OF THE PARTIES SPECIFICALLY WAIVES ANY RIGHT THEY MAY HAVE TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, CROSS-CLAIM, COUNTERCLAIM, THIRD PARTY CLAIM OR ANY OTHER CLAIM (COLLECTIVELY, “CLAIMS”) ASSERTED BY YOU AGAINST US OR OUR ASSIGNEE OR BY US OR OUR ASSIGNEE AGAINST YOU. IN THE EVENT THAT THE FOREGOING JURY TRIAL WAIVER IS NOT ENFORCEABLE, ALL CLAIMS, INCLUDING ANY AND ALL QUESTIONS OF LAW OR FACT RELATING THERETO, SHALL, AT THE WRITTEN REQUEST OF ANY PARTY, BE DETERMINED BY JUDICIAL REFERENCE PURSUANT TO THE CALIFORNIA CODE OF CIVIL PROCEDURE (“REFERENCE”). THE PARTIES SHALL SELECT A SINGLE NEUTRAL REFEREE, WHO SHALL BE A RETIRED STATE OR FEDERAL JUDGE. IN THE EVENT THAT THE PARTIES CANNOT AGREE UPON A REFEREE, THE REFEREE SHALL BE APPOINTED BY THE COURT. THE REFEREE SHALL REPORT A STATEMENT OF DECISION TO THE COURT. NOTHING IN THIS SECTION SHALL LIMIT THE RIGHT OF ANY PARTY AT ANY TIME TO EXERCISE LAWFUL SELF-HELP REMEDIES, FORECLOSE AGAINST COLLATERAL OR OBTAIN PROVISIONAL REMEDIES. THE PARTIES SHALL BEAR THE FEES AND EXPENSES OF THE REFEREE EQUALLY UNLESS THE REFEREE ORDERS OTHERWISE. THE REFEREE SHALL ALSO DETERMINE ALL ISSUES RELATING TO THE APPLICABILITY, INTERPRETATION, AND ENFORCEABILITY OF THIS SECTION. THE PARTIES ACKNOWLEDGE THAT THE CLAIMS WILL NOT BE ADJUDICATED BY A JURY. This waiver extends to all such Claims, including Claims that involve Persons other than You and Us; Claims that arise out of or are in any way connected to the relationship between You and Us; and any Claims for damages, breach of contract, specific performance, or any equitable or legal relief of any kind, arising out of this Warrant Agreement.

Counterparts. This Warrant Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Notices. Any notice required or permitted under this Warrant Agreement shall be given in writing and shall be deemed effectively given upon the earlier of (1) actual receipt or 3 days after mailing if mailed postage prepaid by regular or airmail to Us or You or (2) one day after it is sent by overnight mail via nationally recognized courier or (3) on the same day as sent via confirmed facsimile transmission, provided that the original is sent by personal delivery or mail by the sending party.

Remedies. In the event of any default hereunder, the non-defaulting party may proceed to protect and enforce its rights either by suit in equity and/or by action at law, including but not limited to an action for damages as a result of any such default, and/or an action for specific performance for any default where such party will not have an adequate remedy at law and where damages will not be readily ascertainable. Each party expressly acknowledges and agrees that there is no adequate remedy at law for any breach of this Warrant Agreement and that in the event of any breach of this Agreement, the injured party shall be entitled to specific performance of any or all provisions hereof or an injunction prohibiting the other party from continuing to commit any such breach of this Agreement.

Survival. The representations, warranties, covenants, and conditions of the Parties contained herein or made pursuant to this Warrant Agreement shall survive the execution and delivery of this Warrant Agreement.

Severability. In the event any one or more of the provisions of this Warrant Agreement shall for any reason be held invalid, illegal or unenforceable, the remaining provisions of this Warrant Agreement shall be unimpaired, and the invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable valid, legal and enforceable provision, which comes closest to the intention of the parties underlying the invalid, illegal or unenforceable provision.
Entire Agreement. This Warrant Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and undertakings of the Parties, whether oral or written, with respect to such subject matter.

Amendments. Any provision of this Warrant Agreement may only be amended by a written instrument signed by the Parties.

Lost Warrants or Stock Certificates. You covenant to Us that, upon receipt of evidence reasonably satisfactory to Us of the loss, theft, destruction or mutilation of this Warrant Agreement or any stock certificate and, in the case of any such loss, theft or destruction, upon receipt of an indemnity reasonably satisfactory to You, or in the case of any such mutilation upon surrender and cancellation of such Warrant Agreement or stock certificate, You will make and deliver a new Warrant Agreement or stock certificate, of like tenor, in lieu of the lost, stolen, destroyed or mutilated Warrant Agreement or stock certificate.

Rights as Stockholders. We shall not, as a party to this Warrant Agreement, be entitled to vote or receive dividends or be deemed the holder of Warrant Stock or any of Your other securities which may at any time be issuable upon the exercise hereof for any purpose, nor shall anything contained herein be construed to confer upon Us any of the rights of one of Your stockholders or any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to receive dividends or subscription rights or otherwise until this Warrant Agreement is exercised and the shares purchasable upon the exercise hereof shall have become deliverable, as provided herein,

Facsimile Signatures. This Warrant Agreement may be executed and delivered by facsimile and upon such delivery the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

[Signature Page to Follow]
IN WITNESS WHEREOF, each of the Parties have caused this Warrant Agreement to be executed by its officers who are duly authorized as of the Effective Date.

You: SQUARE, INC.

Signature: /s/ Jack Dorsey
Print Name: Jack Dorsey
Title: CEO

Us: TRIPLEPOINT CAPITAL LLC

Signature: /s/ Sajal Srivastava
Print Name: Sajal Srivastava
Title: Chief Operating Officer

[SIGNATURE PAGE TO WARRANT AGREEMENT 0628-W-01]
EXHIBIT I

NOTICE OF EXERCISE

To: Square, Inc.

1. We hereby elect to purchase [    ] shares of the Series [    ] Preferred Stock of Square, Inc., pursuant to the terms of the Plain English Warrant Agreement dated the [    ] day of March, 2010 (the “Plain English Warrant Agreement”) between You and Us, We hereby tender here payment of the purchase price for such shares in full, together with all applicable transfer taxes, if any.

2. Method of Exercise (Please initial the applicable blank)
   a. The undersigned elects to exercise the Plain English Warrant Agreement by means of a cash payment, and gives You full payment for the purchase price of the shares being purchased, together with all applicable transfer taxes, if any.
   b. The undersigned elects to exercise the Plain English Warrant Agreement by means of the Net Issuance Exercise method of Section 3 of the Plain English Warrant Agreement.

3. In exercising Our rights to purchase the Series [    ] Preferred Stock of Square, Inc., We hereby confirm and acknowledge the investment representations, warranties and covenants made in Section 7 of the Plain English Warrant Agreement.

Please issue a certificate or certificates representing these purchased shares of Series [ ] Preferred Stock in Our name or in such other name as is specified below.

________________________________________________________

(Name)

________________________________________________________

(Address)

US: TRIPLEPOINT CAPITAL LLC

By: ______________________________

Title: ______________________________

Date: ______________________________
Square, Inc., hereby acknowledges receipt of the “Notice of Exercise” from TRIPLEPOINT CAPITAL, LLC, to purchase \[\text{[ ]}\] shares of the Series \[\text{[ ]}\] Preferred Stock of Square, Inc., pursuant to the terms of the Plain English Warrant Agreement, and further acknowledges that \[\text{[ ]}\] shares remain subject to purchase under the terms of the Plain English Warrant Agreement.

YOU:

By: __________________________________________
Title: _________________________________________
Date: _________________________________________
EXHIBIT III
TRANSFER NOTICE

FOR VALUE RECEIVED, the foregoing Plain English Warrant Agreement and all rights evidenced thereby are hereby transferred and assigned to

(Please Print)

Whose address is

Dated: 

Holder’s Signature: 

Holder’s Address:

Transferee’s Signature:

Transferee’s Address:

Signature Guaranteed:

NOTE: The signature to this Transfer Notice must correspond with the name as it appears on the face of the Plain English Warrant Agreement, without alteration or enlargement or any change whatever. Officers of corporations and those acting in a fiduciary or other representative capacity should file proper evidence of authority to assign the foregoing Plain English Warrant Agreement.
THIS WARRANT AND THE SECURITIES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR REGISTERED OR QUALIFIED UNDER ANY STATE SECURITIES OR “BLUE SKY” LAWS OF ANY JURISDICTION. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED UNLESS THE REGISTRATION PROVISIONS OF SAID ACT AND THE REGISTRATION, QUALIFICATION AND FILING REQUIREMENTS OF ALL APPLICABLE JURISDICTIONS HAVE BEEN COMPLIED WITH OR UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION AND QUALIFICATION ARE NOT REQUIRED OR THAT THE PROPOSED TRANSACTION WILL BE EXEMPT FROM REGISTRATION, QUALIFICATION AND FILING IN ALL SUCH JURISDICTIONS OR UNLESS SOLD PURSUANT TO RULE 144 OF SAID ACT.


WARRANT TO PURCHASE STOCK
(United States)

Company: Square, Inc., a Delaware corporation (the “Company”)
Number of Shares: 939,679 plus, solely in the event that more than an aggregate of 1,815,870 shares of Series D Preferred Stock of the Company are issued and sold by the Company on or before September 15, 2012 pursuant to the Purchase Agreement (as defined below), an additional number of shares equal to 3.00% of the Additional Shares.

The “Additional Shares” shall mean the number of shares equal to (x) the aggregate number of shares of Series D Preferred Stock of the Company issued and sold by the Company on or before September 15, 2012 pursuant to the Purchase Agreement less (y) 1,815,870.

Class of Stock: Common stock of the Company, par value $0.000001 per share (the “Common Stock”)
Exercise Price: $110.14 per share, subject to adjustment as set forth herein (the “Warrant Price”)
Issue Date: August 7, 2012 (the “Issue Date”)
Expiration Date: As defined in Section 5

This Warrant certifies that, for good and valuable consideration, Starbucks Corporation, a Washington corporation (“Starbucks”), is entitled to purchase from the Company, until 5:00 p.m. Pacific time on the Expiration Date, the number of fully paid and nonassessable shares of the Common Stock set forth above (the “Warrant Shares”) at the Warrant Price, subject to the
provisions and upon the terms and conditions set forth in this Warrant. This Warrant is issued in consideration for (i) the services performed by Starbucks pursuant to that certain Master Collaboration Agreement, dated August 7, 2012, by and between the Company and Starbucks (as may be supplemented, amended or modified from time to time, the “Commercial Agreement”), and in connection with (ii) that certain Series D Preferred Stock Purchase Agreement, dated July 17, 2012, by and between the Company and certain investors in the Company, including Starbucks (as may be supplemented, amended or modified from time to time, the “Purchase Agreement”), (iii) that certain Fourth Amended and Restated Investors’ Rights Agreement, dated July 17, 2012, by and between the Company and certain investors in the Company, including Starbucks (as may be supplemented, amended or modified from time to time, the “Investors’ Rights Agreement”), (iv) that certain Amended and Restated Right of First Refusal and Co-Sale Agreement, dated July 17, 2012, by and between the Company and certain investors in the Company, including Starbucks (as may be supplemented, amended or modified from time to time, the “Co-Sale Agreement”) and (v) that certain Amended and Restated Voting Agreement, dated July 17, 2012, by and between the Company and certain investors in the Company, including Starbucks (as may be supplemented, amended or modified from time to time, the “Voting Agreement”).

The Company and the Holder (as defined below) (each, a “party” and together, the “parties”) agree that this Warrant shall be treated for all tax purposes (i) as having been transferred in connection with the performance of services within the meaning of Section 83 of the Internal Revenue Code of 1986, as amended, and Section 1.83-7 of the Treasury Regulations thereunder and (ii) and as not having a “readily ascertainable fair market value” within the meaning of such sections, and the parties shall not take any contrary position on any tax return or in any communication with any taxing authority. The parties shall cooperate to determine the value for tax reporting purposes of the Warrant Shares.

1. **CERTAIN DEFINITIONS.**

As used in this Warrant, the following terms shall have the following respective meanings:

“Additional Stock” shall have the meaning set forth in the Restated Certificate.

“Commercial Launch Date” shall mean the date on which Pay with Square transactions are available for use in 33% of all Starbucks Owned Stores open as of such date in the United States.

“Co-Sale Right” shall have the meaning set forth in the Co-Sale Agreement.

“Holder” shall mean Starbucks Corporation or any subsequent Holder in whose name this Warrant is registered upon the books and records maintained by the Company.

“Initial Public Offering” shall mean the Company’s initial underwritten public offering of its securities to the general public pursuant to an effective registration statement filed by the Company under the Securities Act of 1933, as amended.

“Liquidation Transaction” shall have the meaning given to the term “Change of Control Transaction” in the Commercial Agreement.
“Preferred Stock” shall mean the Company’s Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock, as described in the Restated Certificate.

“Qualifying IPO” shall have the meaning set forth in the Restated Certificate; provided that the offering price per share must be not less than the Warrant Price (as adjusted pursuant to Section 3 and in effect immediately prior to such offering) to constitute a Qualifying IPO for purposes of Section 3.1 hereof.

“Restated Certificate” shall mean the Company’s Restated Certificate of Incorporation, dated July 13, 2012 and filed with the Secretary of State of the State of Delaware.

“Starbucks Owned Stores” shall have the meaning set forth in the Commercial Agreement.

2. VESTING AND EXERCISE.

2.1 Vesting. The Warrant shall vest and become exercisable at the earlier of (i) the Commercial Launch Date and (ii) fifteen (15) business days prior to the closing or occurrence of a Liquidation Transaction; provided that the Warrant shall not vest pursuant to the foregoing clause (ii) if the Commercial Agreement has been terminated in accordance with its terms (other than a termination by Starbucks pursuant to Section 12.2 of the Commercial Agreement) prior to the closing or occurrence of the Liquidation Transaction. The Holder shall confirm in writing to the Company that the Commercial Launch Date has occurred.

2.2 Notice of Exercise; Payment. The Holder may exercise this Warrant, in whole or in part, at any time, or from time to time, on or after the date of vesting to and including the Expiration Date, by surrendering this Warrant at the principal office of the Company together with:

2.2.1 a duly executed Notice of Exercise in substantially the form attached as Exhibit A, and

2.2.2 payment (i) in cash (by check) or by wire transfer of immediately available funds, (ii) if the Company provides its prior written consent, by cancellation by the Holder of indebtedness of the Company to the Holder; or (iii) if the Company provides its prior written consent, by a combination of (i) and (ii), of an amount equal to the product obtained by multiplying the number of Warrant Shares being purchased upon such exercise by the then effective Warrant Price.

2.3 Effectiveness

2.3.1 Except as otherwise provided in Section 2.3.2, each exercise of this Warrant shall be deemed to have been effected immediately prior to the close of business on the later of (i) the day on which a Notice of Exercise shall have been delivered to the Company as provided in Section 2.2.1 and (ii) the day on which payment has been made to the Company pursuant to Section 2.2.2. At such time, the person or persons in whose name or names any certificates for Warrant Shares shall be issuable upon such exercise as provided in Section 2.5.
below shall be deemed to have become the holder or holders of record of the Warrant Shares to be represented by such certificates.

2.3.2 Notwithstanding any other provision of this Warrant, if the exercise of all or any portion of this Warrant is to be made in connection with an Initial Public Offering, a Liquidation Transaction or an exercise of the Co-Sale Right, such exercise may, at the election of the Holder, be conditioned upon consummation of such transaction or event, in which case such exercise shall not be deemed effective until immediately prior to the consummation of such transaction or event.

2.4 Taxes. The issuance of certificates for Warrant Shares to the Holder upon the exercise of this Warrant shall be made without charge to the Holder for any issue or transfer tax or other reasonable and customary incidental expense in respect of the issuance of such certificates and all of such taxes and expenses shall be paid by the Company. The Company shall be entitled to deduct and withhold from any payments made or deemed made with respect to this Warrant any amounts required to be deducted and withheld with respect to the making of such payment or deemed payment under the Code, and the rules and regulations promulgated thereunder, or under any provision of state, local or foreign tax law. To the extent amounts are so withheld and paid over to the appropriate taxing authority, the Company shall promptly deliver to the Holder a copy of the return reporting such payment or other evidence of such payment and the withheld amounts shall be treated for all purposes of this Warrant as having been paid to the Holder in respect of which such withholding was made. The Company shall not be obligated to gross-up or indemnify any Holder with respect to any withholding tax hereunder.

2.5 Delivery of Certificate and New Warrant. Promptly after the Holder exercises this Warrant the Company shall deliver to the Holder certificates for the Warrant Shares acquired and, if this Warrant has not been fully exercised and has not terminated, this Warrant shall automatically be reduced by the number of Warrant Shares issued and remain exercisable for such remaining Warrant Shares not so acquired, and all other terms of the Warrant shall otherwise remain in full force and effect as so adjusted; provided, however, that if this Warrant has not been fully exercised and has not terminated and if requested by the Holder, promptly after the Holder exercises this Warrant, and in any event within ten (10) days thereafter, the Company shall deliver to the Holder, in exchange for this Warrant, a new warrant or warrants (dated the date hereof) of like tenor and with the same date, calling in the aggregate on the face or faces thereof for the number of Warrant Shares equal to the number of such shares which remain issuable hereunder immediately following such exercise as provided in Section 2.2 above (without giving effect to any adjustment thereof). Upon final exercise of this Warrant for any such remaining number of Warrant Shares, this Warrant shall be surrendered by the Holder to the Company for cancellation.

2.6 Replacement of Warrants. Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and (in the case of loss, theft or destruction) on delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company or (in the case of mutilation) upon surrender and cancellation of this Warrant, the Company shall execute and deliver, in lieu of this Warrant, a new warrant of like tenor representing the same right to purchase Warrant Shares.

2.7 Reservation of Stock. The Company will at all times reserve and keep available, for issuance and delivery upon the exercise of this Warrant, such Warrant Shares and
3. **ADJUSTMENTS TO THE WARRANT SHARES.**

3.1 **Issuance of Additional Stock Below Warrant Price.** Prior to a Qualifying IPO, if the Company shall issue any Additional Stock without consideration or for a consideration per share less than the Warrant Price in effect immediately prior to the issuance of such Additional Stock (as adjusted for stock splits, stock dividends, reclassification and the like), the Warrant Price in effect immediately prior to each such issuance shall automatically be adjusted by multiplying such Warrant Price by a fraction, (x) the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issuance (the “**Outstanding Common**”) plus the number of shares of Common Stock that the aggregate consideration received by the Company for such issuance would purchase at such Warrant Price; and (y) the denominator of which shall be the number of shares of Outstanding Common plus the number of shares of such Additional Stock; provided, however, that prior to a Qualifying IPO, the number of shares of Common Stock deemed to be issued as Additional Stock shall be appropriately adjusted to reflect any change, termination or expiration of the type described in Section 4(d)(i)(E)(2) or 4(d)(i)(E)(3) of Article IV(B) of the Restated Charter. For purposes of the foregoing calculation, the term “Outstanding Common” shall be deemed to include shares of Common Stock deliverable upon conversion, exchange or exercise of securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional shares of Common Stock (assuming the satisfaction of any conditions to convertibility, exchangeability or exercisability, including, without limitation, the passage of time, but without taking into account potential antidilution adjustments). No adjustment of the Warrant Price shall be made in an amount less than one cent per Warrant Share, provided that any adjustments which are not required to be made by reason of this sentence shall be carried forward and shall be either taken into account in any subsequent adjustment made prior to three years from the date of the event giving rise to the adjustment being carried forward, or, prior to a Qualifying IPO, shall be made at the end of three years from the date of the event giving rise to the adjustment being carried forward. In the case of the issuance of Common Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor before deducting any reasonable discounts, commissions or other expenses allowed, paid or incurred by the Company for any underwriting or otherwise in connection with the issuance and sale thereof. In the case of the issuance of the Common Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair value thereof as determined by the board of directors of the Company irrespective of any accounting treatment. Notwithstanding any other provisions of this Section 3.1, except to reflect a change in the assumptions underlying a deemed issuance of Additional Stock (as set forth in the Restated Certificate), no adjustment of the Warrant Price pursuant to this Section 3.1 shall have the effect of increasing the Warrant Price above the Warrant Price in effect immediately prior to such adjustment.

3.2 **Stock Splits and Dividends.** In the event the Company should fix a record date for the effectuation of a split or subdivision of the outstanding shares of Common Stock or the determination of holders of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional shares of Common Stock (such securities or rights, the “**Common Stock Equivalents**”) without payment of any
consideration by such holder for the additional shares of Common Stock or the Common Stock Equivalents (including the additional shares of Common Stock issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the number of shares of Common Stock issuable on exercise of this Warrant shall be increased in proportion to such increase of the aggregate number of shares of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents (with the number of shares issuable with respect to Common Stock Equivalents determined from time to time in accordance with the Restated Certificate) and the Warrant Price shall be proportionately decreased, such that the aggregate Warrant Price payable for the total number of shares of Common Stock issuable on exercise of this Warrant is equal to the aggregate Warrant Price which would have been payable for the total number of shares of Common Stock issuable on exercise of this Warrant immediately prior to such adjustment.

3.3 Reverse Stock Splits. If the number of shares of Common Stock outstanding is decreased by a combination of the outstanding shares of Common Stock, then, as of the record date of such combination (or the date of such combination if no record date is fixed), the Warrant Price shall be increased and the number of shares of Common Stock issuable on exercise of this Warrant shall be decreased, in each case in proportion to such decrease in outstanding shares, such that the aggregate Warrant Price payable for the total number of shares of Common Stock issuable on exercise of this Warrant is equal to the aggregate Warrant Price which would have been payable for the total number of shares of Common Stock issuable on exercise of this Warrant immediately prior to such adjustment.

3.4 Other Distributions. In the event the Company shall declare a distribution payable in securities of the Company not giving rise to an adjustment elsewhere in this Section 3, securities of other persons, evidences of indebtedness issued by the Company or other persons, assets (including cash dividends) or options or rights not referred to in Section 3.1 or 3.2, then, in each such case, the Holder shall be entitled to receive, upon exercise of this Warrant, the number and kind of securities and assets (including cash dividends) the Holder would have received if it were the record holder of the Warrant Shares issuable under this Warrant (regardless of whether then vested) as of the record date fixed for the determination of the holders of Common Stock entitled to receive such distribution.

3.5 Recapitalizations. If at any time or from time to time there shall be a recapitalization of the Common Stock (including, without limitation, a reclassification, exchange, substitution or other event that results in a change of the Common Stock into other securities or property, or the consolidation or merger of the Company with or into another corporation, but excluding (i) a merger or consolidation in which the Company is the continuing corporation and which does not result in any reclassification of the outstanding shares of Common Stock or the conversion of such outstanding shares of Common Stock into shares of other stock or other securities or property, (ii) the events described in Sections 3.2 and 3.3, and (iii) for so long as the Preferred Stock is outstanding, a transaction that does not constitute a recapitalization pursuant to Article IV(B)(4)(f) of the Restated Certificate unless (A) such transaction requires the approval of one or more classes of Preferred Stock pursuant to Article IV(B)(6) of the Restated Certificate and in connection with granting such approval a holder of Preferred Stock either (x) enters into an agreement with the Company, any of its subsidiaries or a third party or (y) receives any additional consideration or (B) one or more classes of the Preferred Stock is converted into or exchanged for other securities or property in such
transaction), the Holder shall thereafter be entitled to receive, upon exercise of this Warrant, the number and kind of shares of stock or other securities or property of the Company or otherwise, that the Holder would have received as a result of such recapitalization if it were the record holder of the Warrant Shares issuable under this Warrant (regardless of whether then vested) as of the record date fixed for the determination of the holders of Common Stock entitled to participate in such recapitalization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 3 with respect to the rights of the Holder after the recapitalization to the end that the provisions of this Section 3 (including adjustment of the Warrant Price then in effect and the number of shares issuable upon exercise of this Warrant) shall be applicable after that event and be as nearly equivalent as practicable. Any such adjustment shall be made by and set forth in a supplemental agreement between the Holder and the Company or any successor thereto. The Company shall not effect any such recapitalization unless upon or prior to the consummation thereof the successor corporation, or if the Company shall be the surviving corporation in any such recapitalization and is not the issuer of the shares of stock or other securities or property to be delivered to holders of shares of the Common Stock outstanding at the effective time thereof, then such issuer, shall assume by written instrument the obligation to deliver to the Holder such shares or cash or other securities or property as the Holder shall be entitled to purchase in accordance with the foregoing provisions.

3.6 Participation in an Offer. In the event the Company or any affiliate of the Company makes an offer to the holders of Common Stock (or shares convertible into or exchangeable for Common Stock) to purchase any shares of Common Stock (or shares convertible into or exchangeable for Common Stock), or any third party makes an offer to acquire all of the shares of Common Stock (including shares convertible into or exchangeable for Common Stock) and such third party offer has been approved by the Company’s board of directors or facilitated by the Company (and not thereafter opposed by the Company’s board of directors), then in each such case the Company shall ensure (or, in the case of such a third party offer, shall use commercially reasonable efforts to ensure) that the Holder may (i) if the Warrant is exercisable prior to the closing of the offer, provisionally exercise and tender into and have accepted into such offer its Warrant Shares such that, upon exercise of this Warrant at or prior to the closing of such offer, for each Warrant Share acquired that was provisionally tendered into such offer its Warrant Shares such that, the Holder shall receive the total consideration to which the Holder would have been entitled had the Holder owned such Warrant Shares of record as of the date of tender, and (ii) if the Warrant is not exercisable prior to the closing of the offer, provisionally tender into and have accepted into such offer its Warrant Shares, such that, as soon as the Warrant becomes exercisable, the Holder shall exercise the Warrant and, for each Warrant Share acquired that was provisionally tendered into such offer, the Holder shall receive the total consideration to which the Holder would have been entitled had the Holder owned such Warrant Shares of record as of the date of tender.

3.7 Adjustment is Cumulative. The provisions of this Section 3 shall similarly apply to successive issuances, dividends, stock splits or reverse stock splits, distributions, exchanges, substitutions recapitalizations, offers or other events.

3.8 Fractional Warrant Shares. No fractional shares shall be issued upon the exercise of this Warrant, and the number of shares of Common Stock to be issued shall be rounded down to the nearest whole share. The number of shares issuable upon such exercise shall be determined on the basis of the total number of shares of Common Stock issuable upon
such exercise. If the exercise would result in any fractional share, the Company shall, in lieu of issuing any such fractional share, pay the Holder an amount in cash equal to the fair market value of such fractional share on the date of exercise, as determined in good faith by the board of directors of the Company.

3.9 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Warrant Price or the number of Warrant Shares issuable upon exercise of this Warrant pursuant to this Section 3, the Company, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to the Holder a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Company shall, upon the written request at any time of the Holder, furnish or cause to be furnished to the Holder a like certificate setting forth (A) such adjustment and readjustment, (B) the Warrant Price, and (C) the number of shares of Common Stock and the amount, if any, of other property which at the time would be received upon the exercise of this Warrant.

4. REGISTRATION RIGHTS; NO VOTING RIGHTS.

4.1 All Warrant Shares issuable upon exercise of this Warrant shall be “Registrable Securities” pursuant to the Investors’ Rights Agreement, as such agreement may be amended from time to time.

4.2 Without limitation to rights and obligations of the Holder pursuant to the Restated Charter, the Bylaws of the Company, the Investors’ Rights Agreement, the Co-Sale Agreement and the Voting Agreement, this Warrant shall not entitle the Holder hereof to any voting rights or other rights as a stockholder of the Company.

5. TERMINATION OF WARRANT.

This Warrant (and the right to purchase securities upon exercise hereof) shall terminate upon the earlier to occur of (i) the fifth anniversary of the Commercial Launch Date, (ii) the consummation of a Liquidation Transaction and (iii) forfeiture and cancellation pursuant to Section 3.2 of the Commercial Agreement, to the extent applicable (such applicable date, the “Expiration Date”). Subject to Section 7.3, Holder shall be given at least five (5) business days notice and an opportunity to exercise this Warrant prior to the consummation of any Liquidation Transaction. The Holder may at any time prior to the Expiration Date exercise this Warrant in whole or part, to the extent then exercisable in accordance with the terms hereof, by delivering a duly executed Notice of Exercise and payment pursuant to Section 2.2. Notwithstanding any provision to the contrary, if the Notice of Exercise and payment is delivered on or prior to the Expiration Date, the rights and obligations of the Company and the Holder under this Warrant in respect of the Warrant Shares to which the Notice of Exercise relates shall survive the Expiration Date.

6. REPRESENTATIONS AND WARRANTIES.

6.1 Representations and Warranties of the Company. The Company hereby represents and warrants to the Holder that (except as set forth in the Schedule of Exceptions attached as Exhibit A to the Amendment Agreement, dated as of August 7, 2012, by and among the Company and certain other parties thereto) each of the representations and
warranties set forth in Section 2 of the Purchase Agreement, is true and correct as of the date hereof, with the same force and effect as if made hereunder, *mutatis mutandis*, with respect to this Agreement and the Warrant and the Warrant Shares (collectively, the “*Securities*”).

6.2 Representations and Warranties of Holder. The Holder hereby represents and warrants to the Company that each of the representations and warranties set forth in Section 3 of the Purchase Agreement is true and correct as of the date hereof, with the same force and effect as if made hereunder, *mutatis mutandis*, with respect to this Agreement and the Securities.

7. **GENERAL PROVISIONS.**

7.1 No Impairment. The Company will not, by amendment of its charter or through reorganization, consolidation, merger, dissolution, sale of assets or any other voluntary action, take any action for the primary purpose of avoiding or seeking to avoid the observance or performance of any of the terms of this Warrant, but will (subject to Section 7.12 below) at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as the Company determines, in good faith, is necessary or appropriate in order to protect the rights of the holder of this Warrant against impairment.

7.2 Notices. Any and all notices required or permitted to be given to a party pursuant to the provisions of this Agreement will be in writing and will be effective and deemed to provide such party sufficient notice under this Agreement on the earliest of the following: (a) at the time of personal delivery, if delivery is in person; (b) immediately upon facsimile transmission (with a confirmation of receipt to the sending party), (c) one (1) business day after deposit with an express overnight courier for United States deliveries, with proof of delivery from the courier requested; or (d) three (3) business days after deposit in the United States mail by certified mail (return receipt requested) for United States deliveries. All notices not delivered personally will be sent with postage or other charges prepaid and properly addressed to the party to be notified.

Any notice to be given to the Company pursuant to this Section 7.2 shall be delivered to:

Square, Inc.
901 Mission Street
San Francisco, California 94103
Attention: Legal Department
Facsimile:

Any notice to be given to the Holder pursuant to this Section 7.2 shall be delivered to:

Starbucks Corporation

Attention: Chief Financial Officer
Facsimile:
with a copy to:

Attention: General Counsel
Facsimile:

A party may from time to time change its address for notification purposes by giving the other party notice of the new address and the date upon which it will become effective.

7.3 Notices of a Record Date. In case:

7.3.1 the Company shall take a record of the holders of its Common Stock (or other stock or securities at the time receivable upon the exercise of this Warrant), for the purpose of entitling them to receive any dividend or other distribution, or any right to subscribe for or purchase any shares of stock of any class or any other securities or to receive any other right; or

7.3.2 of any Liquidation Transaction, any capital reorganization of the Company, or any reclassification of the capital stock of the Company, in which holders of the Company’s Common Stock are to receive stock, securities or property of another corporation; or

7.3.3 of any voluntary dissolution, liquidation or winding-up of the Company; or

7.3.4 of any redemption or conversion of all outstanding Common Stock;

then, and in each such case, the Company will mail or cause to be mailed to the Holder of this Warrant a notice specifying, as the case may be, (i) the date on which a record is to be taken for the purpose of such dividend, distribution or right, or (ii) the date on which such Liquidation Transaction, reorganization, reclassification, dissolution, liquidation, winding-up, redemption or conversion is to take place, and the time, if any is to be fixed, as of which the holders of Common Stock (or such stock or securities as at the time are receivable upon the exercise of this Warrant), shall be entitled to exchange their shares of Common Stock (or such other stock or securities), for securities or other property deliverable upon such Liquidation Transaction, reorganization, reclassification, dissolution, liquidation or winding-up. Such notice shall be delivered at least thirty (30) days prior to the date therein specified.

7.4 Attorneys Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs reasonably incurred in such dispute, including reasonable attorneys’ fees.

7.5 Governing Law. This Warrant will be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to that body of laws pertaining to conflict of laws.
7.6 **Further Assurances.** The parties agree to execute such further documents and instruments and to take such further actions as may be reasonably necessary to carry out the purposes and intent of this Warrant.

7.7 **Antitrust.** Starbucks and the Company shall, in consultation and cooperation with the other, file from time to time as requested by Starbucks in connection with the exercise of this Warrant (a) with the United States Federal Trade Commission (the “FTC”) and the United States Department of Justice (the “DOJ”) the notification and report form, if any, required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (“HSR Act”) for the exercise of the Warrants. Any such filings shall be in substantial compliance with the requirements of the HSR Act. Each of Starbucks and the Company shall (i) furnish to the other party such necessary information and reasonable assistance as the other party may request in connection with its preparation of any filing or submission which is necessary under the HSR Act, and (ii) give the other party reasonable prior notice of any such filings or submissions and, to the extent reasonably practicable, of any communication with, and any inquiries or requests for additional information from, the FTC, the DOJ and any other governmental entity regarding the transactions contemplated by this Agreement, permit the other party to participate in all communications and meetings with any governmental entity to the extent not prohibited by that entity, and permit the other party to review and discuss in advance, and consider in good faith the views of, and secure the participation of, the other party in connection with, any such filings, submissions, communications, inquiries or requests. Holder shall pay its own fees and expenses in complying with this Section 7.7 as well as any filing fees in connection with any notifications under the HSR Act.

7.8 **Titles and Headings.** The titles, captions and headings of this Warrant are included for ease of reference only and will be disregarded in interpreting or construing this Warrant. Unless otherwise specifically stated, all references herein to “sections” and “exhibits” will mean “sections” and “exhibits” to this Warrant.

7.9 **Counterparts.** This Warrant may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one and the same agreement.

7.10 **Severability.** If any provision of this Warrant is determined by any court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Warrant and the remainder of this Warrant shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Warrant. Notwithstanding the forgoing, if the value of this Warrant based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

7.11 **Facsimile Signatures.** This Warrant may be executed and delivered by facsimile and upon such delivery the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.
7.12 **Amendment and Waivers.** This Warrant may be amended only by a written agreement executed by each of the parties hereto. No amendment, termination, discharge or waiver of, or modification of any obligation under this Warrant will be enforceable unless set forth in a writing signed by the party against which enforcement is sought. Any amendment effected in accordance with this section will be binding upon all parties hereto and each of their respective successors and assigns. No delay or failure to require performance of any provision of this Warrant shall constitute a waiver of that provision as to that or any other instance. No waiver granted under this Warrant as to any one provision herein shall constitute a subsequent waiver of such provision or of any other provision herein, nor shall it constitute the waiver of any performance other than the actual performance specifically waived.

7.13 **Successors and Assigns.** Except as otherwise provided in this Warrant, the terms and conditions of this Warrant shall inure to the benefit of and be binding upon the permitted successors and assigns of the parties.

7.14 **Entire Agreement.** This Warrant and the documents referred to herein including but not limited to the Purchase Agreement (and the documents referred to therein) constitute the entire agreement and understanding of the parties with respect to the subject matter of this Warrant, and supersede all prior understandings and agreements, whether oral or written, between or among the parties hereto with respect to the specific subject matter hereof.
IN WITNESS WHEREOF, the Company has caused this Warrant to be duly executed by a duly authorized officer.

SQUARE, INC.

/s/ Jack Dorsey
(Signature)

By: Jack Dorsey
Title: President

Address:
901 Mission Street, Suite 201
San Francisco, CA 94301
Attn: President

SIGNATURE PAGE TO WARRANT TO PURCHASE STOCK
UNITED STATES
Agreed and Acknowledged:

STARBUCKS CORPORATION

By:  /s/ Viveh Varma  
Title:  EXECUTIVE VICE PRESIDENT

SIGNATURE PAGE TO WARRANT TO PURCHASE STOCK  
UNITED STATES
EXHIBIT A

NOTICE OF EXERCISE

(TO BE SIGNED ONLY UPON EXERCISE OF WARRANT)

The undersigned hereby elects to purchase shares of the common stock, par value $0.0001 per share (the “Warrant Shares”) of Square, Inc., a Delaware corporation, pursuant to the terms of the attached Warrant to Purchase Stock with an Issue Date of August 7, 2012 (the “Warrant”), as follows:

(Initial applicable method:)

   a. The undersigned hereby elects to purchase the Warrant Shares pursuant to the terms of the attached Warrant, and tenders herewith payment of the exercise price in full.

   b. The undersigned hereby elects to purchase the Warrant Shares in accordance with Section 2.3.2 of the attached Warrant, contingent upon the occurrence of the following event: .

Please issue a certificate or certificates representing said Warrant Shares in the name of the undersigned.

________________________________________
(Printed Name of Holder)

________________________________________

Address:

________________________________________
(Signature of Holder)
This FIRST AMENDMENT TO WARRANT TO PURCHASE STOCK, dated as of September 30, 2013 (this “Amendment”), is entered into by and between Square, Inc., a Delaware corporation (the “Company”), and Starbucks Corporation, a Washington corporation (“Starbucks”).

WHEREAS, the parties hereto are parties to that certain Warrant to Purchase Stock (United States), with an issue date of August 7, 2012 (the “Warrant”); and

WHEREAS, Section 7.12 of the Warrant provides that the Company and Starbucks may amend the Warrant by a written agreement executed by each of the parties hereto.

NOW, THEREFORE, for and in consideration of the premises and mutual agreements herein set forth, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE I
AMENDMENT TO THE WARRANT AGREEMENT

The Warrant is hereby amended as follows:

A. Section 1 of the Warrant is hereby amended by deleting the defined term “Additional Stock” in its entirety.

B. Section 1 of the Warrant is hereby amended by deleting the defined term “Qualifying IPO” in its entirety.

C. Section 3 of the Warrant is hereby amended by deleting Section 3.1 in its entirety and replacing it with the following (and Section 3.1 of the Warrant as in effect prior to the execution of this Amendment by the parties hereto shall no longer apply to the Warrant):

“Reserved.”

D. Section 3 of the Warrant is hereby further amended by deleting the phrase “3.1 or” contained in Section 3.4.

ARTICLE II
MISCELLANEOUS

A. Ratification of Warrant Agreement; No Further Amendment; Full Force and Effect.

Except as amended or modified hereby, all terms, covenants and conditions of the Warrant as heretofore in effect shall remain in full force and effect and are hereby ratified and confirmed in all respects. This Amendment shall form a part of the Warrant for all purposes, and
each party hereto shall be bound hereby. This Amendment shall be deemed to be in full force and effect from and after the execution of this Amendment by the parties hereto.

B. Governing Law.

This Amendment will be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to that body of laws pertaining to conflict of laws.

C. Successors; Entire Agreement; Counterparts.

The terms and conditions of this Amendment shall inure to the benefit of and be binding upon the permitted successors and assigns of the parties. The Warrant (and the documents referred to in the Warrant including but not limited to the Purchase Agreement (as defined in the Warrant) (and the documents referred to therein), as modified by this Amendment, constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and of the Warrant and supersedes all prior understandings and agreements, whether oral or written, between or among the parties hereto with respect to the specific subject matter hereof. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one and the same agreement. This Amendment may be executed and delivered by facsimile and upon such delivery the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

[Remainder of Page Intentionally Left Blank]
IN WITNESS WHEREOF, the Company and Starbucks have caused this Amendment to be executed as of the date first written above by their respective duly authorized officers.

SQUARE, INC.
By: /s/ Sarah Friar
Name: Sarah Friar
Title: CFO

STARBUCKS CORPORATION
By: /s/ Adam Brotman
Name: Adam Brotman
Title: EVP, COO

SIGNATURE PAGE TO AMENDMENT TO WARRANT TO PURCHASE STOCK
UNITED STATES
1. **Purposes of the Plan.** The purposes of this 2009 Stock Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to Employees and Consultants, and to promote the success of the Company’s business. Options granted under the Plan may be Incentive Stock Options or Nonstatutory Stock Options, as determined by the Administrator at the time of grant of an Option and subject to the applicable provisions of Section 422 of the Code and the regulations promulgated thereunder. Restricted Stock and Restricted Stock Units may also be granted under the Plan.

2. **Definitions.** As used herein, the following definitions shall apply:
   
   (a) “**Administrator**” means the Board or a Committee.
   
   (b) “**Affiliate**” means an entity other than a Subsidiary which, together with the Company, is under common control of a third person or entity.
   
   (c) “**Applicable Laws**” means all applicable laws, rules, regulations and requirements, including, but not limited to, all applicable U.S. federal or state laws, any Stock Exchange rules or regulations, and the applicable laws, rules or regulations of any other country or jurisdiction where Options, Restricted Stock, or Restricted Stock Units are granted under the Plan or Participants reside or provide services, as such laws, rules, and regulations shall be in effect from time to time.
   
   (d) “**Award**” means any award of an Option, Restricted Stock, or Restricted Stock Units under the Plan.
   
   (e) “**Board**” means the Board of Directors of the Company.
   
   (f) “**California Participant**” means a Participant whose Award is issued in reliance on Section 25102(o) of the California Corporations Code.
   
   (g) “**Cashless Exercise**” means a program approved by the Administrator in which payment of the Award exercise price (if any) or tax withholding obligations may be satisfied, in whole or in part, with Shares subject to the Award, including by delivery of an irrevocable direction to a securities broker (on a form prescribed by the Administrator) to sell Shares and to deliver all or part of the sale proceeds to the Company in payment of the aggregate exercise price and, if applicable, the amount necessary to satisfy the Company’s withholding obligations.
(h) “Cause” for termination of a Participant’s Continuous Service Status will exist (unless another definition is provided in an applicable Option Agreement, Restricted Stock Purchase Agreement, Restricted Stock Unit Agreement, employment agreement or other applicable written agreement) if the Participant’s Continuous Service Status is terminated for any of the following reasons: (i) Participant’s willful failure to perform his or her duties and responsibilities to the Company or Participant’s violation of any written Company policy; (ii) Participant’s commission of any act of fraud, embezzlement, dishonesty or any other willful misconduct that has caused or is reasonably expected to result in injury to the Company; (iii) Participant’s unauthorized use or disclosure of any proprietary information or trade secrets of the Company or any other party to whom the Participant owes an obligation of nondisclosure as a result of his or her relationship with the Company; or (iv) Participant’s material breach of any of his or her obligations under any written agreement or covenant with the Company. The determination as to whether a Participant’s Continuous Service Status has been terminated for Cause shall be made in good faith by the Company and shall be final and binding on the Participant. The foregoing definition does not in any way limit the Company’s ability to terminate a Participant’s employment or consulting relationship at any time, and the term “Company” will be interpreted to include any Subsidiary, Parent, Affiliate, or any successor thereto, if appropriate.


(j) “Committee” means one or more committees or subcommittees of the Board consisting of two (2) or more Directors (or such lesser or greater number of Directors as shall constitute the minimum number permitted by Applicable Laws to establish a committee or sub-committee of the Board) appointed by the Board to administer the Plan in accordance with Section 4 below.

(k) “Common Stock” means the Company’s common stock, par value $0.0000001 per share, as adjusted in accordance with Section 13 below.

(l) “Company” means Square, Inc., a Delaware corporation.

(m) “Consultant” means any person, including an advisor but not an Employee, who is engaged by the Company, or any Parent, Subsidiary or Affiliate, to render services (other than capital-raising services) and is compensated for such services, and any Director whether compensated for such services or not.

(n) “Continuous Service Status” means the absence of any interruption or termination of service as an Employee or Consultant. Continuous Service Status as an Employee or Consultant shall not be considered interrupted or terminated in the case of: (i) Company approved sick leave; (ii) military leave; (iii) any other bona fide leave of absence approved by the Administrator, provided that such leave is for a period of not more than ninety (90) days, unless reemployment upon the expiration of such leave is guaranteed by contract or statute, or unless provided otherwise pursuant to a written Company policy. Also, Continuous Service Status as an Employee or Consultant shall not be considered interrupted or terminated in the case of a transfer between locations of the Company or between the Company, its Parents, Subsidiaries or Affiliates, or their respective successors, or a change in status from an Employee to a Consultant or from a Consultant to an Employee.
(o) “Director” means a member of the Board.

(p) “Disability” means “disability” within the meaning of Section 22(c)(3) of the Code.

(q) “Employee” means any person employed by the Company, or any Parent, Subsidiary or Affiliate, with the status of employment determined pursuant to such factors as are deemed appropriate by the Administrator in its sole discretion, subject to any requirements of the Applicable Laws, including the Code. The payment by the Company of a director’s fee shall not be sufficient to constitute “employment” of such director by the Company or any Parent, Subsidiary or Affiliate.


(s) “Fair Market Value” means, as of any date, the per share fair market value of the Common Stock, as determined by the Administrator in good faith on such basis as it deems appropriate and applied consistently with respect to Participants. Whenever possible, the determination of Fair Market Value shall be based upon the per share closing price for the Shares as reported in the Wall Street Journal for the applicable date.

(t) “Family Members” means any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law (including adoptive relationships) of the Participant, any person sharing the Participant’s household (other than a tenant or employee), a trust in which these persons (or the Participant) have more than 50% of the beneficial interest, a foundation in which these persons (or the Participant) control the management of assets, and any other entity in which these persons (or the Participant) own more than 50% of the voting interests.

(u) “Incentive Stock Option” means an Option intended to qualify as an incentive stock option within the meaning of Section 422 of the Code, as designated in the applicable Option Agreement.

(v) “Involuntary Termination” means (unless another definition is provided in the applicable Option Agreement, Restricted Stock Purchase Agreement, Restricted Stock Unit Agreement, employment agreement or other applicable written agreement) the termination of a Participant’s Continuous Service Status other than for death or Disability or for Cause by the Company or a Subsidiary, Parent, Affiliate or successor thereto, as appropriate.

(w) “Listed Security” means any security of the Company that is listed or approved for listing on a national securities exchange or designated or approved for designation as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc.

(x) “Nonstatutory Stock Option” means an Option not intended to qualify as an Incentive Stock Option, as designated in the applicable Option Agreement.

(y) “Option” means a stock option granted pursuant to the Plan.
(z) “Option Agreement” means a written document, the form(s) of which shall be approved from time to time by the Administrator, reflecting the terms of an Option granted under the Plan and includes any documents attached to or incorporated into such Option Agreement, including, but not limited to, a notice of stock option grant and a form of exercise notice.

(aa) “Option Exchange Program” means a program approved by the Administrator whereby outstanding Options (i) are exchanged for Options with a lower exercise price or Restricted Stock or Restricted Stock Units or (ii) are amended to decrease the exercise price as a result of a decline in the Fair Market Value of the Common Stock.

(bb) “Optioned Stock” means Shares that are subject to an Option or that were issued pursuant to the exercise of an Option.

(cc) “Optionee” means an Employee or Consultant who receives an Option.

(dd) “Parent” means any corporation (other than the Company) in an unbroken chain of corporations ending with the Company if, at the time of grant of the Award, each of the corporations other than the Company owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Parent on a date after the adoption of the Plan shall be considered a Parent commencing as of such date.

(ee) “Participant” means any holder of one or more Awards or Shares issued pursuant to an Award.

(ff) “Plan” means this 2009 Stock Plan, as amended.

(gg) “Restricted Stock” means Shares acquired pursuant to a right to purchase Common Stock granted pursuant to Section 10(a) below. Each Restricted Stock Unit represents an unfunded and unsecured obligation of the Company.

(hh) “Restricted Stock Purchase Agreement” means a written document, the form(s) of which shall be approved from time to time by the Administrator, reflecting the terms of Restricted Stock granted under the Plan and includes any documents attached to such agreement.

(ii) “Restricted Stock Unit” means a bookkeeping entry representing an amount equal to the Fair Market Value of one Share, granted pursuant to Section10(b) below. Each Restricted Stock Unit represents an unfunded and unsecured obligation of the Company.

(jj) “Restricted Stock Unit Agreement” means a written document, the form(s) of which shall be approved from time to time by the Administrator, reflecting the terms of Restricted Stock Units granted under the Plan and includes any documents attached to such agreement.

(kk) “Rule 16b-3” means Rule 16b-3 promulgated under the Exchange Act, as amended from time to time, or any successor provision.

(ll) “Share” means a share of Common Stock, as adjusted in accordance with Section 13 below.

(mm) “Stock Exchange” means any stock exchange or consolidated stock price reporting system on which prices for the Common Stock are quoted at any given time.

(nn) “Subsidiary” means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company if, at the time of grant of the Award, each of the corporations other than the last corporation in the unbroken chain owns stock.
possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Subsidiary on a date after the adoption of the Plan shall be considered a Subsidiary commencing as of such date.

(oo) “Ten Percent Holder” means a person who owns stock representing more than 10% of the voting power of all classes of stock of the Company or any Parent or Subsidiary measured as of an Award’s date of grant.

(pp) “Triggering Event” means:

(i) a sale, transfer or disposition of all or substantially all of the Company’s assets other than to (A) a corporation or other entity of which at least a majority of its combined voting power is owned directly or indirectly by the Company, (B) a corporation or other entity owned directly or indirectly by the holders of capital stock of the Company in substantially the same proportions as their ownership of Common Stock, or (C) an Excluded Entity (as defined in subsection (ii) below); or

(ii) any merger, consolidation or other business combination transaction of the Company with or into another corporation, entity or person, other than a transaction with or into another corporation, entity or person in which the holders of at least a majority of the shares of voting capital stock of the Company outstanding immediately prior to such transaction continue to hold (either by such shares remaining outstanding in the continuing entity or by their being converted into shares of voting capital stock of the surviving entity) a majority of the total voting power represented by the shares of voting capital stock of the Company (or the surviving entity) outstanding immediately after such transaction (an “Excluded Entity”).

Notwithstanding anything stated herein, a transaction shall not constitute a “Triggering Event” if its sole purpose is to change the state of the Company’s incorporation, or to create a holding company that will be owned in substantially the same proportions by the persons who hold the Company’s securities immediately before such transaction. For clarity, the term “Triggering Event” as defined herein shall not include stock sale transactions whether by the Company or by the holders of capital stock.

3. Stock Subject to the Plan. Subject to the provisions of Section 13 below, the maximum aggregate number of Shares that may be issued under the Plan is 162,561,028 Shares, of which a maximum of 162,561,028 Shares may be issued under the Plan pursuant to Incentive Stock Options. The Shares issued under the Plan may be authorized, but unissued, or reacquired Shares. If an Award should expire or become unexercisable for any reason without having been exercised in full, is surrendered pursuant to an Option Exchange Program, or, with respect to Restricted Stock Units, is forfeited to the Company due to the failure to vest, the unpurchased Shares (or for Restricted Stock Units, the forfeited Shares that were subject thereto) will become available for future grant or sale under the Plan (unless the Plan has terminated). In addition, any Shares which are retained by the Company upon exercise of an Award in order to satisfy the exercise or purchase price for such Award or any withholding taxes due with respect to such Award shall be treated as not issued and shall continue to be available for future issuance or sale under the Plan. Shares issued under the Plan and later repurchased by or forfeited to the Company pursuant to any Company repurchase right or forfeiture provision, as applicable, shall be available for future grant or sale under the Plan. To the extent an Award under the Plan is paid out in cash rather than Shares, such cash payment will not reduce the number of Shares available for issuance under the Plan.
4. Administration of the Plan

(a) General. The Plan shall be administered by the Board or a Committee, or a combination thereof, as determined by the Board. The Plan may be administered by different administrative bodies with respect to different classes of Participants and, if permitted by Applicable Laws, the Board may authorize one or more officers of the Company to make Awards under the Plan to Employees and Consultants (who are not subject to Section 16 of the Exchange Act) within parameters specified by the Board.

(b) Committee Composition. If a Committee has been appointed pursuant to this Section 4, such Committee shall continue to serve in its designated capacity until otherwise directed by the Board. From time to time the Board may increase the size of any Committee and appoint additional members thereof, remove members (with or without cause) and appoint new members in substitution therefor, fill vacancies (however caused) and dissolve a Committee and thereafter directly administer the Plan, all to the extent permitted by the Applicable Laws and, in the case of a Committee administering the Plan in accordance with the requirements of Rule 16b-3 or Section 162(m) of the Code, to the extent permitted or required by such provisions.

(c) Powers of the Administrator. Subject to the provisions of the Plan and, in the case of a Committee, the specific duties delegated by the Board to such Committee, the Administrator shall have the authority, in its sole discretion:

(i) to determine the Fair Market Value of the Common Stock in accordance with Section 2(s) above, provided that such determination shall be applied consistently with respect to Participants under the Plan;

(ii) to select the Employees and Consultants to whom Awards may from time to time be granted;

(iii) to determine the number of Shares to be covered by each Award;

(iv) to approve the form(s) of agreement(s) and other related documents used under the Plan;

(v) to determine the terms and conditions, not inconsistent with the terms of the Plan, of any Award granted hereunder, which terms and conditions include but are not limited to the exercise or purchase price, the time or times when Awards may be exercised (which may be based on performance criteria), the circumstances (if any) when vesting will be accelerated or forfeiture restrictions will be waived, and any restriction or limitation regarding any Award, Optioned Stock, or Restricted Stock;

(vi) to amend any outstanding Award or agreement related to any Option, Restricted Stock, or Restricted Stock Units, including any amendment adjusting vesting (e.g., in connection with a change in the terms or conditions under which such person is providing services to the Company), provided that no amendment shall be made that would materially and adversely affect the rights of any Participant without his or her consent;
(vii) to determine whether and under what circumstances an Option or Restricted Stock Units may be settled in cash under Section 9(c) or Section 10(b)(iii) below, as applicable, instead of Common Stock;

(viii) to implement an Option Exchange Program and establish the terms and conditions of such Option Exchange Program, provided that no amendment or adjustment to an Option that would materially and adversely affect the rights of any Optionee shall be made without his or her consent;

(ix) to grant Awards to, or to modify the terms of any outstanding Option Agreement, Restricted Stock Purchase Agreement, Restricted Stock Unit Agreement, or any agreement related to any Shares subject to any Award held by, Participants who are foreign nationals or employed outside of the United States with such terms and conditions as the Administrator deems necessary or appropriate to accommodate differences in local law, tax policy or custom which deviate from the terms and conditions set forth in this Plan to the extent necessary or appropriate to accommodate such differences; and

(x) to construe and interpret the terms of the Plan, any Option Agreement, Restricted Stock Purchase Agreement, Restricted Stock Unit Agreement, and any agreement related to any Shares subject to any Award, which constructions, interpretations and decisions shall be final and binding on all Participants.

(d) **Indemnification.** To the maximum extent permitted by Applicable Laws, each member of the Committee (including officers of the Company, if applicable), or of the Board, as applicable, shall be indemnified and held harmless by the Company against and from (i) any loss, cost, liability, or expense that may be imposed upon or reasonably incurred by him or her in connection with or resulting from any claim, action, suit, or proceeding to which he or she may be a party or in which he or she may be involved by reason of any action taken or failure to act under the Plan or pursuant to the terms and conditions of any Award except for actions taken in bad faith or failures to act in bad faith, and (ii) any and all amounts paid by him or her in settlement thereof, with the Company’s approval, or paid by him or her in satisfaction of any judgment in any such claim, action, suit, or proceeding against him or her, provided that such member shall give the Company an opportunity, at its own expense, to handle and defend any such claim, action, suit or proceeding before he or she undertakes to handle and defend it on his or her own behalf. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such persons may be entitled under the Company’s Articles of Incorporation, Certificate of Incorporation or Bylaws, by contract, as a matter of law, or otherwise, or under any other power that the Company may have to indemnify or hold harmless each such person.

5. **Eligibility.**

(a) **Recipients of Grants.** Nonstatutory Stock Options, Restricted Stock and Restricted Stock Units may be granted to Employees and Consultants. Incentive Stock Options may be granted only to Employees, provided that Employees of Affiliates shall not be eligible to receive Incentive Stock Options.
(b) **Type of Option.** Each Option shall be designated in the Option Agreement as either an Incentive Stock Option or a Nonstatutory Stock Option.

(c) **ISO $100,000 Limitation.** Notwithstanding any designation under Section 5(b) above, to the extent that the aggregate Fair Market Value of Shares with respect to which Options designated as Incentive Stock Options are exercisable for the first time by any Optionee during any calendar year (under all plans of the Company or any Parent or Subsidiary) exceeds $100,000, such excess Options shall be treated as Nonstatutory Stock Options. For purposes of this Section 5(c), Incentive Stock Options shall be taken into account in the order in which they were granted, and the Fair Market Value of the Shares subject to an Incentive Stock Option shall be determined as of the date of the grant of such Option.

(d) **No Employment Rights.** Neither the Plan nor any Award shall confer upon any Employee or Consultant any right with respect to continuation of an employment or consulting relationship with the Company (any Parent or Subsidiary), nor shall it interfere in any way with such Employee’s or Consultant’s right or the Company’s (Parent’s or Subsidiary’s) right to terminate his or her employment or consulting relationship at any time, with or without cause.

6. **Term of Plan.** The Plan shall become effective upon its adoption by the Board of Directors. It shall continue in effect for a term of ten (10) years from the date the most recent Plan amendment that requires stockholder approval was approved by the Board, unless sooner terminated under Section 15 below.

7. **Term of Option.** The term of each Option shall be the term stated in the Option Agreement; provided that the term shall be no more than ten (10) years from the date of grant thereof or such shorter term as may be provided in the Option Agreement and provided further that, in the case of an Incentive Stock Option granted to a person who at the time of such grant is a Ten Percent Holder, the term of the Option shall be five (5) years from the date of grant thereof or such shorter term as may be provided in the Option Agreement.

8. **Option Exercise Price and Consideration.**

   (a) **Exercise Price.** The per Share exercise price for the Shares to be issued pursuant to the exercise of an Option shall be such price as is determined by the Administrator and set forth in the Option Agreement, but shall be subject to the following:

      (i) In the case of an Incentive Stock Option

         (1) granted to an Employee who at the time of grant is a Ten Percent Holder, the per Share exercise price shall be no less than 110% of the Fair Market Value on the date of grant;

         (2) granted to any other Employee, the per Share exercise price shall be no less than 100% of the Fair Market Value on the date of grant;

      (ii) Except as provided in subsection (iii) below, in the case of a Nonstatutory Stock Option the per Share exercise price shall be such price as is determined by the Administrator, provided that, if the per Share exercise price is less than 100% of the Fair
Market Value on the date of grant, it shall otherwise comply with all Applicable Laws, including any provision required to avoid the imposition of additional tax under Section 409A(1)(B) of the Code;

(iii) In the case of a Nonstatutory Stock Option that is intended to qualify as performance-based compensation under Section 162(m) of the Code and is granted on or after the date, if ever, on which the Common Stock becomes a Listed Security, the per Share exercise price shall be no less than 100% of the Fair Market Value on the date of grant; and

(iv) Notwithstanding the foregoing, Options may be granted with a per Share exercise price other than as required above pursuant to a merger or other corporate transaction.

(b) Permissible Consideration. The consideration to be paid for the Shares to be issued upon exercise of an Option, including the method of payment, shall be determined by the Administrator (and, in the case of an Incentive Stock Option and to the extent required by Applicable Laws, shall be determined at the time of grant) and may consist entirely of (1) cash; (2) check; (3) to the extent permitted under Applicable Laws, delivery of a promissory note with such recourse, interest, security and redemption provisions as the Administrator determines to be appropriate (subject to the provisions of Section 153 of the Delaware General Corporation Law); (4) cancellation of indebtedness; (5) other previously owned Shares that have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which the Option is exercised; (6) a Cashless Exercise; (7) such other consideration and method of payment permitted under Applicable Laws; or (8) any combination of the foregoing methods of payment. In making its determination as to the type of consideration to accept, the Administrator shall consider if acceptance of such consideration may be reasonably expected to benefit the Company and the Administrator may, in its sole discretion, refuse to accept a particular form of consideration at the time of any Option exercise.


(a) General.

(i) Exercisability. Any Option granted hereunder shall be exercisable at such times and under such conditions as determined by the Administrator, consistent with the terms of the Plan and reflected in the Option Agreement, including vesting requirements and/or performance criteria with respect to the Company, and Parent or Subsidiary, and/or the Optionee.

(ii) Leave of Absence. The Administrator shall have the discretion to determine whether and to what extent the vesting of Options shall be tolled during any unpaid leave of absence; provided, however, that in the absence of such determination, vesting of Options shall be tolled during any such unpaid leave (unless otherwise required by the Applicable Laws). Notwithstanding the foregoing, in the event of military leave, vesting shall toll during any unpaid portion of such leave, provided that, upon an Optionee’s returning from military leave (under conditions that would entitle him or her to protection upon such return under the Uniform Services Employment and Reemployment Rights Act), he or she shall be given vesting credit with respect to Options to the same extent as would have applied had the Optionee continued to provide services to the Company (or any Parent or Subsidiary, if
applicable) throughout the leave on the same terms as he or she was providing services immediately prior to such leave.

(iii) Minimum Exercise Requirements. An Option may not be exercised for a fraction of a Share. The Administrator may require that an Option be exercised as to a minimum number of Shares, provided that such requirement shall not prevent an Optionee from exercising the full number of Shares as to which the Option is then exercisable.

(iv) Procedures for and Results of Exercise. An Option shall be deemed exercised when written notice of such exercise has been received by the Company in accordance with the terms of the Option Agreement by the person entitled to exercise the Option and the Company has received full payment for the Shares with respect to which the Option is exercised and has paid, or made arrangements to satisfy, any applicable withholding requirements in accordance with Section 11 below. The exercise of an Option shall result in a decrease in the number of Shares that thereafter may be available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

(v) Rights as Holder of Capital Stock. Until the issuance of the Shares (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a holder of capital stock shall exist with respect to the Optioned Stock, notwithstanding the exercise of the Option. No adjustment will be made for a dividend or other right for which the record date is prior to the date the stock certificate is issued, except as provided in Section 13 below.

(b) Termination of Employment or Consulting Relationship. The Administrator shall establish and set forth in the applicable Option Agreement the terms and conditions upon which an Option shall remain exercisable, if at all, following termination of an Optionee’s Continuous Service Status, which provisions may be waived or modified by the Administrator at any time. To the extent that an Option Agreement does not specify the terms and conditions upon which an Option shall terminate upon termination of an Optionee’s Continuous Service Status, the following provisions shall apply:

(i) General Provisions. If the Optionee (or other person entitled to exercise the Option) does not exercise the Option to the extent so entitled within the time specified below, the Option shall terminate and the Optioned Stock underlying the unexercised portion of the Option shall revert to the Plan. In no event may any Option be exercised after the expiration of the Option term as set forth in the Option Agreement (and subject to Section 7 above).

(ii) Termination other than Upon Disability or Death or for Cause. In the event of termination of an Optionee’s Continuous Service Status other than under the circumstances set forth in subsections (iii) through (v) below, such Optionee may exercise any outstanding Option at any time within 3 months following such termination to the extent the Optionee is vested in the Optioned Stock.
(iii) **Disability of Optionee**. In the event of termination of an Optionee’s Continuous Service Status as a result of his or her Disability, such Optionee may exercise any outstanding Option at any time within 6 months following such termination to the extent the Optionee is vested in the Optioned Stock.

(iv) **Death of Optionee**. In the event of the death of an Optionee during the period of Continuous Service Status since the date of grant of any outstanding Option, or within 3 months following termination of Optionee’s Continuous Service Status, the Option may be exercised by the Optionee’s estate, or by a person who acquired the right to exercise the Option by bequest or inheritance, at any time within 9 months following the date of death or, if earlier, the date the Optionee’s Continuous Service Status terminated, but only to the extent the Optionee is vested in the Optioned Stock.

(v) **Termination for Cause**. In the event of termination of an Optionee’s Continuous Service Status for Cause, any outstanding Option (including any vested portion thereof) held by such Optionee shall immediately terminate in its entirety upon first notification to the Optionee of termination of the Optionee’s Continuous Service Status for Cause. If an Optionee’s Continuous Service Status is suspended pending an investigation of whether the Optionee’s Continuous Service Status will be terminated for Cause, all the Optionee’s rights under any Option, including the right to exercise the Option, shall be suspended during the investigation period. Nothing in this Section 9(b)(v) shall in any way limit the Company’s right to purchase unvested Shares issued upon exercise of an Option as set forth in the applicable Option Agreement.

(c) **Buyout Provisions**. The Administrator may at any time offer to buy out, for a payment in cash or Shares, an Option previously granted under the Plan based on such terms and conditions as the Administrator shall establish and communicate to the Optionee at the time such offer is made.

10. **Restricted Stock and Restricted Stock Units**.

(a) **Restricted Stock**.

(i) **Rights to Purchase**. When a right to purchase Restricted Stock is granted under the Plan, the Administrator shall advise the recipient in writing of the terms, conditions and restrictions related to the offer, including the number of Shares that such person shall be entitled to purchase, the price to be paid (which shall be as determined by the Administrator, subject to Applicable Laws, including any applicable securities laws), and the time within which such person must accept such offer. The permissible consideration for Restricted Stock shall be determined by the Administrator and shall be the same as set forth in Section 8(b) above with respect to exercise of Options. The offer to purchase Shares shall be accepted by execution of a Restricted Stock Purchase Agreement in the form determined by the Administrator.

(ii) **Repurchase Option**.

(1) **General**. Unless the Administrator determines otherwise, the Restricted Stock Purchase Agreement shall grant the Company a repurchase option exercisable upon the voluntary or involuntary termination of the Participant’s Continuous Service Status for any reason (including death or Disability). The purchase price for Shares repurchased pursuant
to the Restricted Stock Purchase Agreement shall be the original purchase price paid by the purchaser and may be paid by cancellation of any indebtedness of the purchaser to the Company. The repurchase option shall lapse at such rate as the Administrator may determine.

(2) Leave of Absence. The Administrator shall have the discretion to determine whether and to what extent the lapsing of Company repurchase rights shall be tolled during any unpaid leave of absence; provided, however, that in the absence of such determination, such lapsing shall be tolled during any such unpaid leave (unless otherwise required by the Applicable Laws). Notwithstanding the foregoing, in the event of military leave, the lapsing of Company repurchase rights shall toll during any unpaid portion of such leave, provided that, upon a Participant’s returning from military leave (under conditions that would entitle him or her to protection upon such return under the Uniform Services Employment and Reemployment Rights Act), he or she shall be given vesting credit with respect to Shares purchased pursuant to the Restricted Stock Purchase Agreement to the same extent as would have applied had the Participant continued to provide services to the Company (or any Parent or Subsidiary, if applicable) throughout the leave on the same terms as he or she was providing services immediately prior to such leave.

(iii) Other Provisions. The Restricted Stock Purchase Agreement shall contain such other terms, provisions and conditions not inconsistent with the Plan as may be determined by the Administrator in its sole discretion. In addition, the provisions of Restricted Stock Purchase Agreements need not be the same with respect to each Participant.

(iv) Rights as a Holder of Capital Stock. Once the Restricted Stock is purchased, the Participant shall have the rights equivalent to those of a holder of capital stock, and shall be a record holder when his or her purchase is entered upon the records of the duly authorized transfer agent of the Company. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Restricted Stock is purchased, except as provided in Section 13 below.

(b) Restricted Stock Units.

(i) Grant. When an award of Restricted Stock Units is granted under the Plan, the Administrator shall advise the recipient in writing of the terms, conditions and restrictions related to the offer, including the number of Restricted Stock Units, subject to Applicable Laws, including any applicable securities laws), and the time within which such person must accept such offer, if applicable. The offer of an award of Restricted Stock Units shall be accepted by execution of a Restricted Stock Unit Agreement in the form determined by the Administrator.

(ii) Vesting and Earning.

(1) General. The Administrator will set vesting criteria in its discretion, which, depending on the extent to which the criteria are met, will determine the number of Restricted Stock Units that will be paid out to the Participant. The Administrator may set vesting criteria based upon the achievement of Company-wide, business unit, or individual goals (including, but not limited to, continued employment or service), or any other basis determined by the Administrator in its discretion. Upon meeting the applicable vesting criteria, the Participant will be entitled to receive a payout as determined by the Administrator. Notwithstanding the foregoing, at any time after the grant of Restricted Stock Units, the Administrator, in its sole discretion, may reduce or waive any vesting criteria that must be met to receive a payout.

(2) Leave of Absence. The Administrator shall have the discretion to determine whether and to what extent vesting for Restricted Stock Units shall be tolled during any unpaid leave of absence; provided, however, that in the absence of such determination, such lapsing shall be tolled during any such unpaid leave (unless otherwise required by the Applicable Laws). Notwithstanding the foregoing, in the event of military leave, the vesting of Restricted Stock Units shall toll during any unpaid portion of such leave, provided that, upon a Participant’s returning from military leave (under conditions that would entitle him or her to protection upon such return under the Uniform Services Employment and Reemployment Rights Act), he or she shall be given vesting credit with respect to Restricted Stock Units to the same extent as would have applied had the Participant continued to provide services to the Company (or any Parent or Subsidiary, if applicable) throughout the leave on the same terms as he or she was providing services immediately prior to such leave.

(iii) Form and Timing of Payment. Payment in settlement of vested Restricted Stock Units will be made as soon as practicable after the date(s) determined by the Administrator and set forth in the Award agreement. The Administrator, in its sole discretion, may settle vested Restricted Stock Units in cash, Shares, or a combination of both.

(iv) Cancellation. On the date set forth in the Award agreement, all unearned Restricted Stock Units will be forfeited to the Company.

(v) Other Provisions. The Restricted Stock Unit Agreement shall contain such other terms, provisions and conditions not inconsistent with the Plan as may be determined by the Administrator in its sole discretion. In addition, the provisions of Restricted Stock Unit Agreements need not be the same with respect to each Participant.

(vi) Rights as a Holder of Capital Stock. Once the Restricted Stock Units are vested, earned, and paid, the Participant shall have the rights equivalent to those of a holder of capital stock, and shall be a record holder when his or her purchase is entered upon the records of the duly authorized transfer agent of the Company. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Restricted Stock Units are settled, except as provided in Section 13 below.

11. Taxes.

(a) As a condition of the grant, vesting and/or exercise of an Award, the Participant (or in the case of the Participant’s death or a permitted transferee, the person holding or exercising the Award) shall make such arrangements as the Administrator may require for the satisfaction of any applicable U.S. federal, state or local tax withholding obligations or foreign tax withholding obligations that may arise in connection with such Award. The Company shall not be required to issue any Shares under the Plan until such obligations are satisfied.

(b) The Administrator may permit a Participant (or in the case of the Participant’s death or a permitted transferee, the person holding or exercising the Award) to satisfy all or part of his or her tax withholding obligations by Cashless Exercise, by surrendering Shares (either directly or by stock attestation) that he or
she previously acquired, or by electing to have the Company withhold otherwise deliverable Shares; provided that (i) unless the Cashless Exercise is an approved broker-assisted Cashless Exercise, the Shares tendered for payment have been previously held for a minimum duration (e.g., to avoid financial accounting charges to the Company’s earnings), or as otherwise permitted to avoid financial accounting charges under applicable accounting guidance and (ii) unless it can be done without adverse financial accounting consequences; amounts withheld shall not
exceed the amount necessary to satisfy the Company’s tax withholding obligations at the minimum statutory withholding rates, including, but not limited to, U.S. federal and state income taxes, payroll taxes, and foreign taxes, if applicable. Any payment of taxes by surrendering Shares to the Company may be subject to restrictions, including, but not limited to, any restrictions required by rules of the Securities and Exchange Commission.

12. **Non-Transferability of Awards.**
   (a) **General.** Except as set forth in this Section 12, Awards may not be sold, pledged, assigned, hypothecated, transferred or disposed of in any manner other than by will or by the laws of descent or distribution. The designation of a beneficiary by a Participant will not constitute a transfer. An Option may be exercised, during the lifetime of the holder of the Award, only by such holder or a transferee permitted by this Section 12.

   (b) **Limited Transferability Rights.** Notwithstanding anything else in this Section 12, the Administrator may in its sole discretion grant Awards (other than Incentive Stock Options) that may be transferred by instrument to an inter vivos or testamentary trust in which the Awards are to be passed to beneficiaries upon the death of the trustor (settlor) or by gift to Family Members.

13. **Adjustments Upon Changes in Capitalization, Merger or Certain Other Transactions.**
   (a) **Changes in Capitalization.** Subject to any action required under Applicable Laws by the holders of capital stock of the Company, (i) the numbers and class of Shares or other stock or securities: (x) available for future Awards under Section 3 above, and (y) covered by each outstanding Award, (ii) the price per Share covered by each such outstanding Option, and (iii) any repurchase price per Share applicable to Shares issued pursuant to any Award, shall be proportionately adjusted by the Administrator in the event of a stock split, reverse stock split, stock dividend, combination, consolidation, recapitalization (including a recapitalization through a large nonrecurring cash dividend) or reclassification of the Shares, subdivision of the Shares, a rights offering, a reorganization, merger, spin-off, split-up, change in corporate structure or other similar occurrence. Any adjustment by the Administrator pursuant to this Section 13(a) shall be made in the Administrator’s sole and absolute discretion and shall be final, binding and conclusive. Except as expressly provided herein, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of Shares subject to an Award. If, by reason of a transaction described in this Section 13(a) or an adjustment pursuant to this Section 13(a), a Participant’s Award agreement or agreement related to any Shares subject to an Award covers additional or different shares of stock or securities, then such additional or different shares, and the Award agreement or agreement related to the Shares subject to an Award in respect thereof, shall be subject to all of the terms, conditions and restrictions which were applicable to the Award, or the Shares subject to the Award prior to such adjustment.

   (b) **Dissolution or Liquidation.** In the event of the dissolution or liquidation of the Company, each Award will terminate immediately prior to the consummation of such action, unless otherwise determined by the Administrator.
In the event of a sale of all or substantially all of the Company’s assets, or a merger, consolidation or other capital reorganization or business combination transaction of the Company with or into another corporation, entity or person (a “Corporate Transaction”), each outstanding Award shall either be (i) assumed or an equivalent award or right shall be substituted by such successor corporation or a parent or subsidiary of such successor corporation (the “Successor Corporation”), or (ii) terminated in exchange for a payment of cash, securities and/or other property equal to the excess of the Fair Market Value of the portion of the Award that is vested and exercisable immediately prior to the consummation of the Corporate Transaction over the per share exercise price thereof (if any). Notwithstanding the foregoing, in the event such Successor Corporation does not agree to such assumption, substitution or exchange, each such Award shall terminate upon the consummation of the Corporate Transaction. Further, and notwithstanding anything stated herein, for purposes of Awards of Restricted Stock Units, a transaction will not be deemed a “Corporate Transaction” unless the transaction qualifies as a change in control event within the meaning of Code Section 409A, as it has been and may be amended from time to time, and any proposed or final Treasury Regulations and Internal Revenue Service guidance that has been promulgated or may be promulgated thereunder from time to time.

14. **Time of Granting Awards.** The date of grant of an Award shall, for all purposes, be the date on which the Administrator makes the determination granting such Award, or such other date as is determined by the Administrator, provided that in the case of any Incentive Stock Option, the grant date shall be the later of the date on which the Administrator makes the determination granting such Incentive Stock Option or the date of commencement of the Optionee’s employment relationship with the Company.

15. **Amendment and Termination of the Plan.** The Board may at any time amend or terminate the Plan, but no amendment or termination (other than an adjustment pursuant to Section 13 above) shall be made that would materially and adversely affect the rights of any Participant under any outstanding Award, without his or her consent. In addition, to the extent necessary and desirable to comply with the Applicable Laws, the Company shall obtain the approval of holders of capital stock with respect to any Plan amendment in such a manner and to such a degree as required.

16. **Conditions Upon Issuance of Shares.** Notwithstanding any other provision of the Plan or any agreement entered into by the Company pursuant to the Plan, the Company shall not be obligated, and shall have no liability for failure, to issue or deliver any Shares under the Plan unless such issuance or delivery would comply with the Applicable Laws, with such compliance determined by the Company in consultation with its legal counsel. As a condition to the exercise of any Option, purchase of any Restricted Stock, or settlement of any Restricted Stock Unit, as applicable, the Company may require the person exercising the Option, purchasing the Restricted Stock, or being paid the Restricted Stock Units, as applicable, to represent and warrant at the time of any such exercise or purchase that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required by Applicable Laws. Shares issued upon exercise of Options, purchase of Restricted Stock, or payment of a Restricted Stock Unit, as applicable, prior to the date, if ever, on which the Common Stock becomes a Listed Security shall be subject to a right of first refusal in favor of the Company pursuant to which the Participant will be required to offer Shares to the Company before selling or transferring them to any third party on such terms and subject to such conditions as is reflected in the applicable Award agreement.

17. **Beneficiaries.** Unless stated otherwise in an Award agreement, a Participant may designate one or more beneficiaries with respect to an Award by timely filing the prescribed form with the Company. A beneficiary designation may be changed by filing the prescribed
form with the Company at any time before the Participant’s death. If no beneficiary was designated or if no designated beneficiary survives the Participant, then after a Participant’s death any vested Award(s) shall be transferred or distributed to the Participant’s estate.

18. Approval of Holders of Capital Stock. If required by the Applicable Laws, continuance of the Plan shall be subject to approval by the holders of capital stock of the Company within twelve (12) months before or after the date the Plan is adopted or, to the extent required by Applicable Laws, any date the Plan is amended. Such approval shall be obtained in the manner and to the degree required under the Applicable Laws.

19. Addenda. The Administrator may approve such addenda to the Plan as it may consider necessary or appropriate for the purpose of granting Awards to Employees or Consultants, which Awards may contain such terms and conditions as the Administrator deems necessary or appropriate to accommodate differences in local law, tax policy or custom, which, if so required under Applicable Laws, may deviate from the terms and conditions set forth in this Plan. The terms of any such addenda shall supersede the terms of the Plan to the extent necessary to accommodate such differences but shall not otherwise affect the terms of the Plan as in effect for any other purpose.

20. Information to Participants. If and as required (i) pursuant to Rule 701 of the Securities Act, if the Company is relying on the exemption from registration provided pursuant to Rule 701 of the Securities Act with respect to the applicable Award, and/or (ii) pursuant to Rule 12h-1(f) of the Exchange Act, to the extent the Company is relying on the Rule 12h-1(f) Exemption, then during the period of reliance on the applicable exemption and in each case of (i) and (ii) until such time as the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, the Company shall provide to each Participant the information described in paragraphs (e)(3), (4), and (5) of Rule 701 under the Securities Act not less frequently than every six (6) months with the financial statements being not more than 180 days old and with such information provided either by physical or electronic delivery to the Participants or by written notice to the Participants of the availability of the information on an Internet site that may be password-protected and of any password needed to access the information. The Company may request that Participants agree to keep the information to be provided pursuant to this section confidential. If a Participant does not agree to keep the information to be provided pursuant to this section confidential, then the Company will not be required to provide the information unless otherwise required pursuant to Rule 12h-1(f)(1) under the Exchange Act (if the Company is relying on the Rule 12h-1(f) Exemption) or Rule 701 of the Securities Act (if the Company is relying on the exemption pursuant to Rule 701 of the Securities Act).
ADDENDUM A

2009 Stock Plan

(California Participants)

Prior to the date, if ever, on which the Common Stock becomes a Listed Security and/or the Company is subject to the reporting requirements of the Exchange Act, the terms set forth herein shall apply to Awards issued to California Participants. All capitalized terms used herein but not otherwise defined shall have the respective meanings set forth in the Plan.

1. The following rules shall apply to any Option in the event of termination of the Participant’s Continuous Service Status:

   (a) If such termination was for reasons other than death, “disability” (as defined below), or Cause, the Participant shall have at least thirty (30) days after the date of such termination to exercise his or her Option to the extent the Participant is entitled to exercise on his or her termination date, provided that in no event shall the Option be exercisable after the expiration of the Option term as set forth in the Option Agreement.

   (b) If such termination was due to death or disability, the Participant shall have at least six (6) months after the date of such termination to exercise his or her Option to the extent the Participant is entitled to exercise on his or her termination date, provided that in no event shall the Option be exercisable after the expiration of the Option term as set forth in the Option Agreement.

“Disability” for purposes of this Addendum shall mean the inability of the Participant, in the opinion of a qualified physician acceptable to the Company, to perform the major duties of the Participant’s position with the Company or any Parent or Subsidiary because of the sickness or injury of the Participant.

2. Notwithstanding anything stated herein to the contrary, no Option shall be exercisable on or after the tenth anniversary of the date of grant and any Award agreement shall terminate on or before the tenth anniversary of the date of grant.
This Restricted Stock Purchase Agreement (the “Agreement”) is made by and between Square, Inc., a Delaware corporation (the “Company”), and (‘Purchaser”) pursuant to the Company’s 2009 Stock Plan (the “Plan”). To the extent any capitalized terms used in this Agreement are not defined, they shall have the meaning ascribed to them in the Plan.

1. Sale of Stock. Subject to the terms and conditions of this Agreement, on the Purchase Date (as defined below) the Company will issue and sell to Purchaser, and Purchaser agrees to purchase from the Company, shares of the Company’s Common Stock (the “Shares”) at a purchase price of $ per Share for a total purchase price of $. The term “Shares” refers to the purchased Shares and all securities received in replacement of or in connection with the Shares pursuant to stock dividends or splits, all securities received in replacement of the Shares in a recapitalization, merger, reorganization, exchange or the like, and all new, substituted or additional securities or other properties to which Purchaser is entitled by reason of Purchaser’s ownership of the Shares.

2. Purchase. The purchase and sale of the Shares under this Agreement shall occur at the principal office of the Company simultaneously with the execution and delivery of this Agreement by the parties, or on such other date as the Company and Purchaser shall agree (the “Purchase Date”). On the Purchase Date, the Company will deliver to Purchaser a certificate representing the Shares to be purchased by Purchaser (which shall be issued in Purchaser’s name) against payment of the purchase price therefor by Purchaser.

3. Limitations on Transfer. In addition to any other limitation on transfer created by applicable securities laws, Purchaser shall not assign, encumber or dispose of any interest in the Shares while the Shares are subject to the Company’s Repurchase Option (as defined below). After any Shares have been released from such Repurchase Option, Purchaser shall not assign, encumber or dispose of any interest in such Shares except in compliance with the provisions below and applicable securities laws.

   (a) Repurchase Option.

      (i) In the event of the voluntary or involuntary termination of Purchaser’s Continuous Service Status for any reason (including death or Disability), with or without cause, the Company shall upon the date of such termination (the “Termination Date”) have an irrevocable, exclusive option (the “Repurchase Option”) for a period of 3 months from such date to repurchase all or any portion of the Shares held by Purchaser as of the Termination Date which have not yet been released from the Company’s Repurchase Option at the original purchase price per Share specified in Section 1 (adjusted for any stock splits, stock dividends and the like).
(ii) The Repurchase Option shall be exercised by the Company by written notice at any time within the 3-month period following the Termination Date to Purchaser or Purchaser’s executor and, at the Company’s option, (A) by delivery to Purchaser or Purchaser’s executor with such notice of a check in the amount of the purchase price for the Shares being purchased, or (B) by cancellation by the Company of indebtedness equal to the purchase price for the Shares being repurchased, or (C) by a combination of (A) and (B) so that the combined payment and cancellation of indebtedness equals such purchase price. Upon delivery of such notice and payment of the purchase price in any of the ways described above, the Company shall become the legal and beneficial owner of the Shares being repurchased and all rights and interest therein or related thereto, and the Company shall have the right to transfer to its own name the number of Shares being repurchased by the Company, without further action by Purchaser.

(iii) [vesting schedule]

(b) Right of First Refusal. Before any Shares held by Purchaser or any transferee of Purchaser (either being sometimes referred to herein as the “Holder”) may be sold or otherwise transferred (including transfer by gift or operation of law), the Company or its assignee(s) shall have a right of first refusal to purchase the Shares on the terms and conditions set forth in this Section 3(b) (the “Right of First Refusal”).

(i) Notice of Proposed Transfer. The Holder of the Shares shall deliver to the Company a written notice (the “Notice”) stating: (A) the Holder’s bona fide intention to sell or otherwise transfer such Shares; (B) the name of each proposed purchaser or other transferee (“Proposed Transferee”); (C) the number of Shares to be transferred to each Proposed Transferee; and (D) the terms and conditions of each proposed sale or transfer. The Holder shall offer the Shares at the same price (the “Purchase Price”) and upon the same terms (or terms as similar as reasonably possible) to the Company or its assignee(s).

(ii) Exercise of Right of First Refusal. At any time within thirty (30) days after receipt of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all, but not less than all, of the Shares proposed to be transferred to anyone or more of the Proposed Transferees, at the Purchase Price. If the terms of the proposed transfer in the Notice include consideration other than cash, the cash equivalent value of the non-cash consideration shall be determined by the Board in good faith.

(iii) Payment. Payment of the Purchase Price shall be made, at the election of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness or by any combination thereof within sixty (60) days after receipt of the Notice or in the manner and at the times set forth in the Notice.

(iv) Holder’s Right to Transfer. If all of the Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section 3(b), then the Holder may sell or otherwise transfer such Shares to that Proposed Transferee at the Purchase Price or at a higher price, provided that such sale or other transfer is consummated within one hundred twenty (120) days after the date of the Notice and provided further that any such sale or other transfer is effected in
accordance with any applicable securities laws and the Proposed Transferee agrees in writing that the provisions of this Section 3 shall continue to apply to the Shares in the hands of such Proposed Transferee. If the Shares described in the Notice are not transferred to the Proposed Transferee within such period, or if the Holder proposes to change the price or other terms to make them more favorable to the Proposed Transferee, a new Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

(v) Exception for Certain Family Transfers. Anything to the contrary contained in this Section 3(b) notwithstanding, the transfer of any or all of the Shares during Purchaser’s lifetime or on Purchaser’s death by will or intestacy to Purchaser’s Immediate Family or to a trust for the benefit of Purchaser’s Immediate Family shall be exempt from the provisions of this Section 3(b). “Immediate Family” as used herein shall mean spouse, lineal descendant or antecedent, father, mother, brother or sister. In such case, the transferee or other recipient shall receive and hold the Shares so transferred subject to the provisions of this Section 3, and there shall be no further transfer of such Shares except in accordance with the terms of this Section 3.

(c) Company’s Right to Purchase upon Involuntary Transfer. In the event of any transfer by operation of law or other involuntary transfer (including death or divorce, but excluding in the event of death a transfer to Immediate Family as set forth in Section 3(b)(v) above) of all or a portion of the Shares by the record holder thereof, the Company shall have an option to purchase all of the Shares transferred at the greater of the purchase price paid by Purchaser pursuant to this Agreement or the Fair Market Value of the Shares on the date of transfer (as determined by the Board). Upon such a transfer, the person acquiring the Shares shall promptly notify the Secretary of the Company of such transfer. The right to purchase such Shares shall be provided to the Company for a period of thirty (30) days following receipt by the Company of written notice by the person acquiring the Shares.

(d) Assignment. The right of the Company to purchase any part of the Shares may be assigned in whole or in part to any holder or holders of capital stock of the Company or other persons or organizations.

(e) Restrictions Binding on Transferees. All transferees of Shares or any interest therein will receive and hold such Shares or interest subject to the provisions of this Agreement, including, insofar as applicable, the Repurchase Option. In the event of any purchase by the Company hereunder where the Shares or interest are held by a transferee (including any deemed purchase pursuant to Section 3(a)(ii)), the transferee shall be obligated, if requested by the Company, to transfer the Shares or interest to the Purchaser for consideration equal to the amount to be paid by the Company hereunder. Payment of the purchase price by the Company to such transferee shall be deemed to satisfy Purchaser’s obligation to pay such transferee for such Shares or interest, and also to satisfy the Company’s obligation to pay Purchaser for such Shares or interest. Any sale or transfer of the Shares shall be void unless the provisions of this Agreement are satisfied.

(f) Termination of Rights. The right of first refusal granted the Company by Section 3(b) above and the option to repurchase the Shares in the event of an involuntary
transfer granted the Company by Section 3(c) above shall terminate upon the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the Securities and Exchange Commission under the Securities Act of 1933, as amended (the “Securities Act”). Upon termination of such transfer restrictions, the Company will remove any stop-transfer notices referred to in Section 6(b) below and related to the restriction in Sections 3(b) and 3(c) and a new certificate or certificates representing the Shares not repurchased shall be issued, on request, without the legend referred to in Section 6(a)(ii) below.

4. Escrow of Unvested Shares. For purposes of facilitating the enforcement of the provisions of Section 3 above, Purchaser agrees, immediately upon receipt of any certificate(s) for the Shares subject to the Repurchase Option, to deliver such certificate(s), together with an Assignment Separate from Certificate in the form attached to this Agreement as Exhibit A executed by Purchaser and by Purchaser’s spouse (if required for transfer), in blank, to the Secretary of the Company, or the Secretary’s designee, to hold such certificate(s) and Assignment Separate from Certificate in escrow and to take all such actions and to effectuate all such transfers and/or releases as are in accordance with the terms of this Agreement. Purchaser hereby acknowledges that the Secretary of the Company, or the Secretary’s designee, is so appointed as the escrow holder with the foregoing authorities as a material inducement to make this Agreement and that said appointment is coupled with an interest and is accordingly irrevocable. Purchaser agrees that said escrow holder shall not be liable to any party hereof (or to any other party). The escrow holder may rely upon any letter, notice or other document executed by any signature purported to be genuine and may resign at any time. Purchaser agrees that if the Secretary of the Company, or the Secretary’s designee, resigns as escrow holder for any or no reason, the Board shall have the power to appoint a successor to serve as escrow holder pursuant to the terms of this Agreement.

5. Investment and Taxation Representations. In connection with the purchase of the Shares, Purchaser represents to the Company the following:

(a) Purchaser is aware of the Company’s business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Shares. Purchaser is purchasing the Shares for investment for Purchaser’s own account only and not with a view to, or for resale in connection with, any “distribution” thereof within the meaning of the Securities Act or under any applicable provision of state law. Purchaser does not have any present intention to transfer the Shares to any other person or entity.

(b) Purchaser understands that the Shares have not been registered under the Securities Act by reason of a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Purchaser’s investment intent as expressed herein.

(c) Purchaser further acknowledges and understands that the securities must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Purchaser further acknowledges and understands that the Company is under no obligation to register the securities.
(d) Purchaser is familiar with the provisions of Rules 144 and 701, each promulgated under the Securities Act, which, in substance, permit limited public resale of “restricted securities” acquired, directly or indirectly, from the issuer of the securities (or from an affiliate of such issuer), in a non-public offering subject to the satisfaction of certain conditions. Purchaser understands that the Company provides no assurances as to whether he or she will be able to resell any or all of the Shares pursuant to Rule 144 or Rule 701, which rules require, among other things, that resales of securities take place only after the holder of the Shares has held the Shares for certain specified time periods, and under certain circumstances, that certain information about the Company be current and publicly available, and that resales of securities be limited in volume and take place only pursuant to brokered transactions. Notwithstanding this Section 5(d), Purchaser acknowledges and agrees to the restrictions set forth in Section 6(e) below.

(e) Purchaser further understands that in the event all of the applicable requirements of Rule 144 or 701 are not satisfied, registration under the Securities Act, compliance with Regulation A, or some other registration exemption will be required; and that, notwithstanding the fact that Rules 144 and 701 are not exclusive, the Staff of the Securities and Exchange Commission has expressed its opinion that persons proposing to sell private placement securities other than in a registered offering and otherwise than pursuant to Rule 144 or 701 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales, and that such persons and their respective brokers who participate in such transactions do so at their own risk.

(f) Purchaser understands that Purchaser may suffer adverse tax consequences as a result of Purchaser’s purchase or disposition of the Shares. Purchaser represents that Purchaser has consulted any tax consultants Purchaser deems advisable in connection with the purchase or disposition of the Shares and that Purchaser is not relying on the Company for any tax advice.

6. Restrictive Legends and Stop-Transfer Orders.

(a) Legends. The certificate or certificates representing the Shares shall bear the following legends (as well as any legends required by applicable state and federal corporate and securities laws):

   (i) “THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.”

   (ii) “THE SHARES REPRESENTED BY THIS CERTIFICATE MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE COMPANY AND THE STOCKHOLDER, A COPY OF
(b) **Stop-Transfer Notices.** Purchaser agrees that, in order to ensure compliance with the restrictions referred to herein, the Company may issue appropriate “stop transfer” instructions to its transfer agent, if any, and that, if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

(c) **Refusal to Transfer.** The Company shall not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Agreement or (ii) to treat as owner of such Shares or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares shall have been so transferred.

7. **No Employment Rights.** Nothing in this Agreement shall affect in any manner whatsoever the right or power of the Company, or a Parent or Subsidiary of the Company, to terminate Purchaser’s employment or consulting relationship, for any reason, with or without cause.

8. **Section 83(b) Election.** Purchaser understands that Section 83(a) of the Internal Revenue Code of 1986, as amended (the “Code”), taxes as ordinary income the difference between the amount paid for the Shares and the Fair Market Value of the Shares as of the date any restrictions on the Shares lapse. In this context, “restriction” means the right of the Company to buy back the Shares pursuant to the Repurchase Option set forth in Section 3(a) above. Purchaser understands that Purchaser may elect to be taxed at the time the Shares are purchased, rather than when and as the Repurchase Option expires, by filing an election under Section 83(b) (an “83(b) Election”) of the Code with the Internal Revenue Service within thirty (30) days from the date of purchase. Even if the Fair Market Value of the Shares at the time of the execution of this Agreement equals the amount paid for the Shares, the election must be made to avoid income under Section 83(a) in the future. Purchaser understands that failure to file such an election in a timely manner may result in adverse tax consequences for Purchaser. Purchaser further understands that an additional copy of such election form should be filed with Purchaser’s federal income tax return for the calendar year in which the date of this Agreement falls. Purchaser acknowledges that the foregoing is only a summary of the effect of United States federal income taxation with respect to purchase of the Shares hereunder, does not purport to be complete, and is not intended or written to be used, and cannot be used, for the purposes of avoiding taxpayer penalties. Purchaser further acknowledges that the Company has directed Purchaser to seek independent advice regarding the applicable provisions of the Code, the income tax laws of any municipality, state or foreign country in which Purchaser may reside, and the tax consequences of Purchaser’s death.

Purchaser agrees that he will execute and deliver to the Company with this executed Agreement a copy of the Acknowledgment and Statement of Decision Regarding Section 83(b) Election (the “Acknowledgment”), attached hereto as Exhibit B and, if Purchaser decides to make an 83(b) Election, a copy of the 83(b) Election, attached hereto as Exhibit C.
9. **Lock-Up Agreement.** In connection with the initial public offering of the Company’s securities and upon request of the Company or the underwriters managing any underwritten offering of the Company’s securities, Purchaser agrees not to sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any securities of the Company however or whenever acquired (other than those included in the registration) without the prior written consent of the Company or such underwriters, as the case may be, for such period of time (not to exceed 180 days) from the effective date of such registration as may be requested by the Company or such managing underwriters and to execute an agreement reflecting the foregoing as may be requested by the underwriters at the time of the public offering.

10. **Miscellaneous.**

   (a) **Governing Law.** This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, without giving effect to principles of conflicts of law.

   (b) **Entire Agreement; Enforcement of Rights.** This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior discussions between them. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing signed by the parties to this Agreement. The failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of any rights of such party.

   (c) **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.

   (d) **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon delivery, when delivered personally or by overnight courier or sent by email or fax (upon customary confirmation of receipt), or forty-eight (48) hours after being deposited in the U.S. mail as certified or registered mail with postage prepaid, addressed to the party to be notified at such party’s address or fax number as set forth on the signature page or as subsequently modified by written notice.

   (e) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

   (f) **Successors and Assigns.** The rights and benefits of this Agreement shall inure to the benefit of, and be enforceable by the Company’s successors and assigns. The rights and obligations of Purchaser under this Agreement may only be assigned with the prior written consent of the Company.
(g) **Transfer Restrictions**. Purchaser hereby agrees that the Shares and all other securities owned by Purchaser are bound by any and all restrictions on transfer as set forth in the Company’s Bylaws (as may be amended from time to time).

[Signature Page Follows]
The parties have executed this Agreement as of the date first set forth above.

THE COMPANY:

SQUARE, INC.

By: ________________________________
Name: ______________________________
Title: ______________________________
Address: ____________________________

Attn: Chief Executive Officer
Fax: ________________________________
email: ______________________________

PURCHASER:

(PRINT NAME)

(Signature)

Address: ____________________________

Fax: ________________________________
email: ______________________________
I, [spouse name], spouse of [Purchaser name] (“Purchaser”), have read and hereby approve the foregoing Agreement. In consideration of the Company’s granting my spouse the right to purchase the Shares as set forth in the Agreement, I hereby agree to be irrevocably bound by the Agreement and further agree that any community property or similar interest that I may have in the Shares shall be similarly bound by the Agreement. I hereby appoint my spouse as my attorney-in-fact with respect to any amendment or exercise of any rights under the Agreement.

Spouse of Purchaser (if applicable)
FOR VALUE RECEIVED and pursuant to that certain Restricted Stock Purchase Agreement between the undersigned ("Purchaser") and Square, Inc., a Delaware corporation (the “Company”), dated (the “Agreement”), Purchaser hereby sells, assigns and transfers unto the Company ) ) shares of the Common Stock of the Company, standing in Purchaser’s name on the books of the Company and represented by Certificate No. , and hereby irrevocably constitutes and appoints to transfer said stock on the books of the Company with full power of substitution in the premises. THIS ASSIGNMENT MAY ONLY BE USED AS AUTHORIZED BY THE AGREEMENT AND THE EXHIBITS THERETO.

Dated:

PURCHASER:

(PRINT NAME)

(Signature)

Address:


Spouse of Purchaser (if applicable)

Instructions: Please do not fill in any blanks other than the signature line. The purpose of this assignment is to enable the Company to exercise its repurchase option set forth in the Agreement without requiring additional signatures on the part of Purchaser.
EXHIBIT B

ACKNOWLEDGMENT AND STATEMENT OF DECISION REGARDING SECTION 83(b) ELECTION

The undersigned has entered into a stock purchase agreement with Square, Inc., a Delaware corporation (the “Company”), pursuant to which the undersigned is purchasing shares of Common Stock of the Company (the “Shares”). In connection with the purchase of the Shares, the undersigned hereby represents as follows:

1. The undersigned has carefully reviewed the stock purchase agreement pursuant to which the undersigned is purchasing the Shares.

2. The undersigned either [check and complete as applicable]:
   (a) has consulted, and has been fully advised by, the undersigned’s own tax advisor, , whose business address is , regarding the federal, state and local tax consequences of purchasing the Shares, and particularly regarding the advisability of making elections pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended (the “Code”) and pursuant to the corresponding provisions, if any, of applicable state law; or
   (b) has knowingly chosen not to consult such a tax advisor.

3. The undersigned hereby states that the undersigned has decided [check as applicable]:
   (a) to make an election pursuant to Section 83(b) of the Code, and is submitting to the Company, together with the undersigned’s executed Common Stock Purchase Agreement, an executed form entitled “Election Under Section 83(b) of the Internal Revenue Code of 1986;” or
   (b) not to make an election pursuant to Section 83(b) of the Code.
4. Neither the Company nor any subsidiary or representative of the Company has made any warranty or representation to the undersigned with respect to the tax consequences of the undersigned’s purchase of the Shares or of the making or failure to make an election pursuant to Section 83(b) of the Code or the corresponding provisions, if any, of applicable state law.

Dated:

PURCHASER:

(PRINT NAME)

(Signature)

Address:

Spouse of Purchaser (if applicable)
EXHIBIT C

ELECTION UNDER SECTION 83(B)
OF THE INTERNAL REVENUE CODE OF 1986

The undersigned taxpayer hereby elects, pursuant to Section 83(b) of the Internal Revenue Code, to include in taxpayer’s gross income or alternative minimum taxable income, as applicable, for the current taxable year, the amount of any income that may be taxable to taxpayer in connection with taxpayer’s receipt of the property described below:

1. The name, address, taxpayer identification number and taxable year of the undersigned are as follows:

   NAME OF TAXPAYER: ____________________________________________
   ADDRESS: ___________________________________________________
   IDENTIFICATION NO. OF TAXPAYER: ______________________________
   TAXABLE YEAR: ________________________________________________

2. The property with respect to which the election is made is described as follows:

   shares of the Common Stock of Square, Inc., a Delaware corporation (the “Company”).

3. The date on which the property was transferred is:

4. The property is subject to the following restrictions:

   Repurchase option at cost in favor of the Company upon termination of taxpayer’s employment or consulting relationship.

5. The fair market value at the time of transfer, determined without regard to any restriction other than a restriction which by its terms will never lapse, of such property is: $

6. The amount (if any) paid for such property: $. 

The undersigned has submitted a copy of this statement to the person for whom the services were performed in connection with the undersigned’s receipt of the above-described property. The transferee of such property is the person performing the services in connection with the transfer of said property.

The undersigned understands that the foregoing election may not be revoked except with the consent of the Commissioner.

Dated:

PURCHASER:

__________________________________________

(PRINT NAME)

__________________________________________

(Signature)

Address:

__________________________________________

__________________________________________

__________________________________________

Spouse of Purchaser (if applicable)
NOTICE OF STOCK OPTION GRANT

[Optionee Name]
[Optionee Address Line 1]
[Optionee Address Line 2]

You have been granted an option to purchase Common Stock of Square, Inc., a Delaware corporation (the “Company”), as follows:

Date of Grant: 

Exercise Price Per Share: $ 

Total Number of Shares: 

Total Exercise Price: $ 

Type of Option: 

Expiration Date: 

First Vesting Date: 

Vesting/Exercise Schedule: [insert vesting schedule] 

Termination Period: You may exercise this Option for 3 months after termination of your Continuous Service Status except as set out in Section 5 of the Stock Option Agreement (but in no event later than the Expiration Date). You are responsible for keeping track of these exercise periods following the termination of your Continuous Service Status for any reason. The Company will not provide further notice of such periods.

Transferability: You may not transfer this Option.

By your signature and the signature of the Company’s representative below, you and the Company agree that this Option is granted under and governed by the terms and conditions of the Square, Inc. 2009 Stock Plan and the Stock Option Agreement, both of which are attached to and made a part of this document.

In addition, you agree and acknowledge that your rights to any Shares underlying this Option will be earned only as you provide services to the Company over time, that the grant of this Option is not as consideration for services you rendered to the Company prior to your date of hire, and that nothing in this Notice or the attached documents confers upon you any right to continue your employment or consulting relationship with the Company for any period of time, nor does it interfere in any way with your right or the Company’s right to terminate that relationship at any time, for any reason, with or without cause. Also, to the extent applicable, the Exercise Price Per Share has been set in good faith compliance with the applicable guidance issued by the IRS under Section 409A of the Code. However, there is no guarantee that the IRS will agree with the valuation, and by signing below, you agree and acknowledge that the Company shall not be held liable for any applicable costs, taxes, or penalties associated with this Option if, in fact, the IRS were to determine that this Option constitutes deferred compensation under Section 409A of the Code. You should consult with your own tax advisor concerning the tax consequences of such a determination by the IRS.
THE COMPANY:

SQUARE, INC.

By: ____________________________ (Signature)

Name: __________________________

Title: __________________________

OPTIONEE:

_________________________________________(PRINT NAME)

_________________________________________(Signature)

Address: ____________________________

__________________________________________

__________________________________________
1. **Grant of Option**, Square, Inc., a Delaware corporation (the “**Company**”), hereby grants to ("**Optionee**"), an option (the “**Option**”) to purchase the total number of shares of Common Stock (the “**Shares**”) set forth in the Notice of Stock Option Grant (the “**Notice**”), at the exercise price per Share set forth in the Notice (the “**Exercise Price**”) subject to the terms, definitions and provisions of the Square, Inc. 2009 Stock Plan (the “**Plan**”) adopted by the Company, which is incorporated in this Agreement by reference. Unless otherwise defined in this Agreement, the terms used in this Agreement shall have the meanings defined in the Plan.

2. **Designation of Option**, This Option is intended to be an Incentive Stock Option as defined in Section 422 of the Code only to the extent so designated in the Notice, and to the extent it is not so designated or to the extent this Option does not qualify as an Incentive Stock Option, it is intended to be a Nonstatutory Stock Option.

   Notwithstanding the above, if designated as an Incentive Stock Option, in the event that the Shares subject to this Option (and all other Incentive Stock Options granted to Optionee by the Company or any Parent or Subsidiary, including under other plans of the Company) that first become exercisable in any calendar year have an aggregate fair market value (determined for each Share as of the date of grant of the option covering such Share) in excess of $100,000, the Shares in excess of $100,000 shall be treated as subject to a Nonstatutory Stock Option, in accordance with Section 5(c) of the Plan.

3. **Exercise of Option**, This Option shall be exercisable during its term in accordance with the Vesting/Exercise Schedule set out in the Notice and with the provisions of Section 9 of the Plan as follows:

   (a) **Right to Exercise**

      (i) This Option may not be exercised for a fraction of a share.

      (ii) In the event of Optionee’s death, Disability or other termination of Continuous Service Status, the exercisability of this Option is governed by Section 5 below, subject to the limitations contained in this Section 3.

      (iii) In no event may this Option be exercised after the Expiration Date set forth in the Notice.

   (b) **Method of Exercise**

      (i) This Option shall be exercisable by execution and delivery of the Exercise Agreement attached hereto as Exhibit A or of any other form of written notice approved for such purpose by the Company which shall state Optionee’s election to exercise this Option, the number of Shares in respect of which this Option is being exercised, and such other representations and agreements as to the holder’s investment intent with respect to such Shares as may be required by the Company pursuant to the provisions of the Plan. Such written notice shall be signed by Optionee and shall be delivered to the Company by such means as are determined by the Plan Administrator in its discretion to constitute adequate delivery. The written notice shall be accompanied by payment of the aggregate Exercise Price for the purchased Shares.
(ii) As a condition to the exercise of this Option and as further set forth in Section 11 of the Plan, Optionee agrees to make adequate provision for federal, state or other tax withholding obligations, if any, which arise upon the grant, vesting or exercise of this Option, or disposition of Shares, whether by withholding, direct payment to the Company, or otherwise.

(iii) The Company is not obligated, and will have no liability for failure, to issue or deliver any Shares upon exercise of this Option unless such issuance or delivery would comply with the Applicable Laws, with such compliance determined by the Company in consultation with its legal counsel. This Option may not be exercised until such time as the Plan has been approved by the holders of capital stock of the Company, or if the issuance of such Shares upon such exercise or the method of payment of consideration for such Shares would constitute a violation of any Applicable Laws, including any applicable U.S. federal or state securities laws or any other law or regulation, including any rule under Part 221 of Title 12 of the Code of Federal Regulations as promulgated by the Federal Reserve Board. As a condition to the exercise of this Option, the Company may require Optionee to make any representation and warranty to the Company as may be required by the Applicable Laws. Assuming such compliance, for income tax purposes the Shares shall be considered transferred to Optionee on the date on which this Option is exercised with respect to such Shares.

(iv) Subject to compliance with Applicable Laws, this Option shall be deemed to be exercised upon receipt by the Company of the appropriate written notice of exercise accompanied by the Exercise Price and the satisfaction of any applicable withholding obligations.

4. Method of Payment. Payment of the Exercise Price shall be by any of the following, or a combination of the following, at the election of Optionee:

(a) cash or check;

(b) cancellation of indebtedness;

(c) at the discretion of the Plan Administrator on a case by case basis, by surrender of other shares of Common Stock of the Company (either directly or by stock attestation) that Optionee previously acquired and that have an aggregate Fair Market Value on the date of surrender equal to the aggregate Exercise Price of the Shares as to which this Option is being exercised; or

(d) at the discretion of the Plan Administrator on a case by case basis, by Cashless Exercise.

5. Termination of Relationship. Following the date of termination of Optionee’s Continuous Service Status for any reason (the “Termination Date”), Optionee may exercise this Option only as set forth in the Notice and this Section 5. If Optionee does not exercise this Option within the Termination Period set forth in the Notice or the termination periods set forth below, this Option shall terminate in its entirety. In no event, may any Option be exercised after the Expiration Date of this Option as set forth in the Notice.

(a) Termination. In the event of termination of Optionee’s Continuous Service Status other than as a result of Optionee’s Disability or death or for Cause, Optionee may, to the extent Optionee is vested in the Option Shares, exercise this Option during the Termination Period set forth in the Notice.

(b) Other Terminations. In connection with any termination other than a termination covered by Section 5(a), Optionee may exercise this Option only as described below:

(i) Termination upon Disability of Optionee. In the event of termination of Optionee’s Continuous Service Status as a result of Optionee’s Disability, Optionee may, but only within 6 months following the date of such termination, exercise this Option to the extent Optionee is vested in the Optioned Stock.
(ii) **Death of Optionee**. In the event of termination of Optionee’s Continuous Service Status as a result of Optionee’s death, or in the event of Optionee’s death within 30 days following Optionee’s Termination Date, this Option may be exercised at any time within 12 months following the date of death (or, if earlier, the date Optionee’s Continuous Service Status terminated) by Optionee’s estate or by a person who acquired the right to exercise this Option by bequest or inheritance, but only to the extent Optionee is vested in this Option.

6. **Non-Transferability of Option**. This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of Optionee only by him or her. The terms of this Option shall be binding upon the executors, administrators, heirs, successors and assigns of Optionee.

7. **Lock-Up Agreement**. In connection with the initial public offering of the Company’s securities and upon request of the Company or the underwriters managing any underwritten offering of the Company’s securities, Optionee hereby agrees not to sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any securities of the Company however and whenever acquired (other than those included in the registration) without the prior written consent of the Company or such underwriters, as the case may be, for such period of time (not to exceed 180 days) from the effective date of such registration as may be requested by the Company or such managing underwriters and to execute an agreement reflecting the foregoing as may be requested by the underwriters at the time of the public offering.

8. **Effect of Agreement**. Optionee acknowledges receipt of a copy of the Plan and represents that he or she is familiar with the terms and provisions thereof (and has had an opportunity to consult counsel regarding the Option terms), and hereby accepts this Option and agrees to be bound by its contractual terms as set forth herein and in the Plan. Optionee hereby agrees to accept as binding, conclusive and final all decisions and interpretations of the Plan Administrator regarding any questions relating to this Option. In the event of a conflict between the terms and provisions of the Plan and the terms and provisions of the Notice and this Agreement, the Plan terms and provisions shall prevail.

9. **Escrow**. As security for Optionee’s faithful performance of this Agreement, Optionee agrees that should the Company issue a stock certificate evidencing the Shares in accordance with the Company’s practices as in effect at the time of exercise, then, immediately upon receipt of such stock certificate(s) evidencing the Shares, Optionee shall deliver such certificate(s), together with one (1) copy of a blank Stock Power and Assignment Separate from Stock Certificate in the form attached to the Exercise Agreement (the “Stock Power”), executed by Optionee (and Optionee’s spouse, if any) (with the transferee, certificate number, date and number of Shares left blank), to the Secretary of the Company or other designee of the Company (the “Escrow Holder”), who is hereby appointed to hold such certificate(s) and Stock Power in escrow and to take all such actions and to effectuate all such transfers and/or releases of such Shares as are in accordance with the terms of this Agreement. Optionee and the Company agree that Escrow Holder will not be liable to any party to this Agreement (or to any other party) for any actions or omissions unless Escrow Holder is grossly negligent or intentionally fraudulent in carrying out the duties of Escrow Holder under this Agreement. Escrow Holder may rely upon any letter, notice or other document executed with any signature purported to be genuine and may rely on the advice of counsel and obey any order of any court with respect to the transactions contemplated by this Agreement and will not be liable for any act or omission taken by Escrow Holder in good faith reliance on such documents, the advice of counsel or a court order. The Shares will be released from escrow upon termination of both the Repurchase Option and the Right of First Refusal (each as defined in the Exercise Agreement).
10. Miscellaneous.

(a) Governing Law. This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, without giving effect to principles of conflicts of law.

(b) Entire Agreement; Enforcement of Rights. This Agreement, together with the Notice to which this Agreement is attached and the Plan, sets forth the entire agreement and understanding of the parties relating to the subject matter herein and therein and merges all prior discussions between the parties. Except as contemplated under the Plan, no modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing signed by the parties to this Agreement. The failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of any rights of such party.

(c) Severability. If one or more provisions of this Agreement are held to be unenforceable under Applicable Laws, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of this Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of this Agreement shall be enforceable in accordance with its terms.

(d) Notices. Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon (1) delivery, when delivered (a) personally, (b) by courier (e.g. FedEx), (c) by email, or (d) by fax (upon customary confirmation of receipt), OR (2) forty-eight (48) hours after being deposited in the U.S. mail as certified or registered mail with postage prepaid, addressed to the party to be notified at such party’s address as set forth on the signature page or as subsequently modified by written notice.

(e) Counterparts. This Option may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

(f) Successors and Assigns. The rights and benefits of this Agreement shall inure to the benefit of, and be enforceable by the Company’s successors and assigns. The rights and obligations of Optionee under this Agreement may not be assigned without the prior written consent of the Company.

(g) Transfer Restrictions. Optionee hereby agrees to be bound by any and all restrictions on transfers of the Shares as set forth in the Company’s Bylaws (as may be amended from time to time) at the time such Option is exercised.

[Signature Page Follows]
IN WITNESS WHEREOF, the parties have executed or caused this Agreement to be executed by their officers thereunto duly authorized, effective as of the Date of Grant set forth in the accompanying Notice of Stock Option Grant.

THE COMPANY:
SQUARE, INC.

By: ____________________________
   (Signature)

Name: __________________________
Title: __________________________
Address: ________________________

OPTIONEE:

(PRINT NAME)

(Signature)
Address: ________________________
Fax: ___________________________
email: _________________________
This Exercise Agreement (this “Agreement”) is made as of , by and between Square, Inc., a Delaware corporation (the “Company”), and (the “Purchaser”). To the extent any capitalized terms used in this Agreement are not defined, they shall have the meaning ascribed to them in the Company’s 2009 Stock Plan (the “Plan”).

1. Exercise of Option. Subject to the terms and conditions hereof, Purchaser hereby elects to exercise his or her option to purchase shares of the Common Stock (the “Shares”) of the Company under and pursuant to the Plan and the Stock Option Agreement dated (the “Option Agreement”). The purchase price for the Shares shall be per Share for a total purchase price of . The term “Shares” refers to the purchased Shares and all securities received as stock dividends or splits, all securities received in replacement of the Shares in a recapitalization, merger, reorganization, exchange or the like, and all new, substituted or additional securities or other property to which Purchaser is entitled by reason of Purchaser’s ownership of the Shares.

2. Time and Place of Exercise. The purchase and sale of the Shares under this Agreement shall occur at the principal office of the Company simultaneously with the execution and delivery of this Agreement, the payment of the aggregate Exercise Price by any method listed in Section 4 of the Option Agreement, and the satisfaction of any applicable tax withholding obligations, all in accordance with the provisions of Section 3(b) of the Option Agreement. The Company shall issue the Shares to Purchaser by entering such Shares in Purchaser’s name as of such date in the books and records of the Company or, if applicable, a duly authorized transfer agent of the Company, against payment of the Exercise Price therefor by Purchaser. If applicable, the Company will deliver to Purchaser a certificate representing the Shares as soon as practicable following such date.

3. Limitations on Transfer. In addition to any other limitation on transfer created by applicable securities laws, Purchaser shall not assign, encumber or dispose of any interest in the Shares except in compliance with the provisions below and applicable securities laws.

   (a) Right of First Refusal. Before any Shares held by Purchaser or any transferee of Purchaser (either being sometimes referred to herein as the “Holder”) may be sold or otherwise transferred (including transfer by gift or operation of law), the Company or its assignee(s) shall have a right of first refusal to purchase the Shares on the terms and conditions set forth in this Section 3(a) (the “Right of First Refusal”).

      (i) Notice of Proposed Transfer. The Holder of the Shares shall deliver to the Company a written notice (the “Notice”) stating: (i) the Holder’s bona fide intention to sell or otherwise transfer such Shares; (ii) the name of each proposed purchaser or other transferee (“Proposed Transferee”); (iii) the number of Shares to be transferred to each Proposed Transferee; and (iv) the terms and conditions of each proposed sale or transfer. The Holder shall offer the Shares at the same price (the “Purchase Price”) and upon the same terms (or terms as similar as reasonably possible) to the Company or its assignee(s).

      (ii) Exercise of Right of First Refusal. At any time within thirty (30) days after receipt of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all, but not less than all, of the Shares proposed to be transferred to any one or more of the Proposed Transferees, at the Purchase Price. If the Purchase Price includes consideration other than cash, the cash equivalent value of the non-cash consideration shall be determined by the Board in good faith.
(iii) **Payment.** Payment of the Purchase Price shall be made, at the election of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness, or by any combination thereof within sixty (60) days after receipt of the Notice or in the manner and at the times set forth in the Notice.

(iv) **Holder’s Right to Transfer.** If all of the Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section 3(a), then the Holder may sell or otherwise transfer such Shares to that Proposed Transferee at the Purchase Price or at a higher price, provided that such sale or other transfer is consummated within one hundred twenty (120) days after the date of the Notice and provided further that any such sale or other transfer is effected in accordance with any applicable securities laws and the Proposed Transferee agrees in writing that the provisions of this Section 3 shall continue to apply to the Shares in the hands of such Proposed Transferee. If the Shares described in the Notice are not transferred to the Proposed Transferee within such period, or if the Holder proposes to change the price or other terms to make them more favorable to the Proposed Transferee, a new Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

(v) **Exception for Certain Family Transfers.** Anything to the contrary contained in this Section 3(a) notwithstanding, and provided that such transfer complies with applicable securities laws, the transfer of any or all of the Shares during Purchaser’s lifetime or on Purchaser’s death by will or intestacy to Purchaser’s Immediate Family or a trust for the benefit of Purchaser’s Immediate Family shall be exempt from the provisions of this Section 3(a). “**Immediate Family**” as used herein shall mean spouse, lineal descendant or antecedent, father, mother, brother or sister. In such case, the transferee or other recipient shall receive and hold the Shares so transferred subject to the provisions of this Section 3, and there shall be no further transfer of such Shares except in accordance with the terms of this Section 3.

(b) **Company’s Right to Purchase upon Involuntary Transfer.** In the event of any transfer by operation of law or other involuntary transfer (including death or divorce, but excluding a transfer to Immediate Family as set forth in Section 3(a)(v) above) of all or a portion of the Shares by the record holder thereof, the Company shall have an option to purchase all of the Shares transferred at the greater of the purchase price paid by Purchaser pursuant to this Agreement or the Fair Market Value of the Shares on the date of transfer (as determined by the Board). Upon such a transfer, the person acquiring the Shares shall promptly notify the Secretary of the Company of such transfer. The right to purchase such Shares shall be provided to the Company for a period of thirty (30) days following receipt by the Company of written notice by the person acquiring the Shares.

(c) **Assignment.** The right of the Company to purchase any part of the Shares may be assigned in whole or in part to any holder or holders of capital stock of the Company or other persons or organizations.

(d) **Restrictions Binding on Transferees.** All transferees of Shares or any interest therein will receive and hold such Shares or interest subject to the provisions of this Agreement. Any sale or transfer of the Company’s Shares shall be void unless the provisions of this Agreement are satisfied.

(e) **Termination of Rights.** The right of first refusal granted the Company by Section 3(a) above and the option to repurchase the Shares in the event of an involuntary transfer granted the Company by Section 3(b) above shall terminate upon the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the Securities and
Exchange Commission under the Securities Act of 1933, as amended (the “Securities Act”). Upon termination of the right of first refusal described in Section 3(a) above the Company will remove any stop-transfer notices referred to in Section 5(b) below and related to the restrictions in this Section 3 and, if certificates are issued, a new certificate or certificates representing the Shares not repurchased shall be issued, on request, without the legend referred to in Section 5(a)(ii) below and delivered to Purchaser.

(f) **Superseding Transfer Restrictions.** Notwithstanding anything to the contrary set forth in this Agreement, Purchaser hereby agrees to be bound by any and all restrictions on transfers of the Shares as set forth in the Company’s Bylaws (as may be amended from time to time) and that such transfer restrictions shall supersede all other agreements, whether written or oral, in place by and between the Company and Purchaser regarding the transfer of the Shares.

4. **Investment and Taxation Representations.** In connection with the purchase of the Shares, Purchaser represents to the Company the following:

(a) Purchaser is aware of the Company’s business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Shares. Purchaser is purchasing these securities for investment for his or her own account only and not with a view to, or for resale in connection with, any “distribution” thereof within the meaning of the Securities Act or under any applicable provision of state law. Purchaser does not have any present intention to transfer the Shares to any person or entity.

(b) Purchaser understands that the Shares have not been registered under the Securities Act by reason of a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Purchaser’s investment intent as expressed herein.

(c) Purchaser further acknowledges and understands that the securities must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Purchaser further acknowledges and understands that the Company is under no obligation to register the securities. Purchaser understands that the certificate(s) evidencing the securities will be imprinted with a legend which prohibits the transfer of the securities unless they are registered or such registration is not required in the opinion of counsel for the Company.

(d) Purchaser is familiar with the provisions of Rules 144 and 701, each promulgated under the Securities Act, which, in substance, permit limited public resale of “restricted securities” acquired, directly or indirectly, from the issuer of the securities (or from an affiliate of such issuer), in a non-public offering subject to the satisfaction of certain conditions. Purchaser understands that the Company provides no assurances as to whether he or she will be able to resell any or all of the Shares pursuant to Rule 144 or Rule 701, which rules require, among other things, that the Company be subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, that resales of securities take place only after the holder of the Shares has held the Shares for certain specified time periods, and under certain circumstances, that resales of securities be limited in volume and take place only pursuant to brokered transactions. Notwithstanding this paragraph (d), Purchaser acknowledges and agrees to the restrictions set forth in paragraph (e) below.

(e) Purchaser further understands that in the event all of the applicable requirements of Rule 144 or 701 are not satisfied, registration under the Securities Act, compliance with Regulation A, or some other registration exemption will be required; and that, notwithstanding the fact that Rules 144 and 701 are not exclusive, the Staff of the Securities and Exchange Commission has expressed its opinion that persons proposing to sell private placement securities other than in a registered offering and otherwise than pursuant to Rule 144 or 701 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales, and that such persons and their respective brokers who participate in such transactions do so at their own risk.
(f) Purchaser understands that Purchaser may suffer adverse tax consequences as a result of Purchaser’s purchase or disposition of the Shares. Purchaser represents that Purchaser has consulted any tax consultants Purchaser deems advisable in connection with the purchase or disposition of the Shares and that Purchaser is not relying on the Company for any tax advice.

5. Notice of Stock Restrictions and Stop-Transfer Orders.

(a) **Stock Restrictions**, Purchaser acknowledges and understands that by entering into this Agreement, Purchaser has received written notice of the qualifications, limitations and restrictions on the transfer or registration of transfer of the Shares pursuant to sections 151(f) and 202(a) of the Delaware General Corporation Law (“**DGCL**”) and waives any right to receive future notices pursuant to sections 151(f) and 202(a) of the DGCL with respect to the Shares. Purchaser further acknowledges that in addition to the qualifications, limitations and restrictions on the transfer or registration of transfer of the Shares provided in this Agreement, the Shares are subject to the following qualifications, limitations and restrictions on the transfer or registration of transfer of the Shares:

(i) “THE SECURITIES ISSUED BY THE COMPANY PURSUANT TO THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.”

(ii) “THE SHARES ISSUED BY THE COMPANY PURSUANT TO THIS AGREEMENT MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE COMPANY AND THE STOCKHOLDER, A COPY OF WHICH IS ON FILE WITH AND MAY BE OBTAINED FROM THE SECRETARY OF THE COMPANY.”

(iii) “THE SHARES ISSUED BY THE COMPANY PURSUANT TO THIS AGREEMENT ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER SET FORTH IN THE COMPANY’S AMENDED AND RESTATED BYLAWS, A COPY OF WHICH MAY BE OBTAINED FROM THE COMPANY.”

Purchaser further acknowledges and agrees that in the event the Company issues a stock certificate to represent the Shares, such stock certificate shall bear legends substantially similar to the qualifications, limitations and restrictions on the transfer or registration of transfer provided above or such legends required by applicable state and federal corporate and securities laws.

(b) **Stop-Transfer Notices**, Purchaser agrees that, in order to ensure compliance with the restrictions referred to herein, the Company may issue appropriate “stop transfer” instructions to its transfer agent, if any, and that, if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

(c) **Refusal to Transfer**, The Company shall not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Agreement or (ii) to treat as owner of such Shares or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares shall have been so transferred.
Access to Additional Information. Upon request from the Purchaser, the Company will furnish without charge to the Purchaser the powers, designations, preferences and relative participating, optional or other special rights of each class or series of the Company’s capital stock and the qualifications, limitations or restrictions of such preferences or rights.

6. **No Employment Rights.** Nothing in this Agreement shall affect in any manner whatsoever the right or power of the Company, or a parent or subsidiary of the Company, to terminate Purchaser’s employment or consulting relationship, for any reason, with or without cause.

7. **Lock-Up Agreement.** In connection with the initial public offering of the Company’s securities and upon request of the Company or the underwriters managing any underwritten offering of the Company’s securities, Purchaser agrees not to sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any securities of the Company however or whenever acquired (other than those included in the registration) without the prior written consent of the Company or such underwriters, as the case may be, for such period of time (not to exceed one hundred eighty (180) days) from the effective date of such registration as may be requested by the Company or such managing underwriters and to execute an agreement reflecting the foregoing as may be requested by the underwriters at the time of the public offering.

8. **Escrow.** As security for Purchaser’s faithful performance of this Agreement, Purchaser agrees that should the Company issue a stock certificate evidencing the Shares in accordance with the Company’s practices as in effect at the time of exercise, then, immediately upon receipt of the stock certificate(s) evidencing such Shares, Purchaser shall deliver such certificate(s), together with one (1) copy of a blank Stock Power and Assignment Separate from Stock Certificate in the form attached to this Agreement (the “Stock Power”), executed by Purchaser (and Purchaser’s spouse, if any) (with the transferee, certificate number, date and number of Shares left blank), to the Secretary of the Company or other designee of the Company (the “Escrow Holder”), who is hereby appointed to hold such certificate(s) and Stock Power in escrow and to take all such actions and to effectuate all such transfers and/or releases of such Shares as are in accordance with the terms of this Agreement. Purchaser and the Company agree that Escrow Holder will not be liable to any party to this Agreement (or to any other party) for any actions or omissions unless Escrow Holder is grossly negligent or intentionally fraudulent in carrying out the duties of Escrow Holder under this Agreement. Escrow Holder may rely upon any letter, notice or other document executed with any signature purported to be genuine and may rely on the advice of counsel and obey any order of any court with respect to the transactions contemplated by this Agreement and will not be liable for any act or omission taken by Escrow Holder in good faith reliance on such documents, the advice of counsel or a court order. The Shares will be released from escrow upon termination of the Right of First Refusal.

9. **Miscellaneous.**
   
   (a) **Governing Law.** This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, without giving effect to principles of conflicts of law.
   
   (b) **Entire Agreement; Enforcement of Rights.** This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior discussions between them. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing signed by the parties to this Agreement. The failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of any rights of such party.
(c) Severability. If one or more provisions of this Agreement are held to be unenforceable under Applicable Laws, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.

(d) Notices. Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon (1) delivery, when delivered (a) personally, (b) by courier (e.g. FedEx), (c) by email, or (d) by fax (upon customary confirmation of receipt), OR (2) forty-eight (48) hours after being deposited in the U.S. mail as certified or registered mail with postage prepaid, addressed to the party to be notified at such party’s address as set forth on the signature page or as subsequently modified by written notice.

(e) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

(f) Successors and Assigns. The rights and benefits of this Agreement shall inure to the benefit of, and be enforceable by the Company’s successors and assigns. The rights and obligations of Purchaser under this Agreement may only be assigned with the prior written consent of the Company.

(g) California Corporate Securities Law. The sale of the Securities which are the subject of this Agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of the Securities or the payment or receipt of any part of the consideration therefor prior to the qualification is unlawful, unless the sale of Securities is exempt from qualification by Section 25100, 25102 or 25105 of the California Corporations Code. The rights of all parties to this Agreement are expressly conditioned upon the qualification being obtained, unless the sale is so exempt.

[Signature Page Follows]
The parties have executed this Exercise Agreement as of the date first set forth above.

THE COMPANY:

SQUARE, INC.

By: ________________________________
   (Signature)

Name: ________________________________

Title: ________________________________

Address:

OPTIONEE:

(PRINT NAME)

(Signature)

Address:

Fax: ________________________________

email: ________________________________
I, [insert name], spouse of [insert name] ("Purchaser"), have read and hereby approve the foregoing Agreement. In consideration of the Company’s granting my spouse the right to purchase the Shares as set forth in the Agreement, I hereby agree to be irrevocably bound by the Agreement and further agree that any community property or similar interest that I may have in the Shares shall be similarly bound by the Agreement. I hereby appoint my spouse as my attorney-in-fact with respect to any amendment or exercise of any rights under the Agreement.

Spouse of Purchaser (if applicable)
For VALUE RECEIVED and pursuant to that certain Exercise Agreement dated as of , (the “Exercise Agreement”), the undersigned hereby sells, assigns and transfers unto , shares of the Common Stock of Square, Inc., a Delaware corporation (the “Company”), standing in the undersigned’s name on the books of the Company represented by Certificate No(s). delivered herewith, and does hereby irrevocably constitute and appoint the Secretary of the Company as the undersigned’s attorney-in-fact, with full power of substitution, to transfer said stock on the books of the Company. THIS ASSIGNMENT MAY ONLY BE USED AS AUTHORIZED BY THE AGREEMENT AND ANY EXHIBITS THERETO.

Dated: ,

OPTIONEE:

__________________________________________
(Signature)

__________________________________________
(Please Print Name)

__________________________________________
(Spouse’s Signature, if any)

__________________________________________
(Please Print Spouse’s Name)

☐ Check this box if Optionee does not have a spouse.

Instructions to Optionee: Please do not fill in any blanks other than the signature line. The purpose of this Stock Power and Assignment is to enable the Company to exercise its “Right of First Refusal” as set forth in the Exercise Agreement without requiring additional signatures on the part of the Optionee or Optionee’s Spouse.
1. **Grant of Option.** Square, Inc., a Delaware corporation (the “Company”), hereby grants to (“Optionee”), an option (the “Option”) to purchase the total number of shares of Common Stock (the “Shares”) set forth in the Notice of Stock Option Grant (the “Notice”), at the exercise price per Share set forth in the Notice (the “Exercise Price”) subject to the terms, definitions and provisions of the Square, Inc. 2009 Stock Plan (the “Plan”) adopted by the Company, which is incorporated in this Agreement by reference. Unless otherwise defined in this Agreement, the terms used in this Agreement shall have the meanings defined in the Plan.

2. **Designation of Option.** This Option is intended to be an Incentive Stock Option as defined in Section 422 of the Code only to the extent so designated in the Notice, and to the extent it is not so designated or to the extent this Option does not qualify as an Incentive Stock Option, it is intended to be a Nonstatutory Stock Option.

   Notwithstanding the above, if designated as an Incentive Stock Option, in the event that the Shares subject to this Option (and all other Incentive Stock Options granted to Optionee by the Company or any Parent or Subsidiary, including under other plans of the Company) that first become exercisable in any calendar year have an aggregate fair market value (determined for each Share as of the date of grant of the option covering such Share) in excess of $100,000, the Shares in excess of $100,000 shall be treated as subject to a Nonstatutory Stock Option, in accordance with Section 5(c) of the Plan.

3. **Exercise of Option.** This Option shall be exercisable during its term in accordance with the Vesting/Exercise Schedule set out in the Notice and with the provisions of Section 9 of the Plan as follows:

   (a) **Right to Exercise.**

      (i) This Option may not be exercised for a fraction of a share.

      (ii) In the event of Optionee’s death, Disability or other termination of Continuous Service Status, the exercisability of this Option is governed by Section 5 below, subject to the limitations contained in this Section 3.

      (iii) In no event may this Option be exercised after the Expiration Date set forth in the Notice.
(b) **Method of Exercise.**

(i) This Option shall be exercisable by execution and delivery of the Exercise Agreement attached hereto as Exhibit A or of any other form of written notice approved for such purpose by the Company which shall state Optionee’s election to exercise this Option, the number of Shares in respect of which this Option is being exercised, and such other representations and agreements as to the holder’s investment intent with respect to such Shares as may be required by the Company pursuant to the provisions of the Plan. Such written notice shall be signed by Optionee and shall be delivered to the Company by such means as are determined by the Plan Administrator in its discretion to constitute adequate delivery. The written notice shall be accompanied by payment of the aggregate Exercise Price for the purchased Shares.

(ii) As a condition to the exercise of this Option and as further set forth in Section 11 of the Plan, Optionee agrees to make adequate provision for federal, state or other tax withholding obligations, if any, which arise upon the grant, vesting or exercise of this Option, or disposition of Shares, whether by withholding, direct payment to the Company, or otherwise.

(iii) The Company is not obligated, and will have no liability for failure, to issue or deliver any Shares upon exercise of this Option unless such issuance or delivery would comply with the Applicable Laws, with such compliance determined by the Company in consultation with its legal counsel. This Option may not be exercised until such time as the Plan has been approved by the holders of capital stock of the Company, or if the issuance of such Shares upon such exercise or the method of payment of consideration for such Shares would constitute a violation of any Applicable Laws, including any applicable U.S. federal or state securities laws or any other law or regulation, including any rule under Part 221 of Title 12 of the Code of Federal Regulations as promulgated by the Federal Reserve Board. As a condition to the exercise of this Option, the Company may require Optionee to make any representation and warranty to the Company as may be required by the Applicable Laws. Assuming such compliance, for income tax purposes the Shares shall be considered transferred to Optionee on the date on which this Option is exercised with respect to such Shares.

(iv) Subject to compliance with Applicable Laws, this Option shall be deemed to be exercised upon receipt by the Company of the appropriate written notice of exercise accompanied by the Exercise Price and the satisfaction of any applicable withholding obligations.

4. **Method of Payment.** Payment of the Exercise Price shall be by any of the following, or a combination of the following, at the election of Optionee:

(a) cash or check;

(b) cancellation of indebtedness;

(c) at the discretion of the Plan Administrator on a case by case basis, by surrender of other shares of Common Stock of the Company (either directly or by stock attestation) that Optionee previously acquired and that have an aggregate Fair Market Value on the date of surrender equal to the aggregate Exercise Price of the Shares as to which this Option is being exercised; or

(d) at the discretion of the Plan Administrator on a case by case basis, by Cashless Exercise.
5. **Termination of Relationship**. Following the date of termination of Optionee’s Continuous Service Status for any reason (the “**Termination Date**”), Optionee may exercise this Option only as set forth in the Notice and this Section 5. If Optionee does not exercise this Option within the Termination Period set forth in the Notice or the termination periods set forth below, this Option shall terminate in its entirety. In no event, may any Option be exercised after the Expiration Date of this Option as set forth in the Notice.

(a) **Termination**. In the event of termination of Optionee’s Continuous Service Status other than as a result of Optionee’s Disability or death or for Cause, Optionee may, to the extent Optionee is vested in the Option Shares, exercise this Option during the Termination Period set forth in the Notice.

(b) **Other Terminations**. In connection with any termination other than a termination covered by Section 5(a), Optionee may exercise this Option only as described below:

(i) **Termination upon Disability of Optionee**. In the event of termination of Optionee’s Continuous Service Status as a result of Optionee’s Disability, Optionee may, but only within 6 months following the date of such termination, exercise this Option to the extent Optionee is vested in the Optioned Stock.

(ii) **Death of Optionee**. In the event of termination of Optionee’s Continuous Service Status as a result of Optionee’s death, or in the event of Optionee’s death within 30 days following Optionee’s Termination Date, this Option may be exercised at any time within 12 months following the date of death (or, if earlier, the date Optionee’s Continuous Service Status terminated) by Optionee’s estate or by a person who acquired the right to exercise this Option by bequest or inheritance, but only to the extent Optionee is vested in this Option.

6. **Non-Transferability of Option**. This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of Optionee only by him or her. The terms of this Option shall be binding upon the executors, administrators, heirs, successors and assigns of Optionee.

7. **Lock-Up Agreement**. In connection with the initial public offering of the Company’s securities and upon request of the Company or the underwriters managing any underwritten offering of the Company’s securities, Optionee hereby agrees not to sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any securities of the Company however and whenever acquired (other than those included in the registration) without the prior written consent of the Company or such underwriters, as the case may be, for such period of time (not to exceed 180 days) from the effective date of such registration as may be requested by the Company or such managing underwriters and to execute an agreement reflecting the foregoing as may be requested by the underwriters at the time of the public offering.
8. **Effect of Agreement.** Optionee acknowledges receipt of a copy of the Plan and represents that he or she is familiar with the terms and provisions thereof (and has had an opportunity to consult counsel regarding the Option terms), and hereby accepts this Option and agrees to be bound by its contractual terms as set forth herein and in the Plan. Optionee hereby agrees to accept as binding, conclusive and final all decisions and interpretations of the Plan Administrator regarding any questions relating to this Option. In the event of a conflict between the terms and provisions of the Plan and the terms and provisions of the Notice and this Agreement, the Plan terms and provisions shall prevail.

9. **Escrow.** As security for Optionee’s faithful performance of this Agreement, Optionee agrees that should the Company issue a stock certificate evidencing the Shares in accordance with the Company’s practices as in effect at the time of exercise, then, immediately upon receipt of such stock certificate(s) evidencing the Shares, Optionee shall deliver such certificate(s), together with two (2) copies of a blank Stock Power and Assignment Separate from Stock Certificate in the form attached to the Exercise Agreement (the “Stock Powers”), both executed by Optionee (and Optionee’s spouse, if any) (with the transferee, certificate number, date and number of Shares left blank), to the Secretary of the Company or other designee of the Company (the “Escrow Holder”), who is hereby appointed to hold such certificate(s) and Stock Powers in escrow and to take all such actions and to effectuate all such transfers and/or releases of such Shares as are in accordance with the terms of this Agreement. Optionee and the Company agree that Escrow Holder will not be liable to any party to this Agreement (or to any other party) for any actions or omissions unless Escrow Holder is grossly negligent or intentionally fraudulent in carrying out the duties of Escrow Holder under this Agreement. Escrow Holder may rely upon any letter, notice or other document executed with any signature purported to be genuine and may rely on the advice of counsel and obey any order of any court with respect to the transactions contemplated by this Agreement and will not be liable for any act or omission taken by Escrow Holder in good faith reliance on such documents, the advice of counsel or a court order. The Shares will be released from escrow upon termination of both the Repurchase Option and the Right of First Refusal (each as defined in the Exercise Agreement).

10. **Miscellaneous.**

   (a) **Governing Law.** This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, without giving effect to principles of conflicts of law.

   (b) **Entire Agreement; Enforcement of Rights.** This Agreement, together with the Notice to which this Agreement is attached and the Plan, sets forth the entire agreement and understanding of the parties relating to the subject matter herein and therein and merges all prior discussions between the parties. Except as contemplated under the Plan, no modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing signed by the parties to this Agreement. The failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of any rights of such party.
(c) **Severability.** If one or more provisions of this Agreement are held to be unenforceable under Applicable Laws, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of this Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of this Agreement shall be enforceable in accordance with its terms.

(d) **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon (1) delivery, when delivered (a) personally, (b) by courier (e.g. FedEx), (c) by email, or (d) by fax (upon customary confirmation of receipt), OR (2) forty-eight (48) hours after being deposited in the U.S. mail as certified or registered mail with postage prepaid, addressed to the party to be notified at such party’s address as set forth on the signature page or as subsequently modified by written notice.

(e) **Counterparts.** This Option may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

(f) **Successors and Assigns.** The rights and benefits of this Agreement shall inure to the benefit of, and be enforceable by the Company’s successors and assigns. The rights and obligations of Optionee under this Agreement may not be assigned without the prior written consent of the Company.

(g) **Transfer Restrictions.** Optionee hereby agrees to be bound by any and all restrictions on transfers of the Shares as set forth in the Company’s Bylaws (as may be amended from time to time) at the time such Option is exercised.

[Signature Page Follows]
IN WITNESS WHEREOF, the parties have executed or caused this Agreement to be executed by their officers thereunto duly authorized, effective as of the Date of Grant set forth in the accompanying Notice of Stock Option Grant.

THE COMPANY:

SQUARE, INC.

By: ____________________________________________

(Signature)

Name: 
Title: 
Address: 
1455 Market Street, Suite 600

OPTIONEE:

__________________________________________

(Print Name)

(Signature)

Address: 

Fax: 
email: 
EXHIBIT A
SQUARE, INC.
2009 STOCK PLAN
EXERCISE AGREEMENT

This Exercise Agreement (this “Agreement”) is made as of __________, by and between Square, Inc., a Delaware corporation (the “Company”), and (“Purchaser”). To the extent any capitalized terms used in this Agreement are not defined, they shall have the meaning ascribed to them in the Company’s 2009 Stock Plan (the “Plan”).

1. Exercise of Option. Subject to the terms and conditions hereof, Purchaser hereby elects to exercise his or her option to purchase __________ shares of the Common Stock (the “Shares”) of the Company under and pursuant to the Plan and the Stock Option Agreement dated __________ (the “Option Agreement”). The purchase price for the Shares shall be $________ per Share for a total purchase price of $________. The term “Shares” refers to the purchased Shares and all securities received as stock dividends or splits, all securities received in replacement of the Shares in a recapitalization, merger, reorganization, exchange or the like, and all new, substituted or additional securities or other property to which Purchaser is entitled by reason of Purchaser’s ownership of the Shares.

2. Time and Place of Exercise. The purchase and sale of the Shares under this Agreement shall occur at the principal office of the Company simultaneously with the execution and delivery of this Agreement, the payment of the aggregate Exercise Price by any method listed in Section 4 of the Option Agreement, and the satisfaction of any applicable tax withholding obligations, all in accordance with the provisions of Section 3(b) of the Option Agreement. The Company shall issue the Shares to Purchaser by entering such Shares in Purchaser’s name as of such date in the books and records of the Company or, if applicable, a duly authorized transfer agent of the Company, against payment of the Exercise Price therefor by Purchaser. If applicable, the Company will deliver to Purchaser a certificate representing the Shares as soon as practicable following such date.

3. Limitations on Transfer. In addition to any other limitation on transfer created by applicable securities laws, Purchaser shall not assign, encumber or dispose of any interest in the Shares except in compliance with the provisions below and applicable securities laws. Purchaser may not grant a lien or security interest in, or pledge, hypothecate or encumber, any Unvested Shares. Unvested Shares may not be sold or otherwise transferred by Purchaser without the Company’s prior written consent.

(a) Right of First Refusal. Before any Vested Shares held by Purchaser or any transferee of Purchaser (either being sometimes referred to herein as the “Holder”) may be sold or otherwise transferred (including transfer by gift or operation of law), the Company or its assignee(s) shall have a right of first refusal to purchase the Vested Shares on the terms and conditions set forth in this Section 3(a) (the “Right of First Refusal”).

(i) Notice of Proposed Transfer. The Holder of the Vested Shares shall deliver to the Company a written notice (the “Notice,”) stating: (i) the Holder’s bona fide intention to sell or otherwise transfer such Vested Shares; (ii) the name of each proposed purchaser or other transferee (“Proposed Transferee”); (iii) the number of Vested Shares to be transferred to each Proposed Transferee; and (iv) the terms and conditions of each proposed sale or transfer. The Holder shall offer the Vested Shares at the same price (the “Purchase Price”) and upon the same terms (or terms as similar as reasonably possible) to the Company or its assignee(s).
(ii) **Exercise of Right of First Refusal**. At any time within thirty (30) days after receipt of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all, but not less than all, of the Vested Shares proposed to be transferred to any one or more of the Proposed Transferees, at the Purchase Price. If the Purchase Price includes consideration other than cash, the cash equivalent value of the non-cash consideration shall be determined by the Board in good faith.

(iii) **Payment**. Payment of the Purchase Price shall be made, at the election of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness, or by any combination thereof within sixty (60) days after receipt of the Notice or in the manner and at the times set forth in the Notice.

(iv) **Holder’s Right to Transfer**. If all of the Vested Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section 3(a), then the Holder may sell or otherwise transfer such Vested Shares to that Proposed Transferee at the Purchase Price or at a higher price, provided that such sale or other transfer is consummated within one hundred twenty (120) days after the date of the Notice and provided further that any such sale or other transfer is effected in accordance with any applicable securities laws and the Proposed Transferee agrees in writing that the provisions of this Section 3 shall continue to apply to the Vested Shares in the hands of such Proposed Transferee. If the Vested Shares described in the Notice are not transferred to the Proposed Transferee within such period, or if the Holder proposes to change the price or other terms to make them more favorable to the Proposed Transferee, a new Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Right of First Refusal before any Vested Shares held by the Holder may be sold or otherwise transferred.

(v) **Exception for Certain Family Transfers**. Anything to the contrary contained in this Section 3(a) notwithstanding, and provided that such transfer complies with applicable securities laws, the transfer of any or all of the Vested Shares during Purchaser’s lifetime or on Purchaser’s death by will or intestacy to Purchaser’s Immediate Family or a trust for the benefit of Purchaser’s Immediate Family shall be exempt from the provisions of this Section 3(a). “Immediate Family” as used herein shall mean spouse, lineal descendant or antecedent, father, mother, brother or sister. In such case, the transferee or other recipient shall receive and hold the Vested Shares so transferred subject to the provisions of this Section 3, and there shall be no further transfer of such Vested Shares except in accordance with the terms of this Section 3.

(b) **Company’s Right to Purchase upon Involuntary Transfer**. In the event of any transfer by operation of law or other involuntary transfer (including death or divorce, but excluding a transfer to Immediate Family as set forth in Section 3(a)(v) above) of all or a portion of the Shares by the record holder thereof, the Company shall have an option to purchase all of the Shares transferred at the greater of the purchase price paid by Purchaser pursuant to this Agreement or the Fair Market Value of the Shares on the date of transfer (as determined by the Board). Upon such a transfer, the person acquiring the Shares shall promptly notify the Secretary of the Company of such transfer. The right to purchase such Shares shall be provided to the Company for a period of thirty (30) days following receipt by the Company of written notice by the person acquiring the Shares.

(c) **Assignment**. The right of the Company to purchase any part of the Shares may be assigned in whole or in part to any holder or holders of capital stock of the Company or other persons or organizations.

(d) **Restrictions Binding on Transferees**. All transferees of Shares or any interest therein will receive and hold such Shares or interest subject to the provisions of this Agreement. Any sale or transfer of the Company’s Shares shall be void unless the provisions of this Agreement are satisfied.
(c) **Termination of Rights.** The right of first refusal granted the Company by Section 3(a) above and the option to repurchase the Shares in the event of an involuntary transfer granted the Company by Section 3(b) above shall terminate upon the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the Securities and Exchange Commission under the Securities Act of 1933, as amended (the “Securities Act”). Upon termination of the right of first refusal described in Section 3(a) above the Company will remove any stop-transfer notices referred to in Section 6(b) below and related to the restrictions in this Section 3 and, if certificates are issued, a new certificate or certificates representing the Shares not repurchased shall be issued, on request, without the legend referred to in Section 6(a)(ii) below and delivered to Purchaser.

(f) **Superseding Transfer Restrictions.** Notwithstanding anything to the contrary set forth in this Agreement, Purchaser hereby agrees to be bound by any and all restrictions on transfers of the Shares as set forth in the Company’s Bylaws (as may be amended from time to time) and that such transfer restrictions shall supersede all other agreements, whether written or oral, in place by and between the Company and Purchaser regarding the transfer of the Shares.

4. **Company’s Repurchase Option for Unvested Shares.** The Company, or its assignee, shall have the option to repurchase all or a portion of the Purchaser’s Unvested Shares (as defined in the Notice of Stock Option Grant) on the terms and conditions set forth in this Section (the “Repurchase Option”) if Purchaser is terminated (as defined in the Plan) for any reason, or no reason, including without limitation, Purchaser’s death, Disability (as defined in the Plan), voluntary resignation or termination by the Company with or without Cause. Notwithstanding the foregoing, the Company shall retain the Repurchase Option for Unvested Shares only as to that number of Unvested Shares (whether or not exercised) that exceeds the number of Vested Shares that remain unexercised.

(a) **Termination and Termination Date.** In case of any dispute as to whether Purchaser is terminated, the Committee shall have discretion to determine whether Purchaser has been terminated and the effective date of such termination (the “Termination Date”).

(b) **Exercise of Repurchase Option.** At any time within ninety (90) days after the Purchaser’s Termination Date (or, in the case of securities issued upon exercise of an Option after the Purchaser’s Termination Date, within ninety (90) days after the date of such exercise), the Company, or its assignee, may elect to repurchase any or all the Purchaser’s Unvested Shares by giving Purchaser written notice of exercise of the Repurchase Option, specifying the number of Unvested Shares to be repurchased. Such Unvested Shares shall be repurchased at the lower of Fair Market Value, as determined by the Board, or Purchaser’s exercise price, proportionately adjusted for any stock split or similar change in the capital structure of the Company as set forth in Section 13(a) of the Plan (the “Repurchase Price”). The Repurchase Price shall be payable, at the option of the Company or its assignee, by check or by cancellation of all or a portion of any outstanding purchase money indebtedness owed by Purchaser to the Company and/or such assignee, or by any combination thereof. The Repurchase Price shall be paid without interest within the term of the Repurchase Option as described in the first sentence of this Section 4(b).

5. **Investment and Taxation Representations.** In connection with the purchase of the Shares, Purchaser represents to the Company the following:

(a) Purchaser is aware of the Company’s business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Shares. Purchaser is purchasing these securities for investment for his or her own account only and not with a view to, or for resale in connection with, any “distribution” thereof within the meaning of the Securities Act or under any applicable provision of state law. Purchaser does not have any present intention to transfer the Shares to any person or entity.
(b) Purchaser understands that the Shares have not been registered under the Securities Act by reason of a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Purchaser’s investment intent as expressed herein.

(c) Purchaser further acknowledges and understands that the securities must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Purchaser further acknowledges and understands that the Company is under no obligation to register the securities. Purchaser understands that the certificate(s) evidencing the securities will be imprinted with a legend which prohibits the transfer of the securities unless they are registered or such registration is not required in the opinion of counsel for the Company.

(d) Purchaser is familiar with the provisions of Rules 144 and 701, each promulgated under the Securities Act, which, in substance, permit limited public resale of “restricted securities” acquired, directly or indirectly, from the issuer of the securities (or from an affiliate of such issuer), in a non-public offering subject to the satisfaction of certain conditions. Purchaser understands that the Company provides no assurances as to whether he or she will be able to resell any or all of the Shares pursuant to Rule 144 or Rule 701, which rules require, among other things, that the Company be subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, that resales of securities take place only after the holder of the Shares has held the Shares for certain specified time periods, and under certain circumstances, that resales of securities be limited in volume and take place only pursuant to brokered transactions. Notwithstanding this paragraph (d), Purchaser acknowledges and agrees to the restrictions set forth in paragraph (e) below.

(e) Purchaser further understands that in the event all of the applicable requirements of Rule 144 or 701 are not satisfied, registration under the Securities Act, compliance with Regulation A, or some other registration exemption will be required; and that, notwithstanding the fact that Rules 144 and 701 are not exclusive, the Staff of the Securities and Exchange Commission has expressed its opinion that persons proposing to sell private placement securities other than in a registered offering and otherwise than pursuant to Rule 144 or 701 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales, and that such persons and their respective brokers who participate in such transactions do so at their own risk.

(f) Purchaser understands that Purchaser may suffer adverse tax consequences as a result of Purchaser’s purchase or disposition of the Shares. Purchaser represents that Purchaser has consulted any tax consultants Purchaser deems advisable in connection with the purchase or disposition of the Shares and that Purchaser is not relying on the Company for any tax advice.


(a) **Stock Restrictions.** Purchaser acknowledges and understands that by entering into this Agreement, Purchaser has received written notice of the qualifications, limitations and restrictions on the transfer or registration of transfer of the Shares pursuant to sections 151(f) and 202(a) of the Delaware General Corporation Law ("**DGCL**") and waives any right to receive future notices pursuant to sections 151(f) and 202(a) of the DGCL with respect to the Shares.

Purchaser further acknowledges that in addition to the qualifications, limitations and restrictions on the transfer or registration of transfer of the Shares provided in this Agreement, the Shares are subject to the following qualifications, limitations and restrictions on the transfer or registration of transfer of the Shares:

(i) **THE SECURITIES ISSUED BY THE COMPANY PURSUANT TO THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE**
OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933."

(ii) "THE SHARES ISSUED BY THE COMPANY PURSUANT TO THIS AGREEMENT MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE COMPANY AND THE STOCKHOLDER, AND ARE SUBJECT TO A RIGHT OF REPURCHASE AS SET FORTH IN SUCH AGREEMENT BETWEEN THE COMPANY AND THE STOCKHOLDER, A COPY OF WHICH IS ON FILE WITH AND MAY BE OBTAINED FROM THE SECRETARY OF THE COMPANY."

(iii) "THE SHARES ISSUED BY THE COMPANY PURSUANT TO THIS AGREEMENT ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER SET FORTH IN THE COMPANY’S AMENDED AND RESTATED BYLAWS, A COPY OF WHICH MAY BE OBTAINED FROM THE COMPANY."

Purchaser further acknowledges and agrees that in the event the Company issues a stock certificate to represent the Shares, such stock certificate shall bear legends substantially similar to the qualifications, limitations and restrictions on the transfer or registration of transfer provided above or such legends required by applicable state and federal corporate and securities laws.

(b) Stop-Transfer Notices. Purchaser agrees that, in order to ensure compliance with the restrictions referred to herein, the Company may issue appropriate “stop transfer” instructions to its transfer agent, if any, and that, if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

(c) Refusal to Transfer. The Company shall not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Agreement or (ii) to treat as owner of such Shares or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares shall have been so transferred.

(d) Access to Additional Information. Upon request from the Purchaser, the Company will furnish without charge to the Purchaser the powers, designations, preferences and relative participating, optional or other special rights of each class or series of the Company’s capital stock and the qualifications, limitations or restrictions of such preferences or rights.

7. No Employment Rights. Nothing in this Agreement shall affect in any manner whatsoever the right or power of the Company, or a parent or subsidiary of the Company, to terminate Purchaser’s employment or consulting relationship, for any reason, with or without cause.

8. Lock-Up Agreement. In connection with the initial public offering of the Company’s securities and upon request of the Company or the underwriters managing any underwritten offering of the Company’s securities, Purchaser agrees not to sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any securities of the Company however or whenever acquired (other than those included in the registration) without the prior written consent of the Company or such underwriters, as the case may be, for such period of time (not to exceed one hundred eighty (180) days) from the effective date of such registration as may be requested by the Company or such managing underwriters and to execute an agreement reflecting the foregoing as may be requested by the underwriters at the time of the public offering.
9. **Section 83(b) Election for Unvested Shares**. With respect to Unvested Shares that are subject to the Repurchase Option, unless an election is filed by the Purchaser with the Internal Revenue Service (and, if necessary, the proper state taxing authorities), within 30 days after the purchase of the Unvested Shares electing, pursuant to Section 83(b) of the Code (and similar state tax provisions, if applicable), to be taxed currently on any difference between the exercise price of the Unvested Shares and their Fair Market Value on the date of purchase, there may be a recognition of taxable income (including, where applicable, alternative minimum taxable income) to the Purchaser, measured by the excess, if any, of the Fair Market Value of the Unvested Shares at the time they cease to be Unvested Shares, over the exercise price of the Unvested Shares. If Purchaser desires to file such an election, a form of 83(b) election is attached to this Exercise Agreement as Exhibit 1. **BY PROVIDING THE FORM OF ELECTION, THE COMPANY DOES NOT THEREBY UNDERTAKE TO FILE THE ELECTION FOR PURCHASER, WHICH OBLIGATION TO FILE SHALL REMAIN SOLELY WITH PURCHASER.**

10. **Escrow**. As security for Purchaser’s faithful performance of this Agreement, Purchaser agrees that should the Company issue a stock certificate evidencing the Shares in accordance with the Company’s practices as in effect at the time of exercise, then, immediately upon receipt of the stock certificate(s) evidencing such Shares, Purchaser shall deliver such certificate(s), together with two (2) copies of a blank Stock Power and Assignment Separate from Stock Certificate in the form attached to this Agreement (the “**Stock Powers**”), both executed by Purchaser (and Purchaser’s spouse, if any) (with the transferee, certificate number, date and number of Shares left blank), to the Secretary of the Company or other designee of the Company (the “**Escrow Holder**”), who is hereby appointed to hold such certificate(s) and Stock Powers in escrow and to take all such actions and to effectuate all such transfers and/or releases of such Shares as are in accordance with the terms of this Agreement. Purchaser and the Company agree that Escrow Holder will not be liable to any party to this Agreement (or to any other party) for any actions or omissions unless Escrow Holder is grossly negligent or intentionally fraudulent in carrying out the duties of Escrow Holder under this Agreement. Escrow Holder may rely upon any letter, notice or other document executed with any signature purported to be genuine and may rely on the advice of counsel and obey any order of any court with respect to the transactions contemplated by this Agreement and will not be liable for any act or omission taken by Escrow Holder in good faith reliance on such documents, the advice of counsel or a court order. The Shares will be released from escrow upon termination of both the Repurchase Option and the Right of First Refusal.

11. **Miscellaneous**.

(a) **Governing Law**. This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, without giving effect to principles of conflicts of law.

(b) **Entire Agreement; Enforcement of Rights**. This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior discussions between them. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless in writing signed by the parties to this Agreement. The failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of any rights of such party.

(c) **Severability**. If one or more provisions of this Agreement are held to be unenforceable under Applicable Laws, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.
(d) **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon (1) delivery, when delivered (a) personally, (b) by courier (e.g. FedEx), (c) by email, or (d) by fax (upon customary confirmation of receipt), OR (2) forty-eight (48) hours after being deposited in the U.S. mail as certified or registered mail with postage prepaid, addressed to the party to be notified at such party’s address as set forth on the signature page or as subsequently modified by written notice.

(e) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

(f) **Successors and Assigns.** The rights and benefits of this Agreement shall inure to the benefit of, and be enforceable by the Company’s successors and assigns. The rights and obligations of Purchaser under this Agreement may only be assigned with the prior written consent of the Company.

(g) **California Corporate Securities Law.** THE SALE OF THE SECURITIES WHICH ARE THE SUBJECT OF THIS AGREEMENT HAS NOT BEEN QUALIFIED WITH THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA AND THE ISSUANCE OF THE SECURITIES OR THE PAYMENT OR RECEIPT OF ANY PART OF THE CONSIDERATION THEREFOR PRIOR TO THE QUALIFICATION IS UNLAWFUL, UNLESS THE SALE OF SECURITIES IS EXEMPT FROM QUALIFICATION BY SECTION 25100, 25102 OR 25105 OF THE CALIFORNIA CORPORATIONS CODE. THE RIGHTS OF ALL PARTIES TO THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON THE QUALIFICATION BEING OBTAINED, UNLESS THE SALE IS SO EXEMPT.
The parties have executed this Exercise Agreement as of the date first set forth above.

THE COMPANY:

SQUARE, INC.

By: __________________________ (Signature)

Name: __________________________

Title: __________________________

Address:
1455 Market Street, Suite 600
San Francisco, CA 94103

OPTIONEE:

______________________________
(Print Name)

______________________________
(Signature)

Address:

Fax: __________________________

Personal email: __________________________
I, [spouse name], spouse of [Purchaser], have read and hereby approve the foregoing Agreement. In consideration of the Company’s granting my spouse the right to purchase the Shares as set forth in the Agreement, I hereby agree to be irrevocably bound by the Agreement and further agree that any community property or similar interest that I may have in the Shares shall be similarly bound by the Agreement. I hereby appoint my spouse as my attorney-in-fact with respect to any amendment or exercise of any rights under the Agreement.

______________________________
Spouse of Purchaser (if applicable)
FOR VALUE RECEIVED and pursuant to that certain Exercise Agreement dated as of __________ , __________, (the “Exercise Agreement”), the undersigned hereby sells, assigns and transfers unto __________, __________ shares of the Common Stock of Square, Inc., a Delaware corporation (the “Company”), standing in the undersigned’s name on the books of the Company represented by Certificate No(s). __________ delivered herewith, and does hereby irrevocably constitute and appoint the Secretary of the Company as the undersigned’s attorney-in-fact, with full power of substitution, to transfer said stock on the books of the Company. THIS ASSIGNMENT MAY ONLY BE USED AS AUTHORIZED BY THE AGREEMENT AND ANY EXHIBITS THERETO.

Dated: __________ ,

OPTIONEE:

________________________________________
(Signature)

________________________________________
(Please Print Name)

________________________________________
(Spouse’s Signature, if any)

________________________________________
(Please Print Spouse’s Name)

☐ Check this box if Optionee does not have a spouse.

Instructions to Optionee: Please do not fill in any blanks other than the signature line. The purpose of this Stock Power and Assignment is to enable the Company to exercise its “Repurchase Option” and/or “Right of First Refusal” as set forth in the Exercise Agreement without requiring additional signatures on the part of the Optionee or Optionee’s Spouse.
EXHIBIT 1

ELECTION UNDER SECTION 83(b)
OF THE INTERNAL REVENUE CODE

The undersigned Taxpayer hereby elects, pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended, to include the excess, if any, of the fair market value of the property described below at the time of transfer over the amount paid for such property, as compensation for services in the calculation of:

(a) regular gross income; (b) alternative minimum taxable income or (c) disqualifying disposition gross income, as the case may be.

1. TAXPAYER’S NAME: ____________________________________________________________
   TAXPAYER’S ADDRESS: ____________________________________________________________
   SOCIAL SECURITY NUMBER: _______________________________________________________

2. The property with respect to which the election is made is described as follows: shares of Common Stock of Square, Inc., a Delaware corporation (the “Company”) which were transferred upon exercise of an option by Company, which is Taxpayer’s employer or the corporation for whom the Taxpayer performs services.

3. The date on which the shares were transferred pursuant to the exercise of the option was ______, and this election is made for calendar year ______.

4. The shares received upon exercise of the option are subject to the following restrictions: The Company may repurchase all or a portion of the shares at the Taxpayer’s original purchase price under certain conditions at the time of Taxpayer’s termination of employment or services.

5. The fair market value of the shares (without regard to restrictions other than restrictions which by their terms will never lapse) was $ ______ per share at the time of exercise of the option.

6. The amount paid for such shares upon exercise of the option was $ ______ per share.

7. The Taxpayer has submitted a copy of this statement to the Company.


Dated: ____________________________ Taxpayer’s Signature
Square, Inc. hereby grants to the Participant an Award of Restricted Stock Units, subject to all of the terms and conditions of the Square, Inc. 2009 Stock Plan (the “Plan”) and of this Restricted Stock Unit Award Agreement (the “Agreement”). For purposes of this Agreement, any terms defined in the Plan will have the same meanings in this Agreement unless otherwise specifically defined in this Agreement.

I. NOTICE OF GRANT OF RESTRICTED STOCK UNITS

Name (“Participant”):

Address:

Date of Grant: ______________________________________

Vesting Commencement Date: ________________________

Number of Restricted Stock Units: ____________________

Vesting Schedule:

Subject to any acceleration provisions contained in the Plan, a separate agreement between the Company and Participant, or set forth below, the Restricted Stock Units will vest in accordance with the following schedule:

Twenty-five percent (25%) of the Restricted Stock Units will vest on the one (1)-year anniversary of the Vesting Commencement Date, and one-sixteenth (1/16th) of the Restricted Stock Units shall vest on each quarter thereafter on the same day of the month as the Vesting Commencement Date, in each case subject to Participant’s Continuous Service Status remaining in effect through the applicable vesting date.

In the event Participant’s Continuous Service Status ceases for any or no reason before Participant vests in the Restricted Stock Units, the Restricted Stock Units and Participant’s right to acquire any Shares hereunder will immediately terminate.

II. AGREEMENT

1. Grant of Restricted Stock Units. The Company hereby grants to the Participant named in the Notice of Grant of Restricted Stock Units in Part I of this Agreement an Award of Restricted Stock Units under the Plan, subject to all of the terms and conditions in this Agreement.
Agreement and the Plan, which is incorporated herein by reference. Notwithstanding any contrary provision of this Agreement, in the event of a conflict between the terms and conditions of the Plan and of this Agreement, the terms and conditions of the Plan will control.

2. **Company’s Obligation to Pay.** Each Restricted Stock Unit represents the right to receive a Share on the date it vests. Unless and until the Restricted Stock Units will have vested in the manner set forth in Section 4, Participant will have no right to payment in settlement of any such Restricted Stock Units. Prior to actual payment in settlement of any vested Restricted Stock Units, such Restricted Stock Unit will represent an unsecured obligation of the Company, payable (if at all) only from the general assets of the Company.

3. **Participant’s Representations.** If the Shares have not been registered under the Securities Act at the time any Shares under this Award are paid to Participant, Participant shall, if required by the Company, concurrently with the receipt of any Shares under this Award of Restricted Stock Units, deliver to the Company his or her executed Investment Representation Statement in the form attached hereto as Exhibit A.

4. **Vesting Schedule.** Subject to Section 7, the Restricted Stock Units awarded by this Agreement will vest in accordance with the vesting schedule set forth in the Notice of Grant, subject to Participant’s Continuous Service Status remaining in effect through each applicable vesting date. The Administrator, in its discretion, may at any time accelerate the vesting of all or a portion of any unvested Restricted Stock Units, subject to the terms of the Plan. If so accelerated, such Restricted Stock Units will be considered as having vested as of the date specified by the Administrator. Subject to the provisions of this Section 4, if the Administrator, in its discretion, accelerates the vesting of all or a portion of any unvested Restricted Stock Units, the payment in settlement of such accelerated Restricted Stock Units will be made as provided in Section 6.

5. **Lock-Up Period.** Participant hereby agrees that Participant shall not offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any Common Stock (or other securities) of the Company or enter into any swap, hedging or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any Common Stock (or other securities) of the Company held by Participant (other than those included in the registration) for a period specified by the representative of the underwriters of Common Stock (or other securities) of the Company not to exceed one hundred and eighty (180) days following the effective date of any registration statement of the Company filed under the Securities Act (or such other period as may be requested by the Company or the underwriters to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including, but not limited to, the restrictions contained in NASD Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto).

Participant agrees to execute and deliver such other agreements as may be reasonably requested by the Company or the underwriter which are consistent with the foregoing or which are necessary to give further effect thereto. In addition, if requested by the Company or the representative of the underwriters of Common Stock (or other securities) of the Company,
Participant shall provide, within ten (10) days of such request, such information as may be required by the Company or such representative in connection with the completion of any public offering of the Company’s securities pursuant to a registration statement filed under the Securities Act. The obligations described in this Section 5 shall not apply to a registration relating solely to employee benefit plans on Form S-1 or Form S-8 or similar forms that may be promulgated in the future, or a registration relating solely to a Commission Rule 145 transaction on Form S-4 or similar forms that may be promulgated in the future. The Company may impose stop-transfer instructions with respect to the Shares (or other securities) subject to the foregoing restriction until the end of said one hundred and eighty (180) day (or other) period. Participant agrees that any transferee of the Award of Restricted Stock Units or the Shares acquired pursuant to the Award of Restricted Stock Units shall be bound by this Section 5.

6. Payment after Vesting. Subject to Section 10, any Restricted Stock Units that vest will be settled by payment to Participant (or in the event of Participant’s death, to his or her properly designated beneficiary or estate) in whole Shares. Subject to the provisions of the next paragraph, such vested Restricted Stock Units shall be settled by payment in whole Shares as soon as practicable after vesting, but in each such case within the period ending no later than the fifteenth (15th) day of the third (3rd) month following the end of the calendar year, or if later, the end of the Company’s tax year, in either case that includes the vesting date. In no event will Participant be permitted, directly or indirectly, to specify the taxable year of payment in settlement of any Restricted Stock Units payable under this Agreement.

Notwithstanding anything in the Plan or this Agreement to the contrary, if the vesting of the balance, or some lesser portion of the balance, of the Restricted Stock Units is accelerated in connection with the termination of Participant’s Continuous Service Status (provided that such termination is a “separation from service” within the meaning of Section 409A, as determined by the Company), other than due to death, and if (i) Participant is a “specified employee” within the meaning of Section 409A (as defined below) at the time of such termination of Continuous Service Status and (ii) the payment of such accelerated Restricted Stock Units will result in the imposition of additional tax under Section 409A if paid to Participant on or within the six (6)-month period following termination of Participant’s Continuous Service Status, then the payment of such accelerated Restricted Stock Units will not be made until the date six (6) months and one (1) day following the date of termination of Participant’s Continuous Service Status, unless the Participant dies following termination of his or her Continuous Service Status, in which case, the Restricted Stock Units will be paid in Shares to the Participant’s estate as soon as practicable following his or her death. It is the intent of this Agreement to comply with the requirements of Section 409A so that none of the Restricted Stock Units provided under this Agreement or Shares issuable thereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to so comply. For purposes of this Agreement, “Section 409A” means Section 409A of the Code, and any proposed, temporary or final Treasury Regulations and Internal Revenue Service guidance thereunder, as each may be amended from time to time.

7. Forfeiture Upon Termination of Continuous Service Status. Notwithstanding any contrary provision of this Agreement, if Participant’s Continuous Service Status ceases for any or no reason, the then-unvested Restricted Stock Units awarded by this Agreement will thereupon be forfeited at no cost to the Company on the date of termination of Participant’s
Continuous Service Status other than by reason of Participant’s death or Disability (or, if Participant’s termination is due to Participant’s death or Disability, on the 30th day following the date of termination of Participant’s Continuous Service Status), and Participant will have no further rights with respect to those Restricted Stock Units.

8. Tax Consequences. Participant has reviewed with his or her own tax advisors the U.S. federal, state, local and foreign tax consequences of this investment and the transactions contemplated by this Agreement. With respect to such matters, Participant relies solely on such advisors and not on any statements or representations of the Company or any of its agents, written or oral. Participant understands that Participant (and not the Company) shall be responsible for Participant’s own tax liability that may arise as a result of this investment or the transactions contemplated by this Agreement.

9. Death of Participant. Any distribution or delivery to be made to Participant under this Agreement will, if Participant is then deceased, be made to Participant’s designated beneficiary, or if no beneficiary survives Participant, the administrator or executor of Participant’s estate. Any such transferee must furnish the Company with (i) written notice of his or her status as transferee, and (ii) evidence satisfactory to the Company to establish the validity of the transfer and compliance with any laws or regulations pertaining to said transfer.


(a) Participant acknowledges that, regardless of any action taken by the Company, the ultimate liability for all income tax, social insurance, payroll tax, fringe benefits tax, payment on account or other tax-related items related to Participant’s participation in the Plan and legally applicable to Participant or deemed by the Company in its discretion to be an appropriate charge to Participant even if legally applicable to the Company (“Tax-Related Items”) will be Participant’s sole responsibility and may exceed the amount actually withheld by the Company.

(b) Prior to any relevant taxable or tax withholding event, as applicable, Participant agrees to make arrangements satisfactory to the Company and/or Parent or Subsidiary that directly employs Participant (the “Employer”) to satisfy all Tax-Related Items. In this regard, Participant authorizes the Company or its agent to satisfy their withholding obligations with regard to all Tax-Related Items, if any, by any of the following means or by a combination of such means: (i) withholding from any compensation otherwise payable to Participant by the Company or the Employer; (ii) causing Participant to tender a cash payment; (iii) entering on Participant’s behalf (pursuant to this authorization without further consent) into a “same day sale” commitment with a broker dealer that is a member of the Financial Industry Regulatory Authority (a “FINRA Dealer”) whereby Participant irrevocably elects to sell a portion of the Shares to be delivered under the Award to satisfy the Tax-Related Items and whereby the FINRA Dealer irrevocably commits to forward the proceeds necessary to satisfy the Tax-Related Items directly to the Company and/or its Affiliates; or (iv) withholding Shares from the Shares issued or otherwise issuable to Participant in connection with the Award with a fair market value (measured as of the date Shares are issued to Participant or, if and as determined by the Company, the date on which the Tax-Related Items are required to be calculated) equal to the amount of such Tax-Related Items. If, at the time of the relevant taxable or tax withholding
event, as applicable, the Shares are traded on any established stock exchange or a national market system or the Shares are regularly quoted by a recognized securities dealer, then, unless determined otherwise by the Company, the method described in clause (iii) of the previous sentence will be the method by which such Tax-Related Items are satisfied, subject to Applicable Laws.

(c) Depending on the withholding method employed, and subject to the terms of the Plan, the Company may withhold or account for Tax-Related Items by considering applicable minimum statutory withholding rates or other applicable withholding rates, including maximum applicable rates, in which case Participant will receive a refund of any over-withheld amount in cash and will have no entitlement to the Common Stock equivalent. If the obligation for Tax-Related Items is satisfied by withholding in Shares, for tax purposes, Participant will be deemed to have been issued the full number of Shares subject to the vested portion of the Award, notwithstanding that a number of the Shares are held back solely for the purpose of paying the Tax-Related Items.

(d) Finally, Participant agrees to pay to the Company or the Employer any amount of Tax-Related Items that the Company or the Employer may be required to withhold or account for as a result of Participant’s participation in the Plan that cannot be satisfied by any of the means previously described. Notwithstanding any contrary provision of the Plan, the Notice of Grant or of this Agreement, if Participant fails to make satisfactory arrangements for the payment of any Tax-Related Items when due, Participant permanently will forfeit the Restricted Stock Units on which the Tax-Related Items were not satisfied and also will permanently forfeit any right to receive Shares thereunder. In that case, the Restricted Stock Units will be returned to the Company at no cost to the Company.

11. Rights as Stockholder. Neither Participant nor any person claiming under or through Participant will have any of the rights or privileges of a stockholder of the Company in respect of any Shares deliverable hereunder unless and until certificates representing such Shares will have been issued, recorded on the records of the Company or its transfer agents or registrars, and delivered to Participant. After such issuance, recordation and delivery, Participant will have all the rights of a stockholder of the Company with respect to voting such Shares and receipt of dividends and distributions on such Shares.

12. No Guarantee of Continued Service. PARTICIPANT ACKNOWLEDGES AND AGREES THAT THE VESTING OF THE RESTRICTED STOCK UNITS PURSUANT TO THE VESTING SCHEDULE HEREOF IS EARNED ONLY BY SATISFYING THE VESTING REQUIREMENTS DESCRIBED IN THIS AGREEMENT, INCLUDING (BUT NOT LIMITED TO) MAINTAINING CONTINUOUS SERVICE STATUS AT THE WILL OF THE COMPANY (OR THE PARENT OR SUBSIDIARY EMPLOYING OR RETAINING PARTICIPANT) AND NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED THIS AWARD OF RESTRICTED STOCK UNITS OR ACQUIRING SHARES HEREUNDER. PARTICIPANT FURTHER ACKNOWLEDGES AND AGREES THAT THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUOUS SERVICE STATUS FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND SHALL NOT INTERFERE IN ANY WAY WITH
PARTICIPANT’S RIGHT OR THE RIGHT OF THE COMPANY (OR THE PARENT OR SUBSIDIARY EMPLOYING OR RETAINING PARTICIPANT) TO TERMINATE PARTICIPANT’S CONTINUOUS SERVICE STATUS AT ANY TIME, WITH OR WITHOUT CAUSE.

13. Grant is Not Transferable. Except to the limited extent provided in Section 9, this Award and the rights and privileges conferred hereby will not be transferred, assigned, pledged or hypothecated in any way (whether by operation of law or otherwise) and will not be subject to sale under execution, attachment or similar process. Upon any attempt to transfer, assign, pledge, hypothecate or otherwise dispose of this Award, or any right or privilege conferred hereby, or upon any attempted sale under any execution, attachment or similar process, this Award and the rights and privileges conferred hereby immediately will become null and void.

14. Limitations on Transfer. In addition to any other limitation on transfer created by applicable securities laws, Participant shall not assign, encumber or dispose of any interest in the Shares acquired or that may be acquired pursuant to this Award of Restricted Stock Units except in compliance with the provisions below and applicable securities laws. Participant may not grant a lien or security interest in, or pledge, hypothecate or encumber, any such Shares.

(a) Right of First Refusal. Before any Shares acquired pursuant to this Award of Restricted Stock Units that are held by Participant or any transferee of Participant (either being sometimes referred to herein as the “Holder”) may be sold or otherwise transferred (including transfer by gift or operation of law), the Company or its assignee(s) shall have a right of first refusal to purchase the Shares on the terms and conditions set forth in this Section 14(a) (the “Right of First Refusal”).

(i) Notice of Proposed Transfer. The Holder of such Shares shall deliver to the Company a written notice (the “Notice”) stating: (A) the Holder’s bona fide intention to sell or otherwise transfer such Shares; (B) the name of each proposed purchaser or other transferee (“Proposed Transferee”); (C) the number of Shares to be transferred to each Proposed Transferee; and (D) the terms and conditions of each proposed sale or transfer. The Holder shall offer the Shares at the same price (the “Purchase Price”) and upon the same terms (or terms as similar as reasonably possible) to the Company or its assignee(s).

(ii) Exercise of Right of First Refusal. At any time within thirty (30) days after receipt of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all, but not less than all, of the Shares proposed to be transferred to any one or more of the Proposed Transferees, at the Purchase Price. If the Purchase Price includes consideration other than cash, the cash equivalent value of the non-cash consideration shall be determined by the Board in good faith.

(iii) Payment. Payment of the Purchase Price shall be made, at the election of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness, or by any combination thereof within sixty (60) days after receipt of the Notice or in the manner and at the times set forth in the Notice.
(iv) **Holder’s Right to Transfer.** If all of the Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section 14(a), then the Holder may sell or otherwise transfer such Shares to that Proposed Transferee at the Purchase Price or at a higher price, provided that such sale or other transfer is consummated within one hundred twenty (120) days after the date of the Notice and provided further that any such sale or other transfer is effected in accordance with any applicable securities laws and the Proposed Transferee agrees in writing that the provisions of this Section 14 shall continue to apply to the Shares in the hands of such Proposed Transferee. If the Shares described in the Notice are not transferred to the Proposed Transferee within such period, or if the Holder proposes to change the price or other terms to make them more favorable to the Proposed Transferee, a new Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

(v) **Exception for Certain Family Transfers.** Anything to the contrary contained in this Section 14(a) notwithstanding, and provided that such transfer complies with applicable securities laws, the transfer of any or all of the Shares during Participant’s lifetime or on Participant’s death by will or intestacy to Participant’s Immediate Family or a trust for the benefit of Participant’s Immediate Family shall be exempt from the provisions of this Section 14(a). “**Immediate Family**” as used herein shall mean spouse, lineal descendant or antecedent, father, mother, brother or sister. In such case, the transferee or other recipient shall receive and hold the Shares so transferred subject to the provisions of this Section 14, and there shall be no further transfer of such Shares except in accordance with the terms of this Section 14.

(b) **Company’s Right to Purchase upon Involuntary Transfer.** In the event of any transfer by operation of law or other involuntary transfer (including death or divorce, but excluding a transfer to Immediate Family as set forth in Section 14(a)(v) above) of all or a portion of the Shares by the record holder thereof, the Company shall have an option to purchase all of the Shares transferred at the Fair Market Value of the Shares on the date of transfer (as determined by the Board). Upon such a transfer, the person acquiring the Shares shall promptly notify the Secretary of the Company of such transfer. The right to purchase such Shares shall be provided to the Company for a period of thirty (30) days following receipt by the Company of written notice by the person acquiring the Shares.

(c) **Assignment.** The right of the Company to purchase any part of the Shares may be assigned in whole or in part to any holder or holders of capital stock of the Company or other persons or organizations.

(d) **Restrictions Binding on Transferees.** All transferees of Shares or any interest therein will receive and hold such Shares or interest subject to the provisions of this Agreement. Any sale or transfer of the Company’s Shares shall be void unless the provisions of this Agreement are satisfied.

(e) **Termination of Rights.** The right of first refusal granted the Company by Section 14(a) above and the option to repurchase the Shares in the event of an involuntary transfer granted the Company by Section 14(b) above shall terminate upon the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed.
with and declared effective by the Securities and Exchange Commission under the Securities Act of 1933, as amended (the “Securities Act”). Upon termination of
the right of first refusal described in Section 14(a) above the Company will remove any stop-transfer notices referred to in Section 15(b) below and related to the
restrictions in this Section 14 and, if certificates are issued, a new certificate or certificates representing the Shares not repurchased shall be issued, on request,
without the legend referred to in Section 15(a)(ii) below and delivered to Participant.

(f) Superseding Transfer Restrictions. Notwithstanding anything to the contrary set forth in this Agreement, Participant hereby agrees to be bound by
any and all restrictions on transfers of the Shares as set forth in the Company’s Bylaws (as may be amended from time to time) and that such transfer restrictions
shall supersede all other agreements, whether written or oral, in place by and between the Company and Participant regarding the transfer of the Shares.

15. Restrictive Legends and Stop-Transfer Orders.

(a) Stock Restrictions. Participant acknowledges and understands that by entering into this Agreement, Participant has received written notice of the
qualifications, limitations and restrictions on the transfer or registration of transfer of any Shares acquired under this Award of Restricted Stock Units pursuant to
sections 151(f) and 202(a) of the Delaware General Corporation Law (“DGCL”) and waives any right to receive future notices pursuant to sections 151(f) and
202(a) of the DGCL with respect to the Shares. Participant further acknowledges that in addition to the qualifications, limitations and restrictions on the transfer or
registration of transfer of the Shares acquired pursuant to this Award of Restricted Stock Units, the Shares are subject to the following qualifications, limitations and
restrictions on the transfer or registration of transfer of the Shares:

(i) “THE SHARES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE
BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO
SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN
OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE
SECURITIES ACT OF 1933.”

(ii) “THE SHARES REPRESENTED HEREBY MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN
AGREEMENT BETWEEN THE COMPANY AND THE ORIGINAL HOLDER OF THESE SHARES, AND ARE SUBJECT TO A RIGHT OF REPURCHASE
AS SET FORTH IN SUCH AGREEMENT BETWEEN THE COMPANY AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH IS ON
FILE WITH AND MAY BE OBTAINED FROM THE SECRETARY OF THE COMPANY.”

(iii) “THE SHARES REPRESENTED HEREBY ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER SET FORTH IN THE
COMPANY’S AMENDED AND RESTATED BYLAWS, A COPY OF WHICH MAY BE OBTAINED FROM THE COMPANY.”

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(b) **Stop-Transfer Notices**. Participant agrees that, in order to ensure compliance with the restrictions referred to herein, the Company may issue appropriate “stop transfer” instructions to its transfer agent, if any, and that, if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

(c) **Refusal to Transfer**. The Company shall not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Agreement or (ii) to treat as owner of such Shares or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares shall have been so transferred.

(d) **Access to Additional Information**. Upon request from the Participant, the Company will furnish without charge to the Participant the powers, designations, preferences and relative participating, optional or other special rights of each class or series of the Company’s capital stock and the qualifications, limitations or restrictions of such preferences or rights.

16. **Escrow**. As security for Participant’s faithful performance of this Agreement, Participant agrees that should the Company issue a stock certificate evidencing the Shares acquired pursuant to this Award of Restricted Stock Units in accordance with the Company’s practices as then in effect, then, immediately upon receipt of such stock certificate(s) evidencing the Shares, Participant shall deliver such certificate(s), together with two (2) copies of a blank Stock Power and Assignment Separate from Stock Certificate in the form attached to the Exercise Agreement (the “**Stock Powers**”), both executed by Participant (and Participant’s spouse, if any) (with the transferee, certificate number, date and number of Shares left blank), to the Secretary of the Company or other designee of the Company (the “**Escrow Holder**”), who is hereby appointed to hold such certificate(s) and Stock Powers in escrow and to take all such actions and to effectuate all such transfers and/or releases of such Shares as are in accordance with the terms of this Agreement. Participant and the Company agree that Escrow Holder will not be liable to any party to this Agreement (or to any other party) for any actions or omissions unless Escrow Holder is grossly negligent or intentionally fraudulent in carrying out the duties of Escrow Holder under this Agreement. Escrow Holder may rely upon any letter, notice or other document executed with any signature purported to be genuine and may rely on the advice of counsel and obey any order of any court with respect to the transactions contemplated by this Agreement and will not be liable for any act or omission taken by Escrow Holder in good faith reliance on such documents, the advice of counsel or a court order. The Shares will be released from escrow upon termination of the Right of First Refusal.

17. **Compliance with Section 409A of the Code**. This Award is intended to be exempt from Section 409A of the Code by satisfying the requirements of the “short-term deferral” rule set forth in Treasury Regulation Section 1.409A-1(b)(4). Notwithstanding the foregoing, if it is determined that the Award fails to satisfy the requirements of the short-term deferral rule and is otherwise deferred compensation subject to Section 409A, and if Participant is a “specified employee” (within the meaning set forth Section 409A(a)(2)(B)(i) of the Code) as of the date of Participant’s separation from service (within the meaning of Treasury Regulation...
Section 1.409A-1(h), then the issuance of any shares that otherwise would be made upon the date of the separation from service or within the first six months thereafter will not be made on the originally scheduled date(s) and instead will be issued in a lump sum on the date that is six months and one day after the date of the separation from service, with the balance of the shares issued thereafter in accordance with the original vesting and issuance schedule set forth above, but if and only if such delay in the issuance of the shares is necessary to avoid the imposition of taxation on Participant in respect of the shares under Section 409A of the Code. Each installment of shares that vests is intended to constitute a “separate payment” for purposes of Treasury Regulation Section 1.409A-2(b)(2). Notwithstanding any contrary provision of the Plan, the Notice of Grant, or of this Agreement, under no circumstances will the Company reimburse Participant for any taxes or other costs under Section 409A or any other tax law or rule. All such taxes and costs are solely Participant’s responsibility.

18. **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon (1) delivery, when delivered (a) personally, (b) by courier (e.g. FedEx), (c) by email, or (d) by fax (upon customary confirmation of receipt), OR (2) forty-eight (48) hours after being deposited in the U.S. mail as certified or registered mail with postage prepaid. Any notice to be given to the Company under the terms of this Agreement will be addressed to the Company at Square, Inc., 1455 Market Street, Suite 600, San Francisco, CA 94103 or at such other address as the Company may hereafter designate in writing.

19. **Electronic Delivery.** The Company may, in its sole discretion, decide to deliver any documents related to this Award of Restricted Stock Units or future restricted stock units that may be awarded under the Plan by electronic means or request Participant’s consent to participate in the Plan by electronic means. Participant hereby consents to receive such documents by electronic delivery and agrees to participate in the Plan through any on-line or electronic system established and maintained by the Company or another third party designated by the Company.

20. **No Waiver.** Either party’s failure to enforce any provision or provisions of this Agreement shall not in any way be construed as a waiver of any such provision or provisions, nor prevent that party from thereafter enforcing each and every other provision of this Agreement. The rights granted both parties herein are cumulative and shall not constitute a waiver of either party’s right to assert all other legal remedies available to it under the circumstances.

21. **Successors and Assigns.** The Company may assign any of its rights under this Agreement to single or multiple assignees, and this Agreement shall inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer herein set forth, this Agreement shall be binding upon Participant and his or her heirs, executors, administrators, successors and assigns. The rights and obligations of Participant under this Agreement may only be assigned with the prior written consent of the Company.

22. **Additional Conditions to Issuance of Stock.** If at any time the Company will determine, in its discretion, that the listing, registration or qualification of the Shares upon any securities exchange or under any state or federal law, or the consent or approval of any governmental regulatory authority is necessary or desirable as a condition to the issuance of
Shares to Participant (or his or her estate), such issuance will not occur unless and until such listing, registration, qualification, consent or approval will have been effected or obtained free of any conditions not acceptable to the Company. Where the Company determines that the delivery of the payment of any Shares will violate federal securities laws or other applicable laws, the Company will defer delivery until the earliest date at which the Company reasonably anticipates that the delivery of Shares will no longer cause such violation. The Company will make all reasonable efforts to meet the requirements of any such state or federal law or securities exchange and to obtain any such consent or approval of any such governmental authority.

23. **Interpretation.** The Administrator will have the power to interpret the Plan and this Agreement and to adopt such rules for the administration, interpretation and application of the Plan as are consistent therewith and to interpret or revoke any such rules (including, but not limited to, the determination of whether or not any Restricted Stock Units have vested). All actions taken and all interpretations and determinations made by the Administrator in good faith will be final and binding upon Participant, the Company and all other interested persons. Neither the Administrator nor any person acting on behalf of the Administrator will be personally liable for any action, determination or interpretation made in good faith with respect to the Plan or this Agreement.

24. **Modifications to the Agreement.** This Agreement constitutes the entire understanding of the parties on the subjects covered. Participant expressly warrants that he or she is not accepting this Agreement in reliance on any promises, representations, or inducements other than those contained herein. Modifications to this Agreement or the Plan can be made only in an express written contract executed by a duly authorized officer of the Company. Notwithstanding anything to the contrary in the Plan or this Agreement, the Company reserves the right to revise this Agreement as it deems necessary or advisable, in its sole discretion and without the consent of Participant, to comply with Section 409A or to otherwise avoid imposition of any additional tax or income recognition under Section 409A in connection to this Award of Restricted Stock Units.

25. **Governing Law; Severability.** This Agreement is governed by the internal substantive laws, but not the choice of law rules, of California. In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect.

26. **Entire Agreement.** The Plan is incorporated herein by reference. The Plan and this Agreement (including the exhibits referenced herein) constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof, and may not be modified adversely to the Participant’s interest except by means of a writing signed by the Company and Participant.

Participant acknowledges receipt of a copy of the Plan and represents that he or she is familiar with the terms and provisions thereof, and hereby accepts this Agreement subject to all of the terms and provisions thereof. Participant has reviewed the Plan and this Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Agreement and fully understands all provisions of this Agreement. Participant hereby agrees to
accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan or this Agreement. Participant further agrees to notify the Company upon any change in the residence address indicated below.

PARTICIPANT:

Signature
Print Name
Residence Address:

SQUARE, INC.
By
Title

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INVESTMENT REPRESENTATION STATEMENT

PARTICIPANT: 
COMPANY: SQUARE, INC.
SECURITY: COMMON STOCK
AMOUNT: 
DATE: 

In connection with the receipt of the above-listed Securities, the undersigned Participant represents to the Company the following:

(a) Participant is aware of the Company’s business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Securities. Participant is acquiring these Securities for investment for Participant’s own account only and not with a view to, or for resale in connection with, any “distribution” thereof within the meaning of the Securities Act of 1933, as amended (the “Securities Act”).

(b) Participant acknowledges and understands that the Securities constitute “restricted securities” under the Securities Act and have not been registered under the Securities Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Participant’s investment intent as expressed herein. In this connection, Participant understands that, in the view of the Securities and Exchange Commission, the statutory basis for such exemption may be unavailable if Participant’s representation was predicated solely upon a present intention to hold these Securities for the minimum capital gains period specified under tax statutes, for a deferred sale, for or until an increase or decrease in the market price of the Securities, or for a period of one year or any other fixed period in the future. Participant further understands that the Securities must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Participant further acknowledges and understands that the Company is under no obligation to register the Securities. Participant understands that the certificate evidencing the Securities shall be imprinted with any legend required under applicable state securities laws.

(c) Participant is familiar with the provisions of Rule 701 and Rule 144, each promulgated under the Securities Act, which, in substance, permit limited public resale of “restricted securities” acquired, directly or indirectly from the issuer thereof, in a non-public offering subject to the satisfaction of certain conditions. Rule 701 provides that if the issuer qualifies under Rule 701 at the time of the grant of the restricted stock units to Participant, the exercise shall be exempt from registration under the Securities Act. In the event the Company
becomes subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, ninety (90) days thereafter (or such longer period as any market stand-off agreement may require) the Securities exempt under Rule 701 may be resold, subject to the satisfaction of the applicable conditions specified by Rule 144, including in the case of affiliates (1) the availability of certain public information about the Company, (2) the amount of Securities being sold during any three (3) month period not exceeding specified limitations, (3) the resale being made in an unsolicited “broker’s transaction”, transactions directly with a “market maker” or “riskless principal transactions” (as those terms are defined under the Securities Exchange Act of 1934) and (4) the timely filing of a Form 144, if applicable.

In the event that the Company does not qualify under Rule 701 at the time of grant of the restricted stock units, then the Securities may be resold in certain limited circumstances subject to the provisions of Rule 144, which may require (i) the availability of current public information about the Company; (ii) the resale to occur more than a specified period after the purchase and full payment (within the meaning of Rule 144) for the Securities; and (iii) in the case of the sale of Securities by an affiliate, the satisfaction of the conditions set forth in sections (2), (3) and (4) of the paragraph immediately above.

(d) Participant further understands that in the event all of the applicable requirements of Rule 701 or 144 are not satisfied, registration under the Securities Act, compliance with Regulation A, or some other registration exemption shall be required; and that, notwithstanding the fact that Rules 144 and 701 are not exclusive, the Staff of the Securities and Exchange Commission has expressed its opinion that persons proposing to sell private placement securities other than in a registered offering and otherwise than pursuant to Rules 144 or 701 shall have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales, and that such persons and their respective brokers who participate in such transactions do so at their own risk. Participant understands that no assurances can be given that any such other registration exemption shall be available in such event.

PARTICIPANT

Signature

Print Name

Date

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EXECUTIVE INCENTIVE COMPENSATION PLAN

1. Purposes of the Plan. The Plan is intended to increase shareholder value and the success of the Company by motivating Employees to (a) perform to the best of their abilities, and (b) achieve the Company’s objectives.

2. Definitions.
   (a) “Actual Award” means as to any Performance Period, the actual award (if any) payable to a Participant for the Performance Period, subject to the Committee’s authority under Section 3(d) to modify the award.
   (b) “Affiliate” means any corporation or other entity (including, but not limited to, partnerships and joint ventures) controlled by the Company.
   (c) “Board” means the Board of Directors of the Company.
   (d) “Bonus Pool” means the pool of funds available for distribution to Participants. Subject to the terms of the Plan, the Committee establishes the Bonus Pool for each Performance Period.
   (e) “Code” means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code or regulation thereunder will include such section or regulation, any valid regulation promulgated thereunder, and any comparable provision of any future legislation or regulation amending, supplementing, or superseding such section or regulation.
   (f) “Committee” means the committee appointed by the Board (pursuant to Section 5) to administer the Plan. Unless and until the Board otherwise determines, the Board’s Compensation Committee will be the Committee administering the Plan.
   (g) “Company” means Square, Inc., a Delaware corporation, or any successor thereto.
   (h) “Disability” means a permanent and total disability determined in accordance with uniform and nondiscriminatory standards adopted by the Committee from time to time.
   (i) “Employee” means any executive, officer, or key employee of the Company or of an Affiliate, whether such individual is so employed at the time the Plan is adopted or becomes so employed subsequent to the adoption of the Plan.
   (j) “Fiscal Year” means the fiscal year of the Company.
(k) “Participant” means as to any Performance Period, an Employee who has been selected by the Committee for participation in the Plan for that Performance Period.

(l) “Performance Period” means the period of time for the measurement of the performance criteria that must be met to receive an Actual Award, as determined by the Committee in its sole discretion. A Performance Period may be divided into one or more shorter periods if, for example, but not by way of limitation, the Committee desires to measure some performance criteria over 12 months and other criteria over 3 months.

(m) “Plan” means this Executive Incentive Compensation Plan, as set forth in this instrument (including any appendix hereto) and as hereafter amended from time to time.

(n) “Target Award” means the target award, at 100% of target level performance achievement, payable under the Plan to a Participant for the Performance Period, as determined by the Committee in accordance with Section 3(b).

(o) “Termination of Service” means a cessation of the employee-employer relationship between an Employee and the Company or an Affiliate for any reason, including, but not by way of limitation, a termination by resignation, discharge, death, Disability, retirement, or the disaffiliation of an Affiliate, but excluding any such termination where there is a simultaneous reemployment by the Company or an Affiliate.

3. Selection of Participants and Determination of Awards.

(a) Selection of Participants. The Committee, in its sole discretion, will select the Employees who will be Participants for any Performance Period. Participation in the Plan is in the sole discretion of the Committee, on a Performance Period by Performance Period basis. Accordingly, an Employee who is a Participant for a given Performance Period in no way is guaranteed or assured of being selected for participation in any subsequent Performance Period or Performance Periods.

(b) Determination of Target Awards. The Committee, in its sole discretion, will establish a Target Award for each Participant (which may be expressed as a percentage of a Participant’s average annual base salary for the Performance Period or a fixed dollar amount or such other amount or based on such other formula as the Committee determines).

(c) Bonus Pool. Each Performance Period, the Committee, in its sole discretion, will establish a Bonus Pool, which pool may be established before, during or after the applicable Performance Period. Actual Awards will be paid from the Bonus Pool.

(d) Discretion to Modify Awards. Notwithstanding any contrary provision of the Plan, the Committee may, in its sole discretion and at any time,
(i) increase, reduce or eliminate a Participant’s Actual Award, and/or (ii) increase, reduce or eliminate the amount allocated to the Bonus Pool. The Actual Award may be below, at or above the Target Award, in the Committee’s discretion. The Committee may determine the amount of any increase, reduction or elimination on the basis of such factors as it deems relevant, and will not be required to establish any allocation or weighting with respect to the factors it considers.

(e) Discretion to Determine Criteria. Notwithstanding any contrary provision of the Plan, the Committee, in its sole discretion, will determine the performance goals (if any) applicable to any Target Award (or portion thereof) which may include, without limitation, (i) attainment of research and development milestones, (ii) sales bookings, (iii) business divestitures and acquisitions, (iv) cash flow, (v) cash position, (vi) earnings (which may include any calculation of earnings, including but not limited to earnings before interest and taxes, earnings before taxes, earnings before interest, taxes, depreciation and amortization and net earnings), (vii) earnings per share, (viii) net income, (ix) net profit, (x) net sales, (xi) operating cash flow, (xii) operating expenses, (xiii) operating income, (xiv) operating margin, (xv) overhead or other expense reduction, (xvi) product defect measures, (xvii) product release timelines, (xviii) productivity, (xix) profit, (xx) return on assets, (xxi) return on capital, (xxii) return on equity, (xxiii) return on investment, (xxiv) return on sales, (xxv) revenue, (xxvi) revenue growth, (xxvii) sales results, (xxviii) sales growth, (xxix) stock price, (xxx) time to market, (xxx) total stockholder return, (xxxii) working capital, and (xxxiii) individual objectives such as MBOs, peer reviews or other subjective or objective criteria. As determined by the Committee, the performance goals may be based on generally accepted accounting principles (“GAAP”) or non-GAAP results and any actual results may be adjusted by the Committee for one-time items or unbudgeted or unexpected items and/or payments of Actual Awards under the Plan when determining whether the performance goals have been met. The goals may be on the basis of any factors the Committee determines relevant, and may be on an individual, divisional, business unit or Company-wide basis. Any criteria used may be measured on such basis as the Committee determines, including but not limited to, as applicable, (A) in absolute terms, (B) in combination with another performance goal or goals (for example, but not by way of limitation, as a ratio or matrix), (C) in relative terms (including, but not limited to, results for other periods, passage of time and/or against another company or companies or an index or indices), (D) on a per-share basis, (E) against the performance of the Company as a whole or a segment of the Company and/or (F) on a pre-tax or after-tax basis. The performance goals may differ from Participant to Participant and from award to award. Failure to meet the goals will result in a failure to earn the Target Award, except as provided in Section 3(d). The Committee also may determine that a Target Award (or portion thereof) will not have a performance goal associated with it but instead will be granted (if at all) in the sole discretion of the Committee.

4. Payment of Awards.

(a) Right to Receive Payment. Each Actual Award will be paid solely from the general assets of the Company. Nothing in this Plan will be construed to
create a trust or to establish or evidence any Participant’s claim of any right other than as an unsecured general creditor with respect to any payment to which he or she may be entitled.

(b) Timing of Payment. Payment of each Actual Award shall be made as soon as practicable after the end of the Performance Period to which the Actual Award relates and after the Actual Award is approved by the Committee, but in no event later than the later of (i) the fifteenth (15th) day of the third (3rd) month of the Fiscal Year immediately following the Fiscal Year in which the Participant’s Actual Award is first no longer subject to a substantial risk of forfeiture or (ii) March 15 of the calendar year immediately following the calendar year in which the Participant’s Actual Award is first no longer subject to a substantial risk of forfeiture. Unless otherwise determined by the Committee, to earn an Actual Award a Participant must be employed by the Company or any Affiliate on the date the Actual Award is paid.

It is the intent that this Plan be exempt from or comply with the requirements of Code Section 409A so that none of the payments to be provided hereunder will be subject to the additional tax imposed under Code Section 409A, and any ambiguities herein will be interpreted to be so exempt or so comply. Each payment under this Plan is intended to constitute a separate payment for purposes of Treasury Regulation Section 1.409A-2(b)(2).

(c) Form of Payment. Each Actual Award generally will be paid in cash (or its equivalent) in a single lump sum. The Committee reserves the right, in its sole discretion, to settle an Actual Award with a grant of an equity award under the Company’s then-current equity compensation plan.

(d) Payment in the Event of Death or Disability. If a Participant dies or is terminated due to his or her Disability prior to the payment of an Actual Award that the Committee has determined will be paid for a prior Performance Period, the Actual Award will be paid to his or her estate or to the Participant, as the case may be, subject to the Committee’s discretion to reduce or eliminate any Actual Award otherwise payable.

5. Plan Administration.

(a) Committee is the Administrator. The Plan will be administered by the Committee. The Committee will consist of not less than 2 members of the Board. The members of the Committee will be appointed from time to time by, and serve at the pleasure of, the Board.

(b) Committee Authority. It will be the duty of the Committee to administer the Plan in accordance with the Plan’s provisions. The Committee will have all powers and discretion necessary or appropriate to administer the Plan and to control its operation, including, but not limited to, the power to (i) determine which Employees will be granted awards, (ii) prescribe the terms and conditions of awards, (iii) interpret the Plan and the awards, (iv) adopt such procedures and subplans as are necessary or
appropriate to permit participation in the Plan by Employees who are foreign nationals or employed outside of the United States, (v) adopt rules for the administration, interpretation and application of the Plan as are consistent therewith, and (vi) interpret, amend or revoke any such rules.

(c) **Decisions Binding.** All determinations and decisions made by the Committee, the Board, and/or any delegate of the Committee pursuant to the provisions of the Plan will be final, conclusive, and binding on all persons, and will be given the maximum deference permitted by law.

(d) **Delegation by Committee.** The Committee, in its sole discretion and on such terms and conditions as it may provide, may delegate all or part of its authority and powers under the Plan to one or more directors and/or officers of the Company.

(e) **Indemnification.** Each person who is or will have been a member of the Committee will be indemnified and held harmless by the Company against and from (i) any loss, cost, liability, or expense that may be imposed upon or reasonably incurred by him or her in connection with or resulting from any claim, action, suit, or proceeding to which he or she may be a party or in which he or she may be involved by reason of any action taken or failure to act under the Plan or any award, and (ii) from any and all amounts paid by him or her in settlement thereof, with the Company’s approval, or paid by him or her in satisfaction of any judgment in any such claim, action, suit, or proceeding against him or her, provided he or she will give the Company an opportunity, at its own expense, to handle and defend the same before he or she undertakes to handle and defend it on his or her own behalf. The foregoing right of indemnification will not be exclusive of any other rights of indemnification to which such persons may be entitled under the Company’s Certificate of Incorporation or Bylaws, by contract, as a matter of law, or otherwise, or under any power that the Company may have to indemnify them or hold them harmless.

6. **General Provisions.**

(a) **Tax Withholding.** The Company will withhold all applicable taxes from any Actual Award, including any federal, state, and local taxes (including, but not limited to, the Participant’s FICA and SDI obligations).

(b) **No Effect on Employment or Service.** Nothing in the Plan will interfere with or limit in any way the right of the Company to terminate any Participant’s employment or service at any time, with or without cause. For purposes of the Plan, transfer of employment of a Participant between the Company and any one of its Affiliates (or between Affiliates) will not be deemed a Termination of Service. Employment with the Company and its Affiliates is on an at-will basis only. The Company expressly reserves the right, which may be exercised at any time and without regard to when during a Performance Period such exercise occurs, to terminate any individual’s employment with or without cause, and to treat him or her without regard to the effect that such treatment might have upon him or her as a Participant.
(c) Participation. No Employee will have the right to be selected to receive an award under this Plan, or, having been so selected, to be selected to receive a future award.

(d) Successors. All obligations of the Company under the Plan, with respect to awards granted hereunder, will be binding on any successor to the Company, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation, or otherwise, of all or substantially all of the business or assets of the Company.

(e) Nontransferability of Awards. No award granted under the Plan may be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will, by the laws of descent and distribution. All rights with respect to an award granted to a Participant will be available during his or her lifetime only to the Participant.

7. Amendment, Termination, and Duration.

(a) Amendment, Suspension, or Termination. The Board or the Committee, in its sole discretion, may amend or terminate the Plan, or any part thereof, at any time and for any reason. The amendment, suspension, or termination of the Plan will not, without the consent of the Participant, alter or impair any rights or obligations under any Actual Award theretofore earned by such Participant. No award may be granted during any period of suspension or after termination of the Plan.

(b) Duration of Plan. The Plan will commence on the date first adopted by the Board or the Compensation Committee of the Board, and subject to Section 7(a) (regarding the Board’s or the Committee’s right to amend or terminate the Plan), will remain in effect thereafter until terminated.

8. Legal Construction.

(a) Gender and Number. Except where otherwise indicated by the context, any masculine term used herein also will include the feminine; the plural will include the singular and the singular will include the plural.

(b) Severability. In the event any provision of the Plan will be held illegal or invalid for any reason, the illegality or invalidity will not affect the remaining parts of the Plan, and the Plan will be construed and enforced as if the illegal or invalid provision had not been included.

(c) Requirements of Law. The granting of awards under the Plan will be subject to all applicable laws, rules and regulations, and to such approvals by any governmental agencies or national securities exchanges as may be required.

(d) Governing Law. The Plan and all awards will be construed in accordance with and governed by the laws of the State of California, but without regard to its conflict of law provisions.
(e) **Bonus Plan.** The Plan is intended to be a “bonus program” as defined under U.S. Department of Labor regulation 2510.3-2(c) and will be construed and administered in accordance with such intention.

(f) **Captions.** Captions are provided herein for convenience only, and will not serve as a basis for interpretation or construction of the Plan.
SQUARE, INC.

CHANGE OF CONTROL AND SEVERANCE AGREEMENT

This Change of Control and Severance Agreement (the “Agreement”) is made between Square, Inc. (the “Company”) and the Executive (the “Executive”), effective on the date of the Company’s signature below (the “Effective Date”).

The Agreement provides certain protections to the Executive in connection with a change of control of Square or in connection with the involuntary termination of the Executive’s employment under the circumstances described in the Agreement.

The Company and the Executive agree as follows:

1. Term of Agreement. The Agreement will terminate when all of the obligations under the Agreement have been satisfied.

2. At-Will Employment. The Company and the Executive acknowledge that the Executive’s employment is and will continue to be at-will, as defined under applicable law, except if otherwise specifically provided under the confirmatory employment letter between the Company and the Executive dated (the “Confirmatory Letter”) or any subsequently adopted written formal employment agreement between the Company and the Executive.

3. Change of Control Benefits. If the Executive remains employed with the Company Group through the closing of a Triggering Event (as defined in the Company’s 2009 Stock Plan, as amended), then the vesting of any option to purchase shares of the Company’s common stock (or unvested shares acquired through the early exercise of any option grants) that is unvested and outstanding as of the Effective Date will be accelerated as if the Executive had been employed for an additional 12 months upon such event. For the avoidance of doubt, if any portion of such option or unvested shares, as applicable, remains unvested immediately following the Triggering Event (after taking into account the vesting acceleration provided in the previous sentence), such award will continue to vest on a monthly basis immediately following the Triggering Event as if the original vesting schedule was reduced by 12 months, subject to the Executive’s continued employment with the Company Group, and further subject to any vesting acceleration rights under Section 4(b)(iv) of this Agreement.


   (a) Non-COC Qualified Termination. On a Non-COC Qualified Termination, the Executive will be eligible to receive the following payment and benefits from the Company:

      (i) Salary Severance. A lump-sum payment equal to 75% of the Executive’s Base Salary.

      (ii) Bonus Severance. A lump-sum payment equal to (A) the annual bonus that the Executive would have earned for the fiscal year in which the Executive’s Non-COC Qualified Termination occurs had the Executive remained employed with the Company Group through the date the Executive was required to continue employment with the Company Group in order to be eligible to receive such bonus multiplied by (B) the fraction obtained by dividing (x) the number of full months the Executive has worked during the performance period for such bonus by (y) the total number of months in such performance period, which will be paid at the same time as other similarly situated employees of the Company receive bonus payments for the fiscal year but in no event later than March 15 of the year following the year of the Non-COC Qualified Termination.
(iii) **COBRA Payment.** A taxable lump-sum payment equal to 9 multiplied by the monthly COBRA premium that the Executive would be required to pay to continue group health coverage for the Executive and the Executive’s eligible covered dependents in effect on the date of termination of employment, based on the premium for the first month of COBRA coverage. Such cash payment will be made regardless of whether the Executive elects COBRA continuation coverage.

(iv) **Equity Vesting.** Only if the Non-COC Qualified Termination is due to the Executive’s death or Disability, 100% of the then-unvested shares subject to each of the Executive’s then-outstanding equity awards will immediately vest and, in the case of options and stock appreciation rights, will become exercisable (for avoidance of doubt, no more than 100% of the shares subject to the then-outstanding portion of an equity award may vest and become exercisable under this provision). In the case of equity awards with performance-based vesting, all performance goals and other vesting criteria will be deemed achieved at 100% of target levels. Any restricted stock units, performance shares, performance units, and/or similar full value awards that vest under this paragraph will be settled on the 61st day following the Executive’s death or Disability.

(b) **COC Qualified Termination.** On a COC Qualified Termination, the Executive will be eligible to receive the following payment and benefits from the Company:

(i) **Salary Severance.** A lump-sum payment equal to 100% of the Executive’s Base Salary.

(ii) **Bonus Severance.** A lump-sum payment equal to 100% of the Executive’s target annual bonus as in effect for the fiscal year in which the COC Qualified Termination occurs.

(iii) **COBRA Payment.** A taxable lump-sum payment equal to 12 multiplied by the monthly COBRA premium that the Executive would be required to pay to continue group health coverage for the Executive and the Executive’s eligible covered dependents in effect on the date of termination of employment, based on the premium for the first month of COBRA coverage. Such cash payment will be made regardless of whether the Executive elects COBRA continuation coverage.

(iv) **Equity Vesting.** 100% of the then-unvested shares subject to each of the Executive’s then-outstanding equity awards will immediately vest and, in the case of options and stock appreciation rights, will become exercisable (for avoidance of doubt, no more than 100% of the shares subject to the then-outstanding portion of an equity award may vest and become exercisable under this provision). In the case of equity awards with performance-based vesting, all performance goals and other vesting criteria will be deemed achieved at the greater of actual performance or 100% of target levels. Any restricted stock units, performance shares, performance units, and/or similar full value awards that vest under this paragraph will be settled on the 61st day following the COC Qualified Termination. For the avoidance of doubt, if the Executive’s Qualified Termination occurs prior to a Change of Control, then any unvested portion of the Executive’s then-outstanding equity awards will remain outstanding for 3 months or the occurrence of a Change of Control (whichever is earlier) so that any additional benefits due on a COC Qualified Termination can be provided if a Change of Control occurs within 3 months following the Qualified Termination (provided that in no event will the Executive’s stock options or similar equity awards remain outstanding beyond the equity award’s maximum term to expiration). In such case, if no Change of Control occurs within 3 months following a Qualified Termination, any unvested portion of the Executive’s equity awards automatically will be forfeited permanently on the 3-month anniversary of the Qualified Termination without having vested.
(c) Termination other than a Qualified Termination. If the termination of Executive’s employment with the Company Group is not a Qualified Termination, then the Executive will not be entitled to receive severance or other benefits.

(d) Non-Duplication of Payment or Benefits. If (i) the Executive’s Qualified Termination occurs prior to a Change of Control that qualifies Executive for severance payments and benefits under Section 4(a) and (ii) a Change of Control occurs within the 3-month period following Executive’s Qualified Termination that qualifies Executive for severance payments and benefits under Section 4(b), then (A) the Executive will cease receiving any further payments or benefits under Section 4(a) and (B) the Executive will receive the payments and benefits under Section 4(b) instead but each of the payments and benefits otherwise payable under Section 4(b) will be offset by the corresponding payments or benefits the Executive already received under Section 4(a).

(e) Death of the Executive. If the Executive dies before all payments or benefits the Executive is entitled to receive under the Agreement have been paid, such unpaid amounts will be paid to the Executive’s designated beneficiary, if living, or otherwise to the Executive’s personal representative in a lump-sum payment as soon as possible following the Executive’s death.

(f) Transfer between the Company Group. For purposes of the Agreement, if the Executive is involuntarily transferred from one member of the Company Group to another, such transfer will not be a termination without Cause but may give the Executive the ability to resign for Good Reason.

(g) Exclusive Remedy. In the event of a termination of the Executive’s employment with the Company Group, the provisions of the Agreement are intended to be and are exclusive and in lieu of any other rights or remedies to which the Executive may otherwise be entitled, whether at law, tort or contract, in equity. The Executive will be entitled to no benefits, compensation or other payments or rights upon termination of employment other than those benefits expressly set forth in the Agreement.

5. Accrued Compensation. On any termination of the Executive’s employment with the Company Group, the Executive will be entitled to receive all accrued but unpaid vacation, expense reimbursements, wages, and other benefits due to the Executive under any Company-provided plans, policies, and arrangements.

6. Conditions to Receipt of Severance.

(a) Separation Agreement and Release of Claims. The Executive’s receipt of any severance payments or benefits upon the Executive’s Qualified Termination under Section 4 is subject to the Executive signing and not revoking the Company’s then-standard separation agreement and release of claims (which may include an agreement not to disparage any member of the Company Group, non-solicit provisions, and other standard terms and conditions) (the “Release” and such requirement, the “Release Requirement”), which must become effective and irrevocable no later than the 60th day following the Executive’s Qualified Termination (the “Release Deadline”). If the Release does not become effective and irrevocable by the Release Deadline, the Executive will forfeit any right to severance payments or benefits under Section 4. In no event will
severance payments or benefits under Section 4 be paid or provided until the Release actually becomes effective and irrevocable. None of the severance payments and benefits payable upon such Executive’s Qualified Termination under Section 4 will be paid or otherwise provided prior to the 60th day following the Executive’s Qualified Termination. Except to the extent that payments are delayed under Section 6(b), on the first regular payroll pay day following the 60th day following the Executive’s Qualified Termination, the Company will pay or provide the Executive the severance payments and benefits that the Executive would otherwise have received under Section 4 on or prior to such date, with the balance of such severance payments and benefits being paid or provided as originally scheduled.

(b) Section 409A. The Company intends that all payments and benefits provided under the Agreement or otherwise are exempt from, or comply with, the requirements of Section 409A of the Code and any guidance promulgated under Section 409A of the Code (collectively, “Section 409A”) so that none of the payments or benefits will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted in accordance with this intent. No payment or benefits to be paid to the Executive, if any, under the Agreement or otherwise, when considered together with any other severance payments or separation benefits that are considered deferred compensation under Section 409A (together, the “Deferred Payments”) will be paid or otherwise provided until the Executive has a “separation from service” within the meaning of Section 409A. If, at the time of the Executive’s termination of employment, the Executive is a “specified employee” within the meaning of Section 409A, then the payment of the Deferred Payments will be delayed to the extent necessary to avoid the imposition of the additional tax imposed under Section 409A, which generally means that the Executive will receive payment on the first payroll date that occurs on or after the date that is 6 months and 1 day following the Executive’s termination of employment. The Company reserves the right to amend the Agreement as it considers necessary or advisable, in its sole discretion and without the consent of the Executive or any other individual, to comply with any provision required to avoid the imposition of the additional tax imposed under Section 409A, which generally means that the Executive will receive payment on the first payroll date that occurs on or after the date that is 6 months and 1 day following the Executive’s termination of employment. The Company reserves the right to amend the Agreement as it considers necessary or advisable, in its sole discretion and without the consent of the Executive or any other individual, to comply with any provision required to avoid the imposition of the additional tax imposed under Section 409A, which generally means that the Executive will receive payment on the first payroll date that occurs on or after the date that is 6 months and 1 day following the Executive’s termination of employment. The Company reserves the right to amend the Agreement as it considers necessary or advisable, in its sole discretion and without the consent of the Executive or any other individual, to comply with any provision required to avoid the imposition of the additional tax imposed under Section 409A, which generally means that the Executive will receive payment on the first payroll date that occurs on or after the date that is 6 months and 1 day following the Executive’s termination of employment. The Company reserves the right to amend the Agreement as it considers necessary or advisable, in its sole discretion and without the consent of the Executive or any other individual, to comply with any provision required to avoid the imposition of the additional tax imposed under Section 409A, which generally means that the Executive will receive payment on the first payroll date that occurs on or after the date that is 6 months and 1 day following the Executive’s termination of employment. The Company reserves the right to amend the Agreement as it considers necessary or advisable, in its sole discretion and without the consent of the Executive or any other individual, to comply with any provision required to avoid the imposition of the additional tax imposed under Section 409A, which generally means that the Executive will receive payment on the first payroll date that occurs on or after the date that is 6 months and 1 day following the Executive’s termination of employment. The Company reserves the right to amend the Agreement as it considers necessary or advisable, in its sole discretion and without the consent of the Executive or any other individual, to comply with any provision required to avoid the imposition of the additional tax imposed under Section 409A, which generally means that the Executive will receive payment on the first payroll date that occurs on or after the date that is 6 months and 1 day following the Executive’s termination of employment. The Company reserves the right to amend the Agreement as it considers necessary or advisable, in its sole discretion and without the consent of the Executive or any other individual, to comply with any provision required to avoid the imposition of the additional tax imposed under Section 409A, which generally means that the Executive will receive payment on the first payroll date that occurs on or after the date that is 6 months and 1 day following the Executive’s termination of employment. The Company reserves the right to amend the Agreement as it considers necessary or advisable, in its sole discretion and without the consent of the Executive or any other individual, to comply with any provision required to avoid the imposition of the additional tax imposed under Section 409A, which generally means that the Executive will receive payment on the first payroll date that occurs on or after the date that is 6 months and 1 day following the Executive’s termination of employment. The Company reserves the right to amend the Agreement as it considers necessary or advisable, in its sole discretion and without the consent of the Executive or any other individual, to comply with any provision required to avoid the imposition of the additional tax imposed under Section 409A, which generally means that the Executive will receive payment on the first payroll date that occurs on or after the date that is 6 months and 1 day following the Executive’s termination of employment. 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cancelled in the reverse order of the date of grant of the Executive’s equity awards unless the Executive elects in writing a different order for cancellation. The Executive will be solely responsible for the payment of all personal tax liability that is incurred as a result of the payments and benefits received under the Agreement, and the Executive will not be reimbursed by any member of the Company Group for any such payments.

(b) **Determination of Excise Tax Liability.** The Company will select a professional services firm to make all of the determinations required to be made under these paragraphs relating to parachute payments. The Company will request that firm provide detailed supporting calculations both to the Company and the Executive prior to the date on which the event that triggers the Payment occurs if administratively feasible, or subsequent to such date if events occur that result in parachute payments to the Executive at that time. For purposes of making the calculations required under these paragraphs relating to parachute payments, the firm may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith determinations concerning the application of the Code. The Company and the Executive will furnish to the firm such information and documents as the firm may reasonably request in order to make a determination under these paragraphs relating to parachute payments. The Company will bear all costs the firm may reasonably incur in connection with any calculations contemplated by these paragraphs relating to parachute payments. Any such determination by the firm will be binding upon the Company and the Executive, and the Company will have no liability to the Executive for the determinations of the firm.

8. **Definitions.** The following terms referred to in the Agreement will have the following meanings:

(a) **Base Salary** means the Executive’s annual base salary as in effect immediately prior to the Executive’s Qualified Termination (or if the termination is due to a resignation for Good Reason based on a material reduction in base salary, then the Executive’s annual base salary in effect immediately prior to such reduction) or, if the Executive’s Qualified Termination is a COC Qualified Termination and such amount is greater, at the level in effect immediately prior to the Change of Control.

(b) **Cause** means the occurrence of any of the following: (i) the Executive’s conviction of, or plea of “no contest” to, a felony or any crime involving fraud or embezzlement; (ii) the Executive’s intentional misconduct; (iii) the Executive’s material failure to perform the Executive’s employment duties; (iv) the Executive’s unauthorized use or disclosure of any proprietary information or trade secrets of any Company Group member or any other party to whom the Executive owes an obligation of nondisclosure as a result of the Executive’s relationship with the Company Group; (v) an act of material fraud or dishonesty against any Company Group member; (vi) the Executive’s material violation of any policy of any Company Group member or material breach of any written agreement with any Company Group member; or (vii) the Executive’s failure to cooperate with the Company in any investigation or formal proceeding. No Company Group member will terminate an Executive’s employment for Cause without first providing the Executive with written notice specifically identifying the acts or omissions constituting the grounds for a Cause termination and, with respect to clauses (ii), (iii), (vi), and (vii), a reasonable cure period of not less than 10 business days following such notice to the extent such events are curable (as determined by the Company).
(c) “Change of Control” means 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, with the stock held by such Person, constitutes more than 50% of the total voting power of the stock of the Company; provided, that for this subsection, the acquisition of additional stock by any one Person, who prior to such acquisition is considered to own more than 50% of the total voting power of the stock of the Company will not be considered a Change of Control. Further, if the stockholders of the Company immediately before such change in ownership continue to retain immediately after the change in ownership, in substantially the same proportions as their ownership of shares of the Company’s voting stock immediately prior to the change in ownership, direct or indirect beneficial ownership of 50% or more of the total voting power of the stock of the Company, such event shall not be considered a Change of Control under this clause (i). For this purpose, indirect beneficial ownership shall include, without limitation, an interest resulting from ownership of the voting securities of one or more corporations or other business entities which own the Company, as the case may be, either directly or through one or more subsidiary corporations or other business entities; or

(ii) **Change in Effective Control of the Company.** If the Company has a class of securities registered under Section 12 of the Exchange Act, 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 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 (b), 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 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; provided, however, that for purposes of this subsection, the following will not constitute a change in ownership of a substantial portion of the Company’s assets: (A) a transfer to an entity that is controlled by the Company’s stockholders immediately after the transfer, or (B) a transfer of assets by the Company to: (1) a stockholder of the Company (immediately before the asset transfer) in exchange for or with respect to the Company’s stock, (2) an entity, 50% or more of the total value or voting power of which is owned, directly or indirectly, by the Company, (3) a Person, that owns, directly or indirectly, 50% or more of the total value or voting power of all the then-outstanding stock of the Company, or (4) an entity, at least 50% of the total value or voting power of which is owned, directly or indirectly, by a Person.

For this definition, 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 this definition, persons will 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.

A transaction will not be a Change of Control unless the transaction qualifies as a change in control event within the meaning of Section 409A (as defined below).
Further and for the avoidance of doubt, a transaction will not constitute a Change of Control if: (i) its sole purpose is to change the state of the Company’s incorporation, or (ii) its sole purpose is to create a holding company that will be owned in substantially the same proportions by the persons who held the Company’s securities immediately before such transaction.

(d) “Change of Control Period” means the period beginning 3 months prior to a Change of Control and ending 12 months following a Change of Control.

(e) “COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.


(g) “Company Group” means the Company and its subsidiaries.

(h) “Disability” means the Executive is, by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, either (i) unable to engage in any substantial gainful activity or (ii) receiving income replacement benefits for a period of not less than 3 months under an accident and health plan covering employees of the Company Group member that is employing the Executive.

(i) “Good Reason” means the termination of the Executive’s employment with the Company Group by the Executive in accordance with the next sentence after the occurrence of one or more of the following events without the Executive’s express written consent: (i) a material reduction of the Executive’s duties, authorities, or responsibilities relative to the Executive’s duties, authorities, or responsibilities in effect immediately prior to such reduction, provided, however, that continued employment following a Change of Control with substantially the same duties, authorities, or responsibilities with respect to the Company Group’s business and operations will not constitute “Good Reason” (for example, “Good Reason” does not exist if the Executive is employed by the Company Group or a successor with substantially the same duties, authorities, or responsibilities with respect to the Company Group’s business that the Executive had immediately prior to the Change of Control regardless of whether the Executive’s title is revised to reflect the Executive’s placement within the overall corporate hierarchy or whether the Executive provides services to a subsidiary, affiliate, business unit or otherwise); (ii) a material reduction by a Company Group member in the Executive’s rate of annual base salary; provided, however, that, a reduction of annual base salary that also applies to substantially all other similarly situated employees of the Company Group members will not constitute “Good Reason”; (iii) a material change in the geographic location of the Executive’s primary work facility or location; provided, that a relocation of less than 35 miles from the Executive’s then present location will not be considered a material change in geographic location; or (iv) the failure of the Company to obtain from any successor or transferee of the Company Group an express written and unconditional assumption of the Company’s obligations to the Executive under the Agreement. In order for the termination of the Executive’s employment with a Company Group member to be for Good Reason, the Executive must not terminate employment without first providing written notice to the Company of the acts or omissions constituting the grounds for “Good Reason” within 90 days of the initial existence of the grounds for “Good Reason” and a cure period of 30 days following the date of written notice (the “Cure Period”), such grounds must not have been cured during such time, and the Executive must terminate the Executive’s employment within 30 days following the Cure Period.
(i) **Qualified Termination** means a termination of the Executive’s employment (i) either (A) by a Company Group member without Cause (including due to the Executive’s death or Disability) or (B) by the Executive for Good Reason, in either case, during the Change of Control Period (a “COC Qualified Termination”) or (ii) outside of the Change of Control Period by a Company Group member without Cause (including due to the Executive’s death or Disability) (a “Non-COC Qualified Termination”).

9. **Successors.**

(a) **The Company’s Successors.** Any successor (whether direct or indirect and whether by purchase, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company Group’s business and/or assets must assume the obligations under the Agreement and agree expressly to perform the obligations under the 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 the Agreement, the terms “Company” and “Company Group” will include any successor to their business and/or assets which executes and delivers the assumption agreement described in this Section 9(a) or which becomes bound by the terms of the Agreement by operation of law.

(b) **The Executive’s Successors.** The terms of the Agreement and all rights of the Executive under the Agreement will inure to the benefit of, and be enforceable by, the Executive’s personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees, and legatees.

10. **Notice.**

(a) **General.** All notices and other communications required or permitted under the Agreement shall be in writing and will be effectively given (i) upon actual delivery to the party to be notified, (ii) 24 hours after confirmed facsimile transmission, (iii) 1 business day after deposit with a recognized overnight courier or (iv) 3 business days after deposit with the U.S. Postal Service by first class certified or registered mail, return receipt requested, postage prepaid, addressed (A) if to the Executive, at the address the Executive shall have most recently furnished to the Company in writing, (B) if to the Company, at the following address:

    Square, Inc.
    1455 Market Street, Suite 600
    San Francisco, CA 94103
    Attention: General Counsel
    E-mail: (855) 204-8795

(b) **Notice of Termination.** Any termination by a Company Group member for Cause will be communicated by a notice of termination to the Executive, and any termination by the Executive for Good Reason will be communicated by a notice of termination to the Company, in each case given in accordance with Section 10(a) of the Agreement. Such notice will indicate the specific termination provision in the 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 30 days after the later of (i) the giving of such notice or (ii) the end of any applicable cure period). The failure by the Executive to include in the notice any fact or circumstance that contributes to a showing of Good Reason will not waive any right of the Executive under the Agreement or preclude the Executive from asserting such fact or circumstance in enforcing the Executive’s rights under the Agreement.
11. **Resignation**. The termination of the Executive’s employment for any reason will also constitute, without any further required action by the Executive, the Executive’s voluntary resignation from all officer and/or director positions held at any member of the Company Group, and at the Board’s request, the Executive will execute any documents reasonably necessary to reflect such resignation.

12. **Miscellaneous Provisions**.

(a) **No Duty to Mitigate**. The Executive will not be required to mitigate the amount of any payment contemplated by the Agreement, nor will any such payment be reduced by any earnings that the Executive may receive from any other source.

(b) **Waiver; Amendment**. No provision of the Agreement will be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by an authorized officer of the Company (other than the Executive) and by the Executive. No waiver by either party of any breach of, or of compliance with, any condition or provision of the 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 the Agreement are for convenient reference only and do not form a part of the Agreement.

(d) **Entire Agreement**. The Agreement, together with the Confirmatory Letter, 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.

(e) **Choice of Law**. This Agreement will be governed by the laws of the State of California without regard to California’s conflicts of law rules that may result in the application of the laws of any jurisdiction other than California. To the extent that any lawsuit is permitted under this Agreement, Employee hereby expressly consents to the personal and exclusive jurisdiction and venue of the state and federal courts located in California for any lawsuit filed against the Executive by the Company.

(f) **Arbitration**. The Company and the Executive must submit to mandatory and exclusive binding arbitration of any controversy or claim arising out of or relating to the Agreement or any breach of the Agreement, but the parties will retain their right to and will not be prohibited, limited, or in any other way restricted from seeking or obtaining equitable relief from a court having jurisdiction over the parties. Such arbitration will be governed by the Federal Arbitration Act and conducted through the American Arbitration Association (the “AAA”) in the State of California, San Francisco County, before a single neutral arbitrator under the National Rules for the Resolution of Employment Disputes of the American Arbitration Association in effect at that time. The parties may conduct only essential discovery (as defined by the AAA arbitrator) prior to the hearing. The arbitrator must issue a written decision that contains the essential findings and conclusions on which the decision is based. The Executive will bear only those costs of arbitration the Executive would otherwise have borne had the Executive brought a claim covered by the Agreement in court. Judgment upon the determination or award rendered by the arbitrator may be entered in any court having jurisdiction.
(g) **Severability**. The invalidity or unenforceability of any provision or provisions of the Agreement will not affect the validity or enforceability of any other provision hereof, which will remain in full force and effect.

(h) **Withholding**. All payments and benefits under the Agreement will be paid less applicable withholding taxes. The Company is authorized to withhold from any payments or benefits all federal, state, local and/or foreign taxes required to be withheld from such payments or benefits and make any other required payroll deductions. No member of the Company Group will pay the Executive’s taxes arising from or relating to any payments or benefits under the Agreement.

(i) **Counterparts**. The 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 follows.]
By its signature below, each of the parties signifies its acceptance of the terms of the Agreement, in the case of the Company by its duly authorized officer.

COMPANY

SQUARE, INC.

By: ________________________________
Title: ______________________________
Date: ______________________________

THE EXECUTIVE

Date: ______________________________

[Signature page to Change of Control and Severance Agreement]
# 1455 MARKET STREET

## OFFICE LEASE

This Office Lease (the “Lease”), dated as of the date set forth in Section 1 of the Summary of Basic Lease Information (the “Summary”), below, is made by and between HUDSON 1455 MARKET, LLC, a Delaware limited liability company (“Landlord”), and SQUARE, INC., a Delaware corporation (“Tenant”).

### SUMMARY OF BASIC LEASE INFORMATION

<table>
<thead>
<tr>
<th>TERMS OF LEASE</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Date:</td>
<td>October 17, 2012</td>
</tr>
<tr>
<td>2. Premises (Article 1):</td>
<td>The building located at 1455 Market Street, San Francisco, California, including all walkways, plazas, patios and parking areas. Landlord and Tenant hereby agree that the Building contains a total rentable area of 1,012,012 square feet.</td>
</tr>
<tr>
<td>2.1 Building:</td>
<td>A total of approximately 181,805 rentable square feet of space, consisting of (i) approximately 92,740 rentable square feet of space located on the sixth (6th) floor of the Building (the “6th Floor Premises ”), (ii) approximately 4,954 rentable square feet of space located on the mezzanine level of the ninth (9th) floor of the Building (the “9th Floor Mezzanine Premises”), (iii) approximately 35,266 rentable square feet of space located on the ninth (9th) floor of the Building (the “9th Floor Premises”), (iv) the entire eighteenth (18th) floor of the Building (which eighteenth (18th) floor contains 24,407 rentable square feet of space) (the “18th Floor Premises”), and (v) the entire nineteenth (19th) floor of the Building (which nineteenth (19th) floor contains 24,438 rentable square feet of space) (the “19th Floor Premises”) (collectively, the “Initial Premises”), all as further set forth in Exhibit A-1 to this Lease.</td>
</tr>
</tbody>
</table>
2.3 Must-Take 1 Space: Approximately 15,741 rentable square feet of space located on the sixth (6th) floor of the Building (the “Must-Take 1 Space”), as further depicted on Exhibit A-2 to this Lease.

2.4 Must-Take 2 Space: Approximately 48,532 rentable square feet of space located on the seventh (7th) floor of the Building (the “Must-Take 2 Space”), as further depicted on Exhibit A-3 to this Lease.

Must-Take 1 Space and Must-Take 2 Space may be collectively referred to as “Must-Take Space.”

2.5 Expansion Space: Approximately 81,354 rentable square feet of space located on the eighth (8th) floor of the Building (the “Expansion Space”), as further depicted on Exhibit A-4 to this Lease.

3. Lease Term (Article 2).

3.1 Length of Term: Ten (10) years and two hundred ten (210) days from the “Lease Commencement Date” (as defined below).

3.2 Lease Commencement Date: The later to occur of (i) November 1, 2012, (ii) the date that occurs sixty (60) days after the date of this Lease, and (iii) the date on which Landlord has delivered possession of all of the Initial Premises to Tenant in the “Delivery Condition,” as that term is defined in Section 1.1.4 of this Lease.

3.3 Rent Commencement Date: Two hundred ten (210) days after the Lease Commencement Date.

3.4 Lease Expiration Date: The day which is ten (10) years and two hundred ten (210) days after the Lease Commencement Date occurs.

3.5 Option Terms: Two (2) five (5) year options to renew, as more particularly set forth in Section 2.2 of this Lease.
3.6 Must-Take 1 Lease Commencement
Date: The later to occur of (i) July 1, 2013 and (ii) the date on which Landlord delivers possession of the Must-
Take 1 Space to Tenant in the Delivery Condition.

3.7 Must-Take 2 Lease Commencement
Date: The later to occur of (i) January 1, 2014 and (ii) the date on which Landlord delivers possession of the Must-
Take 2 Space to Tenant in the Delivery Condition.

4. Base Rent (Article 3):

4.1 6th Floor Premises, 9th Floor Mezzanine
Premises, and 9th Floor Premises:

<table>
<thead>
<tr>
<th>Lease Year*</th>
<th>Annual Base Rental Rate Per Rentable Square Foot</th>
<th>Annual Base Rent</th>
<th>Monthly Installment of Base Rent</th>
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<tbody>
<tr>
<td>1</td>
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</table>

4.2 18th Floor Premises and 19th Floor Premises:

<table>
<thead>
<tr>
<th>Lease Year*</th>
<th>Annual Base Rental Rate Per Rentable Square Foot</th>
<th>Annual Base Rent</th>
<th>Monthly Installment of Base Rent</th>
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<tr>
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* Subject to the terms of Section 2.1, the first (1st) Lease Year shall commence upon the Rent Commencement Date. On the Must-Take 1 Rent Commencement Date, the foregoing Base Rent schedule set forth in Section 4.1 of the Summary shall apply to and be updated to include the Must-Take 1 Space in addition to the 6th Floor Premises, 9th Floor Mezzanine Premises, and 9th Floor Premises. On the Must-Take 2 Rent Commencement Date, the foregoing Base Rent schedule set forth in Section 4.1 of the Summary, as previously revised pursuant to the preceding sentence, shall apply to and be updated to include the Must-Take 2 Space in addition to the 6th Floor Premises, 9th Floor Mezzanine Premises, 9th Floor Premises and Must-Take 1 Space.

5. **Base Year (**Article 4**):**

As to the Initial Premises: If the Rent Commencement Date occurs on or between January 1 and July 31, then the calendar year in which the Rent Commencement Date occurs; provided, however, if the Rent Commencement Date occurs on or between August 1 and December 31, then the calendar year immediately after the calendar year in which the Rent Commencement date occurs.

As to other portions of the Premises, including the Availability Premises, the Must-Take 1 Space, the Must-Take 2 Space, and the Expansion Space: If the date on which Tenant is obligated to commence paying Base Rent as to such space occurs on or between January 1 and July 31, then the calendar year in which such date occurs; provided, however, if such date occurs on or between August 1 and December 31, then the calendar year immediately after the
calendar year in which such date occurs.

6. Tenant’s Share (Article 4):
   - 6th Floor Premises: Approximately 9.16%.
   - 9th Floor Mezzanine Premises: Approximately 0.49%.
   - 9th Floor Premises: Approximately 3.48%.
   - 18th Floor Premises: Approximately 2.41%.
   - 19th Floor Premises: Approximately 2.41%.

7. Permitted Use (Article 5):
   General office use, software research and development, limited hardware research and development and testing and other legal ancillary uses such as a cafeteria and fitness center for Tenant’s personnel consistent with the nature of the Property and subject to Applicable Laws.

8. Letter of Credit (Article 21):
   Nine Million and No/100 Dollars ($9,000,000.00), subject to the terms and conditions of Article 21 of this Lease.

   One (1) unreserved parking passes for every 3,000 rentable square feet of the Premises, not to exceed two hundred twenty-five (225) parking passes total, of which, up to five (5) unreserved parking passes made be exchanged for the same number of reserved parking spaces.

10. Address of Tenant (Section 29.18):
    Square, Inc.
    901 Mission Street
    San Francisco, CA 94103
    Attention: Finance Department
    (Prior to Rent Commencement Date)
    and
    Square, Inc.
    1455 Market Street Sixth Floor
    San Francisco, California 94103
    Attention: Finance Department
    (After Rent Commencement Date)
11. Address of Landlord (Section 29.18): See Section 29.18 of the Lease.

    Custom Spaces Commercial Real Estate

13. Allowance: With respect to the Initial Premises and any Must-Take Space: an amount equal to $60.00 per rentable square foot of the Initial Premises or applicable Must-Take Space, as set forth in this Summary.
ARTICLE 1

PREMISES, BUILDING, PROPERTY, AND COMMON AREAS

1. Premises, Building, Property and Common Areas.

1.1 The Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the premises set forth in Section 2.2 of the Summary (the “Premises”). The outline of the Premises is set forth in Exhibit A attached hereto and each floor or floors of the Premises has the number of rentable square feet as set forth in Section 2.2 of the Summary. The parties hereto agree that the lease of the Premises is upon and subject to the terms, covenants and conditions herein set forth, and Tenant covenants as a material part of the consideration for this Lease to keep and perform each and all of such terms, covenants and conditions by it to be kept and performed and that this Lease is made upon the condition of such performance. The parties hereto hereby acknowledge that the purpose of Exhibit A is to show the approximate location of the Premises in the “Building,” as that term is defined in Section 1.1.2, below, only, and such Exhibit is not meant to constitute an agreement, representation or warranty as to the construction of the Premises, the precise area thereof or the specific location of the “Common Areas,” as that term is defined in Section 1.1.3, below, or the elements thereof or of the accessways to the Premises or the “Property,” as that term is defined in Section 1.1.2, below. Except as specifically set forth in this Lease and in the Tenant Work Letter attached hereto as Exhibit B (the “Tenant Work Letter”), Landlord shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Premises. Tenant also acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty regarding the condition of the Premises, the Building or the Property or with respect to the suitability of any of the foregoing for the conduct of Tenant’s business, except as specifically set forth in this Lease and the Tenant Work Letter.

1.1.2 The Building and The Property. The Premises are a part of the building set forth in Section 2.1 of the Summary (the “Building”). The term “Property,” as used in this Lease, shall mean (i) the Building and the Common Areas, and (ii) the land (which is improved with landscaping, subterranean parking facilities and other improvements) upon which the Building and the Common Areas are located.

1.1.3 Common Areas. Tenant shall have the non-exclusive right to use in common with other tenants in the Property, and subject to the rules and regulations referred to in Article 5 of this Lease, those portions of the Property which are provided, from time to time, for use in common by Landlord, Tenant and any other tenants of the Property (such areas are collectively referred to herein as the “Common Areas”). Except during such periods as, and to the extent, Tenant is entitled to the exclusive use thereof, the Building lobby and Outdoor Terraces shall remain part of the Common Areas. The Common Areas shall consist of the “Property Common Areas” and the “Building Common Areas.” The term “Property Common Areas,” as used in this Lease, shall mean the portion of the Common Areas located outside the Building. The term “Building Common Areas,” as used in this Lease, shall mean the portions of the Common Areas located within the Building. The manner in which the Common Areas are maintained shall be as provided in Article 7 and operated shall be at the reasonable discretion of
Landlord (but shall at least be consistent with the manner in which the common areas of the “Comparable Buildings,” as that term is defined in Exhibit G, attached hereto) and the use thereof shall be subject to such reasonable rules, regulations and restrictions as Landlord may make from time to time. Landlord reserves the right to close temporarily, make alterations or additions to, or change the location of elements of the Property and the Common Areas, provided that, in connection therewith, Landlord shall perform such closures, alterations, additions or changes in a commercially reasonable manner and, in connection therewith, shall use commercially reasonable efforts to minimize any material interference with Tenant’s use of and access to the Premises or the Property parking facility.

1.1.4 Delivery of Premises. Landlord shall deliver each portion of the Premises (including the Must-Take Space) to Tenant as such portion becomes vacant and free of tenants or occupants, in the condition (“Delivery Condition”) described in the Tenant Work Letter with respect to such portion of the Premises, but in no event shall the Lease Commencement Date occur earlier than sixty (60) days after full execution of this Lease. Landlord shall complete the work set forth on Schedule 1 to Exhibit B (the “Core and Shell Work”) on or before the date set forth for each such item on Schedule 1 to Exhibit B. Subject to the terms of Section 1.1.5 below, if Landlord fails to complete any of the Core and Shell Work by the applicable dates set forth in Schedule 1 to Exhibit B, which dates shall be extended by one (1) day for each day Landlord’s substantial completion of such portion of Landlord’s Core and Shell Work is delayed due to Tenant Caused Delay, the Rent Commencement Date (as to any of the Core and Shell Work with respect to the 6th Floor, 9th Floor, 9th Floor Mezzanine, 18th Floor and 19th Floor Premises), or with respect to any other space in the Building leased by Tenant (including any Must-Take Space, Expansion Space or Availability Premises), the date Tenant is otherwise obligated to commence payment of Base Rent, shall be delayed by one (1) day for each day of delay beyond such applicable date. As used in this Lease, “Tenant Caused Delay” shall mean an actual delay in the substantial completion of the Core and Shell Work (or, as used in Section 2.4.4, in Landlord’s delivery of the applicable Premises in the Delivery Condition) resulting from the acts or omissions of Tenant, including but not limited to the interference by Tenant, its agents or contractors with such substantial completion, which act or omission continues for more than one (1) day after written notice thereof from Landlord, or a default by Tenant under the terms of this Lease.

1.1.5 Perimeter Windows. Notwithstanding anything to the contrary set forth in this Lease or the Tenant Work Letter, Tenant shall not receive an abatement of Base Rent as set forth in Section 1.1.4 solely because the “Perimeter Window Work” (as that term is defined in the Tenant Work Letter) is not completed on time; provided, however, if the Perimeter Window Work is not completed on or before the later of (i) seven (7) months following the date of this Lease and (ii) five (5) months after the commencement of this Lease as to such applicable portion of the Premises (the “Perimeter Window Work Completion Date”), the Rent Commencement Date (as to the Perimeter Window Work to be performed in the 6th Floor Premises) or, if applicable, the date Tenant is otherwise obligated to commence payment of Base Rent with respect to the Must-Take Space, Expansion Space or Availability Premises, as to Perimeter Window Work to be performed thereon, shall be delayed for the period of time equal to two (2) days for every one (1) full day that occurs after the Perimeter Window Work Completion Date with respect to the applicable space, and before the earlier to occur of (x) the
date Landlord completes such Perimeter Window Work, and (y) the date Landlord would otherwise have completed the Perimeter Window Work had no Tenant Caused Delays occurred.

1.2 Verification of Rentable Square Feet of Premises and Building. For purposes of this Lease, “rentable square feet” in the Premises and the Building, as the case may be, shall be calculated pursuant to Standard Method of Measuring Floor Area in Office Building, ANSI Z65.1 - 1996, and its accompanying guidelines (collectively, “BOMA”). Within thirty (30) days after the Lease Commencement Date, Tenant may elect to cause Tenant’s space planner/architect/surveyor to measure the square feet of the Premises, and thereafter the rentable square feet of the Premises and the results thereof shall be presented to Landlord in writing; provided, however, if such measurement by Tenant’s space planner/architect/surveyor results in an increase in the “Rent,” as that term is defined in Section 4.1, below, to be paid by Tenant under the terms of this Lease, then Landlord shall reimburse Tenant for the reasonable and actual out-of-pocket cost incurred by Tenant in connection with such measurement, but in no event in an amount in excess of the present value of the actual increase in the amount of Rent to be paid by Tenant as a result of such measurement. Landlord hereby agrees that $40,000.00 is a reasonable amount with respect to the cost of such measurement by Tenant’s space planner/architect/surveyor. Landlord’s space planner/architect/surveyor may review Tenant’s space planner/architect/surveyor’s determination of the number of rentable square feet square feet of the Premises and Landlord may, within fifteen (15) business days after Landlord’s receipt of Tenant’s space planner/architect/surveyor’s written determination, object to such determination by written notice to Tenant. If Landlord objects to such determination, Landlord’s space planner/architect/surveyor and Tenant’s space planner/architect/surveyor shall promptly meet and attempt to agree upon the rentable square footage of the Premises. If Landlord’s space planner/architect/surveyor and Tenant’s space planner/architect/surveyor cannot agree on the rentable and usable square footage of the Premises within thirty (30) days after Landlord’s objection thereto, Landlord and Tenant shall mutually select an independent third party space measurement professional to field measure the Premises pursuant to BOMA. Such third party independent measurement professional’s determination shall be conclusive and binding on Landlord and Tenant. Landlord and Tenant shall each pay one-half (1/2) of the fees and expenses of the independent third party space measurement professional. If the Rent Commencement Date occurs prior to such final determination, Landlord’s determination shall be utilized until a final determination is made, whereupon an appropriate adjustment, if necessary, shall be made retroactively, and Landlord shall make appropriate payment (if applicable) to Tenant. In the event that pursuant to the procedure described in this Section 1.2 above, it is determined that the square footage amounts shall be different from those set forth in this Lease, all amounts, percentages and figures appearing or referred to in this Lease based upon such incorrect amount (including, without limitation, the amount of the “Rent,” as that term is defined in Section 4.1, but not including the “L-C Amount,” as that term is defined in Article 21 of this Lease, or the provisions regarding bicycles) shall be modified in accordance with such determination. If Tenant elects not to measure the rentable area of the Premises on or before the expiration of the thirty (30) day period set forth above, then the rentable area of the Building and the Premises shall be as set forth in Sections 2.1 and 2.2 of the Summary, respectively.

1.3 Expansion Space. Landlord hereby grants to the originally named Tenant herein (“Original Tenant”) and any “Permitted Transferee Assignee,” as that term is defined in
Section 14.8, below, the right to lease the Expansion Space, as set forth in Section 2.5 of the Summary above, upon the terms and conditions set forth in this Section 1.3 and this Lease.

1.3.1 Method of Exercise. The expansion option contained in this Section 1.3 shall be exercised only by Original Tenant or its Permitted Transferee Assignee (and not by any other assignee, sublessee or “Transferee,” as that term is defined in Section 14.1, below, of Tenant’s interest in this Lease) with respect to the entire Expansion Space (and not a portion thereof), and only by Tenant’s delivery of written notice to Landlord on or prior to March 1, 2013. If Tenant fails to timely deliver such written notice to Landlord, then, subject to Section 1.4, Landlord shall be entitled to lease such Expansion Space to a third party on any terms which Landlord desires, in which event Landlord shall have no further obligation to deliver such Expansion Space to Tenant.

1.3.2 Expansion Space Lease Commencement Date. In the event Tenant timely exercises its expansion option pursuant to Section 1.3.1 above, Landlord shall deliver the Expansion Space to Tenant on January 2, 2014. This Lease shall commence with respect to the Expansion Space (and references to Premises shall include the Expansion Space) on the later of such date and the date Landlord delivers the Expansion Space to Tenant in the Delivery Condition (the “Expansion Space Lease Commencement Date”). If the Expansion Space Lease Commencement Date does not occur for any reason on or before (a) April 2, 2014 then, in addition to Tenant’s other remedies, the Expansion Rent Commencement Date shall be delayed by one (1) additional day for each day of delay beyond such date or (b) July 2, 2014 then, in addition to Tenant’s other remedies, at Tenant’s election, Tenant may withdraw its exercise of the expansion option.

1.3.3 Expansion Rent. The annual “Rent,” as that term is defined in Section 4.1 of this Lease, payable by Tenant for Expansion Space leased by Tenant (the “Expansion Rent”) shall be calculated as of the “Expansion Space Rent Commencement Date,” as that term is defined in Section 1.3.5 of this Lease, as follows: (i) the base rent component of the Expansion Rent on an annual, per rentable square foot basis shall be equal to the Base Rent for the 6th Floor Premises on an annual, per rentable square foot basis under this Lease as of the Expansion Space Commencement Date, including all applicable escalations to the Base Rent made and to be made during the Lease Term; and (ii) for purposes of calculating Tenant’s obligations under Article 4 of this Lease, (a) Tenant’s Share shall be equal to 8.04% with respect to the Expansion Space, and (b) the “Base Year,” as that term is defined in Section 4.2.1, below, with respect to the Expansion Space only, shall be determined as set forth in Section 5 of the Summary.

1.3.4 Construction of Expansion Space. Landlord shall deliver the Expansion Space to Tenant in Delivery Condition, as described in the Tenant Work Letter. Tenant shall take the Expansion Space in its then existing “as is” condition, and the construction of improvements in the Expansion Space shall comply with the terms of Article 8 of this Lease; provided, however, Landlord shall perform the Core and Shell Work therein and provide to Tenant an improvement allowance (the “Expansion Improvement Allowance”) equal to the product of (i) $60.00 per rentable square foot of space contained in the Expansion Space, and (ii) a percentage, which may be expressed as a fraction, which fraction shall have as its numerator the number of monthly Base Rent payments to be paid by Tenant to Landlord with respect to the Expansion Space during the initial Lease Term, and which fraction shall have one
hundred twenty (120) as its denominator. The Expansion Improvement Allowance shall be distributed by Landlord in a manner consistent with the distribution of the Tenant Improvement Allowance with respect to the Initial Premises.

1.3.5 Amendment to Lease. If Tenant timely exercises Tenant’s right to lease Expansion Space as set forth herein, then, within fifteen (15) days thereafter, Landlord and Tenant shall execute an amendment adding such Expansion Space to this Lease upon the same terms and conditions as the Initial Premises, except as otherwise set forth in this Section 1.3, and provided that the terms of the Tenant Work Letter, attached hereto as Exhibit B, shall be modified as set forth in this Section 1.3. Except to the extent inconsistent with the determination of Expansion Rent, all provisions of the Lease which vary based upon the rentable and usable square footage of the Premises shall be adjusted to reflect the addition of such Expansion Space to the Premises; provided, however, the L-C Amount shall be increased pursuant to the terms of Section 21.7 of this Lease, below. The rentable square footage of such Expansion Space shall be as set forth in Section 1.3, above. Tenant shall commence payment of Expansion Rent and the Excess with respect to the Expansion Space to Landlord upon that date (the “Expansion Space Rent Commencement Date”) which is one hundred eighty (180) days after the Expansion Space Lease Commencement Date. The lease term of the Expansion Space shall expire on the Lease Expiration Date, as extended.

1.3.6 No Defaults. The rights contained in this Section 1.3 shall be personal to Original Tenant, and may only be exercised by Original Tenant or its Permitted Transferee Assignee (and not by any other assignee, sublessee or Transferee of Tenant’s interest in this Lease) if the Lease then remains in full force and effect. Tenant shall not have the right to lease Expansion Space as provided in this Section 1.3, if, as of the date of the attempted exercise of the expansion option by Tenant, or as of the scheduled date of delivery of such Expansion Space to Tenant, Tenant is in default under this Lease beyond any applicable notice and cure periods.

1.4 Recurring Right of Availability. Landlord hereby grants to the Original Tenant and its Permitted Transferee Assignees a recurring right of availability with respect to (i) any space of any size located in that portion of the Building commonly known as the “Podium,” (ii) any space of at least 20,000 rentable square feet located in that portion of the Building commonly known as the “Tower” (i.e., any space that is not located in the Podium), and (iii) any space of any size located on any floor of the Building partially occupied by Tenant (any such space individually, and collectively, the “Availability Premises”). Notwithstanding the foregoing, such right of availability of Tenant as to any Availability Premises shall commence only following the expiration or earlier termination of the existing leases (including renewals and extensions, whether pursuant to rights currently existing or hereafter granted) of such Availability Premises (all such tenants under existing leases of the Availability Premises (or any portion thereof), collectively, the “Existing Tenants”). In addition, if Tenant, following its receipt of an “Availability Notice,” as that term is defined in Section 1.4.1 of this Lease, below, fails to exercise its right to lease all or any portion of the Availability Premises, then subject to the terms of this Section 1.4, Landlord shall have a right to enter into an interim lease (an “Interim Lease”) with a third party with respect to such space (i.e., the space set forth in the Availability Notice), in which case Tenant’s right of availability set forth in this Section 1.4 shall be subordinate to all rights of the tenant under the Interim Lease with respect to such space.
1.4.1 Procedure for Offer. Landlord shall notify Tenant (an “Availability Notice”) from time to time when the Availability Premises or any portion thereof becomes available for lease to third parties, provided that no Existing Tenant wishes to lease such space. Pursuant to such Availability Notice, Landlord shall offer to lease to Tenant the then available Availability Premises. An Availability Notice shall describe the space so offered to Tenant and shall set forth the “Availability Premises Rent,” as that term is defined in Section 1.4.3, below, the anticipated delivery date, and the other economic terms upon which Landlord is willing to lease such space to Tenant.

1.4.2 Procedure for Acceptance. If Tenant wishes to exercise Tenant’s right of availability with respect to the space described in an Availability Notice, then within fifteen (15) business days of delivery of such Availability Notice to Tenant, Tenant shall deliver notice to Landlord of Tenant’s intention to exercise its right of availability with respect to the entire space described in such Availability Notice, at the rent, for the term, and upon the other fundamental economic terms and conditions, including, but not limited to, rental concessions and improvement allowances, set forth in Sections 1.4.3, 1.4.5 and 1.4.6 below and for a term that is coterminous with the Term (an “Exercise Notice”). If Tenant does not so notify Landlord within the fifteen (15) business day period, then subject to the terms of Section 1.4.4, below, Landlord shall be free to lease the space described in such Availability Notice to anyone to whom Landlord desires on any terms Landlord desires. Notwithstanding anything to the contrary contained herein, Tenant must elect to exercise its right of availability, if at all, with respect to all of the space offered by Landlord to Tenant at any particular time, and Tenant may not elect to lease only a portion thereof. If Tenant does not exercise its right of availability with respect to any space described in an Availability Notice or if Tenant fails to respond to an Availability Notice within fifteen (15) business days of delivery thereof, then subject to the terms of this Section 1.4, including Section 1.4.4, Tenant’s right of availability as set forth in this Section 1.4 shall terminate as to all of the space described in such Availability Notice until the space again becomes available (i.e., until such time as Landlord enters into an Interim Lease and such Interim Lease expires or is terminated early). The rights in this Section 1.4 shall be continuous throughout the Term and any extension thereof.

1.4.3 Availability Premises Rent. Subject to the terms of this Section 1.4, to the extent Tenant exercises its right of availability with respect to any portion of the Availability Premises during the first (1st) year after the Lease Commencement Date, the annual Rent payable by Tenant for such Availability Premises (the “Availability Premises Rent”) shall be calculated as of the “Availability Premises Rent Commencement Date” (as that term is defined below) as follows: (i) the base rent component of the Availability Premises Rent on an annual, per rentable square foot basis shall be equal to the Base Rent applicable to the portion of the Initial Premises that is located in the same portion of the Building as the Availability Premises (i.e. either Podium or Tower), on an annual, per rentable square foot basis under this Lease as of the Availability Premises Rent Commencement Date, including all applicable escalations to the Base Rent made and to be made during the Lease Term; (ii) for purposes of calculating Tenant’s obligations under
Article 4 of this Lease, Tenant’s Share shall be increased by an amount equal to the rentable square footage of such Availability Premises leased by Tenant pursuant to this Section 1.4, divided by the total rentable square footage of the Building, and (iii) the Base Year shall be the calendar year in which the Availability Premises Rent Commencement Date occurs (if it occurs on or before July 31) or the following calendar year (if it occurs after July 31). To the extent Tenant exercises its right of availability with respect to any portion of the Availability Premises anytime after the first (1st) anniversary of the Lease Commencement Date, Tenant’s Share shall be increased as set forth above and the Availability Premises Rent shall be equal to the “Market Rent” (as that term is defined in Exhibit G, attached hereto), as such Market Rent is determined pursuant to Section 2.2.4, for the Availability Premises. Except as otherwise expressly set forth in the Section 1.4.3, above, the Base Year with respect to the Availability Premises only shall be the calendar year in which the Availability Premises Rent Commencement Date occurs (if it occurs on or before July 31) or the following calendar year (if it occurs after July 31).

1.4.4 Go-Back Right. If Tenant fails to timely exercise its right of availability with respect to any portion of the Availability Premises, and Landlord thereafter makes a “bona-fide third-party offer” with respect to all or a portion of the Availability Premises, then Landlord shall deliver a second Availability Notice to Tenant prior to entering into a lease of such Availability Premises with a third party. For purposes of this Section 1.5, a “bona-fide third-party offer” shall mean:

(i) Landlord receives a request for proposal from a nonaffiliated, qualified third party, and Landlord responds to the request for proposal with a lease proposal on terms and conditions acceptable to Landlord.

(ii) Landlord receives a written offer to lease from a nonaffiliated, qualified third party and Landlord responds to the offer with a written counter offer on terms and conditions acceptable to Landlord.

Notwithstanding anything to the contrary herein, Landlord may not lease any of the Availability Premises without providing an Availability Notice to Tenant.

1.4.4.1 Procedure for Acceptance. If Tenant wishes to exercise Tenant’s right of availability with respect to the Availability Premises described in the second Availability Notice, then within five (5) business days of delivery of the second Availability Notice to Tenant, Tenant shall deliver an Exercise Notice to Landlord with respect to all of the Availability Premises described in the second Availability Notice, with the Availability Premises Rent equal to Market Rent, subject to the terms of this Section 1.4. If Tenant does not so notify Landlord within such five (5) business day period of Tenant’s exercise of its right of availability, then Landlord shall be free to negotiate and enter into a lease for the Availability Premises with anyone to whom Landlord desires on any terms Landlord desires.

1.4.4.2 Walk-Away Right; Arbitration Right In Lieu Thereof. If Tenant timely exercises Tenant’s right of availability to lease the Availability Premises (or any portion thereof) in accordance with Section 1.4.4.1 above, then Landlord and Tenant shall use
good faith commercially reasonable efforts to agree upon the Market Rent for such Availability Premises within ten (10) business days after delivery of Tenant’s Exercise Notice to Landlord. If the parties have not agreed on the Market Rent upon the expiration of such ten (10) business day period, then either party shall have the right to cease discussions by written notice to the other party (a “Walk-Away Right”), in which case Tenant shall be deemed to have failed to timely deliver an Exercise Notice, and Landlord shall be free to negotiate and enter into a lease for the Availability Premises with anyone whom Landlord desires on any terms Landlord desires. Notwithstanding the foregoing or anything to the contrary set forth elsewhere in this Lease, Tenant shall have the right upon written notice to Landlord within two (2) business days after the expiration of the ten (10) business day period, to have the Market Rent for the Availability Premises determined pursuant to the arbitration procedures set forth in Section 2.2.4, in which case Tenant shall be deemed to have irrevocably exercised its right of availability and both parties shall be deemed to have waived their respective Walk-Away Rights.

1.4.5 Construction In Availability Premises. If Tenant timely exercises Tenant’s right to lease the Availability Premises or any portion thereof as set forth herein, then, Landlord shall deliver the Availability Premises to Tenant in the Delivery Condition and Landlord shall perform the Core and Shell Work applicable to such space. The construction of improvements in the Availability Premises shall comply with the terms of Article 8 of this Lease; provided, however, Landlord shall provide to Tenant an improvement allowance (an “Availability Premises Improvement Allowance”) equal to (A) if Tenant exercises its right of availability with respect to any portion of the Availability Premises during the first (1st) year after the Lease Commencement Date, then the product of (i) an amount equal to $60.00 per rentable square foot of space contained in the Availability Premises, and (ii) a percentage, which may be expressed as a fraction, which fraction shall have as its numerator the number of monthly Base Rent payments to be paid by Tenant to Landlord with respect to the Availability Premises during the initial Lease Term, and which fraction shall have one hundred twenty (120) as its denominator, and (B) if Tenant exercises its right of availability with respect to any portion of the Availability Premises after the first (1st) year after the Lease Commencement Date, an improvement allowance determined as part of the determination of Market Rent. The Availability Premises Improvement Allowance shall be distributed by Landlord in a manner consistent with the distribution of the Tenant Improvement Allowance with respect to the Initial Premises.

1.4.6 Amendment to Lease. If Tenant timely exercises Tenant’s right to lease the Availability Premises or any portion thereof as set forth herein, then, within fifteen (15) days thereafter, Landlord and Tenant shall execute an amendment adding such Availability Premises to this Lease upon the same terms and conditions as the Initial Premises, except as otherwise set forth in this Section 1.4 or the Availability Notice, and provided that the terms of the Tenant Work Letter shall not apply with respect to the Availability Premises (except as otherwise provided in Section 1.4.5, above); provided, however, an otherwise valid exercise of Tenant’s right of availability shall be of full force and effect irrespective of whether such amendment is ever signed by Landlord and Tenant. Except to the extent inconsistent with the determination of Availability Premises Rent, all provisions of the Lease which vary based upon the rentable and usable square footage of the Premises shall be adjusted to reflect the addition of such Availability Premises to the Premises; provided, however, the L-C Amount shall be increased pursuant to the terms of Section 21.7 of this Lease, below. The rentable square footage of such
Availability Premises shall be determined in accordance with the terms of Section 1.2 of this Lease. To the extent Tenant exercises its right of first offer with respect to any portion of the Availability Premises during the first (1st) year after the Lease Commencement Date, Tenant shall commence payment of Availability Premises Rent and Excess as to such space to Landlord upon that date (the “Availability Premises Rent Commencement Date”) which is two hundred ten (210) days after the later of the delivery date set forth in the Availability Notice and the date Landlord delivers the Availability Premises in the Delivery Condition (the “Availability Premises Lease Commencement Date”). To the extent Tenant exercises its right of availability with respect to any portion of the Availability Premises anytime after the first (1st) anniversary of the Lease Commencement Date, the Availability Premises Rent Commencement Date shall occur one hundred eighty (180) days after the Availability Premises Lease Commencement Date. In all cases, the lease term of the Availability Premises (or any portion thereof) shall expire on the Lease Expiration Date, subject to extension of this Lease; provided, however, in the event the remaining Lease Term is less than thirty-six (36) months from the applicable Availability Premises Rent Commencement Date, then the Lease Term shall be extended for a period of time sufficient for Tenant’s lease of the Premises to be coterminous with Tenant’s lease of the Availability Premises (which shall be thirty-six (36) months from the applicable Availability Premises Rent Commencement Date), and the base rental rate for the Premises during this extended period shall be adjusted to Market Rent for the Premises determined in accordance with Section 2.2.4 and the Base Year shall be the year in which the Lease would have otherwise expired (if on or before July 31) or the following year (if after July 31). This extension shall have no impact on Tenant’s extension rights hereunder, which may be exercised at the end of the extended Lease Term. This Lease shall commence as to the Availability Premises (and references to Premises shall include the applicable Availability Premises) on the Availability Premises Lease Commencement Date.

1.4.7 Termination of Right of Availability. The rights contained in this Section 1.4 shall be personal to Original Tenant, and may only be exercised by Original Tenant or its Permitted Transferee Assignee (and not by any other assignee, sublessee or Transferee of Tenant’s interest in this Lease) if the Lease then remains in full force and effect and if Original Tenant or its Permitted Transferee Assignee has not subleased more than forty percent (40%) of the Premises as of the proposed Availability Premises Lease Commencement Date. The right of availability granted herein shall terminate as to particular Availability Premises upon the failure by Tenant to exercise its right of availability with respect to such Availability Premises as offered by Landlord. Tenant shall not have the right to lease the Availability Premises, as provided in this Section 1.4, if, as of the date of the attempted exercise of any right of first offer by Tenant, Tenant is in default under this Lease beyond any applicable notice and cure periods, or if as of the scheduled date of delivery of such Availability Premises, Tenant is in default under this Lease beyond any applicable notice and cure periods expressly set forth in this Lease, or Tenant has previously been in default under this Lease, beyond any applicable notice and cure periods expressly set forth in this Lease, more than twice during the immediately preceding twelve (12) month period.
1.5 **Must-Take 1 Space**. As of the Must-Take 1 Lease Commencement Date, the Premises shall be expanded to include the rentable square footage of the “Must-Take 1 Space,” as that term is defined below, as set forth in this Section 1.5 and this Lease.

1.5.1 **Description of the Must-Take 1 Space**. The “Must-Take 1 Space” shall consist of the office space set forth in Section 2.3 of the Summary.

1.5.2 **Delivery of the Must-Take 1 Space**. Notwithstanding anything in this Lease to the contrary, Tenant hereby acknowledges that Landlord shall deliver the Must-Take 1 Space to Tenant, and Tenant shall accept delivery of the Must-Take 1 Space from Landlord, on the Must-Take 1 Lease Commencement Date, as set forth in Section 3.6 of the Summary (such date, the “Must-Take 1 Lease Commencement Date”). Upon the Must-Take 1 Lease Commencement Date, Landlord shall deliver, and Tenant shall accept, the Must-Take 1 Space in the Delivery Condition (as set forth in the Tenant Work Letter). If the Must-Take 1 Lease Commencement Date does not occur for any reason on or before (a) October 1, 2013, then, in addition to Tenant’s other remedies, the Must-Take 1 Rent Commencement Date shall be delayed by one (1) additional day for each day of delay beyond such date or (b) January 1, 2014 then, in addition to Tenant’s other remedies, at Tenant’s election, Tenant shall not be obligated to lease the Must-Take 1 Space.

1.5.3 **Rent and Term**. The Must-Take 1 Space shall become part of the Premises for all purposes hereunder on the Must-Take 1 Lease Commencement Date, and, except as otherwise provided in this Section 1.5, shall be subject to every term and condition of this Lease. Notwithstanding the foregoing, Tenant’s obligation to pay Base Rent and Tenant’s Share of Direct Expenses with respect to the Must-Take 1 Space shall commence on the date that occurs two hundred two (210) days after the Must-Take 1 Lease Commencement Date (the “Must-Take 1 Rent Commencement Date”). The Base Rent and Tenant’s Share of Direct Expenses for the Must-Take 1 Space shall be at the same rate per rentable square foot, and shall thereafter be escalated in the same manner, as the then current Base Rent for the Initial Premises located in the podium, as such Base Rent and Additional Rent are adjusted and escalated pursuant to the terms of this Lease. Furthermore, for purposes of calculating Tenant’s obligations under Article 4 of this Lease, Tenant’s Share shall be 1.56%, and the Base Year applicable to the Must-Take 1 Space shall be the calendar year in which the Must-Take 1 Rent Commencement Date occurs if it occurs on or before July 31 and the following calendar year if it occurs after July 31. The lease term for the Must-Take 1 Space shall commence on the Must-Take 1 Lease Commencement Date, Tenant shall commence payment of the Base Rent and the Tenant’s Share of Direct Expenses for the Must-Take 1 Space upon the Must-Take 1 Rent Commencement Date, and the lease term for the Must-Take 1 Space shall expire upon the Lease Expiration Date, as extended.

1.5.4 **Improvement of Must-Take 1 Space**. Subject to the terms of the Tenant Work Letter, and Landlord’s obligation to perform the Core and Shell Work therein, Tenant shall accept the Must-Take 1 Space in its then existing “as is” condition.

1.5.5 **Other Terms**. Except as specifically set forth in this Lease, as of the Must-Take 1 Space Commencement Date, all other terms of this Lease shall apply to the Must-Take 1 Space as though the Must-Take 1 Space was originally part of the Premises. At any time
after the Must-Take 1 Lease Commencement Date during the remainder of the Lease Term, Landlord may deliver to Tenant a notice in the form of Exhibit C attached hereto, as a confirmation only of the information set forth therein, which Tenant shall execute and return to Landlord within ten (10) days of receipt thereof.

1.6 **Must-Take 2 Space**. As of the Must-Take 2 Lease Commencement Date, the Premises shall be expanded to include the rentable square footage of the “Must-Take 2 Space,” as that term is defined below, as set forth in Section 1.5 and this Lease.

1.6.1 **Description of the Must-Take 2 Space**. The “Must-Take 2 Space” shall consist of the office space set forth in Section 2.4 of the Summary.

1.6.2 **Delivery of the Must-Take 2 Space**. Notwithstanding anything in this Lease to the contrary, Tenant hereby acknowledges that Landlord shall deliver the Must-Take 2 Space to Tenant, and Tenant shall accept delivery of the Must-Take 2 Space from Landlord, on the Must-Take 2 Lease Commencement Date, as set forth in Section 3.7 of the Summary (such date, the “Must-Take 2 Lease Commencement Date”). Upon the Must-Take 2 Lease Commencement Date, Landlord shall deliver, and Tenant shall accept, the Must-Take 2 Space in the Delivery Condition (as set forth in the Tenant Work Letter). If the Must-Take 2 Lease Commencement Date does not occur for any reason on or before (a) April 1, 2014, then, in addition to Tenant’s other remedies, the Must-Take 2 Rent Commencement Date shall be delayed by one (1) additional day for each day of delay beyond such date or (b) July 1, 2014, then, in addition to Tenant’s other remedies, at Tenant’s election, Tenant shall not be obligated to lease the Must-Take 2 Space.

1.6.3 **Rent and Term**. The Must-Take 2 Space shall become part of the Premises for all purposes hereunder on the Must-Take 2 Lease Commencement Date, and, except as otherwise provided in this Section 1.5, shall be subject to every term and condition of this Lease. Notwithstanding the foregoing, Tenant’s obligation to pay Base Rent and Tenant’s Share of Direct Expenses with respect to the Must-Take 2 Space shall commence on the date that occurs two hundred two (210) days after the Must-Take 2 Lease Commencement Date (the “Must-Take 2 Rent Commencement Date”). The Base Rent and Tenant’s Share of Direct Expenses for the Must-Take 2 Space shall be at the same rate per rentable square foot, and shall thereafter be escalated in the same manner, as the then current Base Rent for the Initial Premises located in the podium, as such Base Rent and Additional Rent are adjusted and escalated pursuant to the terms of this Lease. Furthermore, for purposes of calculating Tenant’s obligations under Article 4 of this Lease, Tenant’s Share shall be 4.80%, and the Base Year applicable to the Must-Take 2 Space shall be the calendar year in which the Must-Take 2 Rent Commencement Date occurs if it occurs on or before July 31 and the following calendar year if it occurs after July 31. The lease term for the Must-Take 2 Space shall commence on the Must-Take 2 Lease Commencement Date, Tenant shall commence payment of the Base Rent and the Tenant’s Share of Direct Expenses for the Must-Take 2 Space upon the Must-Take 2 Rent Commencement Date, and the lease term for the Must-Take 2 Space shall expire upon the Lease Expiration Date, as extended.
1.6.4 **Improvement of Must-Take 2 Space.** Subject to the terms of the Tenant Work Letter, and Landlord’s obligation to perform the Core and Shell Work therein, Tenant shall accept the Must-Take 2 Space in its then existing “as is” condition.

1.6.5 **Other Terms.** Except as specifically set forth in this Lease, as of the Must-Take 2 Space Commencement Date, all other terms of this Lease shall apply to the Must-Take 2 Space as though the Must-Take 2 Space was originally part of the Premises. At any time after the Must-Take 2 Lease Commencement Date during the remainder of the Lease Term, Landlord may deliver to Tenant a notice in the form of Exhibit C attached hereto, as a confirmation only of the information set forth therein, which Tenant shall execute and return to Landlord within ten (10) days of receipt thereof.

1.7 **Outdoor Terraces.**

1.7.1 **Outdoor Terrace.** Subject to the terms of this Section 1.6, Tenant shall have the exclusive right to use the Outdoor Terraces, as more particularly shown on Exhibit I attached hereto (“Outdoor Terraces”), free of charge throughout the Lease Term (except as otherwise set forth in this Section 1.7), as the same may be extended. Landlord shall have the right to enter the Premises at all reasonable times and upon prior notice to Tenant (except in the case of an emergency) to (x) access the Outdoor Terraces; and (y) perform any obligations required by Landlord under this Section 1.7 and this Lease. Landlord shall clean and repair the Outdoor Terraces and the “Outdoor Terrace Furniture,” as that term is defined below, the cost of which shall be paid by Tenant to Landlord as Additional Rent except for amounts described in Section 4.2.4(a) – (hh). Landlord shall maintain the structural elements of the Outdoor Terraces, at its sole cost and expense, in the same manner as Landlord is required to maintain the structural elements of the Common Areas under the terms of this Lease. Except as set forth in this Section 1.7 above, Landlord shall not be obligated to provide any services to the Outdoor Terraces other than janitorial. Tenant may elect, at its sole cost and expense, to install furniture (e.g., umbrellas, chairs, tables, trash urns, movable barbecue grill (e.g., Weber or Viking barbecue grill), gas fire pit, bocce ball court and other decorative items), shrubbery and bushes for the Outdoor Terraces (collectively, “Outdoor Terrace Furniture”) of a type, quality and quantity reasonably approved in advance by Landlord and, with respect to any movable barbecue grill, gas fire fit, or bocce ball court, in locations reasonably approved in advance by Landlord and Bank of America, National Association (the “Bank”). Tenant shall have no right to alter, change or make improvements to the Outdoor Terraces (including, without limitation, adding additional roof deck space) without the prior written consent of Landlord, which consent may be withheld in Landlord’s reasonable discretion, provided that it shall be deemed reasonable for Landlord to withhold consent in the event such alteration, change or improvement causes a “Design Problem” (as that term is defined below); and provided, further, any proposed changes and/or improvements shall be deemed “Alterations” (as that term is defined below) and all the terms of Article 8 of this Lease shall apply. A “Design Problem” is defined and will be deemed to exist if any such Alterations (i) adversely affect any Building Systems, (ii) adversely affect the exterior appearance of the Building, (iii) affect the certificate of occupancy issued for the Building or the Premises, (iv) interfere with any other tenant’s normal and customary office operation, or (v) violates any Applicable Laws. Tenant shall, at Tenant’s sole cost and expense, be obligated to secure any such additional Outdoor Terrace Furniture to the Outdoor Terraces using methods that do not require penetration into the structure, floors, walls or banisters of the
Outdoor Terraces. The precise method by which any such items are secured to the Outdoor Terraces shall be subject to Landlord’s prior approval, which approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding Landlord’s review and approval of the method by which the additional Outdoor Terrace Furniture is secured to the Outdoor Terraces, Tenant shall remain solely liable for any liability arising from Tenant’s placement of such items on the Outdoor Terraces, and Landlord shall have no liability in connection therewith, except to the extent attributable to the negligence or willful misconduct of or violation of this Lease by Landlord or its employees. Tenant shall remove any such additional Outdoor Terrace Furniture upon the expiration or earlier termination of the Lease, or upon the termination of Tenant’s rights under this Section 1.7, and shall return the affected portion of the Outdoor Terraces to the condition the Outdoor Terraces would have been in had no such additional Outdoor Terrace Furniture been installed, including, without limitation, replacement of any damaged pavers used to anchor any Outdoor Terrace Furniture (reasonable wear and tear accepted). Except as expressly set forth herein, all of the provisions of this Lease pertaining to the Premises and Tenant’s use thereof, including, without limitation, Article 10, shall be applicable to the Outdoor Terraces and Tenant’s use thereof. Subject to its review of more detailed plans therefor, Landlord approves of Tenant’s installation of additional roof decking in the Western and Southern perimeter area surrounding the mechanical equipment as shown on Exhibit I and indicated by the dotted line with respect to the Southern boundary; provided, however, such expansion of the Southern boundary is subject to Landlord’s receipt of Bank’s approval. Notwithstanding anything set forth in this Lease to the contrary, Landlord agrees that such expanded Outdoor Terrace area may be surrendered upon the expiration or earlier termination of this Lease.

1.8 Storage Premises

1.8.1 In General. Tenant shall have the right, from time to time, by delivering not less than thirty (30) days written notice to Landlord of the commencement and termination of such lease, so long as such space is available, to lease from Landlord up to 5,000 rentable square feet of storage space located in the Property parking garage near the loading dock (the “Storage Premises”). During such times as Tenant has elected to lease any Storage Premises only, the provisions of Sections 1.8.2-1.8.4 shall apply.

1.8.2 Storage Rent. The Storage Premises shall be leased by Tenant at an annual rate equal to the then fair market rate for such Storage Premises (the “Storage Rent”), which as of the date of this Lease is equal to Twenty-Four Dollars ($24.00) per rentable square foot of the Storage Premises per year. Within five (5) business days of Tenant’s request from time to time, Landlord shall notify Tenant of the amount of the Storage Rent, which shall not be increased while Tenant is leasing any Storage Premises unless Landlord has delivered not less than sixty (60) days written notice thereof to Tenant. No Direct Expenses shall be payable with respect to the Storage Premises. The Storage Rent shall be due on a monthly basis concurrent with Tenant’s payment of Rent due with respect to the Premises, and shall constitute Additional Rent under the Lease.

1.8.3 Condition of Storage Premises. Tenant acknowledges and agrees that Tenant shall accept the Storage Premises in its presently existing “as-is” condition and that Landlord shall have no obligation to provide or pay for any improvement work or services.
related to the improvement of the Storage Premises. Tenant also acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty regarding the condition of the Storage Premises or with respect to the suitability of the same for the conduct of Tenant’s business. The Storage Premises shall be used only for storage of boxes, files, furniture, office equipment and other similar items associated with commercial office space and for no other purpose whatsoever without the prior written consent of Landlord, which consent may be withheld in Landlord’s sole and absolute discretion. Tenant shall not make any Alterations to the Storage Premises and shall be fully responsible for repairing any damage to the Storage Premises resulting from or relating to Tenant’s use thereof. Tenant shall give prompt notice to Landlord in case of fire or accidents in or about the Storage Premises or of defects therein or in the fixtures or equipment related thereto. Tenant acknowledges that Landlord shall have no obligation to provide any security or any of the services described in this Lease, other than Building standard lighting and electricity during Business Hours, with respect to the Storage Premises.

1.8.4 Other Terms. Tenant shall comply with Landlord’s reasonable rules and regulations from time to time promulgated with respect to the use of the Storage Premises. Tenant shall use the Storage Premises for storage of Tenant’s property described in Section 1.7.3 only and in no event shall Tenant maintain any hazardous or perishable materials in the Storage Premises. Further, Tenant’s use of the Storage Premises shall at all times be consistent with the first class nature of the Building. Tenant shall indemnify, defend protect and hold Landlord harmless from and against any and all claims, liabilities, judgments or costs (including, without limitation, reasonable attorneys’ fees and costs) arising out of or in connection with Tenant’s use of the Storage Premises except to the extent due to Landlord’s negligence, willful misconduct or violation of this Lease. In addition, Tenant’s insurance obligations under this Lease shall pertain to Tenant’s use of the Storage Premises. Not more than twice during the term of this Lease, as the same may be extended, upon not less than thirty (30) days notice to Tenant, Landlord shall have the right to relocate the Storage Premises to another location in the Building that is reasonably acceptable to Tenant.

ARTICLE 2

LEASE TERM; OPTION TERM

2.1 In General. The terms and provisions of this Lease shall be effective as of the date of this Lease. The term of this Lease (the “Lease Term”) shall be as set forth in Section 3.1 of the Summary, shall commence on the date set forth in Section 3.2 of the Summary (the “Lease Commencement Date”), and shall terminate on the date set forth in Section 3.4 of the Summary (the “Lease Expiration Date”) unless this Lease is sooner terminated as hereinafter provided. Tenant hereby acknowledges that portions of the Premises are currently occupied by another tenant of the Building. If Landlord is unable for any reason to deliver possession of the Premises to Tenant on any specific date, then Landlord shall not be subject to any liability for its failure to do so, and such failure shall not affect the validity of this Lease or the obligations of Tenant hereunder except as expressly set forth in this Lease. For purposes of this Lease, the term “Lease Year” shall mean each consecutive twelve (12) month period during the Lease Term; provided, however, that the first Lease Year shall commence on the first (1st) Rent Commencement Date to occur after the initial Commencement Date and end on the last day of the eleventh month thereafter and the second and each succeeding Lease Year shall commence
on the first (1st) day of the next calendar month; and further provided that the last Lease Year shall end on the Lease Expiration Date. At any time during the Lease Term, Landlord may deliver to Tenant a notice in the form as set forth in Exhibit C, attached hereto, as a confirmation only of the information set forth therein, which Tenant shall execute and return to Landlord within ten (10) days of receipt thereof; provided, however, Tenant’s failure to execute and return such notice to Landlord within such time shall be conclusive upon Tenant that the information set forth in such notice is as specified therein.

2.2 Option Term.

2.2.1 Option Right. Landlord hereby grants to the Original Tenant and any Permitted Transferee Assignee two (2) successive options to extend the Lease Term for a period of five (5) years each, (each, an “Option Term”). Each option to extend shall be exercisable only by notice delivered by Original Tenant or a Permitted Transferee Assignee to Landlord as provided in Section 2.2.3 below; provided that, as of the date of delivery of such notice, Tenant has not received notice that Tenant is in default under this Lease (beyond the expiration of any applicable notice and cure period expressly set forth in this Lease) and such default remains uncured. Upon the proper exercise of the option to extend, and provided that, at Landlord’s option, as of the end of the initial Lease Term or the initial Option Term, as applicable, Tenant has not received notice that Tenant is in default under this Lease (beyond the expiration of any applicable notice and cure period expressly set forth in this Lease) and such default remains uncured, the Lease Term shall be extended for a period of five (5) years. The rights contained in this Section 2.2 shall be personal to the Original Tenant and any Permitted Transferee Assignee and may only be exercised by the Original Tenant or a Permitted Transferee Assignee (and not any other assignee or sublessee or Transferee of Tenant’s interest in this Lease) that has not subleased more than thirty-three percent (33%) of the rentable square footage of the Premises as of the day before the Option Term is to commence. In the event that Tenant fails to timely and appropriately exercise its option to extend in accordance with the terms of this Section 2.2, then the option to extend granted to Tenant pursuant to the terms of this Section 2.2 shall automatically terminate and shall be of no further force or effect. Further, notwithstanding any contrary provision of this Section 2.2, in no event may Tenant exercise its right to extend the Lease Term for the second Option Term under this Section 2.2 if Tenant fails to timely exercise its right to extend the initial Lease Term for the first Option Term under this Section 2.2.

2.2.2 Option Rent. The Rent payable by Tenant during each Option Term shall be equal to ninety-five percent (95%) of the Market Rent, as such Market Rent is determined pursuant to Exhibit G, attached to the Lease (such rent payable during any Option Term, the “Option Rent”) and the Base Year shall be the calendar year in which the then-current term expires (if it expires on or before July 31) or the following calendar year (if it expires after July 31). Except as set forth in the preceding sentence or as otherwise expressly set forth in this Lease, all of the terms of this Lease shall apply during the Option Term and the Lease Expiration Date shall be extended to the last day of the Option Term. The calculation of the “Market Rent” shall be derived from a review, comparison to the “Net Equivalent Lease Rates” of the “Comparable Transactions,” as provided for in Exhibit G, and, thereafter, the Market Rent shall be stated as a “Net Equivalent Lease Rate” for the Option Term.
2.2.3 Exercise of Option. The options contained in this Section 2.2 shall be exercised by Tenant, if at all, and only in the following manner: (i) Tenant shall deliver written notice (the “Option Interest Notice”) to Landlord not more than fifteen (15) months nor less than ten (10) months prior to the expiration of the initial Lease Term or the first (1st) Option Term, as applicable, stating that Tenant is interested in exercising its option; (ii) Landlord shall, within thirty (30) days following Landlord’s receipt of the Option Interest Notice, deliver notice (the “Option Rent Notice”) to Tenant setting forth the Option Rent; and (iii) if Tenant wishes to exercise such option, Tenant shall, on or before the date occurring fifteen (15) days after Tenant’s receipt of the Option Rent Notice, deliver written notice thereof to Landlord, and upon, and concurrent with, such exercise, Tenant may, at its option, accept or reject the Option Rent set forth in the Option Rent Notice or withdraw Tenant’s exercise of the option right. If Tenant exercises its option to extend the Lease but fails to accept or reject the Option Rent set forth in the Option Rent Notice or withdraw Tenant’s exercise of the option right, then Tenant shall be deemed to have accepted the Option Rent set forth in the Option Rent Notice.

2.2.4 Determination of Option Rent. In the event Tenant timely and appropriately exercises its option to extend the Lease but rejects the Option Rent set forth in the Option Rent Notice pursuant to Section 2.2.3, above, then Landlord and Tenant shall attempt to agree upon the Option Rent using their best good-faith efforts. If Landlord and Tenant fail to reach agreement upon the Option Rent applicable to the Option Term or on or before the date that is one hundred eighty (180) days prior to the expiration of the initial Lease Term (the “Outside Agreement Date”), then the Option Rent shall be determined by arbitration pursuant to the terms of this Section 2.2.4. Each party shall make a separate determination of the Option Rent, within five (5) days following the Outside Agreement Date, and such determinations shall be submitted to arbitration in accordance with Sections 2.2.4.1 through 2.2.4.4, below.

2.2.4.1 Landlord and Tenant shall each appoint one arbitrator who shall by profession be a MAI appraiser who shall have been active over the five (5) year period ending on the date of such appointment in the appraising and/or leasing of first class office properties in the vicinity of the Building. The determination of the arbitrators shall be limited solely to the issue area of whether Landlord’s or Tenant’s submitted Option Rent is the closest to the actual Option Rent as determined by the arbitrators, taking into account the requirements of Section 2.2.2 of this Lease. Each such arbitrator shall be appointed within fifteen (15) days after the Outside Agreement Date. Landlord and Tenant may consult with their selected arbitrators prior to appointment and may select an arbitrator who is favorable to their respective positions (including an arbitrator who has previously represented Landlord and/or Tenant, as applicable). The arbitrators so selected by Landlord and Tenant shall be deemed “Advocate Arbitrators.”

2.2.4.2 The two Advocate Arbitrators so appointed shall be specifically required pursuant to an engagement letter within ten (10) days of the date of the appointment of the last appointed Advocate Arbitrator to agree upon and appoint a third arbitrator (“Neutral Arbitrator”) who shall be qualified under the same criteria set forth hereinabove for qualification of the two Advocate Arbitrators except that (i) neither the Landlord or Tenant or either parties’ Advocate Arbitrator may, directly or indirectly, consult with the Neutral Arbitrator prior to or subsequent to his or her appearance, and (ii) the Neutral Arbitrator cannot be someone who has represented Landlord and/or Tenant or their affiliates during the five (5) year period prior to such appointment. The Neutral Arbitrator shall be retained via an engagement letter.
jointly prepared by Landlord’s counsel and Tenant’s counsel. Each party shall pay for the costs of its own Advocate Arbitrator and fifty percent (50%) of the cost of the Neutral Arbitrator.

2.2.4.3 Within ten (10) days following the appointment of the Neutral Arbitrator, Landlord and Tenant shall enter into an arbitration agreement (the “Arbitration Agreement”) which shall set forth the following:

2.2.4.3.1 Each of Landlord’s and Tenant’s best and final and binding determination of the Option Rent exchanged by the parties pursuant to Section 2.2.4, above;

2.2.4.3.2 An agreement to be signed by the Neutral Arbitrator, the form of which agreement shall be attached as an exhibit to the Arbitration Agreement, whereby the Neutral Arbitrator shall agree to undertake the arbitration and render a decision in accordance with the terms of this Lease, as modified by the Arbitration Agreement, and shall require the Neutral Arbitrator to demonstrate to the reasonable satisfaction of the parties that the Neutral Arbitrator has no conflicts of interest with either Landlord or Tenant;

2.2.4.3.3 Instructions to be followed by the Neutral Arbitrator when conducting such arbitration;

2.2.4.3.4 That Landlord and Tenant shall each have the right to submit to the Neutral Arbitrator (with a copy to the other party), on or before the date that occurs fifteen (15) days following the appointment of the Neutral Arbitrator, an advocate statement (and any other information such party deems relevant) prepared by or on behalf of Landlord or Tenant, as the case may be, in support of Landlord’s or Tenant’s respective determination of Option Rent (the “Briefs”);

2.2.4.3.5 That within five (5) business days following the exchange of Briefs, Landlord and Tenant shall each have the right to provide the Neutral Arbitrator (with a copy to the other party) with a written rebuttal to the other party’s Brief (the “Rebuttals”); provided, however, such Rebuttals shall be limited to the facts and arguments raised in the other party’s Brief and shall identify clearly which argument or fact of the other party’s Brief is intended to be rebutted;

2.2.4.3.6 The date, time and location of the arbitration, which shall be mutually and reasonably agreed upon by Landlord and Tenant, taking into consideration the schedules of the Neutral Arbitrator, the Advocate Arbitrators, Landlord and Tenant, and each party’s applicable consultants, which date shall in any event be within thirty (30) days following the appointment of the Neutral Arbitrator;

2.2.4.3.7 That no discovery shall take place in connection with the arbitration, other than to verify the factual information that is presented by Landlord or Tenant;

2.2.4.3.8 That the Neutral Arbitrator shall not be allowed to undertake an independent investigation or consider any factual information other than presented
by Landlord or Tenant, except that the Neutral Arbitrator shall be permitted to visit the Property and the buildings containing the Comparable Transactions;

2.2.4.3.9 The specific persons that shall be allowed to attend the arbitration;

2.2.4.3.10 Tenant shall have the right to present oral arguments to the Neutral Arbitrator at the arbitration for a period of time not to exceed two (2) hours ("Tenant’s Initial Statement");

2.2.4.3.11 Following Tenant’s Initial Statement, Landlord shall have the right to present oral arguments to the Neutral Arbitrator at the arbitration for a period of time not to exceed two (2) hours ("Landlord’s Initial Statement");

2.2.4.3.12 Following Landlord’s Initial Statement, Tenant shall have up to one (1) additional hour to present additional arguments and/or to rebut the arguments of Landlord ("Tenant’s Rebuttal Statement");

2.2.4.3.13 Following Tenant’s Rebuttal Statement, Landlord shall have up to one (1) additional hour to present additional arguments and/or to rebut the arguments of Tenant ("Landlord’s Rebuttal Statement");

2.2.4.3.14 That, not later than ten (10) days after the date of the arbitration, the Neutral Arbitrator shall render a decision (the “Ruling”) indicating whether Landlord’s or Tenant’s submitted Option Rent is closer to the Option Rent;

2.2.4.3.15 That following notification of the Ruling, Landlord’s or Tenant’s submitted Option Rent determination, whichever is selected by the Neutral Arbitrator as being closer to the Option Rent shall become the then applicable Option Rent; and

2.2.4.3.16 That the decision of the Neutral Arbitrator shall be binding on Landlord and Tenant.

If a date by which an event described in Section 2.2.4.3, above, is to occur falls on a weekend or a holiday, the date shall be deemed to be the next business day.

2.2.4.4 In the event that the Option Rent shall not have been determined pursuant to the terms hereof prior to the commencement of the applicable Option Term, Tenant shall be required to pay the Option Rent, initially provided by Landlord to Tenant, and upon the final determination of the Option Rent, the payments made by Tenant shall be reconciled with the actual amounts due, and the appropriate party shall make any corresponding payment to the other party.

2.3 Termination Right

2.3.1 Exercise of Termination Right. Tenant shall have the one-time right to terminate and cancel this Lease effective as of the first day of the eighty-fourth (84th) month of the Lease Term (the “Termination Date”), provided that, not later than fifteen (15) months prior
to the Termination Date, Tenant delivers to Landlord (i) written notice (the “Termination Notice”) that Tenant intends to terminate this Lease pursuant to the terms of this Section 2.3, and (ii) cash in the amount of the “Termination Fee,” as that term is defined below, as consideration for such early termination. Upon Tenant’s delivery of the Termination Notice to Landlord, Tenant’s ability to first exercise any of Tenant’s rights under Section 1.3 (with respect to the Expansion Space), Section 1.4 (with respect to Right of Availability), Section 1.5 (with respect to Must-Take Space) and Section 2.2 (with respect to the Option Term), and all of Tenant’s rights to any future “Lease Concessions,” as that term is defined below, shall automatically terminate and be of no further force and effect. As used in this Lease, the “Termination Fee” shall be equal to the sum of (x) the unamortized value as of the Termination Date of the Lease Concessions, which amortization shall be calculated on a straight-line basis, resulting in an equal amount of principal being reduced each month, with interest at a rate of eight percent (8%), over the Lease Term, plus (y) six (6) times the monthly installment of Base Rent for the Premises during Lease Year 8. As used in this Lease, the “Lease Concessions” shall be equal to the sum of: (A) the amount of all tenant improvement allowances (including, without limitation, the Tenant Improvement Allowance) disbursed by Landlord in connection with this Lease and not reimbursed by Tenant; and (B) the amount of all real estate commissions paid to Tenant or any broker or brokerage company in connection with the consummation of this Lease. Within ten (10) days following delivery of a written request from Tenant given any time after the Lease Commencement Date, Landlord shall provide Tenant with its calculation of the amount of the Lease Concessions and/or the Termination Fee, as of the date of such request.

2.3.2 Termination of Lease. Provided that Tenant timely elects to terminate this Lease in accordance with Section 2.3.1, above, this Lease shall automatically terminate and be of no further force or effect, and Landlord and Tenant shall be relieved of their respective obligations under this Lease, as of the Termination Date, except with respect to those obligations set forth in this Lease which specifically survive the expiration or earlier termination of this Lease, including, without limitation, the payment by Tenant of all amounts owed by Tenant under this Lease prior to the Termination Date. The termination right contained in this Section 2.3 shall be personal to the Original Tenant and its Permitted Transferee Assignees (and may not be exercised by any other assignee, sublessee or Transferee of Tenant’s interest in this Lease).

2.3.3 No Tenant Default. Notwithstanding anything set forth in this Lease to the contrary, if this Lease is terminated as a result of a Tenant default, which default occurred prior to Tenant delivering a Termination Notice to Landlord, then for purposes of determining Landlord’s damages pursuant to Section 1951.2 of the California Civil Code, Tenant’s right to terminate this Lease early shall not be taken into consideration.

2.4 Occurrence of Lease Commencement Date. Subject to causes beyond Landlord’s reasonable control, Landlord shall cause the Lease Commencement Date to occur on or before January 15, 2013 and deliver the Must-Take 1 Space in the Delivery Condition by July 1, 2013 and the Must-Take 2 Space in the Delivery Condition by January 1, 2014. Notwithstanding anything to the contrary set forth in this Lease or the Tenant Work Letter, Tenant shall have the right, subject to the terms of Section 2.4.2 below, to request in writing that Landlord commence demolition of any existing tenant improvements in any portion of the Initial Premises and/or the construction of other improvements in any portion of the Initial Premises, on
Tenant’s behalf, prior to the second Outside Date described in Section 2.4.1 below (i.e., prior to May 31, 2013), and upon receipt of any such request by Tenant, Landlord shall have the right to elect, in Landlord’s sole discretion, to perform such demolition work on Tenant’s behalf or not to perform such demolition work on Tenant’s behalf.

2.4.1 Blow-Out Right. If Landlord does not deliver all of the 9th Floor, 9th Floor Mezzanine, 18th Floor and 19th Floor Premises in the Delivery Condition on or before March 30, 2013, or if Landlord does not deliver the 6th Floor Premises in the Delivery Condition by May 31, 2013 (each an “Outside Date”), then, except as set forth in Section 1.1.4, above, the sole remedy of Tenant for such failure shall be the right to deliver a notice to Landlord (a “Blow-Out Notice”) electing to terminate this Lease effective upon the date occurring five (5) business days following receipt by Landlord of the Blow-Out Notice (the “Blow-Out Date”). The Blow-Out Notice must be delivered by Tenant to Landlord, if at all, not earlier than the Outside Date (as the same may be extended pursuant to the terms of Section 2.4.3 below), nor later than ten (10) business days after the Outside Date. The effectiveness of any such Blow-Out Notice delivered by Tenant to Landlord shall be governed by the terms of this Section 2.4.

2.4.2 Termination of Blow-Out Right. Notwithstanding anything to the contrary set forth in this Section 2.4 or elsewhere in this Lease, Tenant hereby acknowledges and agrees that (i) if Tenant accepts delivery of any portion of the Initial Premises and commences construction of the “Tenant Improvements” (as that term is defined in Section 2.1 of the Tenant Work Letter) therein prior to any Outside Date, then Tenant shall no longer have the right to deliver a Blow-Out Notice pursuant to Section 2.4.1 above with respect to any other portion of the Initial Premises, and Tenant’s right to terminate this Lease pursuant to this Section 2.4 shall automatically terminate and be of no further force or effect, and (ii) if Tenant exercises its right set forth in Section 2.4 above and requests in writing that Landlord commence demolition of any existing tenant improvements in any portion of the Initial Premises and/or the construction of other improvements in any portion of the Initial Premises, on Tenant’s behalf, prior to the second Outside Date (i.e., prior to May 31, 2013), then Landlord’s commencement of such demolition and/or construction work shall be deemed commencement of construction of the Tenant Improvements for purposes of clause (i) above.

2.4.3 Extension of Outside Date Prior to Delivery of Blow-Out Notice. If, prior to any Outside Date, Landlord determines that the applicable delivery date will not occur by the applicable Outside Date, then Landlord shall have the right to deliver a written notice to Tenant stating Landlord’s opinion as to the date by which the applicable delivery date will occur, and Tenant shall be required, within ten (10) business days after receipt of such notice, to deliver a notice to Landlord pursuant to which Tenant shall elect either (i) to terminate this Lease, in which case this Lease shall terminate and be of no further force or effect upon Landlord’s receipt of such notice, or (ii) to agree to extend the Outside Date to that date set forth in Landlord’s notice to Tenant. Failure by Tenant to deliver such notice or to make such election shall be deemed to be Tenant’s agreement to extend the Outside Date to that date set forth in Landlord’s notice to Tenant. If Tenant agrees or is deemed to have agreed to extend the Outside Date, then Landlord shall have a continuing right to deliver a notice to Tenant which requests Tenant to elect either to terminate this Lease or to further extend the Outside Date as set forth in this Section 2.4.3, above, until Landlord delivers the Initial Premises to Tenant in the Delivery Condition or until this Lease is terminated.
2.4.4 Other Terms. The Outside Date shall be extended to the extent of any Tenant Caused Delays. Upon any termination as set forth in this Section 2.4, Landlord and Tenant shall be relieved from any and all liability to each other resulting hereunder except that Landlord shall return to Tenant any prepaid rent and L-C. Except as set forth in Section 1.1.4, above, Tenant’s right to terminate this Lease, as set forth in this Section 2.4, shall be Tenant’s sole and exclusive remedy at law or in equity for the failure of Landlord to timely deliver the Initial Premises in the Delivery Condition.

2.5 Construction Entry; Beneficial Occupancy.

2.5.1 Construction Entry. Notwithstanding the definition of Rent Commencement Date for the Premises set forth above, Tenant shall have the right, at any time after Landlord’s delivery of each portion of the Premises in the applicable Delivery Condition pursuant to Section 1.1.4 above and prior to the occurrence of the date that is two hundred ten (210) days after such delivery, to construct and install the Tenant Improvements in the Premises and/or to test equipment and/or to install its furniture, fixtures, and equipment in the Premises. Tenant’s entry into the Premises for such purposes shall not constitute the commencement of business, provided that all of the terms and conditions of this Lease and the Tenant Work Letter shall apply, except that Tenant shall have no obligation to pay Base Rent, Tenant’s Share of Direct Expenses, or any other costs or expenses attributable to the period of such approved entry.

2.5.2 Beneficial Occupancy. Tenant shall have the right to occupy all or a portion of the Premises (as all or such portion shall be designated by Tenant pursuant to clause (i) below) for the conduct of Tenant’s business during the period set forth in Section 2.5.1, provided that (i) Tenant shall give Landlord at least three (3) days’ prior notice of any such occupancy of the Premises, which notice shall designate the portion of the Premises that Tenant intends to so occupy (such designated space, the “Beneficial Occupancy Space”), (ii) a certificate of occupancy or its legal equivalent shall have been issued by the appropriate governmental authorities for the Beneficial Occupancy Space or otherwise achieved, if required for Tenant to legally occupy such Beneficial Occupancy Space and (iii) all of the terms and conditions of this Lease shall apply, other than Tenant’s obligation to pay Base Rent and Tenant’s Share of Direct Expenses attributable to such portion of the Premises consisting of the Beneficial Occupancy Space upon such occupancy of the Beneficial Occupancy Space by Tenant. Notwithstanding the foregoing, to the extent that Tenant occupies any Beneficial Occupancy Space for the conduct of Tenant’s business commencing prior to Tenant’s obligation to pay Rent with respect thereto, then for the period from and after such occupancy date through the day immediately preceding the date Tenant is obligated to pay Rent with respect thereto, Tenant shall pay to Landlord the janitorial and electrical costs actually incurred by Landlord with respect to such Beneficial Occupancy Space, and which would not otherwise have been incurred by Landlord but for Tenant’s occupancy of such Beneficial Occupancy Space, without application of any Base Year.
ARTICLE 3
BASE RENT

Commencing on the date set forth in Section 3.3 of the Summary (the “Rent Commencement Date”), Tenant shall pay, without prior notice or demand, to Landlord or Landlord’s agent at the management office of the Property, or, at Landlord’s option, at such other place as Landlord may from time to time designate in writing, by a check for currency which, at the time of payment, is legal tender for private or public debts in the United States of America, base rent (“Base Rent”) as set forth in Section 4 of the Summary, payable in equal monthly installments as set forth in Section 4 of the Summary in advance on or before the first day of each and every calendar month during the Lease Term, without any setoff or deduction whatsoever. The Base Rent for the first full month of the Lease Term which occurs after the expiration of any free rent period shall be paid within three (3) business days after the date on which Landlord delivers possession of all of the Initial Premises to Tenant in the Delivery Condition. If any Rent payment date (including the Rent Commencement Date) falls on a day of the month other than the first day of such month or if any payment of Rent is for a period which is shorter than one month, the Rent for any fractional month shall accrue on a daily basis for the period from the date such payment is due to the end of such calendar month or to the end of the Lease Term at a rate per day which is equal to 1/365 of the applicable annual Rent. All other payments or adjustments required to be made under the terms of this Lease that require proration on a time basis shall be prorated on the same basis.

ARTICLE 4
ADDITIONAL RENT

4.1 General Terms. In addition to paying the Base Rent specified in Article 3 of this Lease, Tenant shall pay, following the Rent Commencement Date, “Tenant’s Share” of the annual “Direct Expenses,” as those terms are defined in Sections 4.2.6 and 4.2.2 of this Lease, which are in excess of the amount of Direct Expenses applicable to the “Base Year,” as that term is defined in Section 4.2.1, below; provided, however, that in no event shall any decrease in Direct Expenses for any Expense Year below Direct Expenses for the Base Year entitle Tenant to any decrease in Base Rent or any credit against sums due under this Lease. Such payments by Tenant, together with any and all other amounts payable by Tenant to Landlord pursuant to the terms of this Lease, are hereinafter collectively referred to as the “Additional Rent,” and the Base Rent and the Additional Rent are herein collectively referred to as “Rent.” All amounts due under this Article 4 as Additional Rent shall be payable for the same periods and in the same manner as the Base Rent. Without limitation on other obligations of Tenant which survive the expiration of the Lease Term, the obligations of Tenant to pay the Additional Rent provided for in this Article 4 shall survive the expiration of the Lease Term.

4.2 Definitions of Key Terms Relating to Additional Rent. As used in this Article 4, the following terms shall have the meanings hereinafter set forth:

4.2.1 “Base Year” shall mean the period set forth in Section 5 of the Summary.
4.2.2 “Direct Expenses” shall mean “Operating Expenses” and “Tax Expenses.”

4.2.3 “Expense Year” shall mean each calendar year in which any portion of the Lease Term falls, through and including the calendar year in which the Lease Term expires, provided that Landlord, upon notice to Tenant, may change the Expense Year from time to time to any other twelve (12) consecutive month period, and, in the event of any such change, Tenant’s Share of Direct Expenses shall be equitably adjusted for any Expense Year involved in any such change.

4.2.4 “Operating Expenses” shall mean all expenses, costs and amounts of every kind and nature which Landlord pays or accrues during any Expense Year because of or in connection with the ownership, management, maintenance, security, repair, replacement, restoration or operation of the Property, or any portion thereof. Without limiting the generality of the foregoing, Operating Expenses shall specifically include any and all of the following: (i) the cost of supplying all utilities, the cost of operating, repairing, maintaining, and renovating the utility, telephone, mechanical, sanitary, storm drainage, and elevator systems, and the cost of maintenance and service contracts in connection therewith; (ii) the cost of licenses, certificates, permits and inspections and the cost of contesting any governmental enactments which may affect Operating Expenses, and the costs incurred in connection with any government mandated transportation system management program or similar program; (iii) the cost of all insurance carried by Landlord in connection with the Property as reasonably determined by Landlord (including, without limitation, commercial general liability insurance, physical damage insurance covering damage or other loss caused by fire, earthquake, flood and other water damage, explosion, vandalism and malicious mischief, theft or other casualty, rental interruption insurance and such insurance as may be required by any lessor under any present or future ground or underlying lease of the Building or Property or any holder of a mortgage, trust deed or other encumbrance now or hereafter in force against the Building or Property or any portion thereof); (iv) the cost of landscaping, relamping, and all supplies, tools, equipment and materials used in the operation, repair and maintenance of the Property, or any portion thereof; (v) costs incurred in connection with the parking areas servicing the Property; (vi) fees and other costs, including management fees, consulting fees, legal fees and accounting fees, of all contractors and consultants in connection with the management, operation, maintenance and repair of the Property; (vii) payments under any equipment rental agreements and the fair rental value of any management office space (not to exceed 3,500 square feet); (viii) wages, salaries and other compensation and benefits, including taxes levied thereon, of all persons at the level of property manager or below (but no leasing or marketing personnel) to the extent engaged in the operation, maintenance and security of the Property; (ix) costs under any commercially reasonable instrument pertaining to the sharing of costs by the Property; (x) operation, repair and maintenance of all systems and equipment and components thereof of the Building; (xi) the cost of janitorial, alarm, security and other services, replacement of wall and floor coverings, ceiling tiles and fixtures in common areas, maintenance and replacement of curbs and walkways, repair to roofs and re-roofing; (xii) amortization (as described in subpart (xiii)) of the cost of acquiring or the rental expense of personal property used in the maintenance, operation and repair of the Property, or any portion thereof; (xiii) the cost of capital improvements or other costs incurred in connection with the Property (A) which are intended to effect economies in the operation or maintenance of the Property, or any portion thereof, or (B) that are required under any governmental law or regulation not applicable to the Property as of the Lease Commencement
Date; provided, however, that any capital expenditure shall be amortized with interest over its useful life in a manner consistent with the landlords of the Comparable Building and otherwise in accordance with sound real estate management and accounting principles; and (xiv) costs, fees, charges or assessments imposed by, or resulting from any mandate imposed on Landlord by, any federal, state or local government for fire and police protection, trash removal, community services, or other services which do not constitute “Tax Expenses” as that term is defined in Section 4.2.4, below. Notwithstanding the foregoing, for purposes of this Lease, the following items shall be excluded from Operating Expenses:

(a) cost of repairs or other work incurred by reason of fire, windstorm or other casualty or by the exercise of the right of eminent domain to the extent Landlord is compensated through proceeds or insurance or condemnation awards, or would have been so reimbursed if Landlord had in force all of the insurance required to be carried by Landlord under this Lease, provided, however, that, any such costs of repair due to casualty or the exercise of the right of eminent domain that is not excluded from Operating Expenses pursuant to the preceding language (including insurance deductibles) (1) shall be amortized over a period of the useful life of the restoration work as determined in accordance with sound real estate management and accounting principles consistently applied to all tenants in the Building and Tenant shall only be required to pay for such amortized amount during the remaining Lease Term, (2) the aggregate amount included in Operating Expenses shall not exceed one percent (1.0%) of the then replacement cost of the Building and (3) to the extent the casualty is due to the negligence or willful misconduct of any person or entity, then any applicable insurance deductibles shall be excluded from Operating Expenses;

(b) the cost and expense of correcting defects in the construction of the Property or repairs that are covered by warranties;

(c) costs, including fines or penalties, incurred due to a violation of Applicable Laws in force and effect as of the Lease Commencement Date relating to the Property, but not including on-going recurring compliance costs (by way of example only, costs to comply with an existing Applicable Law requiring periodic elevator maintenance, or related to fire-extinguisher inspections, shall be included in Operating Expenses);

(d) costs incurred due to the presence of hazardous material (as defined under Applicable Laws), except to the extent caused by the release or emission thereof by Tenant;

(e) charitable and political contributions or reserves of any kind;

(f) except as set forth in items (xii) and (xiii) above, depreciation, interest and principal payments on mortgages and other debt costs, if any, penalties and interest, costs of capital repairs and alterations, and costs of capital improvements and equipment;

(g) fees payable by Landlord for management of the Property in excess of three percent (3%) (such percentage to be known generally as the “Management Fee Percentage”) of Landlord’s gross revenues from the Property, adjusted and grossed up to reflect a one hundred percent (100%) occupancy of the Property with all tenants paying full rent, as
contrasted with free rent, half-rent and the like, including base rent, pass-throughs, and parking fees from the Property for any calendar year or portion thereof; or

(h) expense reserves;

(i) Landlord’s and Landlord’s managing agent’s general corporate or partnership overhead and general administrative expenses, and all costs associated with the operation of the business of the ownership or entity which constitutes “Landlord,” as distinguished from the costs of Building operations, management, maintenance or repair, including, but not limited to, costs of entity accounting and legal matters, costs of any disputes with any ground lessor or mortgagor, costs of acquiring, selling syndicating, financing, mortgaging or hypothecating any of the Landlord’s interest in all or any part of the Property and/or Common Areas;

(j) costs (including permit, license and inspection fees) incurred in renovating or otherwise improving or decorating, painting or redecorating space for tenants or other occupants or in renovating or redecorating vacant space, including the cost of alterations or improvements to Tenant’s Premises or to the premises of any other tenant or occupant of the Property and any cash or other consideration paid by Landlord on account of, with respect to, or in lieu of the improvement or alteration work described herein;

(k) costs in connection with the original construction of the Property and related facilities;

(l) costs of a capital nature, including, but not limited to, capital improvements, capital repairs, capital equipment, and capital tool, and rental payments and other related expenses incurred in leasing air conditioning systems, elevators or other equipment ordinarily considered to be of a capital nature, except (i) equipment which is used in providing janitorial or similar services and which is not affixed to the Building, (ii) equipment rented temporarily to remedy or ameliorate an emergency condition, and (iii) as otherwise expressly permitted pursuant to items (xii) and (xiii), above;

(m) costs for which the Landlord is to be reimbursed by any tenant (other than as a reimbursement of operating expenses) or occupant of the Property or by insurance by its carrier or any tenant’s carrier or by anyone else;

(n) costs of all items and services for which Tenant reimburses Landlord or pays to third parties or which Landlord provides selectively to one or more tenants or occupants of the Building (other than Tenant);

(o) depreciation and amortization except as permitted pursuant to items (xii) and (xiii), above;

(p) costs incurred due to violation by Landlord or its managing agent or any tenant of the terms and conditions of any lease;

(q) payments to subsidiaries or affiliates of Landlord, for management or other services in or to the Property, or for supplies or other materials to the extent that the costs
of such services, supplies, or materials exceed the costs that would have been paid had the services, supplies or materials been provided by parties unaffiliated with the Landlord on a competitive basis;

(r) except as permitted pursuant to items (xii) and (xiii), above, interest, principal, points and fees on debt or amortization payment on any mortgages, deeds of trust or other debt instruments;

(s) any compensation and benefits paid to personnel working in or managing a food service or health club or other commercial concession operated by Landlord or Landlord’s managing agent;

(t) marketing, advertising and promotional costs and cost of signs in or on the Building identifying the owner of the Building or other tenants’ signs;

(u) cost of repairs or other work incurred by reason of fire, windstorm or other casualty or by the exercise of the right of eminent domain to the extent Landlord is compensated through proceeds or insurance or condemnation awards, or would have been so reimbursed if Landlord had in force all of the insurance required to be carried by Landlord under this Lease;

(v) leasing commissions, attorneys fees, costs and disbursements and other expenses incurred in connection with negotiations or disputes with tenants or other occupants or prospective tenant or other occupants, or associated with the enforcement of any leases or the defense of Landlord’s title to or interest in the Property or any part thereof or Common Areas or any part thereof;

(w) any items included in Tax Expenses;

(x) costs of repair or replacement for any item covered by a warranty to the extent covered by the warranty;

(y) costs of which Landlord is reimbursed by its insurance carrier or by any tenant’s insurance carrier or by any other entity;

(z) costs, fees, dues, contributions or similar expenses for political or charitable organizations;

(aa) bad debt loss, rent loss, or reserves for bad debt or rent loss;

(bb) acquisition or insurance costs for sculptures, paintings, or other art;

(cc) the wages and benefits of any employee who does not devote substantially all of his or her employed time to the Property unless such wages and benefits are prorated to reflect time spent on operating and managing the Property vis-à-vis time spent on matters unrelated to operating and managing the Property;

(dd) the cost of any electric power used by any tenant in the Building for which such tenant directly contracts with the local public service company or of which any tenant is
separately metered or submetered and pays Landlord directly; provided, however, that if any tenant in the Building contracts directly for electric power service or is separately metered or submetered during any portion of the relevant period, the total electric power costs for the Building shall be “grossed up” to reflect what those costs would have been had each tenant in the Building used the Building-standard amount of electric power;

(ee) Tax Expenses and costs expressly excluded from Tax Expenses;

(ff) the cost of tenant newsletters and Building promotional gifts, events or parties for existing occupants, and any costs related to the celebration or acknowledgment of holidays in excess of costs consistent with the general practice of landlords of the Comparable Buildings and any costs for parties for prospective occupants;

(gg) costs associated with the marketing of the Building for sale or the actual sale of the Building, and costs, fees, dues, contributions or similar expenses for industry associations or similar organizations and entertainment expenses and travel expenses of Landlord, its employees, agents, partners and affiliates; and

(hh) the cost of installing, operating and maintaining any specialty service, observatory, broadcasting facilities, luncheon club, museum, athletic or recreational club, or child care facility, or other service operated or supplied by or normally operated or supplied by a third party under an agreement between a third party and a landlord.

If Landlord is not furnishing any particular work or service (the cost of which, if performed by Landlord, would be included in Operating Expenses) to a tenant who has undertaken to perform such work or service in lieu of the performance thereof by Landlord, Operating Expenses shall be deemed to be increased by an amount equal to the additional Operating Expenses which would reasonably have been incurred during such period by Landlord if it had at its own expense furnished such work or service to such tenant. If the Property is not at least one hundred percent (100%) occupied during all or a portion of any Expense Year, Landlord may elect to make an appropriate adjustment to the components of Operating Expenses (excluding any management fee, which shall be adjusted pursuant to the terms of Section 4.2.4(g), above) for such year (and shall make such adjustment for the Base Year) to determine the amount of Operating Expenses that would have been incurred had the Property been one hundred percent (100%) occupied; and the amount so determined shall be deemed to have been the amount of Operating Expenses for such year. Operating Expenses for the Base Year shall include (i) market-wide cost increases (including utility rate increases) due to extraordinary circumstances, including, but not limited to, Force Majeure, boycotts, strikes, conservation surcharges, embargoes or shortages, which extraordinary circumstance occurs (or effects costs) on a regional or national basis and causes a category(ies) of Operating Expenses to significantly increases in cost on a temporary basis (i.e., less than twenty-four (24) months) (“Extraordinary Expenses”), and (ii) amortized costs relating to capital improvements incurred during the Base year (but not in preceding years) to the extent otherwise allowed to be included in Operating Expenses pursuant to Section 4.2.4, above; provided, however, that at such time as any Extraordinary Expenses or capital improvement are no longer included in Operating Expenses, such particular Extraordinary Expenses or capital improvement, as applicable, shall be excluded from the Base Year calculation of Operating Expenses. Landlord shall not (i) make a profit by
charging items to Operating Expenses that are otherwise also charged separately to others or otherwise incur or accrue the same Operating Expense more than once, and (ii) subject to Landlord’s right to adjust the components of Operating Expenses described above in this paragraph, collect Operating Expenses from Tenant and all other tenants in the Building in an amount in excess of what Landlord incurs for the items included in Operating Expenses.

4.2.5 Taxes.

4.2.5.1 “Tax Expenses” shall mean all federal, state, county, or local governmental or municipal taxes, fees, charges or other impositions of every kind and nature, whether general, special, ordinary or extraordinary, (including, without limitation, real estate taxes, general and special assessments, transit taxes, leasehold taxes or taxes based upon the receipt of rent, including gross receipts or sales taxes applicable to the receipt of rent, unless required to be paid by Tenant, personal property taxes imposed upon the fixtures, machinery, equipment, apparatus, systems and equipment, appurtenances, furniture and other personal property used in connection with the Property, or any portion thereof), which shall be paid or accrued during any Expense Year (without regard to any different fiscal year used by such governmental or municipal authority) because of or in connection with the ownership, leasing and operation of the Property, or any portion thereof.

4.2.5.2 Tax Expenses shall include, without limitation: (i) Any tax on the rent, right to rent or other income from the Property, or any portion thereof, or as against the business of leasing the Property, or any portion thereof; (ii) Any assessment, tax, fee, levy or charge in addition to, or in substitution, partially or totally, of any assessment, tax, fee, levy or charge previously included within the definition of real property tax, it being acknowledged by Tenant and Landlord that Proposition 13 was adopted by the voters of the State of California in the June 1978 election (“Proposition 13”) and that assessments, taxes, fees, levies and charges may be imposed by governmental agencies for such services as fire protection, street, sidewalk and road maintenance, refuse removal and for other governmental services formerly provided without charge to property owners or occupants, and, in further recognition of the decrease in the level and quality of governmental services and amenities as a result of Proposition 13, Tax Expenses shall also include any governmental or private assessments or the Property’s contribution towards a governmental or private cost-sharing agreement for the purpose of augmenting or improving the quality of services and amenities normally provided by governmental agencies; (iii) Any assessment, tax, fee, levy, or charge allocable to or measured by the area of the Premises or the Rent payable hereunder, including, without limitation, any business or gross income tax or excise tax with respect to the receipt of such rent, or upon or with respect to the possession, leasing, operating, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises, or any portion thereof; (iv) Any assessment, tax, fee, levy or charge, upon this transaction or any document to which Tenant is a party, creating or transferring an interest or an estate in the Premises; and (v) All of the real estate taxes and assessments imposed upon or with respect to the Building and all of the real estate taxes and assessments imposed on the land and improvements comprising the Property.

4.2.5.3 Any costs and expenses (including, without limitation, reasonable attorneys’ fees) incurred in attempting to protest, reduce or minimize Tax Expenses shall be included in Tax Expenses in the Expense Year such expenses are paid. Tax refunds shall be
credited against Tax Expenses and refunded to Tenant regardless of when received, based on the Expense Year to which the refund is applicable, provided that in no event shall the amount to be refunded to Tenant for any such Expense Year exceed the total amount paid by Tenant as Additional Rent under this Article 4 for such Expense Year. If Tax Expenses for any period during the Lease Term or any extension thereof are increased after payment thereof for any reason, including, without limitation, error or reassessment by applicable governmental or municipal authorities, Tenant shall pay Landlord upon demand Tenant’s Share of any such increased Tax Expenses included by Landlord as Building Tax Expenses pursuant to the terms of this Lease. Notwithstanding anything to the contrary contained in this Section 4.2.5, there shall be excluded from Tax Expenses (i) all excess profits taxes, transfer taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes, and other taxes to the extent applicable to Landlord’s general or net income (as opposed to rents, receipts or income attributable to operations at the Property), (ii) any items included as Operating Expenses, (iii) any items paid by Tenant under Section 4.5 of this Lease, (iv) tax penalties incurred as a result of Landlord’s failure to make payments and/or to file any tax or informational returns when due, and (v) any assessments on real property or improvements located outside of the Property. If the property tax assessment for the Property (or any portion thereof) (or Tax Expenses) for the Base Year does not reflect an assessment (or Tax Expenses) for a one hundred percent (100%) leased, completed and occupied project (such that existing or future leasing, tenant improvements and/or occupancy may result in an increased assessment and/or increased Tax Expenses), Tax Expenses shall be adjusted, on a basis consistent with sound real estate accounting principles, to reflect an assessment for (and Tax Expenses for) a one hundred percent (100%) leased, completed and occupied project. In addition, notwithstanding anything in this Lease to the contrary, Tax Expenses shall not include and Tenant shall not be required to pay any portion of any tax or assessment expense or any increase therein resulting from the improvement of any of the Property for the sole use of other occupants. All assessments which can be paid by Landlord in installments, shall be paid by Landlord in the maximum number of installments permitted by law and shall be included as Tax Expenses in the year in which the installment is actually paid.

4.2.6 “Tenant’s Share” shall mean the percentage set forth in Section 6 of the Summary.

4.3 Cost Pools. Landlord shall have the right, from time to time, to equitably allocate some or all of the Direct Expenses for the Property among different portions or occupants of the Property (the “Cost Pools”), in Landlord’s reasonable discretion based on the extent to which services and related costs are attributable to the respective Cost Pool. Such Cost Pools may include, but shall not be limited to, the office space tenants of the Property, and the retail space tenants of the Property. The Direct Expenses within each such Cost Pool shall be allocated and charged to the tenants within such Cost Pool in an equitable manner; provided however, notwithstanding anything herein to the contrary, in no event shall any portion of the Direct Expenses allocated to Tenant include any Direct Expenses attributable solely to a Cost Pool that does not include Tenant.

4.4 Calculation and Payment of Additional Rent. If for any Expense Year ending or commencing within the Lease Term, Tenant’s Share of Direct Expenses for such Expense Year exceeds Tenant’s Share of Direct Expenses applicable to the Base Year, then Tenant shall
pay to Landlord, in the manner set forth in Section 4.4.1, below, and as Additional Rent, an amount equal to the excess (the “Excess”); provided, however, Landlord hereby agrees that for any Expense Year, “Controllable Expenses,” as that term is defined in this Section 4.4 below, shall never be increased by more than five percent (5%) of the Controllable Expenses applicable to the prior Expense Year that may be charged under this Lease. For purposes of this Section 4.4, “Controllable Expenses” shall mean all Direct Expenses except: (i) Tax Expenses and any and all assessments, including assessment districts and government-mandated charges with respect to the Building or the Property, or any part thereof; (ii) premiums for insurance carried by Landlord with respect to the Property and/or the operation thereof; (iii) costs of utilities, including, without limitation, electricity, water, HVAC and sewer charges, utility surcharges and assessments, and refuse removal; (iv) increases in wages, salaries and other compensation and benefits paid to Landlord’s employees, agents or contractors engaged in the operation, management, maintenance or security of the Building or Property, to the extent (a) such agents or contractors are union, or (b) such increases are due to increases in the applicable minimum wage legally required to be paid to such personnel; and (v) the costs of capital alterations, capital additions, capital improvements, capital repairs, and capital replacements; amortized as described in Sections 4.2.4(xii) and (xiii) above.

4.4.1 Statement of Actual Direct Expenses and Payment by Tenant. Landlord shall give to Tenant following the end of each Expense Year, a statement (the “Statement”) which shall state in general major categories the Building Direct Expenses incurred or accrued for the Base Year or such preceding Expense Year, as applicable, and which shall indicate the amount of the Excess. Landlord shall use commercially reasonable efforts to deliver such Statement to Tenant on or before May 1 following the end of the Expense Year to which such Statement relates. Upon receipt of the Statement for each Expense Year commencing or ending during the Lease Term, if an Excess is present, Tenant shall pay, within thirty (30) days after receipt of the Statement, the full amount of the Excess, less the amounts, if any, paid during such Expense Year as “Estimated Excess,” as that term is defined in Section 4.4.2, below, and if Tenant paid more as Estimated Excess than the actual Excess, Tenant shall receive a credit in the amount of Tenant’s overpayment against Rent next due under this Lease. The failure of Landlord to timely furnish the Statement for any Expense Year shall not prejudice Landlord or Tenant from enforcing its rights under this Article 4. Even though the Lease Term has expired and Tenant has vacated the Premises, when the final determination is made of Tenant’s Share of Direct Expenses for the Expense Year in which this Lease terminates, if an Excess is present, Tenant shall, within thirty (30) days after receipt of the Statement, pay to Landlord such amount, and if Tenant paid more as Estimated Excess than the actual Excess, Landlord shall, within thirty (30) days, deliver a check payable to Tenant in the amount of the overpayment. The provisions of this Section 4.4.1 shall survive the expiration or earlier termination of the Lease Term. Notwithstanding anything to the contrary in this Lease, including Section 4.4.2, Tenant shall not be responsible for Tenant’s Share of any Direct Expenses attributable to any Expense Year which are first billed to Tenant more than two (2) calendar years after the expiration of the Lease Year during which Landlord incurs such Direct Expense, provided that in any event Tenant shall be responsible for Tenant’s Share of Direct Expenses levied by any governmental authority or by any public utility companies at any time following the Lease Expiration Date which are attributable to any Expense Year.
4.4.2 **Statement of Estimated Direct Expenses.** In addition, Landlord shall give Tenant a yearly expense estimate statement (the “**Estimate Statement**”) which shall set forth in general major categories Landlord’s reasonable estimate (the “**Estimate**”) of what the total amount of Direct Expenses for the then-current Expense Year shall be and the estimated excess (the “**Estimated Excess**”) as calculated by comparing the Direct Expenses for such Expense Year, which shall be based upon the Estimate, to the amount of Direct Expenses for the Base Year. Landlord shall use commercially reasonable efforts to deliver such Estimate Statement to Tenant on or before January 1 of each year. The failure of Landlord to timely furnish the Estimate Statement for any Expense Year shall not preclude Landlord from enforcing its rights to collect any Additional Rent under this Article 4, nor shall Landlord be prohibited from revising any Estimate Statement or Estimated Excess theretofore delivered to the extent necessary. Thereafter, Tenant shall pay, within thirty (30) days after receipt of the Estimate Statement, a fraction of the Estimated Excess for the then-current Expense Year (reduced by any amounts paid pursuant to the second to last sentence of this Section 4.4.2). Such fraction shall have as its numerator the number of months which have elapsed in such current Expense Year, including the month of such payment, and twelve (12) as its denominator. Until a new Estimate Statement is furnished (which Landlord shall have the right to deliver to Tenant at any time), Tenant shall pay monthly, with the monthly Base Rent installments, an amount equal to one-twelfth (1/12) of the total Estimated Excess set forth in the previous Estimate Statement delivered by Landlord to Tenant. Throughout the Lease Term Landlord shall maintain books and records with respect to Direct Expenses in accordance with generally accepted real estate accounting and management practices, consistently applied.

4.5 **Taxes and Other Charges for Which Tenant Is Directly Responsible.**

4.5.1 Tenant shall be liable for and shall pay ten (10) days before delinquency, taxes levied against Tenant’s equipment, furniture, fixtures and any other personal property located in or about the Premises. If any such taxes on Tenant’s equipment, furniture, fixtures and any other personal property are levied against Landlord or Landlord’s property or if the assessed value of Landlord’s property is increased by the inclusion therein of a value placed upon such equipment, furniture, fixtures or any other personal property and if Landlord pays the taxes based upon such increased assessment, which Landlord shall have the right to do regardless of the validity thereof but only under proper protest if requested by Tenant, Tenant shall upon demand repay to Landlord the taxes so levied against Landlord or the proportion of such taxes resulting from such increase in the assessment, as the case may be.

4.5.2 If the tenant improvements in the Premises installed by Tenant, whether or not affixed to the real property so as to become a part thereof, are assessed for real property tax purposes at a valuation higher than the valuation at which tenant improvements conforming to Landlord’s “**building standard**” in other space in the Building are assessed, then the Tax Expenses levied against Landlord or the property by reason of such excess assessed valuation shall be deemed to be taxes levied against personal property of Tenant and shall be governed by the provisions of Section 4.5.1, above. For purposes of this Section 4.5.2, Landlord and Tenant hereby agree that the valuation of Landlord’s “**building standard**” tenant improvements shall be equal to Ninety and 00/100 Dollars ($90.00) per rentable square foot.

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4.5.3 Notwithstanding any contrary provision herein, but subject to Section 4.2.5.3, Tenant shall pay prior to delinquency any (i) rent tax or sales tax, service tax, transfer tax or value added tax, or any other applicable tax on the rent or services herein or otherwise respecting this Lease, or (ii) taxes assessed upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises or any portion of the Property, including the Property parking facility.

4.6 Landlord’s Books and Records. Notwithstanding anything to the contrary contained in this Lease, if, within one hundred eighty (180) days after receipt of a Statement by Tenant, Tenant (i) reasonably disputes any amounts set forth in any Statement described above in this Article 4, and (ii) is not then in default under this Lease beyond any applicable notice and cure periods, then Tenant shall have the right to cause Landlord’s general ledger of accounts and Direct Expenses with respect to such disputed Statement only to be audited by a nationally recognized firm of certified public accountants, at no cost or expense to Landlord, which has prior experience in the review of financial statements and which shall not be retained by Tenant on a contingency fee basis; provided, however, Tenant shall not have the right to perform any such audit more than one (1) time for any Expense Year during the Lease Term. Any audit conducted by or on behalf of Tenant shall be completed in a diligent and timely manner (but in any event within two (2) months after Tenant initially disputes the applicable Statement) and shall be performed at Landlord’s office during Landlord’s normal business hours and in a manner so as to minimize interference with Landlord’s business operations. Landlord shall have no obligation to make photocopies of any of Landlord’s ledgers of Direct Expenses, invoices or other items. Tenant agrees to keep, and to cause Tenant’s accountant and its employees to keep, all information revealed by any audit of Landlord’s books and records strictly confidential and not to disclose any such information or permit any such information to be disclosed to anyone other than Landlord and Tenant’s employees and agents participating in such audit, unless compelled to do so by law or in litigation with Landlord, and Tenant and its accountant shall sign a commercially reasonable confidentiality agreement reflecting such confidentiality. Tenant’s audit shall be limited to an on-site review of Landlord’s general ledger of accounts and supporting documentation. If after such audit, Landlord and Tenant dispute the results of such audit, at Tenant’s request, a certified public accounting firm selected by Landlord, and reasonably approved by Tenant, shall, at Tenant’s cost, conduct an audit of the relevant Direct Expenses. The amounts payable under this Section 4.6 by Landlord to Tenant or by Tenant to Landlord, as the case may be, will be appropriately adjusted on the basis of such audit. If such audit discloses an overstatement of Direct Expenses in excess of five percent (5%) for such Expense Year, Landlord shall reimburse Tenant for all of the overcharges plus the reasonable cost of both audits within thirty (30) days after completion of such audit; otherwise the cost of such audits shall be borne by Tenant. Tenant agrees that this Section 4.6 shall be the sole method to be used by Tenant to dispute the amount of any Direct Expenses payable by Tenant pursuant to the terms of this Lease, and Tenant hereby waives any other rights at law or in equity relating thereto.
ARTICLE 5

USE OF PREMISES

5.1 Permitted Use. Tenant shall use the Premises solely for the Permitted Use set forth in Section 7 of the Summary and Tenant shall not use or permit the Premises or the Property to be used for any other purpose or purposes whatsoever without the prior written consent of Landlord, which may be withheld in Landlord’s sole discretion.

5.2 Prohibited Uses. The uses prohibited under this Lease shall include, without limitation, use of the Premises or a portion thereof for (i) offices of any agency or bureau of the United States or any state or political subdivision thereof; (ii) offices or agencies of any foreign governmental or political subdivision thereof; (iii) offices of any health care professionals or service organization (other than a fitness center or wellness program for Tenant’s employees and contractors, installed by Tenant pursuant to the terms of Article 8 of this Lease); (iv) schools or other training facilities which are not ancillary to corporate, executive or professional office use; (v) retail or restaurant uses; or (vi) communications firms such as radio and/or television stations. Tenant further covenants and agrees that Tenant shall not use, or permit any person or persons to use, the Premises or any part thereof for any use or purpose contrary to the provisions of the Rules and Regulations set forth in Exhibit D, attached hereto, or in violation of the laws of the United States of America, the State of California, or the ordinances, regulations or requirements of the local municipal or county governing body or other lawful authorities having jurisdiction over the Property including, without limitation, any such laws, ordinances, regulations or requirements relating to hazardous materials or substances, as those terms are defined by applicable laws now or hereafter in effect. Tenant shall not do or permit anything to be done in or about the Premises which will in any way damage the reputation of the Property or obstruct or interfere with the rights of other tenants or occupants of the Building, or injure them or use or allow the Premises to be used for any improper or unlawful purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Except for the use and storage of normal quantities of Hazardous Substances related to the Permitted Use in accordance with laws, Tenant shall not cause or permit any Hazardous Substance to be kept, maintained, used, stored, produced, generated or disposed of (into the sewage or waste disposal system or otherwise) on or in the Premises by Tenant or Tenant's agents, employees, contractors, invitees, assignees or sublessees, without first obtaining Landlord’s written consent. Tenant shall immediately notify Landlord, and shall direct Tenant’s agents, employees contractors, invitees, assignees and sublessees to immediately notify Tenant of its actual knowledge of any incident in, on or about the Premises, the Building or the Property that would require the filing of a notice under any federal, state, local or quasi-governmental law (whether under common law, statute or otherwise), ordinance, decree, code, ruling, award, rule, regulation or guidance document now or hereafter enacted or promulgated, as amended from time to time, in any way relating to or regulating any Hazardous Substance. Landlord shall also immediately notify Tenant of any such incident. As used herein, “Hazardous Substance” means any substance which is toxic, ignitable, reactive, or corrosive and which is regulated by any local government, the State of California, or the United States government. “Hazardous Substance” includes any and all material or substances which are defined as “hazardous waste,” “extremely hazardous waste” or a “hazardous substance” pursuant to state, federal or local governmental law. “Hazardous Substance” also includes asbestos, polychlorobiphenyls (i.e., PCB’s) and petroleum. To the
knowledge of Landlord as of the date of this Lease, no Hazardous Substance is present on the Project or the soil, surface water or groundwater thereof, except as set forth in reports provided to Tenant prior to Tenant’s execution of this Lease.

5.3 **CAP Process.** Tenant acknowledges that during the Lease Term, the Bank will be conducting operations critical to the Bank’s business within those portions of the Property identified in Exhibit F attached hereto (such portions, as the same may be modified from time to time by written notice from Landlord to Tenant, the “Critical Environments”); provided, however, to the extent any portion of the Critical Environments, as shown on Exhibit F, are delivered to Tenant as part of the Premises, such part of the Premises shall no longer be deemed to be Critical Environments. Tenant may not perform, or allow any utility provider, vendor, or other third party to perform, any “Alterations” as that term is defined in Section 8.1, below, or any construction, repair, maintenance, testing, or other work that requires entry into the Critical Environments, or that could potentially impact or interrupt the Bank’s operations within the Critical Environments (e.g., outdoor activities that produce vibration (such as jack hammering), airborne particulates, or the release of water) (collectively, “CE Work”), without first procuring the prior written consent of Landlord to such CE Work, which consent shall be requested by Tenant not less than sixty (60) days prior to the planned commencement thereof, and which consent shall not be unreasonably withheld by Landlord, provided that it shall be deemed reasonable for Landlord to withhold its consent to any CE Work that may result in Landlord being in breach or default under the Bank’s lease. To the extent Landlord approves such CE Work, Tenant agrees to comply with, and cause the utility providers, vendors, and other third parties performing the CE Work to comply with, the Bank’s Critical Awareness Process (“CAP Process”), as set forth in the Bank’s Corporate Workplace Critical Awareness Handbook and Critical Facilities Bulletins (the “Handbook”). Tenant hereby acknowledges receipt of the current Handbook. Landlord shall notify Tenant of any changes to the Handbook and/or the CAP Process after the Commencement Date, which changes shall not materially affect Tenant’s obligations under the CAP Process existing as of the date of this Lease. Landlord shall coordinate communications between Tenant and the Bank regarding the CAP Process.

5.4 **Tenant’s Bicycles.** Tenant’s employees shall be permitted to bring their bicycles (“Bicycles”) into the designated portions of the Building, subject to the provisions of this Section 5.4, and such additional reasonable rules and regulations as may be promulgated by Landlord from time to time (in Landlord’s reasonable discretion) that do not unreasonably interfere with Tenant’s ability to park its bicycles as contemplated herein and provided to Tenant (provided that Landlord shall not enact any such rules and regulations intended to discriminate against Tenant vis-à-vis the other tenants of the Building), and only to the extent such Bicycles are used for commuting to and from work by such employees. AT NO TIME ARE RIDERS ALLOWED TO RIDE ANY BICYCLE IN THE PREMISES, THE “GARAGE” (AS THAT TERM IS DEFINED BELOW), THE BUILDING, OR ANYWHERE ELSE WITHIN THE PROPERTY. RIDERS MUST ALWAYS WALK THEIR BICYCLES WITHIN THE PROPERTY BOUNDARIES. Storage of any Bicycle anywhere on the Property other than as expressly set forth in this Section 5.4 is prohibited. Tenant shall keep its employees informed of these rules and regulations and any modifications thereto.

5.4.1 **Bicycle Storage Area.** On or before the Rent Commencement Date, Landlord shall provide, for Tenant’s exclusive use, a secure facility on level 1 or level 3 of the
Building’s parking garage (the “Garage”) (exact location within the Garage to be determined by Landlord in Landlord’s reasonable discretion) of a reasonable size to allow for the storage of up to fifty (50) operable nonmotorized Bicycles (the “Bicycle Storage Area”). Motorized vehicles of any kind, including motorcycles and mopeds, are prohibited in the Bicycle Storage Area, as is the storage of any property other than the permitted number of Bicycles. Each rider shall use the Bicycle Storage Area at his sole risk. Landlord specifically reserves the right to reasonably change the location, size, configuration, design, layout and all other aspects of the Bicycle Storage Area at any time (so long as it is sufficient for the reasonable storage of fifty (50) bicycles) and Tenant acknowledges and agrees that Landlord may, without incurring any liability to Tenant and without any abatement of Rent under this Lease, from time to time, temporarily close-off or restrict access to the Bicycle Storage Area for purposes of permitting or facilitating any such construction, alteration or improvements. Landlord has no obligation to provide any security whatsoever in connection with the Bicycle Storage Area except as expressly set forth in this Section 5.4.1. Landlord shall provide twenty-four (24) hours per day, seven (7) days per week, reasonable access control services for the Bicycle Storage Area in a manner materially consistent with the services provided by landlords of Comparable Buildings. Notwithstanding the foregoing, Landlord shall in no case be liable for personal injury or property damage for any error with regard to the admission to or exclusion from the Bicycle Storage Area of any person. Upon the expiration or earlier termination of this Lease, Tenant shall have removed all Bicycles belonging to its employees from the Bicycle Storage Area and Tenant, at Tenant’s sole cost and expense, shall repair all damage to the Bicycle Storage Area caused by the removal of Tenant’s property therefrom, and if Tenant fails to repair such damage, Landlord may undertake such repair on account of Tenant and Tenant shall pay to Landlord upon demand the cost of such repair. If Tenant fails to remove any Bicycles at the expiration or earlier termination of this Lease, Landlord may dispose of said Bicycles in such lawful manner as it shall determine in its sole and absolute discretion.

5.4.2 Additional Bicycle Storage Areas. Landlord hereby grants to Tenant the right to construct additional bicycle storage areas (“Additional Bicycle Storage Areas”), at Tenant’s sole cost and expense, pursuant and subject to the terms of this Section 5.4.2. Any Additional Bicycle Storage Area(s) shall be deemed an “Alteration” under this Lease, and the terms and conditions of Article 8 below shall apply to such Additional Bicycle Storage Area(s). If Tenant elects to construct any Additional Bicycle Storage Area(s), such areas shall be constructed utilizing parking spaces designated by Landlord, in Landlord’s reasonable discretion. Tenant shall pay to Landlord rent for the Additional Bicycle Storage Areas on a monthly basis in an amount equal to the rate Tenant would be charged by Landlord from time to time for such parking passes pursuant to Article 28 of this Lease. The number of parking spaces used by Tenant as Additional Bicycle Storage Areas shall count toward the total number of parking passes allocated to Tenant as set forth in Section 9 of the Summary during the Lease Term.

5.4.3 6th Floor Premises. Tenant’s employees shall not be permitted to bring their Bicycles anywhere in the Premises except the 6th Floor Premises. The right provided to Tenant and its employees to bring Bicycles into the 6th Floor Premises shall be subject to the following terms and conditions: (i) Bicycles may only enter and exit the Building through the Garage entrance; (ii) Bicycles may enter and exit the Building at all times; (iii) Bicycles must be taken directly from the Garage to the 6th Floor Premises via the Building’s freight elevator, which Tenant’s employees shall be entitled to operate at any time; (iv) Landlord shall have the right to
reasonably designate the path of travel that Tenant’s employees must follow to/from the Garage and the freight elevator; and (v) during such time as Bicycles are within the Premises, all Bicycles must be stored within a room designated for such storage on the “Final Space Plan,” as that term is defined in the Tenant Work Letter. Prior to the Rent Commencement Date, Landlord shall, at Landlord’s sole cost, create a corridor next to the loading dock from the Garage to the freight elevator for Tenant’s personnel to use to access the freight elevator.

ARTICLE 6
SERVICES AND UTILITIES

6.1 Standard Tenant Services. Landlord shall provide the following services on all days (unless otherwise stated below) during the Lease Term.

6.1.1 Subject to limitations imposed by all governmental rules, regulations and guidelines applicable thereto, Landlord shall provide heating and air conditioning (“HVAC”) when necessary for normal comfort for normal office use in the Premises, assuming an office occupancy density no greater than one (1) person for any 125 rentable square feet of space, from 7:00 A.M. to 8:00 P.M. Monday through Friday, and on Saturdays and Sundays from 9:00 A.M. to 2:00 P.M. (collectively, the “Building Hours”), except for the date of observation of New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and, at Landlord’s discretion, other locally or nationally recognized holidays generally recognized in Comparable Buildings (collectively, the “Holidays”). Tenant shall cooperate fully with Landlord at all times and abide by all regulations and requirements that Landlord may reasonably prescribe for the proper functioning and protection of the HVAC, electrical, mechanical and plumbing systems.

6.1.2 The Premises shall be separately sub-metered for electricity by Landlord, and Tenant shall pay the cost of such electricity to Landlord, as Additional Rent (but not as an Operating Expense), equal to the rates charged by the public utility company furnishing such electricity. The cost of any such meters and of the installation, maintenance, and repair thereof shall be paid for by Landlord. Landlord shall provide adequate electrical wiring and facilities and electricity for connection to Tenant’s lighting fixtures and incidental use equipment, provided that (i) the connected electrical load of Tenant’s convenience electrical outlets does not exceed an average of five (5) watts per rentable square foot of the Premises on a monthly basis, and the electricity so furnished for incidental use equipment will be at a nominal one hundred twenty (120) volts or two hundred twenty (220) volts, and (ii) the connected electrical load of Tenant’s lighting fixtures does not exceed an average of one and one-half (1.5) watts per rentable square foot of the Premises on a monthly basis, and the electricity so furnished for Tenant’s lighting will be at a nominal one hundred twenty (120) volts or two hundred seventy-seven (277) volts or low voltage, which electrical usage shall be subject to applicable laws and regulations, including Title 24. Tenant may use additional capacity, if available, provided Tenant pays the cost of all transformers and panels as a result thereof. Tenant shall bear the cost of replacement of lamps, starters and ballasts for non-Building standard lighting fixtures within the Premises and Landlord shall provide, as part of Direct Expenses, lamps, starters and ballasts for Building standard lighting fixtures within the Premises. Tenant shall cooperate fully with Landlord at all
times and abide by all regulations and requirements that Landlord may reasonably prescribe for the proper functioning and protection of the Building electrical systems.

6.1.3 Landlord shall provide city water, gas, kitchen and sewer from the regular Building outlets for drinking, lavatory and toilet purposes in the Building Common Areas and Premises.

6.1.4 Landlord shall provide customary weekday janitorial services to the Premises and the Outdoor Terraces, except the date of observation of the Holidays in accordance with the specifications set forth in Exhibit P. Tenant shall pay to Landlord, as Additional Rent (but not as an Operating Expense), its actual, third party costs for such janitorial service to the extent such costs could be included in Direct Expenses had there been no Base Year. Subject to Landlord’s reasonable approval, Tenant shall be permitted to hire day porters to provide supplemental services to the Premises. In connection with Landlord’s janitorial staff, Landlord shall comply with Tenant’s reasonable security and confidentiality requirements.

6.1.5 Landlord shall provide nonexclusive, non-attended automatic passenger elevator service during the Building Hours, and shall have one (1) elevator available at all other times.

6.1.6 Landlord shall provide use of the Building loading dock for deliveries to Tenant. All deliveries require one (1) business days’ prior written notice to Landlord (which notice may be given by telephone), and drivers of delivery vehicles must present identification and paperwork in accordance with Landlord’s requirements; provided, however, the following delivery vehicles are pre-approved by Landlord and shall not require any such prior notice: (i) FedEx; (ii) UPS; and (iii) United States Postal Service. Tenant acknowledges that armored car ingress and egress to and from such loading areas shall have priority over other vehicles using and waiting to use the loading dock.

6.1.7 Subject to Landlord’s rules, regulations, and restrictions and the terms of this Lease, Landlord shall permit Tenant to utilize the existing and future Building risers, raceways, shafts and conduit to the extent (i) there is available space in the Building risers, raceways, shafts and/or conduit for Tenant’s use, which availability shall be determined by Landlord in Landlord’s reasonable discretion, and (ii) Tenant’s requirements are consistent with the requirements of a typical user for the Permitted Use; provided Tenant shall be entitled to not less than Tenant’s Share of such space for use by all tenants in the Building except Bank of America. Tenant shall be entitled to use of such Building risers, raceways, shafts and/or conduit free of charge. Tenant may only use vendors reasonably approved by Landlord to provide services to Tenant through the use of the Building risers, raceways, shafts and conduit. Tenant shall have the right, at no charge, to cross connect to any fiber located at the Property; provided Tenant shall be solely responsible for the cost of such wiring, including installation and maintenance.

6.1.8 Landlord shall provide reasonable access-control services for the Building and in the Building parking facility in a manner materially consistent with the services provided by Landlord as of the date of this Lease. Without limiting the foregoing, Landlord shall provide (a) on-site security personnel on a 24/7 basis, (b) monitoring of the Building perimeter and
interior via regular rounds and CCTV cameras and (c) card reader access to the Building. Notwithstanding the foregoing, Landlord shall in no case be liable for personal injury or property damage for any error with regard to the admission to or exclusion from the Building or Property of any person. Landlord hereby agrees that Tenant shall have the right to install a card key security system (“Tenant’s Security System”) in the Premises and to connect such system to Landlord’s security system for the Building. In addition, Landlord hereby agrees to control elevator access to Tenant’s floors based on Tenant’s requests. Tenant’s Security Systems shall by subject to Landlord’s prior review and approval, and the installation thereof shall be deemed an Alteration and shall performed pursuant to Article 8 of this Lease, below. In addition, Tenant shall coordinate the selection, installation and operation of Tenant’s Security System with Landlord in order to ensure that Tenant’s Security System is compatible with Landlord’s Building security systems and equipment, and to the extent that Tenant’s Security System is not compatible with Landlord’s Building systems and equipment, Tenant shall not be entitled to install and/or operate the Tenant’s Security System. Tenant shall be solely responsible, at Tenant’s sole cost and expense, for the installation, monitoring, operation and removal of Tenant’s Security System. Landlord represents that the Building’s security system will have sufficient capacity for Tenant to add a card key security system within the Premises.

6.1.9 Subject to applicable laws and the other provisions of this Lease, and except in the event of an emergency, Tenant shall have access to the above utilities and the Building, the Premises and the Common Areas, other than common areas requiring access with a Building engineer, the parking garage and freight elevator, twenty-four (24) hours per day, seven (7) days per week, every day of the year; provided, however, that Tenant shall only be permitted to have access to and use of the loading dock, mailroom and other limited-access areas of the Building during the normal operating hours of such portions of the Building. On or before each delivery date, Landlord shall deliver to Tenant one (1) Building key card per 100 rentable square feet of the portion of Premises being delivered on such delivery date, at no charge to Tenant. Tenant shall have the right to deliver written notice to Landlord requesting additional key cards, from time to time, provided that such notice shall include payment in an amount equal to Fifteen and 00/100 Dollars ($15.00) per key card requested therein. Tenant shall pay Twenty-Five and 00/100 Dollars ($25.00) for each key card requested to replace lost cards.

6.2 Overstandard Tenant Use. If Tenant uses water, electricity, heat or air conditioning in excess of that supplied by Landlord pursuant to Section 6.1 of this Lease, Tenant shall pay to Landlord, upon billing, the cost of such excess utility consumption, the cost of the installation, operation, and maintenance of equipment which is required to be installed in order to supply such excess consumption; and, to the extent no previously installed, Landlord may install devices to separately sub-meter any increased use and in such event Tenant shall pay the increased cost directly to Landlord, on demand, at the rates charged by the public utility company furnishing the same, including the cost of such additional metering (or sub-metering) devices. Tenant’s use of electricity shall never exceed the capacity of the feeders to the Property or the risers or wiring installation; provided, however, Tenant shall have the right, subject to the terms of Article 8, to increase such capacity. Notwithstanding anything to the contrary in this Lease, Tenant may operate the HVAC within the Premises at its discretion; provided, however, if Tenant desires to use heat, ventilation or air conditioning during hours other than those for which Landlord is obligated to supply such utilities pursuant to the terms of Section 6.1 of this Lease, Tenant shall reimburse Landlord for the actual cost of supplying chilled water and gas to the Premises.
Premises during non-Building Hours at the actual rates charged by the utilities, which cost shall be equitably prorated among all Building occupants (other than the Bank) operating HVAC during the same non-Building Hours. For purposes of an example, Exhibit K, attached hereto, sets forth the calculation of such actual utilities costs, with the actual calculation being subject to the actual rates charged by the utilities. Landlord shall, at its sole cost, as part of the Core and Shell Work, provide a cloud-based software system (Workspeed) to allow Tenant to control Tenant’s after-hours HVAC.

6.3 **Interruption of Use.** Tenant agrees that Landlord shall not be liable for damages by abatement of Rent (except as specifically set forth in Section 19.5.2 of this Lease) or otherwise, for failure to furnish or delay in furnishing any service (including telephone and telecommunication services), or for any diminution in the quality or quantity thereof, when such failure or delay or diminution is occasioned, in whole or in part, by breakage, repairs, replacements, or improvements, by any strike, lockout or other labor trouble, by inability to secure electricity, gas, water, or other fuel at the Building or Property after reasonable effort to do so, by any riot or other dangerous condition, emergency, accident or casualty whatsoever, by act or default of Tenant or other parties, or by any other cause; and such failures or delays or diminution shall never be deemed to relieve Tenant from paying Rent (except as specifically set forth in Section 19.5.2 of this Lease) or performing any of its obligations under this Lease. Furthermore, Landlord shall not be liable under any circumstances for a loss of, or injury to, property or for injury to, or interference with, Tenant’s business, including, without limitation, loss of profits, however occurring, through or in connection with or incidental to a failure to furnish any of the services or utilities as set forth in this Article 6.

6.4 **Use of Shafts and Utility Connections.** Landlord shall have reasonable access, and shall be entitled to allow other tenants reasonable access, through existing Building shafts to other portions of the Building (including the roof and mechanical floors), or to utility connections outside the Building, for the installation, repair, and maintenance of ducts, pipes, connections, and equipment for cables, conduits, transmitters, receivers, and other office, computer, communications and word and data processing equipment and facilities, including any technological devices not yet developed, whether similar or dissimilar to the foregoing, which may hereafter become necessary or desirable for any permitted use of the Property; provided, however, that to the extent such shafts or utility connections are located within or adjacent to the Premises, such access shall not materially interfere with Tenant’s occupancy of the Premises and any access to the Premises shall be subject to the terms of Section 27.1.

6.5 **Computer Room Chilled Water and Electrical Systems.** Tenant acknowledges that piping and valves located in the subflooring and in the columns on Floors 6, 7, and 8 of the Building, as well as certain wires, cable and associated electrical distribution equipment, and fire suppression and EPO (Emergency Power Off) systems (collectively, “Computer Room Chilled Water and Electrical Systems”) serve the critical business operations of other tenants of the Property. Tenant shall not alter or disturb or permit any third party to alter or disturb the Computer Room Chilled Water and Electrical Systems; provided, however, that Tenant shall be permitted to install and use its own under floor electrical and/or chilled water systems. Tenant shall indemnify, defend, protect, and hold harmless the “Landlord Parties” (as defined in Section 10.1, below) from any and all loss, cost, damage, expense and liability (including without limitation court costs and reasonable attorneys’ fees) incurred in connection with or
arising from Tenant’s use, alteration or disturbance of, or access to, the Computer Room Chilled Water and Electrical Systems, provided that the terms of the foregoing indemnity shall not apply to the negligence or willful misconduct of or violation of this Lease by Landlord or Landlord Parties.

6.6 Minimum Point of Entry. Tenant acknowledges all telecommunication services must be routed through the Minimum Point of Entry located on the first (1st) floor of the Building (the “MPOE”), which MPOE is for use by the tenants of the Building other than the Bank; and Tenant shall have no right to use the MPOE located on the first (1st) floor of the Building that is dedicated to the Bank’s use. Landlord shall coordinate access to the MPOE for Tenant’s telecommunications service providers.

6.7 Supplemental HVAC. Subject to Landlord’s prior consent, which consent shall not be unreasonably withheld, conditioned or delayed, Tenant shall have the right to install a supplemental HVAC system serving all or any portion of the Premises. Any such supplemental HVAC system shall be installed pursuant to the terms of Article 8 and shall be deemed an Alteration for purposes of this Lease; provided, however, it shall be deemed reasonable for Landlord to withhold its approval to the extent any such installation would materially interfere with the occupancy of other tenants in the Building, or would materially interfere with, or materially increase the cost of, Landlord’s maintenance or operation of the Building, unless Tenant agrees to pay for such increased costs and such installation would not result in Landlord being in breach or default under any other tenant’s lease. Tenant shall have the option either to utilize the Building’s chilled or condenser water, at Landlord’s actual cost without markup, or to install in or on the Building (including the roof) the necessary equipment to supply a sufficient quantity of chilled or condenser water to the Premises and to connect the equipment to the Premises through the Building shafts and systems. If Tenant connects into the Building’s chilled or condenser water system pursuant to the terms of the foregoing sentence, then Landlord shall install a submetering device at Tenant’s sole cost and expense, which shall measure the flow of chilled or condenser water to the Premises, and Tenant shall pay Landlord for Tenant’s use of chilled or condenser water at Landlord’s actual cost. Tenant shall bear all costs of the equipment and installation.

6.8 Tenant’s Back-Up Generator. Tenant will have third-tier priority access to the Building’s back-up generators existing as of the date of this Lease, which Landlord shall maintain throughout the Lease Term, and any extension thereof. Tenant hereby acknowledges and Landlord agrees that only (i) the Building’s emergency systems, and (ii) the Bank’s critical systems have higher priority to such Building back-up generators, and that other tenants of the Building will share third-tier priority access with Tenant. The Building back-up generators consist of four (4) 3,000 D Watt Diesel Turbine Emergency Generators that supply emergency lighting, fire pumps, computer system on floors 6-8, EMS System and elevators one cab per bank at a time for exiting. Notwithstanding the foregoing, Tenant shall be entitled to install, for Tenant’s own use and at Tenant’s sole cost and expense, one (1) back-up generator to service the Premises (the “Generator”), provided that such Generator shall only be utilized by Tenant in the event of an emergency or in connection with Tenant’s testing (which testing shall only be performed before or after the Building Hours), maintenance or repair of the Generator. In connection with Tenant’s testing, maintenance or repair of the Generator, in either of such circumstances, to the extent reasonably practical, Tenant shall give Landlord reasonable prior
notice of such non-emergency intended usage. Tenant’s use of the Generator shall be subject to such rules and regulations as Landlord may reasonably adopt from time to time. Tenant shall be responsible, at Tenant’s sole cost and expense, to obtain all permits, licenses, entitlements, authorizations or certifications which are required in connection with (i) the use and operation of the Generator and the location of the Generator, and (ii) any associated fuel tank and fuel storage. Landlord shall use reasonable efforts (at no cost to Landlord) to assist Tenant with ministerial acts required in connection with obtaining such permits, licenses, entitlements, authorizations or certifications. The physical appearance and the size of the location housing for the Generator shall be subject to Landlord’s reasonable approval, and Landlord may require Tenant to incorporate improvements or other screening surrounding such Generator area, at Tenant’s sole cost and expense, as reasonably designated by Landlord. Landlord shall, at no cost to Tenant (except as otherwise provided below in this Section 6.8), provide space at a location on the roof of the podium portion of the Building, or as otherwise mutually and reasonably agreed upon by Landlord and Tenant (provided, however, in no event shall any such generator be located in an area which interferes with any other tenant’s equipment, or any of the Building Systems), for Tenant’s installation of the Generator, and such installation shall be at Tenant’s sole cost and expense. Tenant’s installation of the Generator shall be accomplished in accordance with the terms of Article 8 of this Lease, in the event not installed as part of the initial Tenant Improvements. Such Generator shall remain Tenant’s personal property throughout the Lease Term and, in all instances, comply with all recorded covenants, conditions and restrictions and all Applicable Laws. Tenant’s use of the Generator shall be subject to all of the terms and conditions of this Lease, including, but not limited to the provisions of Article 10 of this Lease, and the Hazardous Substance requirements set forth in this Lease. At Landlord’s option, given by written notice to Tenant not less than thirty (30) days prior to the expiration or earlier termination of the Lease, Tenant shall, as of the expiration or earlier termination of this Lease, remove the Generator and all associated infrastructure, and repair any damage to the Building or Property caused by the installation or removal thereof, all at Tenant’s sole cost and expense.

ARTICLE 7

REPAIRS

Landlord shall at all times during the Lease Term maintain in good condition and operating order in a manner consistent with Comparable Buildings the structural portions of the Building, including, without limitation, the foundation, floor slabs, ceilings, roof, columns, beams, shafts, stairs, stairwells, escalators, elevators, base building restrooms and all Common Areas, including exterior landscaping (collectively, the “Building Structure”), and the “Base Building” (as that term is defined below) mechanical, electrical, life safety, plumbing, sprinkler and HVAC systems installed or furnished by Landlord (collectively, the “Building Systems”). Except as specifically set forth in this Lease to the contrary, Tenant shall not be required to repair the Building Structure and/or the Building Systems except to the extent required because of Tenant’s use of the Premises for other than normal and customary business office operations. Tenant shall, at Tenant’s own expense, pursuant to the terms of this Lease, including without limitation, Section 5.3 and Article 8 hereof, but subject to Landlord’s obligations in this Article 7 and to Articles 10, 11 and 13, keep the Premises, including all improvements, fixtures and furnishings therein, in good order, repair and condition at all times during the Lease Term. In addition, subject to Articles 10, 11 and 13 Tenant shall, at Tenant’s own expense, but under the
supervision and subject to the prior approval of Landlord, and within any reasonable period of time specified by Landlord, pursuant to the terms of this Lease, promptly and adequately repair all damage to the Premises and replace or repair all damaged, broken, or worn fixtures and appurtenances, except for damage caused by ordinary wear and tear or beyond the reasonable control of Tenant; provided however, that if Tenant fails to make such repairs, within applicable notice and cure periods Landlord may, but need not, make such repairs and replacements, and Tenant shall pay Landlord the cost thereof, including a percentage of the cost thereof (to be uniformly established for the Building and/or the Property) sufficient to reimburse Landlord for all overhead, general conditions, fees and other costs or expenses arising from Landlord’s involvement with such repairs and replacements forthwith upon being billed for same. Landlord may, but shall not be required to, enter the Premises at all reasonable times on the terms set forth in Section 27.1 to make such repairs, alterations, improvements or additions to the Premises or to the Property or to any equipment located in the Property as Landlord shall desire or deem necessary or as Landlord may be required to do by governmental or quasi-governmental authority or court order or decree. Landlord shall use commercially reasonable efforts to complete any required repairs in a manner which does not materially, adversely affect Tenant’s use of or access to the Premises. Tenant hereby waives any and all rights under and benefits of subsection 1 of Section 1932 and Sections 1941 and 1942 of the California Civil Code or under any similar law, statute, or ordinance now or hereafter in effect.

ARTICLE 8

ADDITIONS AND ALTERATIONS

8.1 Alterations. Tenant may not make any improvements, alterations, additions or changes to the Premises or any mechanical, plumbing or HVAC facilities or systems pertaining to the Premises (collectively, the “Alterations”) without first procuring the prior written consent of Landlord to such Alterations, which consent shall be requested by Tenant not less than ten (10) business days prior to the commencement thereof, and which consent shall not be unreasonably withheld by Landlord, provided it shall be deemed reasonable for Landlord to withhold its consent to any Alteration which may violate the CAP Process described in Section 5.3 above, or may adversely affect the structural portions or the systems or equipment of the Building, or has a material effect on the exterior appearance of the Building when the Building is viewed in its entirety from the street of from a neighboring building. Notwithstanding the foregoing, Tenant shall be permitted to make Alterations without Landlord’s prior consent and without prior notice to Landlord (subject to the terms of Article 9, below), to the extent that such Alterations cost less than $10,000.00 for a particular job or work and are strictly cosmetic (such as painting or carpeting). Notwithstanding the foregoing, Tenant shall be permitted to make Alterations following three (3) business days’ prior written notice to Landlord, but without Landlord’s prior consent, to the extent that such Alterations (i) do not adversely affect the Building Structure, Building Systems or equipment, (ii) does not have a material effect on the exterior appearance of the Building when the Building is viewed in its entirety from the street of from a neighboring building, (iii) cost more than $10,000.00 but less than $100,000.00 for a particular job of work, and (iv) would not require Tenant to obtain Landlord’s consent pursuant to the terms and conditions of Section 5.3 of this Lease. The construction of the initial improvements to the Premises shall be governed by the terms of the Tenant Work Letter and not the terms of this Article 8. Tenant’s trade fixtures, furniture, equipment and other personal
property installed in the Premises ("Tenant’s Property") shall at all times be and remain Tenant’s property. For the avoidance of doubt, the items listed on Exhibit N shall be considered Tenant’s Property. Except for Alterations which cannot be removed without structural injury to the Premises or the Building, at any time Tenant may remove Tenant’s Property from the Premises, provided that Tenant repairs all damage caused by such removal and returns the affected portion of the Premises to the condition that existed prior to the installation of Tenant’s Property.

8.2 Manner of Construction. Landlord may impose, as a condition of its consent to any and all Alterations or repairs of the Premises or about the Premises, such requirements as Landlord in its reasonable discretion may deem desirable, including, but not limited to, the requirement that Tenant utilize for such purposes only contractors, subcontractors, materials, mechanics and materialmen reasonably approved by Landlord, the requirement that upon Landlord’s request, Tenant shall, at Tenant’s expense, given at the time Landlord approves such Alterations remove such Alterations upon the expiration or any early termination of the Lease Term. Tenant shall construct such Alterations and perform such repairs in a good and workmanlike manner, in conformance with any and all applicable federal, state, county or municipal laws, rules and regulations and pursuant to a valid building permit, issued by the City in which the Building is located, all in conformance with Landlord’s construction rules and regulations. In the event Tenant performs any Alterations in the Premises which require or give rise to governmentally required changes to the Base Building, then Landlord shall, at Tenant’s expense, make such changes to the Base Building. The “Base Building” shall include the structural portions of the Building, the non-tenant portions of the Property, including common restrooms and common elevators lobbies and the systems and equipment located in the internal core of the Building and the Common Areas and the portions of the base building systems within the Premises (such as the main loop of the sprinkler system and the main HVAC trunk/loop) and all emergency evacuation stairways. In performing the work of any such Alterations, Tenant shall have the work performed in such manner so as not to obstruct access to the Property or any portion thereof, by any other tenant of the Property, and so as not to obstruct the business of Landlord or other tenants in the Property. In addition, any Alteration that requires the use of Building risers, raceways, shafts and/or conduits, shall be subject to Landlord’s reasonable rules, regulations, and restrictions, including the requirement that any cabling vendor must be reasonably approved by Landlord, and that the amount and location of any such cabling must be reasonably approved by Landlord. All subcontractors, laborers, materialmen, and suppliers used or selected by Tenant shall be reasonably approved by Landlord. In addition to Tenant’s obligations under Article 9 of this Lease, upon completion of any Alterations requiring Landlord’s consent, Tenant agrees to cause a Notice of Completion to be recorded in the office of the Recorder of the County in which the Building is located in accordance with Section 3093 of the Civil Code of the State of California or any successor statute, and Tenant shall deliver to the Property management office one (1) reproducible hard copy and electronic copies (in both CAD and PDF format) of the “as built” drawings of the Alterations as well as all permits, approvals and other documents issued by any governmental agency in connection with the Alterations.

8.3 Payment for Improvements. If payment is made directly to contractors, Tenant shall comply with Landlord’s requirements for final lien releases and waivers in connection with Tenant’s payment for work to contractors. If Tenant orders any work directly from Landlord, Tenant shall pay to Landlord its actual costs and expenses arising from Landlord’s involvement.
with such work. For purposes of determining the cost of an Alteration, work done in phases or stages shall be considered part of the same Alteration, and any Alteration shall be deemed to include all trades and materials involved in accomplishing a particular result.

8.4 **Construction Insurance.** In addition to the requirements of Article 10 of this Lease, in the event that Tenant makes any Alterations, prior to the commencement of such Alterations, Tenant shall provide Landlord with evidence that Tenant carries “Builder’s All Risk” insurance in an amount reasonably approved by Landlord covering the construction of such Alterations, and such other insurance as Landlord may require, it being understood and agreed that all of such Alterations shall be insured by Tenant pursuant to Article 10 of this Lease immediately upon completion thereof. In addition, Landlord may, to the extent such action is consistent with the actions of the landlords of the Comparable Buildings in connection with a similar alteration being performed by a tenant of comparable financial condition and credit history of Tenant, require Tenant to obtain a lien and completion bond or some alternate form of security satisfactory to Landlord in an amount sufficient to ensure the lien-free completion of such Alterations and naming Landlord as co-obligee.

8.5 **Landlord’s Property.** All Alterations, improvements, fixtures, and/or appurtenances which may be installed or placed in or about the Premises, from time to time, shall be at the sole cost of Tenant and shall be and become the property of Landlord, except that Tenant may remove any Alterations, improvements, fixtures and/or equipment which Tenant can substantiate to Landlord have not been paid for with any Tenant improvement allowance funds provided to Tenant by Landlord, provided Tenant repairs any damage to the Premises and Building caused by such removal and returns the affected portion of the Premises to the condition that existed prior to the installation of such Alterations. Furthermore, Landlord may, by written notice to Tenant prior to the end of the Lease Term, or given following any earlier termination of this Lease, require Tenant, at Tenant’s expense, to remove any Alterations or improvements in the Premises, and to repair any damage to the Premises and Building caused by such removal and returns the affected portion of the Premises to the condition that existed prior to the installation of such Alterations; provided; however, that notwithstanding the foregoing, upon request by Tenant at the time of Tenant’s request for Landlord’s consent to any Alteration or improvement, Landlord shall notify Tenant whether the applicable Alteration or improvement will be required to be removed pursuant to the terms of this Section 8.5. Notwithstanding anything to the contrary in this Lease, Tenant shall not be required to remove any Tenant Improvements or Alterations which are normal and customary business office improvements for the South of Market (“SOMA”) portion of the financial district area of San Francisco, California; provided, however, in any event Landlord may require Tenant to remove, all (i) rolling files and structural supports, (ii) built-in or high-density file systems, (iii) any supplemental HVAC system installed by Tenant, (iv) any improvements which affect the Building Structure, including, without limitation, any stairwells, internal staircases or vaults, and any improvements which affect the Building Systems, including, without limitation, any cooking kitchens (i.e., with gas ovens/stoves) other than in the 9th Floor Premises, any fitness or exercise facility, showers, or core drills, (v) any security or information technology systems installed by or on behalf of Tenant in the Premises, including, without limitation, any data center, (vi) any Additional Bicycle Storage installed by Tenant or on behalf of Tenant, (vii) any Generator installed by Tenant or on behalf of Tenant, and (viii) any “Communications Equipment” (as that term is
defined below) installed by or on behalf of Tenant. If Tenant fails to complete such removal and/or to repair any damage caused by the removal of any Alterations or improvements in the Premises, and return the affected portion of the Premises to the required condition, Landlord may do so and may charge the cost thereof to Tenant. Tenant hereby protects, defends, indemnifies and holds Landlord harmless from any liability, cost, obligation, expense or claim of lien in any manner relating to the installation, placement, removal or financing of any such Alterations, improvements, fixtures and/or equipment in, on or about the Premises, except to the extent due to Landlord’s negligence, willful misconduct or violation of this Lease, which obligations of Tenant shall survive the expiration or earlier termination of this Lease. Except as set forth in this Section 8.5, Tenant shall not be required to restore any improvements constructed pursuant to the Tenant Work Letter.

ARTICLE 9
COVENANT AGAINST LIENS

Tenant shall keep the Property, Building and Premises free from any liens or encumbrances arising out of the work performed, materials furnished or obligations incurred by or on behalf of Tenant, and shall protect, defend, indemnify and hold Landlord harmless from and against any claims, liabilities, judgments or costs (including, without limitation, reasonable attorneys’ fees and costs) arising out of same or in connection therewith. Tenant shall give Landlord notice of any Alterations requiring Landlord’s consent at least ten (10) business days prior to the commencement of any such work on the Premises (or such additional time as may be necessary under applicable laws) to afford Landlord the opportunity of posting and recording appropriate notices of non-responsibility; provided, however, notwithstanding anything to the contrary set forth in Section 8.1 above or this Article 9, if Landlord’s title to the Property, Building or Premises is subjected to any lien or encumbrance in connection with any Alteration which Landlord did not receive prior notice of from Tenant before such work was commenced, Tenant shall thereafter, with respect to Alterations that Tenant is not obligated to provide Landlord prior notice pursuant to the terms of Section 8.1, above, be required to give Landlord at least three (3) business days notice prior to the commencement of any such Alterations. Tenant shall remove any such lien or encumbrance by bond or otherwise within five (5) days after notice by Landlord, and if Tenant shall fail to do so, Landlord may pay the amount necessary to remove such lien or encumbrance, without being responsible for investigating the validity thereof. The amount so paid shall be deemed Additional Rent under this Lease payable upon demand, without limitation as to other remedies available to Landlord under this Lease. Nothing contained in this Lease shall authorize Tenant to do any act which shall subject Landlord’s title to the Property, Building or Premises to any liens or encumbrances whether claimed by operation of law or express or implied contract.

ARTICLE 10
INSURANCE

10.1 Indemnification and Waiver. Except to the extent due to the negligence or willful misconduct of, or violation of this Lease by Landlord Parties, Tenant hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises from any cause.
whatsoever and agrees that Landlord, its partners, subpartners and their respective officers, agents, servants, employees, and independent contractors (collectively, “Landlord Parties”) shall not be liable for, and are hereby released from any responsibility for, any damage either to person or property or resulting from the loss of use thereof, which damage is sustained by Tenant or by other persons claiming through Tenant. Tenant shall indemnify, defend, protect, and hold harmless the Landlord Parties from any and all loss, cost, damage, expense and liability (including without limitation court costs and reasonable attorneys’ fees) due to third party claims in connection with or arising from (i) any cause in, on or about the Premises, (ii) any negligence or willful misconduct of Tenant or of any person claiming by, through or under Tenant, or of the contractors, agents, servants, employees, invitees, guests or licensees of Tenant or any such person, in, on or about the Property, or (iii) any breach of the terms of this Lease, either prior to, during, or after the expiration of the Lease Term, provided that the terms of the foregoing indemnity shall not apply to the negligence or willful misconduct of Landlord or Landlord’s violation of this Lease. Should Landlord be named as a defendant in any suit brought against Tenant in which Tenant’s indemnity obligations to Landlord are applicable, Tenant shall pay to Landlord its costs and expenses incurred in such suit, including without limitation, its actual professional fees such as appraisers’, accountants’ and attorneys’ fees. Further, Tenant’s agreement to indemnify Landlord pursuant to this Section 10.1 is not intended and shall not relieve any insurance carrier of its obligations under policies required to be carried by Tenant pursuant to the provisions of this Lease, to the extent such policies cover the matters subject to Tenant’s indemnification obligations; nor shall they supersede any inconsistent agreement of the parties set forth in any other provision of this Lease. Landlord shall indemnify, defend, protect, and hold harmless Tenant, its partners, and their respective officers, agents, servants, employees, and independent contractors (collectively, “Tenant Parties”) from any and all loss, cost, damage, expense and liability (including without limitation reasonable attorneys’ fees) arising from the gross negligence or willful misconduct of Landlord in, on or about the Project, except to the extent caused by the negligence or willful misconduct of the Tenant Parties. Further, Tenant’s agreement to indemnify Landlord and Landlord’s agreement to indemnify Tenant pursuant to this Section 10.1 are not intended to and shall not relieve any insurance carrier of its obligations under policies required to be carried pursuant to the provisions of this Lease, to the extent such policies cover, or if carried, would have covered the matters, subject to the parties’ respective indemnification obligations; nor shall they supersede any inconsistent agreement of the parties set forth in any other provision of this Lease. The provisions of this Section 10.1 shall survive the expiration or sooner termination of this Lease with respect to any claims or liability arising in connection with any event occurring prior to such expiration or termination.

10.2 Tenant’s Compliance With Landlord’s Fire and Casualty Insurance. Tenant shall, at Tenant’s expense, comply with all insurance company requirements pertaining to the use of the Premises. If Tenant’s conduct or use of the Premises for purposes other than the uses permitted hereunder causes any increase in the premium for such insurance policies then Tenant shall reimburse Landlord for any such increase. Tenant, at Tenant’s expense, shall comply with all rules, orders, regulations or requirements of the American Insurance Association (formerly the National Board of Fire Underwriters) and with any similar body.

10.3 Tenant’s Insurance. Tenant shall maintain the following coverages in the following amounts.
10.3.1 Commercial General Liability Insurance in broad form covering the insured against claims of bodily injury, personal injury and property damage (including loss of use thereof) arising out of Tenant’s operations, and including contractual liability coverage insuring the performance by Tenant of its obligations under this Lease including the indemnity agreements set forth in Section 10.1 of this Lease, for limits of liability not less than (which may be satisfied by a combination of general liability and excess/umbrella policies):

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<thead>
<tr>
<th>Coverage</th>
<th>Limit</th>
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<tbody>
<tr>
<td>Bodily Injury and Property</td>
<td>$5,000,000 each occurrence</td>
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<tr>
<td>Damage Liability</td>
<td>$5,000,000 annual aggregate</td>
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<tr>
<td>Personal Injury Liability</td>
<td>$5,000,000 each occurrence</td>
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<td>$5,000,000 annual aggregate (0% Insured’s participation)</td>
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10.3.2 Physical Damage Insurance covering (i) all office furniture, business and trade fixtures, office equipment, free-standing cabinet work, movable partitions, merchandise and all other items of Tenant’s property on the Premises installed by, for, or at the expense of Tenant, (ii) the “Tenant Improvements,” as that term is defined in Section 2.1 of the Tenant Work Letter, and any other improvements which exist in the Premises as of the Lease Commencement Date (excluding the Base Building) (the “Original Improvements”), and (iii) all other improvements, alterations and additions to the Premises. Such insurance shall be written on an “all risks” of physical loss or damage basis, for the full replacement cost value (subject to reasonable deductible amounts) new without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance and shall include coverage for damage or other loss caused by fire or other peril including, but not limited to, vandalism and malicious mischief, theft, water damage of any type (excluding flood insurance), including sprinkler leakage, bursting or stoppage of pipes, and explosion, and providing business interruption coverage for a period of one (1) year.

10.3.3 Worker’s Compensation and Employer’s Liability or other similar insurance pursuant to all applicable state and local statutes and regulations.

10.3.4 Business Income Interruption for one (1) year plus Extra Expense insurance in such amounts as will reimburse Tenant for actual direct or indirect loss of earnings attributable to the risks outlined in Section 10.3.2 above.

10.4 Form of Policies. The minimum limits of policies of insurance required of Tenant under this Lease shall in no event limit the liability of Tenant under this Lease. Such insurance shall (i) name Landlord, and any lender, property manager, agent or affiliate the Landlord reasonably so specifies, as an additional insured on all liability insurance (except employer’s liability), including Landlord’s managing agent, if any; (ii) specifically cover the liability assumed by Tenant under this Lease, including, but not limited to, Tenant’s obligations under Section 10.1 of this Lease; (iii) be issued by an insurance company having a rating of not less than A-VII in Best’s Insurance Guide or which is otherwise acceptable to Landlord and licensed to do business in the State of California; (iv) be primary insurance as to all claims thereunder and provide that any insurance carried by Landlord is excess and is non-contributing with any insurance requirement of Tenant; and (v) be in form and content reasonably acceptable.
to Landlord. Tenant shall deliver certificates of such policies to Landlord on or before the Lease Commencement Date and at least ten (10) days before the expiration dates thereof. Tenant shall immediately notify Landlord in the event any policy of insurance carried by Tenant is cancelled or the coverage materially changed. In the event Tenant shall fail to procure such insurance, or to deliver such certificate, Landlord may, at its option, after providing Tenant with five (5) business days’ notice, procure such policies for the account of Tenant, and the cost thereof shall be paid to Landlord within five (5) days after delivery to Tenant of bills therefor.

10.5 Subrogation. Landlord and Tenant intend that their respective property loss risks shall be borne by reasonable insurance carriers, and Landlord and Tenant hereby agree to look solely to, and seek recovery only from, their respective property insurance carriers in the event of a property loss to the extent such loss is due to a risk that is covered by the property insurance actually carried by such party or would have been covered had such party carried the coverage required of such party hereunder. Notwithstanding anything to the contrary in this Lease, the parties each hereby waive all rights and claims against each other and their agents, employees, contractors and subtenants for such losses, and waive all rights of subrogation of their respective insurers, provided such waiver of subrogation shall not affect the right to the insured to recover thereunder. The parties agree that their respective insurance policies are now, or shall be, endorsed such that the waiver of subrogation shall not affect the right of the insured to recover thereunder. All of Landlord’s and Tenant’s repair and indemnity obligations under this Lease shall be subject to the waiver contained in this Section 10.5.

10.6 Additional Insurance Obligations. Tenant shall carry and maintain during the entire Lease Term, at Tenant’s sole cost and expense, increased amounts of the insurance required to be carried by Tenant pursuant to this Article 10 and such other reasonable types of insurance coverage and in such reasonable amounts covering the Premises and Tenant’s operations therein, as may be reasonably requested by Landlord; provided, however, that in no event shall such new or increased amounts or types of insurance exceed that required of comparable tenants by landlords of the Comparable Buildings.

10.7 Landlord’s Insurance. Tenant shall maintain the following coverages in the following amounts.

10.7.1 Commercial General Liability Insurance as described in Section 10.3.1 above, but with respect to Landlord’s operations.

10.7.2 Physical Damage Insurance covering the Base Building and the Common Areas, and all Landlord’s personal property in the Building. Such insurance shall be written on an “all risks” of physical loss or damage basis, for the full replacement cost value (subject to reasonable deductible amounts) new.

ARTICLE 11

DAMAGE AND DESTRUCTION

11.1 Repair of Damage to Premises by Landlord. Tenant shall promptly notify Landlord of any damage to the Premises resulting from fire or any other casualty. If the
Premises or any Common Areas serving or providing access to the Premises shall be damaged by fire or other casualty, Landlord shall promptly and diligently, subject to reasonable delays for insurance adjustment or other matters beyond Landlord’s reasonable control, and subject to all other terms of this Article 11, restore the Building and such Common Areas. Such restoration shall be to substantially the same condition of the Building and the Common Areas prior to the casualty, except for modifications required by zoning and building codes and other laws or by any other modifications to the Common Areas deemed desirable by Landlord, provided that access to the Premises and any common restrooms serving the Premises shall not be materially impaired. Upon the occurrence of any damage to the Premises, Tenant shall assign to Landlord (or to any party designated by Landlord) all insurance proceeds payable to Tenant under Tenant’s insurance required under items (ii) and (iii) of Section 10.4 of this Lease which pertain to work to be performed by Landlord, and Landlord shall repair any injury or damage to the Tenant Improvements, Alterations and the Original Improvements installed in the Premises and shall return such Tenant Improvements, Alterations and Original Improvements to their original condition; provided that if the cost of such repair by Landlord exceeds the amount of insurance proceeds received by Landlord from Tenant’s insurance carrier, as assigned by Tenant, the excess cost of such repairs shall be paid by Tenant to Landlord. Prior to the commencement of construction, Landlord shall submit to Tenant, for Tenant’s review and approval, all plans, specifications and working drawings relating to the repair of such damage and the restoration of such Tenant Improvements, Alterations and Original Improvements to their original condition, and Landlord shall select the contractors to perform such improvement work. Landlord shall not be liable for any inconvenience or annoyance to Tenant or its visitors, or injury to Tenant’s business resulting in any way from such damage or the repair thereof; provided however, that if such fire or other casualty shall have damaged the Premises or Common Areas necessary to Tenant’s occupancy, Landlord shall allow Tenant a proportionate abatement of Rent, during the time and to the extent the Premises are unfit for occupancy for the purposes permitted under this Lease, and not occupied by Tenant as a result thereof, in the proportion that the rentable area of the portion of the Premises that Tenant is unable to use, and does not use, bears to the total rentable area of the Premises; provided, however, in the event that Tenant is unable to use, and does not use, a portion of the Premises, and as result thereof it is commercially impractical for Tenant to use all or a portion of the remaining Premises (i.e., the portion of the Premises that Tenant is actually able to use), and if Tenant does not conduct its business from the remaining Premises or portion thereof, then for such time during which it is impractical for Tenant to conduct its business therein, the Rent shall also be abated for the remaining Premises (or portion thereof) that Tenant does not use. If, however, Tenant reoccupies any portion of the Premises during such period, the Rent allocable to such reoccupied portion, based on the proportion that the rentable area of such reoccupied portion of the Premises bears to the total rentable area of the Premises, shall be payable by Tenant from the date Tenant reoccupies such portion of the Premises. If the damage or destruction is due to the negligence or willful misconduct of Tenant or any of its agents, employees or contractors, then Tenant shall be responsible for any reasonable, applicable insurance deductible (which shall be payable to Landlord upon demand), up to Fifty Thousand Dollars ($50,000.00), and such deductible amount shall not be included in Operating Expenses.

11.2 Landlord’s Option to Repair. Notwithstanding the terms of Section 11.1 of this Lease, Landlord may elect not to rebuild and/or restore the Premises, Building and/or Property, and instead terminate this Lease, by notifying Tenant in writing of such termination within sixty
(60) days after the date of discovery of the damage, such notice to include a termination date giving Tenant sixty (60) days to vacate the Premises, but Landlord may so elect only if the Building or Property shall be damaged by fire or other casualty or cause, whether or not the Premises are affected, provided that Landlord terminates the leases of all tenants of the Building whose premises are similarly damaged by the casualty (to the extent Landlord retains such right pursuant to the terms of the applicable tenants’ leases), and one or more of the following conditions is present: (i) in Landlord’s reasonable judgment, repairs cannot reasonably be completed within two hundred seventy (270) days after the date of discovery of the damage (when such repairs are made without the payment of overtime or other premiums); (ii) the holder of any mortgage on the Building or Property or ground lessor with respect to the Building or Property shall require that more than Five Million Dollars ($5,000,000) of the insurance proceeds be used to retire the mortgage debt, or shall terminate the ground lease, as the case may be; (iii) at least Five Million Dollars ($5,000,000.00) of the damage is not fully covered by Landlord’s insurance policies; or (iv) the damage occurs during the last twelve (12) months of the Lease Term; provided, however, that if such fire or other casualty shall have damaged the Premises or a portion thereof or Common Areas necessary to Tenant’s occupancy and as a result of such damage all or a portion of the Premises are unfit for occupancy, and provided that Landlord does not elect to terminate this Lease pursuant to Landlord’s termination right as provided above, and either (a) the repairs cannot, in the reasonable opinion of Landlord’s contractor, be completed within two hundred seventy (270) days after the casualty (three hundred sixty (360) days if the damage was caused by the negligence or willful misconduct of Tenant, its agents, employees or contractors), or (b) the damage occurs during the last twelve months of the Lease Term and will reasonably require in excess of ninety (90) days to repair, Tenant may elect, no earlier than sixty (60) days after the date of the damage and not later than ninety (90) days after the date of such damage, to terminate this Lease by written notice to Landlord effective as of the date specified in the notice, which date shall not be less than thirty (30) days nor more than sixty (60) days after the date such notice is given by Tenant. In addition, if such restoration is not substantially complete on or before the later of (i) the date that occurs twelve (12) months after the date of discovery of the damage, and (ii) the date that occurs ninety (90) days after the expiration of the estimated period of time to substantially complete such restoration, as reasonably determined by Landlord’s contractor (the “Outside Restoration Date”), then Tenant shall have the additional right during the first five (5) business days of each calendar month following the Outside Restoration Date until such repairs are complete, to terminate this Lease by delivery of written notice to Landlord (the “Damage Termination Notice”), which termination shall be effective on a date specified by Tenant in such Damage Termination Notice (the “Damage Termination Date”), which Damage Termination Date shall not be less than ten (10) business days following the date such Damage Termination Notice was delivered to Landlord. Notwithstanding anything to the contrary herein, Landlord may not terminate this Lease due to a casualty if Landlord actually intends to restore the damage. The dates set forth in this Section 11.2 shall not be extended by events of Force Majeure.

11.3 Waiver of Statutory Provisions. The provisions of this Lease, including this Article 11, constitute an express agreement between Landlord and Tenant with respect to any and all damage to, or destruction of, all or any part of the Premises, the Building or the Property, and any statute or regulation of the State of California, including, without limitation, Sections 1932(2) and 1933(4) of the California Civil Code, with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between
the parties, and any other statute or regulation, now or hereafter in effect, shall have no application to this Lease or any damage or destruction to all or any part of the Premises, the Building or the Property.

**ARTICLE 12**

**NONWAIVER**

No provision of this Lease shall be deemed waived by either party hereto unless expressly waived in a writing signed thereby. The waiver by either party hereto of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord’s knowledge of such preceding breach at the time of acceptance of such Rent. No acceptance of a lesser amount than the Rent herein stipulated shall be deemed a waiver of Landlord’s right to receive the full amount due, nor shall any endorsement or statement on any check or payment or any letter accompanying such check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord’s right to recover the full amount due. No receipt of monies by Landlord from Tenant after the termination of this Lease shall in any way alter the length of the Lease Term or of Tenant’s right of possession hereunder, or after the giving of any notice shall reinstate, continue or extend the Lease Term or affect any notice given Tenant prior to the receipt of such monies, it being agreed that after the service of notice or the commencement of a suit, or after final judgment for possession of the Premises, Landlord may receive and collect any Rent due, and the payment of said Rent shall not waive or affect said notice, suit or judgment. No payment of Rent by Tenant after a breach by Landlord shall be deemed a waiver of any breach by Landlord.

**ARTICLE 13**

**CONDEMNATION**

If the whole or any material part of the Premises or Building shall be taken by power of eminent domain or condemned by any competent authority for any public or quasi-public use or purpose, or if any adjacent property or street shall be so taken or condemned, or reconfigured or vacated by such authority in such manner as to require the use, reconstruction or remodeling of any material part of the Premises or Building, or if Landlord shall grant a deed or other instrument in lieu of such taking by eminent domain or condemnation, Landlord shall have the option to terminate this Lease effective as of the date possession is required to be surrendered to the authority. If more than twenty percent (20%) of the rentable square feet of the Premises is taken, or if access to the Premises is substantially impaired, in each case for a period in excess of one hundred eighty (180) days, Tenant shall have the option to terminate this Lease effective as of the date possession is required to be surrendered to the authority. Tenant shall not because of such taking assert any claim against Landlord or the authority for any compensation because of such taking and Landlord shall be entitled to the entire award or payment in connection therewith, except that Tenant shall have the right to file any separate claim available to Tenant.
for any taking of Tenant’s personal property and fixtures belonging to Tenant and removable by Tenant upon expiration of the Lease Term pursuant to the terms of this Lease, and for moving expenses, relocation costs, and the unamortized value of any improvements to the Premises made at Tenant’s expense, so long as such claim is payable separately to Tenant. All Rent shall be apportioned as of the date of such termination. If any part of the Premises shall be taken, and this Lease shall not be so terminated, the Rent shall be abated to the extent Tenant’s use of the Premises for its intended purpose has been diminished, as reasonably agreed by Landlord and Tenant. Tenant hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of The California Code of Civil Procedure. Notwithstanding anything to the contrary contained in this Article 13, in the event of a temporary taking of all or any portion of the Premises for a period of one hundred and eighty (180) days or less, then this Lease shall not terminate but the Base Rent and the Additional Rent shall be abated for the period of such taking in proportion to the extent Tenant’s use of the Premises for its intended purpose has been diminished, as reasonably agreed by Landlord and Tenant. Landlord shall be entitled to receive the entire award made in connection with any such temporary taking.

ARTICLE 14

ASSIGNMENT AND SUBLETTING

14.1 Transfers. Tenant shall not, without the prior written consent of Landlord, assign, mortgage, pledge, hypothecate, encumber, or permit any lien to attach to, or otherwise transfer, this Lease or any interest hereunder, permit any assignment, or other transfer of this Lease or any interest hereunder by operation of law, sublet the Premises or any part thereof, or enter into any license or concession agreements or otherwise permit the occupancy or use of the Premises or any part thereof by any persons other than Tenant and its employees and contractors (all of the foregoing are hereinafter sometimes referred to collectively as “Transfers” and any person to whom any Transfer is made or sought to be made is hereinafter sometimes referred to as a “Transferee”). If Tenant desires Landlord’s consent to any Transfer, Tenant shall notify Landlord in writing, which notice (the “Transfer Notice”) shall include (i) the proposed effective date of the Transfer, which shall not be less than ten (10) business days nor more than one hundred eighty (180) days after the date of delivery of the Transfer Notice, (ii) a description of the portion of the Premises to be transferred (the “Subject Space”), (iii) all of the terms of the proposed Transfer and the consideration therefor, including calculation of the “Transfer Premium”, as that term is defined in Section 14.3 below, in connection with such Transfer, the name and address of the proposed Transferee, and a copy of all existing executed and/or proposed documentation pertaining to the proposed Transfer, including all existing operative documents to be executed to evidence such Transfer or the agreements incidental or related to such Transfer, and (iv) current financial statements of the proposed Transferee certified by an officer, partner or owner thereof, business credit of the proposed Transferee and any other information reasonably required by Landlord which will enable Landlord to determine the financial responsibility, character, and reputation of the proposed Transferee, nature of such Transferee’s business and proposed use of the Subject Space. Any Transfer made without Landlord’s prior written consent shall, at Landlord’s option, be null, void and of no effect, and shall, at Landlord’s option, constitute a default by Tenant under this Lease after the expiration of applicable notice and cure periods. Whether or not Landlord consents to any proposed Transfer, Tenant shall pay Landlord’s review and processing fees, as well as any reasonable professional
fees (including, without limitation, attorneys’, accountants’, architects’, engineers’ and consultants’ fees) incurred by Landlord, not to exceed $2,500.00 for a Transfer in the ordinary course of business, within thirty (30) days after written request by Landlord.

14.2 **Landlord’s Consent.** Landlord shall not unreasonably withhold or condition its consent to any proposed Transfer of the Subject Space to the Transferee on the terms specified in the Transfer Notice and shall grant or withhold such consent within ten (10) business days following the date upon which Landlord receives a “complete” Transfer notice from Tenant (i.e., a Transfer Notice that includes all documents and information required pursuant to Section 14.1 of this Lease, above). Without limitation as to other reasonable grounds for withholding consent, the parties hereby agree that it shall be reasonable under this Lease and under any applicable law for Landlord to withhold consent to any proposed Transfer where one or more of the following apply:

14.2.1 The Transferee is of a character or reputation or engaged in a business which is not consistent with the quality of the Building or the Property;

14.2.2 The Transferee intends to use the Subject Space for purposes which are not permitted under this Lease;

14.2.3 The Transferee is either a governmental agency or instrumentality thereof;

14.2.4 The Transferee is not a party of reasonable financial worth and/or financial stability in light of the responsibilities to be undertaken in connection with the Transfer on the date consent is requested; or

14.2.5 Either the proposed Transferee, or any person or entity which directly or indirectly, controls, is controlled by, or is under common control with, the proposed Transferee, (i) is negotiating with Landlord to lease space in the Property at such time, or (ii) has actively negotiated with Landlord during the five (5)-month period immediately preceding the Transfer Notice.

If Landlord consents to any Transfer pursuant to the terms of this Section 14.2, and does not exercise any recapture rights Landlord may have under Section 14.4 of this Lease, Tenant may within six (6) months after Landlord’s consent, but not later than the expiration of said six-month period, enter into such Transfer of the Premises or portion thereof, upon substantially the same terms and conditions as are set forth in the Transfer Notice furnished by Tenant to Landlord pursuant to Section 14.1 of this Lease, provided that if there are any changes in the terms and conditions from those specified in the Transfer Notice (i) such that Landlord would initially have been entitled to refuse its consent to such Transfer under this Section 14.2, or (ii) which would cause the proposed Transfer to be more favorable to the Transferee than the terms set forth in Tenant’s original Transfer Notice, Tenant shall again submit the Transfer to Landlord for its approval and other action under this Article 14 (including Landlord’s right of recapture, if any, under Section 14.4 of this Lease). Notwithstanding anything to the contrary in this Lease, if Tenant or any proposed Transferee claims that Landlord has unreasonably withheld or delayed its consent under Section 14.2 or otherwise has breached or acted unreasonably under this Article 14, their sole remedies shall be a suit for contract damages (other than damages for
injury to, or interference with, Tenant’s business including, without limitation, loss of profits, however occurring) or a declaratory judgment and an injunction for the relief sought without any monetary damages, and Tenant hereby waives the provisions of Section 1995.310 of the California Civil Code, or any successor statute, and all other remedies, including, without limitation, any right at law or equity to terminate this Lease, on its own behalf and, to the extent permitted under all applicable laws, on behalf of the proposed Transferee. Tenant shall indemnify, defend and hold harmless Landlord from any and all liability, losses, claims, damages, costs, expenses, causes of action and proceedings involving any third party or parties (including without limitation Tenant’s proposed subtenant or assignee) who claim they were damaged by Landlord’s wrongful withholding or conditioning of Landlord’s consent.

14.3 Transfer Premium. If Landlord consents to a Transfer, as a condition thereto which the parties hereby agree is reasonable, Tenant shall pay to Landlord fifty percent (50%) of any “Transfer Premium,” as that term is defined in this Section 14.3, received by Tenant from such Transferee. “Transfer Premium” shall mean all rent, additional rent or other consideration payable by such Transferee in connection with the Transfer in excess of the Rent and Additional Rent payable by Tenant under this Lease during the term of the Transfer on a per rentable square foot basis if less than all of the Premises is transferred, after first deducting the reasonable expenses incurred by Tenant for (i) any changes, alterations and improvements to the Premises in connection with the Transfer, (ii) any free base rent reasonably provided to the Transferee (provided that such free rent shall be deducted only to the extent the same is included in the calculation of total consideration payable by such Transferee), (iii) any brokerage commissions and attorney’s fees in connection with the Transfer (collectively, “Tenant’s Subleasing Costs”). “Transfer Premium” shall also include, but not be limited to, key money, bonus money or other cash consideration paid by Transferee to Tenant in connection with such Transfer, and any payment in excess of fair market value for services rendered by Tenant to Transferee or for assets, fixtures, inventory, equipment, or furniture transferred by Tenant to Transferee in connection with such Transfer.

14.4 Landlord’s Option as to Subject Space. Notwithstanding anything to the contrary contained in this Article 14, Landlord shall have the option, by giving written notice to Tenant within ten (10) business days after receipt of any Transfer Notice, to recapture the Subject Space; provided that Landlord shall only be entitled to exercise such recapture right if (i) the size of the Subject Space exceeds sixty percent (60%) of the size of the Premises, and (ii) such proposed Transfer is for substantially all of the then remaining Lease Term (for purposes hereof, a sublease shall be deemed to be for substantially all of the then remainder of the Lease Term if, assuming all sublease renewal or extension rights are exercised, such sublease shall expire during the final nine (9) months of the Lease Term). Such recapture notice shall cancel and terminate this Lease with respect to the Subject Space as of the date stated in the Transfer Notice as the effective date of the proposed Transfer. In the event of a recapture by Landlord, if this Lease shall be canceled with respect to less than the entire Premises, the Rent reserved herein and the L-C Amount shall be prorated on the basis of the number of rentable square feet retained by Tenant in proportion to the number of rentable square feet contained in the Premises, and this Lease as so amended shall continue thereafter in full force and effect, and upon request of either party, the parties shall execute written confirmation of the same. However, if Landlord delivers a recapture notice to Tenant, Tenant may, within ten (10) days after Tenant’s receipt of such recapture notice, deliver written notice to Landlord indicating that
Tenant is rescinding its request for consent to the proposed Transfer, in which case such Transfer shall not be consummated and this Lease shall remain in full force and effect as to the portion of the Premises that was the subject of the Proposed Transfer. If Landlord declines, or fails to elect in a timely manner to recapture the Subject Space under this Section 14.4, then, provided Landlord has consented to the proposed Transfer, Tenant shall be entitled to proceed to transfer the Subject Space to the proposed Transferee, subject to provisions of this Article 14.

14.5 **Effect of Transfer.** If Landlord consents to a Transfer, (i) the terms and conditions of this Lease shall in no way be deemed to have been waived or modified, (ii) such consent shall not be deemed consent to any further Transfer by either Tenant or a Transferee, (iii) Tenant shall deliver to Landlord, promptly after execution, an original executed copy of all documentation pertaining to the Transfer in form reasonably acceptable to Landlord, (iv) Tenant shall furnish upon Landlord’s request a complete statement, certified by an independent certified public accountant, or Tenant’s chief financial officer, setting forth in detail the computation of any Transfer Premium Tenant has derived and shall derive from such Transfer, and (v) no Transfer relating to this Lease or agreement entered into with respect thereto, whether with or without Landlord’s consent, shall relieve Tenant or any guarantor of the Lease from any liability under this Lease, including, without limitation, in connection with the Subject Space. Landlord or its authorized representatives shall have the right at all reasonable times to audit the books, records and papers of Tenant relating to any Transfer, and shall have the right to make copies thereof. If the Transfer Premium respecting any Transfer shall be found understated, Tenant shall, within thirty (30) days after demand, pay the deficiency, and if understated by more than five percent (5%), Tenant shall pay Landlord’s costs of such audit.

14.6 **Additional Transfers.** For purposes of this Lease, the term “Transfer” shall also include if Tenant is a partnership, the withdrawal or change, voluntary, involuntary or by operation of law, of fifty percent (50%) or more of the partners, or transfer of fifty percent (50%) or more of partnership interests, within a twelve (12)-month period, or the dissolution of the partnership without immediate reconstitution thereof. A sale, issuance, or transfer of Tenant’s capital stock shall not be deemed an assignment, subletting or any other Transfer.

14.7 **Occurrence of Default.** Any sublease hereunder shall be subordinate and subject to the provisions of this Lease, and if this Lease shall be terminated during the term of any Transfer, Landlord shall have the right to: (i) treat such sublease as cancelled and repossess the Subject Space by any lawful means, or (ii) require that such sublessee attorn to and recognize Landlord as its landlord under any such Transfer. If Tenant shall be in default under this Lease beyond applicable notice and cure periods, Landlord is hereby irrevocably authorized to direct any Transferee to make all payments under or in connection with the Transfer directly to Landlord (which Landlord shall apply towards Tenant’s obligations under this Lease) until such default is cured. Such Transferee shall rely on any representation by Landlord that Tenant is in default hereunder beyond applicable notice and cure periods, without any need for confirmation thereof by Tenant. Upon any assignment, the assignee shall assume in writing all obligations and covenants of Tenant thereafter to be performed or observed under this Lease. No collection or acceptance of rent by Landlord from any Transferee shall be deemed a waiver of any provision of this Article 14 or the approval of any Transferee or a release of Tenant from any obligation under this Lease, whether theretofore or thereafter accruing. In no event shall Landlord’s enforcement of any provision of this Lease against any Transferee be deemed a
waiver of Landlord’s right to enforce any term of this Lease against Tenant or any other person. If Tenant’s obligations hereunder have been guaranteed, Landlord’s consent to any Transfer shall not be effective unless the guarantor also consents to such Transfer.

14.8 Deemed Consent Transfers. Notwithstanding anything to the contrary contained in this Lease, (A) an assignment or subletting of all or a portion of the Premises to an affiliate of Tenant (an entity which is controlled by, controls, or is under common control with, Tenant as of the date of this Lease), (B) an assignment of the Lease to an entity which acquires all or substantially all of the stock or assets of Tenant, or (C) an assignment of the Lease to an entity which is the resulting or surviving entity of a merger or consolidation of Tenant during the Lease Term, shall not be deemed a Transfer requiring Landlord’s consent under this Article 14 or triggering Landlord’s rights under Section 14.3 or 14.4 (any such assignee or sublessee described in items (A) through (C) of this Section 14.8 hereinafter referred to as a “Permitted Transferee”), provided that (i) Tenant notifies Landlord at least five (5) business days prior to the effective date of any such assignment or sublease and promptly supplies Landlord with any documents or information reasonably requested by Landlord regarding such transfer or transferee as set forth above, (ii) such assignment or sublease is not a subterfuge by Tenant to avoid its obligations under this Lease, and (iii) no assignment relating to this Lease, whether with or without Landlord’s consent, shall relieve Tenant from any liability under this Lease, and, in the event of an assignment of Tenant’s entire interest in this Lease, the liability of Tenant and such transferee shall be joint and several. An assignee of Tenant’s entire interest in this Lease who qualifies as a Permitted Transferee may also be referred to herein as a “Permitted Transferee Assignee.”

14.9 Occupancy by Others. Furthermore, and notwithstanding any contrary provision of this Article 14, the Tenant shall have the right, without the receipt of Landlord’s consent and without payment to Landlord of the Transfer Premium, but on not less than five (5) business days prior written notice to Landlord, to permit the occupancy of up to ten percent (10%) of the entire Premises in the aggregate, to any individual(s) with an ongoing business relationship with Tenant (other than the dual occupancy of the Premises). Such occupancy pursuant to this Section 14.9 shall include the use of a corresponding interior support area and other portions of the Premises which shall be common to Tenant and the permitted occupants, and subject to the following conditions: (i) each individual or entity shall be of a character and reputation consistent with the quality of the Building and the Project; (ii) no individual or entity shall occupy a separately demised portion of the Premises or which contains an entrance to such portion of the Premises other than the primary entrance to the Premises; (iii) the rent, if any, paid by such occupants shall not be greater than the rent allocable on a pro rata basis to the portion of the Premises occupied by such occupants; and (iv) such occupancy shall not be a subterfuge by Tenant to avoid its obligations under this Lease or the restrictions on Transfers pursuant to this Article 14. Any occupancy permitted under this Section 14.9 shall not be deemed a Transfer under this Article 14. Notwithstanding the foregoing, no such occupancy shall relieve Tenant from any liability under this Lease.

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ARTICLE 15

SURRENDER OF PREMISES; OWNERSHIP AND REMOVAL OF TRADE FIXTURES

15.1 Surrender of Premises. No act or thing done by Landlord or any agent or employee of Landlord during the Lease Term shall be deemed to constitute an acceptance by Landlord of a surrender of the Premises unless such intent is specifically acknowledged in writing by Landlord. The delivery of keys to the Premises to Landlord or any agent or employee of Landlord shall not constitute a surrender of the Premises or effect a termination of this Lease, whether or not the keys are thereafter retained by Landlord, and notwithstanding such delivery Tenant shall be entitled to the return of such keys at any reasonable time upon request until this Lease shall have been properly terminated. The voluntary or other surrender of this Lease by Tenant, whether accepted by Landlord or not, or a mutual termination hereof, shall not work a merger, and at the option of Landlord shall operate as an assignment to Landlord of all subleases or subtenancies affecting the Premises or terminate any or all such sublessees or subtenancies.

15.2 Removal of Tenant Property by Tenant. Upon the expiration of the Lease Term, or upon any earlier termination of this Lease, Tenant shall, subject to the provisions of this Article 15, quit and surrender possession of the Premises to Landlord in as good order and condition as when Tenant took possession and as thereafter improved by Landlord and/or Tenant, reasonable wear and tear, repairs which are specifically made the responsibility of Landlord hereunder, casualties, condemnation, Hazardous Substances (other than those released or emitted by Tenant) and Alterations and other improvements Tenant is permitted to surrender, excepted. Upon such expiration or termination, Tenant shall, without expense to Landlord, remove or cause to be removed from the Premises all debris and rubbish, and such items of furniture, equipment, business and trade fixtures, free-standing cabinet work, movable partitions and other articles of personal property owned by Tenant or installed or placed by Tenant at its expense in the Premises, and such similar articles of any other persons claiming under Tenant, as Landlord may, in its sole discretion, require to be removed, and Tenant shall repair at its own expense all damage to the Premises and Building resulting from such removal. Upon receipt of a written request from Tenant, Landlord shall walk through the Premises with Tenant not less than sixty (60) days prior to the expiration date and identify any items existing at such time that must be restored.

ARTICLE 16

HOLDING OVER

If Tenant holds over after the expiration of the Lease Term or earlier termination thereof, with or without the express or implied consent of Landlord, such tenancy shall be at sufferance, and shall not constitute a renewal hereof or an extension for any further term, and in such case Base Rent shall be payable at a monthly rate, prorated daily, equal to one hundred fifty percent (150%) times the Rent applicable during the last rental period of the Lease Term under this Lease. Such tenancy shall be subject to every other applicable term, covenant and agreement contained herein. Nothing contained in this Article 16 shall be construed as consent by Landlord to any holding over by Tenant, and Landlord expressly reserves the right to require Tenant to
surrender possession of the Premises to Landlord as provided in this Lease upon the expiration or other termination of this Lease. The provisions of this Article 16 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law. If Tenant fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys’ fees) and liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding tenant founded upon such failure to surrender and any lost profits to Landlord resulting therefrom.

ARTICLE 17

ESTOPPEL CERTIFICATES

Within ten (10) days following a request in writing by Landlord, Tenant shall execute, acknowledge and deliver to Landlord an estoppel certificate, which, as submitted by Landlord, shall be substantially in the form of Exhibit E., attached hereto (or such other form as may be reasonably required by any prospective mortgagee or purchaser of the Property, or any portion thereof), indicating therein any exceptions thereto that may exist at that time, and shall also contain any other information reasonably requested by Landlord or Landlord’s mortgagee or prospective mortgagee. Any such certificate may be relied upon by any prospective mortgagee or purchaser of all or any portion of the Property. Tenant shall execute and deliver whatever other instruments may be reasonably required for such purposes. Within ten (10) days following a request in writing by Tenant, Landlord shall execute, acknowledge and deliver to Tenant a similar estoppel certificate. Not more than twice each calendar year during the Lease Term, if Tenant is in default under this Lease beyond applicable notice and cure periods, or if otherwise required in connection with a sale or financing of the Property, Landlord may require Tenant to provide Landlord with a current financial statement and financial statements of the two (2) years prior to the current financial statement year. Such statements shall be prepared in accordance with generally accepted accounting principles and, if such is the normal practice of Tenant, shall be audited by an independent certified public accountant. Landlord shall hold such statements confidentially, except it may provide such statements to its prospective lenders or purchasers and each or their agents so long as such entities and agents agree to hold such statements confidentially. Failure of Tenant to timely execute, acknowledge and deliver such estoppel certificate or other instruments within applicable notice and cure periods shall constitute an acceptance of the Premises and an acknowledgment by Tenant that statements included in the estoppel certificate are true and correct, without exception.

ARTICLE 18

SUBORDINATION

This Lease shall be subject and subordinate to all present and future ground or underlying leases of the Building or Property and to the lien of any mortgage, trust deed or other encumbrances now or hereafter in force against the Building or Property or any part thereof, if any, and to all renewals, extensions, modifications, consolidations and replacements thereof, and to all advances made or hereafter to be made upon the security of such mortgages or trust deeds,
unless the holders of such mortgages, trust deeds or other encumbrances, or the lessors under such ground lease or underlying leases, require in writing that this Lease be superior thereto (collectively, the “Superior Holders”); provided, however, that in consideration of and a condition precedent to Tenant’s agreement to subordinate this Lease to any future mortgage, trust deed or other encumbrances, shall be the receipt by Tenant of a subordination non-disturbance and attornment agreement in a commercially reasonable form, which requires such Superior Holder to continue this Lease as a direct lease between Superior Holder, as landlord, and Tenant, as tenant, and not to disturb Tenant’s possession, which must include any Superior Holder’s obligation to perform the Core and Shell Work, fund the Tenant Improvement Allowance and to accept Tenant’s offset rights set forth herein (with respect to any Landlord default that first occurs, or continues to occur, after the date such Superior Holder takes possession of the Building, and Tenant may only offset amounts attributable to the period of time from and after the date such Superior Holder takes possession of the Building), so long as an event of default has not occurred and is continuing (a “SNDa”) executed by Landlord and the appropriate Superior Holder. Tenant covenants and agrees in the event any proceedings are brought for the foreclosure of any such mortgage or deed in lieu thereof (or if any ground lease is terminated), to attorn, without any deductions or set-offs whatsoever, to the lienholder or purchaser or any successors thereto upon any such foreclosure sale or deed in lieu thereof (or to the ground lessor), if so requested to do so by such purchaser or lienholder or ground lessor, and to recognize such purchaser or lienholder or ground lessor as the lessor under this Lease, provided such lienholder or purchaser or ground lessor shall agree to accept this Lease and not disturb Tenant’s occupancy, so long as Tenant timely pays the rent and observes and performs the terms, covenants and conditions of this Lease to be observed and performed by Tenant. Landlord’s interest herein may be assigned as security at any time to any lienholder. Tenant shall, within ten (10) days of request by Landlord, execute such further instruments or assurances as Landlord may reasonably deem necessary to evidence or confirm the subordination or superiority of this Lease to any such mortgages, trust deeds, ground leases or underlying leases. Tenant waives the provisions of any current or future statute, rule or law which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease and the obligations of the Tenant hereunder in the event of any foreclosure proceeding or sale. Landlord represents to Tenant that there are not any Superior Holders as of the date of this Lease.

ARTICLE 19

DEFAULTS; REMEDIES

19.1 Events of Default. The occurrence of any of the following shall constitute a default of this Lease by Tenant:

19.1.1 Any failure by Tenant to pay any Rent or any other charge required to be paid under this Lease, or any part thereof, when due, which failure is not cured within five (5) days after written notice from Landlord that said amount was not paid when due; or

19.1.2 Any failure by Tenant to observe or perform any other provision, covenant or condition of this Lease to be observed or performed by Tenant where such failure continues for thirty (30) days after written notice thereof from Landlord to Tenant; provided that if the nature of such default is such that the same cannot reasonably be cured within a thirty (30) day
period, Tenant shall not be deemed to be in default if it diligently commences such cure within such period and thereafter diligently proceeds to rectify and cure such default; or

19.1.3 Abandonment of the Premises by Tenant; or

19.1.4 The failure by Tenant to observe or perform according to the provisions of Articles 5, 10, 14, 17 or 18 of this Lease where such failure continues for more than three (3) business days after notice from Landlord; or The notice periods provided herein are in addition to, any notice periods provided by law.

19.2 Remedies Upon Default. Upon the occurrence of any event of default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity (all of which remedies shall be distinct, separate and cumulative), the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive, without any notice or demand whatsoever.

19.2.1 Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, in accordance with laws without being liable for prosecution or any claim or damages therefor; and Landlord may recover from Tenant the following:

(i) The worth at the time of any unpaid rent which has been earned at the time of such termination; plus

(ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the Lease Term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(iv) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant’s failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, specifically including but not limited to (in each case to the extent reasonably allocable to the remaining Lease Term), brokerage commissions and advertising expenses incurred, expenses of remodeling the Premises or any portion thereof for a new tenant, whether for the same or a different use, and any special concessions made to obtain a new tenant; and

(v) At Landlord’s election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

The term “rent” as used in this Section 19.2 shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Lease, whether to
Landlord or to others. As used in Section 19.2.1(i) and (ii), above, the “worth at the time of award” shall be computed by allowing interest at the rate set forth in Article 25 of this Lease, but in no case greater than the maximum amount of such interest permitted by law. As used in Section 19.2.1(iii) above, the “worth at the time of award” shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

19.2.2 Landlord shall have the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee’s breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). Accordingly, if Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all rent as it becomes due.

19.2.3 Landlord shall at all times have the rights and remedies (which shall be cumulative with each other and cumulative and in addition to those rights and remedies available under Sections 19.2.1 and 19.2.2, above, or any law or other provision of this Lease), without prior demand or notice except as required by applicable law, to seek any declaratory, injunctive or other equitable relief, and specifically enforce this Lease, or restrain or enjoin a violation or breach of any provision thereof.

19.3 Subleases of Tenant. If Landlord elects to terminate this Lease on account of any default by Tenant, as set forth in this Article 19, Landlord shall have the right to terminate any and all subleases, licenses, concessions or other consensual arrangements for possession entered into by Tenant and affecting the Premises or may, in Landlord’s sole discretion, succeed to Tenant’s interest in such subleases, licenses, concessions or arrangements. In the event of Landlord’s election to succeed to Tenant’s interest in any such subleases, licenses, concessions or arrangements, Tenant shall, as of the date of notice by Landlord of such election, have no further right to or interest in the rent or other consideration receivable thereunder.

19.4 Efforts to Relet. No repairs, maintenance, appointment of a receiver to protect Landlord’s interests hereunder, or any other similar action or omission by Landlord shall be construed as an election by Landlord to terminate this Lease or Tenant’s right to possession, or to accept a surrender of the Premises, nor shall same operate to release Tenant in whole or in part from any of Tenant’s obligations hereunder, unless express written notice of such intention is sent by Landlord to Tenant. Tenant hereby irrevocably waives any right otherwise available under any law to redeem or reinstate this Lease.

19.5 Landlord’s Default.

19.5.1 General. Notwithstanding anything to the contrary set forth in this Lease, Landlord shall not be in default in the performance of any obligation required to be performed by Landlord pursuant to this Lease unless Landlord fails to perform such obligation within thirty (30) days after the delivery of notice from Tenant specifying in detail Landlord’s failure to perform; provided, however, if the nature of Landlord’s obligation is such that more than thirty (30) days are required for its performance, then Landlord shall not be in default under this Lease.

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if it shall commence such performance within such thirty (30) day period and thereafter diligently pursue the same to completion. Upon any such default by Landlord under this Lease, Tenant may, except as otherwise specifically provided in this Lease to the contrary, exercise any of its rights provided at law or in equity.

19.5.2 Abatement of Rent. In the event that Tenant is prevented from using, and does not use, the Premises or any portion thereof, as a result of (i) any repair, maintenance or alteration performed by Landlord, or which Landlord failed to perform, after the Lease Commencement Date and required by this Lease, which substantially interferes with Tenant’s use of the Premises, or (ii) any failure to provide services, utilities or access to the Premises as required by this Lease (either such set of circumstances as set forth in items (i) or (ii), above, to be known as an “Abatement Event”), then Tenant shall give Landlord notice of such Abatement Event, and if such Abatement Event continues for five (5) consecutive business days after Landlord’s receipt of any such notice (the “Eligibility Period”), then the Base Rent, Tenant’s Share of Direct Expenses, and Tenant’s obligation to pay for parking (to the extent not utilized by Tenant) shall be abated or reduced, as the case may be, after expiration of the Eligibility Period for such time that Tenant continues to be so prevented from using, and does not use for the normal conduct of Tenant’s business, the Premises or a portion thereof; provided, however, in the event that Tenant is prevented from using, and does not use, a portion of the Premises, and as result thereof it is commercially impractical for Tenant to use all or a portion of the remaining Premises (i.e., the portion of the Premises that Tenant is actually able to use), and if Tenant does not conduct its business from the remaining Premises or portion thereof, then for such time during which it is impractical for Tenant to conduct its business therein, the Base Rent, Tenant’s Share of Direct Expenses, and Tenant’s obligation to pay for parking (to the extent not utilized by Tenant) shall also be abated for the remaining Premises (or portion thereof) that Tenant does not use. If, however, Tenant reoccupies any portion of the Premises during such period, the Base Rent, Tenant’s Share of Direct Expenses, and Tenant’s obligation to pay for parking (to the extent not utilized by Tenant) allocable to such reoccupied portion, based on the proportion that the rentable area of such reoccupied portion of the Premises bears to the total rentable area of the Premises, shall be payable by Tenant from the date Tenant reoccupies such portion of the Premises. To the extent an Abatement Event is caused by an event covered by Articles 11 or 13 of this Lease, then Tenant’s right to abate rent shall be governed by the terms of such Article 11 or 13, as applicable, and the Eligibility Period shall not be applicable thereto. Such right to abate Base Rent and Tenant’s Share of Direct Expenses shall be Tenant’s sole and exclusive remedy for rent abatement at law or in equity for an Abatement Event. Except as expressly provided in this Section 19.5.2 or elsewhere in this Lease, nothing contained herein shall be interpreted to mean that Tenant is excused from paying Rent due hereunder.

ARTICLE 20

COVENANT OF QUIET ENJOYMENT

Landlord covenants that Tenant, on paying the Rent, charges for services and other payments herein reserved and on keeping, observing and performing all the other terms, covenants, conditions, provisions and agreements herein contained on the part of Tenant to be kept, observed and performed, in each case within applicable notice and cure periods, shall, during the Lease Term, peaceably and quietly have, hold and enjoy the Premises subject to the
terms, covenants, conditions, provisions and agreements hereof without interference by any persons lawfully claiming by or through Landlord. The foregoing covenant is in lieu of any other covenant express or implied.

**ARTICLE 21**

**LETTER OF CREDIT**

21.1 *Delivery of Letter of Credit*. Tenant shall deliver to Landlord concurrent with Tenant’s execution of this Lease, as protection for the full and faithful performance by Tenant of all its obligations under this Lease and for all losses and damages Landlord may suffer (or which Landlord reasonably estimates that it may suffer) as a result of any breach or default by Tenant under this Lease, an unconditional, clean, irrevocable negotiable standby letter of credit (the “L-C”) in the amount set forth in Section 8 of the Summary (the “L-C Amount”), in the form attached hereto as Exhibit H, running in favor of Landlord, drawn on a bank (the “Issuing Bank”) reasonably approved by Landlord and at a minimum having a long term issuer credit rating from Standard and Poor’s Professional Rating Service of A or a comparable rating from Moody’s Professional Rating Service (the “Credit Rating Threshold”), and otherwise conforming in all respects to the requirements of this Article 21, including, without limitation, all of the requirements of Section 21.2 below, all as set forth more particularly hereinbelow. Tenant shall pay all expenses, points and/or fees incurred by Tenant in obtaining and maintaining the L-C.

In the event of an assignment by Tenant of its interest in the Lease (and irrespective of whether Landlord’s consent is required for such assignment), the acceptance of any replacement or substitute letter of credit by Landlord from the assignee shall be subject to Landlord’s prior written approval, in Landlord’s reasonable discretion. As of the date of this Lease, Landlord hereby approves of JPMorgan Chase as the Issuing Bank.

21.2 *In General*. The L-C shall be “callable” at sight, permit partial draws and multiple presentations and drawings, and be otherwise subject to the Uniform Customs and Practices for Documentary Credits (1993-Rev), International Chamber of Commerce Publication #500, or the International Standby Practices-ISP 98, International Chamber of Commerce Publication #590. Tenant further covenants and warrants as follows:

21.2.1 *Landlord Right to Transfer*. The L-C shall provide that Landlord, its successors and assigns, may, at any time and without notice to Tenant and without first obtaining Tenant’s consent thereto, transfer (one or more times) all or any portion of its interest in and to the L-C to another party, person or entity, as a part of the assignment by Landlord of its rights and interests in and to this Lease. In the event of a transfer of Landlord’s interest in the Building, Landlord shall transfer the L-C, in whole or in part, to the transferee and thereupon Landlord shall, without any further agreement between the parties but upon the written assumption by the transferee of Landlord’s obligations hereunder with respect to the L-C, be released by Tenant from all liability therefor, and it is agreed that the provisions hereof shall apply to every transfer or assignment of the whole or any portion of said L-C to a new landlord. In connection with any such transfer of the L-C by Landlord, Tenant shall, at Tenant’s sole cost and expense, execute and submit to the Issuing Bank such applications, documents and instruments as may be necessary to effectuate such transfer, and Tenant shall be responsible for paying the Issuing Bank’s transfer and processing fees in connection therewith.
21.2.2 No Assignment by Tenant. Tenant shall neither assign nor encumber the L-C or any part thereof. Neither Landlord nor its successors or assigns will be bound by any assignment, encumbrance, attempted assignment or attempted encumbrance by Tenant in violation of this Section 21.2.2.

21.2.3 Replenishment. If, as a result of any drawing by Landlord on the L-C pursuant to its rights set forth in Section 21.3 below, the amount of the L-C shall be less than the L-C Amount, Tenant shall, within five (5) days after written notice thereof from Landlord, provide Landlord with (i) an amendment to the L-C restoring such L-C to the L-C Amount or (ii) additional L-Cs in an amount equal to the deficiency, which additional L-Cs shall comply with all of the provisions of this Article 21, and if Tenant fails to comply with the foregoing, notwithstanding anything to the contrary contained in Section 19.1 above, the same shall constitute an incurable default by Tenant under this Lease (without the need for any additional notice and/or cure period).

21.2.4 Renewal; Replacement. If the L-C expires earlier than the date (the “LC Expiration Date”) that is sixty (60) days after the expiration of the Lease Term, Tenant shall deliver a new L-C or certificate of renewal or extension to Landlord at least thirty (30) days prior to the expiration of the L-C then held by Landlord, without any action whatsoever on the part of Landlord, which new L-C shall be irrevocable and automatically renewable through the LC Expiration Date upon the same terms as the expiring L-C or such other terms as may be acceptable to Landlord in its sole discretion. In furtherance of the foregoing, Landlord and Tenant agree that the L-C shall contain a so-called “evergreen provision,” whereby the L-C will automatically be renewed unless at least sixty (60) days’ prior written notice of non-renewal is provided by the issuer to Landlord; provided, however, that the final expiration date identified in the L-C, beyond which the L-C shall not automatically renew, shall not be earlier than the LC Expiration Date.

21.2.5 Issuing Bank’s Financial Condition. If, at any time during the Lease Term, the Issuing Bank’s long term credit rating is reduced below the Credit Rating Threshold (either, a “Bank Credit Threat”), then Landlord shall have the right to require that Tenant obtain from a different issuer a substitute L-C that complies in all respects with the requirements of this Article 21, and Tenant’s failure to obtain such substitute L-C within ten (10) business days following Landlord’s written demand therefor (with no other notice or cure or grace period being applicable thereto, notwithstanding anything in this Lease to the contrary) shall entitle Landlord, or Landlord’s then managing agent, to immediately draw upon the then existing L-C in whole or in part, without notice to Tenant, as more specifically described in Section 21.3 below. Tenant shall be responsible for the payment of Landlord’s reasonable attorneys’ fees to review any replacement L-C, which replacement is required pursuant to this Section or is otherwise requested by Tenant.

21.3 Application of Letter of Credit. Tenant hereby acknowledges and agrees that Landlord is entering into this Lease in material reliance upon the ability of Landlord to draw upon the L-C as protection for the full and faithful performance by Tenant of all of its obligations under this Lease and for all losses and damages Landlord may suffer (or which Landlord reasonably estimates that it may suffer) as a result of any breach or default by Tenant under this Lease. Landlord, or its then managing agent, shall have the right to draw down an
amount up to the face amount of the L-C if any of the following shall have occurred or be applicable: (A) such amount is due to Landlord under the terms and conditions of this Lease, or (B) Tenant has filed a voluntary petition under the U.S. Bankruptcy Code or any state bankruptcy code (collectively, “Bankruptcy Code”), or (C) an involuntary petition has been filed against Tenant under the Bankruptcy Code that is not dismissed within thirty (30) days, or (D) the Issuing Bank has notified Landlord that the L-C will not be renewed or extended through the L-C Expiration Date and Tenant has not provided a replacement L-C that satisfies the requirements of this Article 21 within thirty (30) days prior to the expiration thereof, or (E) a Bank Credit Threat or Receivership (as such term is defined in Section 21.6.1 below) has occurred and Tenant has failed to comply with the requirements of either Section 21.2.5 above or 21.6 below, as applicable.

If Tenant shall breach any provision of this Lease or otherwise be in default hereunder in each case beyond applicable notice and cure periods or if any of the foregoing events identified in Sections 21.3(B) through (E) shall have occurred, Landlord may, but without obligation to do so, and without notice to Tenant, draw upon the L-C, in part or in whole, and the proceeds may be applied by Landlord (i) to cure any breach or default of Tenant and/or to compensate Landlord for any and all damages of any kind or nature sustained or which Landlord reasonably estimates that it will sustain resulting from Tenant’s breach or default, (ii) against any Rent payable by Tenant under this Lease that is not paid when due and/or (iii) to pay for all losses and damages that Landlord has suffered or that Landlord reasonably estimates that it will suffer as a result of any breach or default by Tenant under this Lease. If Landlord draws on the L-C pursuant to subpart (A) above, Landlord shall only draw on the L-C to the extent required to cure the default. The use, application or retention of the LC, or any portion thereof, by Landlord shall not prevent Landlord from exercising any other right or remedy provided by this Lease or by any applicable law, it being intended that Landlord shall not first be required to proceed against the L-C, and shall not operate as a limitation on any recovery to which Landlord may otherwise be entitled. Tenant agrees not to interfere in any way with payment to Landlord of the proceeds of the L-C, either prior to or following a “draw” by Landlord of any portion of the L-C, regardless of whether any dispute exists between Tenant and Landlord as to Landlord’s right to draw upon the L-C. No condition or term of this Lease shall be deemed to render the L-C conditional to justify the issuer of the L-C in failing to honor a drawing upon such L-C in a timely manner. Tenant agrees and acknowledges that (i) the L-C constitutes a separate and independent contract between Landlord and the Issuing Bank, (ii) Tenant is not a third party beneficiary of such contract, (iii) Tenant has no property interest whatsoever in the L-C or the proceeds thereof, and (iv) in the event Tenant becomes a debtor under any chapter of the Bankruptcy Code, neither Tenant, any trustee, nor Tenant’s bankruptcy estate shall have any right to restrict or limit Landlord’s claim and/or rights to the L-C and/or the proceeds thereof by application of Section 502(b)(6) of the U.S. Bankruptcy Code or otherwise.

21.4 Letter of Credit not a Security Deposit. Landlord and Tenant acknowledge and agree that in no event or circumstance shall the L-C or any renewal thereof or any proceeds thereof be (i) deemed to be or treated as a “security deposit” within the meaning of California Civil Code Section 1950.7, (ii) subject to the terms of such Section 1950.7, or (iii) intended to serve as a “security deposit” within the meaning of such Section 1950.7. The parties hereto (A) recite that the L-C is not intended to serve as a security deposit and such Section 1950.7 and any and all other laws, rules and regulations applicable to security deposits in the commercial context (“Security Deposit Laws”) shall have no applicability or relevancy thereto and

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21.5 **Proceeds of Draw.** In the event Landlord draws down on the L-C pursuant to Section 21.3(D) or (E) above, the proceeds of the L-C may be held by Landlord and applied by Landlord against any Rent payable by Tenant under this Lease that is not paid when due (subject to applicable notice and cure periods) and/or to pay for all losses and damages that Landlord has suffered or that Landlord reasonably estimates that it will suffer as a result of any breach or default by Tenant under this Lease beyond applicable notice and cure periods. Any unused proceeds shall constitute the property of Landlord and need not be segregated from Landlord’s other assets. Tenant hereby (i) agrees that (A) Tenant has no property interest whatsoever in the proceeds from any such draw, and (B) such proceeds shall not be deemed to be or treated as a “security deposit” under the Security Deposit Law, and (ii) waives all rights, duties and obligations either party may now or, in the future, will have relating to or arising from the Security Deposit Laws. Landlord agrees that the amount of any proceeds of the L-C received by Landlord, and not (a) applied against any Rent payable by Tenant under this Lease that was not paid when due or (b) used to pay for any losses and/or damages suffered by Landlord (or reasonably estimated by Landlord that it will suffer) as a result of any breach or default by Tenant under this Lease (the “**Unused L-C Proceeds**”), shall be paid by Landlord to Tenant (x) upon receipt by Landlord of a replacement L-C in the full L-C Amount, which replacement L-C shall comply in all respects with the requirements of this Article 21, and (y) immediately after the LC Expiration Date; provided, however, that if prior to the LC Expiration Date a voluntary petition is filed by Tenant, or an involuntary petition is filed against Tenant by any of Tenant’s creditors, under the Bankruptcy Code, then Landlord shall not be obligated to make such payment in the amount of the Unused L-C Proceeds until either all preference issues relating to payments under this Lease have been resolved in such bankruptcy or reorganization case or such bankruptcy or reorganization case has been dismissed.

21.6 **Issuing Bank Placed Into Receivership.** In the event the Issuing Bank is placed into receivership or conservatorship (any such event, a “**Receivership**”) by the Federal Deposit Insurance Corporation or any successor or similar entity (the “**FDIC**”), then, effective as of the date such Receivership occurs, the L-C shall be deemed to not meet the requirements of this Article 21, and, within ten (10) business days following Landlord’s notice to Tenant of such Receivership (the “**LC Replacement Notice**”), Tenant shall replace the L-C with a substitute L-C from a different issuer reasonably acceptable to Landlord and that complies in all respects with the requirements of this Article 21. If Tenant fails to replace such L-C with a substitute L-C from a different issuer pursuant to the terms and conditions of this Section 21.6.1, then, notwithstanding anything in this Lease to the contrary, Landlord shall have the right to require Tenant to provide a substitute L-C as provided in Section 21.2.5. If Tenant fails to replace such L-C with a substitute L-C from a different issuer pursuant to the terms and conditions of this Article 21, If Tenant fails to replace such L-C with a substitute L-C from a different issuer pursuant to the terms and conditions of this Article 21, Tenant shall have the right to require Tenant to provide a substitute L-C as provided in Section 21.2.5. In the event that Landlord draws upon the L-C solely due to Tenant’s failure to renew the L-C at least thirty (30) days before its expiration or provide a substitute L-C due to a Bank Credit Threat or Receivership, such failure shall not constitute a default hereunder and Tenant shall thereafter have the right to provide a substitute L-C that satisfies the requirements of this Lease, in which case, Landlord shall concurrently refund the proceeds of the draw. If Landlord improperly draws on the L-C, Tenant may offset against Rent the amounts improperly drawn.  

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21.7 **Increase of L-C Amount.** If the Premises is increased due to Tenant’s timely exercise of its rights under Section 1.3 (Expansion Space), or Section 1.4 (Recurring Right of Availability), then (A) the L-C Amount shall be increased by an amount equal to the total amount of Base Rent payable by Tenant for the applicable space expanding the Premises during the last twelve (12) months of the then Lease Term, and (B) Tenant shall, within three (3) business days after the date on which Landlord delivers possession of the applicable space expanding the Premises, in the required condition, tender to Landlord a new L-C or a certificate of amendment to the existing L-C, conforming in all respects to the requirements of this Article 21, in such increased L-C Amount; provided, however, notwithstanding anything set forth herein to the contrary, if, at the time Landlord delivers possession of such space to Tenant, Tenant delivers to Landlord evidence reasonably satisfactory to Landlord demonstrating the Tenant satisfies the “L-C Reduction Conditions,” as that term is defined below, then in lieu of the increase in the L-C Amount set forth in sub-item (A), above, the L-C Amount shall be increased by an amount equal to the total amount of Base Rent payable by Tenant for the applicable space expanding the Premises during the last five (5) months of the then Lease Term.

21.8 **Reduction of L-C Amount.** The L-C Amount shall not be reduced during that period (the “Fixed Period”), commencing on the Lease Commencement Date and expiring on the fourth (4th) anniversary of the Rent Commencement Date, unless extended pursuant to the terms of this Section 21.8. The Fixed Period shall be automatically extended (without the necessity of notice to Tenant) by four (4) months upon Tenant’s second (2nd) failure to pay any Rent or any other charge required to be paid under this Lease, or any part thereof, beyond applicable notice and cure periods, and shall be extended for an additional four (4) months upon each failure by Tenant thereafter. After the expiration of the Fixed Period (as the same may be extended pursuant to the immediately preceding sentence), provided that on or prior to the applicable Reduction Date, Tenant tenders to Landlord (a) evidence reasonably satisfactory to Landlord demonstrating the Tenant satisfies the “L-C Reduction Conditions,” as that term is defined below, and (b) a certificate of amendment to the existing L-C, conforming in all respects to the requirements of this Article 21, in the amount of the applicable L-C Amount as of such Reduction Date, the L-C Amount shall be reduced to the following amounts:

<table>
<thead>
<tr>
<th>Reduction Date</th>
<th>L-C Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>First (1st) day of the first (1st) calendar month following the month in which the Fixed Period expires (the “Burn Down Date”)</td>
<td>$7,000,000.00</td>
</tr>
<tr>
<td>First (1st) anniversary of the Burn Down Date</td>
<td>$5,730,000.00</td>
</tr>
<tr>
<td>Second (2nd) anniversary of the Burn Down Date</td>
<td>$4,460,000.00</td>
</tr>
<tr>
<td>Third (3rd) anniversary of the Burn Down Date</td>
<td>$3,190,000.00</td>
</tr>
</tbody>
</table>
The Reduction Dates set forth above shall be adjusted, if the Fixed Period is extended pursuant to the terms of this Section 21.8, to be the dates that are the number of months after the extended Fixed Period (for the initial Reduction Date) or the preceding Reduction Date (for Reduction Dates thereafter) determined by dividing the number of months remaining in the initial Lease Term following the extended Fixed Period by five (5). In addition, the L-C Amount set forth above with respect to each Reduction Date shall be proportionally increased to the extent the L-C Amount had been previously increased pursuant to the terms of Section 21.7, above.

If Tenant is allowed to reduce the L-C Amount pursuant to the terms of this Section 21.8, then Landlord shall reasonably cooperate with Tenant in order to effectuate such reduction. For purposes of this Section 21.8, the “L-C Reduction Conditions” shall mean (i) that Tenant is not then in default under this Lease, and (ii) either (x) Tenant has achieved operating income for each of the preceding four (4) consecutive trailing quarters, or (y) Tenant’s operating loss for the preceding twelve (12) months combined is less than fifteen percent (15%) of its “Liquid Assets” (as that term is defined below) on the applicable Reduction Date. For purposes of this Lease, “Liquid Assets” shall mean all unrestricted cash and cash equivalents and settlement receivables (i.e., amounts owed from processors and settled within one (1) to three (3) business days), as determined pursuant to generally accepted accounting principles. In the event Tenant fails to deliver to Landlord evidence reasonably satisfactory to Landlord demonstrating the Tenant satisfies the L-C Reduction Conditions prior to the applicable Reduction Date, or if Tenant fails to deliver a certificate of amendment to the existing L-C as required by this Section 21.8, then the L-C Amount shall not be reduced upon such applicable Reduction Date, but the terms of this Section 21.8 shall remain effective and the L-C Amount shall thereafter be reduced, to the amount applicable to such Reduction Date, on the date Tenant delivers to Landlord evidence reasonably satisfactory to Landlord demonstrating that Tenant then satisfies the L-C Reduction Conditions (provided that no such reductions shall be permitted in the event this Lease is terminated early as a result of a Tenant default).

ARTICLE 22

SECURITY DEPOSIT

To the extent Landlord holds the Termination Fee pursuant to Section 2.3 above, or Tenant ever deposits with Landlord a cash security deposit (the “Security Deposit”) as security for the faithful performance by Tenant of all of its obligations under this Lease, the terms of this Article 22 shall apply. If Tenant defaults with respect to any provisions of this Lease beyond notice and cure periods, including, but not limited to, the provisions relating to the payment of
Rent, the removal of property and the repair of resultant damage, Landlord may, without notice to Tenant, but shall not be required to apply all or any part of the Security Deposit for the payment of any Rent or any other sum in default and Tenant shall, upon demand therefor, restore the Security Deposit to its original amount. Any unapplied portion of the Security Deposit shall be returned to Tenant, or, at Landlord’s option, to the last assignee of Tenant’s interest hereunder, within sixty (60) days following the expiration of the Lease Term. Tenant shall not be entitled to any interest on the Security Deposit. Tenant hereby irrevocably waives and relinquishes any and all rights, benefits, or protections, if any, Tenant now has, or in the future may have, under Section 1950.7 of the California Civil Code, or any successor statute, and all other provisions of law, now or hereafter in effect, including, but not limited to, any provision of law only to the extent the same (i) establishes the time frame by which a landlord must refund a security deposit under a lease, and/or (ii) provides that a landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by a tenant or to clean the subject premises. Tenant acknowledges and agrees that (a) any statutory time frames for the return of a security deposit are superseded by the express period identified in this Article 22, above, and (b) rather than be so limited, Landlord may claim from the Security Deposit (1) any and all sums expressly identified in this Article 22, above, and (2) any additional sums reasonably necessary to compensate Landlord for any and all losses or damages caused by Tenant’s default of this Lease, including, but not limited to, all damages or rent due upon termination of Lease pursuant to Section 1951.2 of the California Civil Code.

ARTICLE 23

SIGNS; ROOF RIGHTS

23.1 Full Floors. Subject to Landlord’s prior written approval, in its reasonable discretion, and provided all signs are in keeping with the quality, design and style of the Building and Property, Tenant, if the Premises comprise an entire floor of the Building, at its sole cost and expense, may install identification signage anywhere in the Premises including in the elevator lobby of the Premises, provided that such signs must not be visible from the exterior of the Building.

23.2 Multi-Tenant Floors. If other tenants occupy space on the floor on which the Premises is located, Tenant’s identifying signage shall be provided by Landlord, at Tenant’s cost, and such signage shall be comparable to that used by Landlord for other similar floors in the Building and shall comply with Landlord’s commercially reasonable Building standard signage program.

23.3 Lobby Signage. Throughout the Lease Term, as the same may be extended, Tenant (including any assignee of this Lease pursuant to an assignment approved by Landlord or pursuant to a transaction that did not require Landlord’s consent), at Tenant’s sole cost and expense, shall have the non-exclusive right to install, repair and maintain its name and/or logo in the podium ground floor lobby. If at any time Tenant leases the entire space within the podium portion of the Building, the rights described in the immediately preceding sentence and the podium elevator lobby shall be exclusive to Tenant and the podium elevator lobby shall be for Tenant’s exclusive use. Any such installation, repair and/or maintenance shall be subject to compliance with Applicable Laws and Landlord’s prior approval as to the shape, size and
location (provided such lobby sign shall be visible from the main lobby of the Building) of any such signs, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant shall be entitled to transfer its podium ground floor lobby signage right to a “Permitted Subtenant” (as that term is defined in Section 23.5, below).

23.4 Prohibited Signage and Other Items. Any signs, notices, logos, pictures, names or advertisements which are installed and that have not been separately approved by Landlord may be removed without notice by Landlord at the sole expense of Tenant. Except as provided in Section 23.5, Tenant may not install any signs on the exterior or roof of the Property or the Common Areas. Any signs, window coverings, or blinds (even if the same are located behind the Landlord-approved window coverings for the Building), or other items visible from the exterior of the Premises or Building, shall be subject to the prior approval of Landlord, in its reasonable discretion.

23.5 Exterior Signage. Throughout the Lease Term, as the same may be extended, provided that Tenant satisfies the applicable Minimum Signage Threshold Tenant (including any assignee of this Lease pursuant to an assignment approved by Landlord or pursuant to a transaction that did not require Landlord’s consent), at Tenant’s sole cost and expense, shall have the right to install, repair and maintain (i) its name and logo on any monument sign installed by Landlord and associated with the Building (provided that Tenant hereby acknowledges and agrees that no monument sign exists as of the date of this Lease, and Landlord has no obligation to install any monument sign for the Building until it receives City approval thereof; provided further that if Landlord does not install a monument sign on or before the Rent Commencement Date, then Tenant shall have the right to install, at Tenant’s sole cost and expense, a way-finding eyebrow or blade sign, with Tenant’s logo, near the main entrance to the Building), and (ii) its logo to the helicopter pad of the Building, and (iii) either one (1) building top sign on the tower portion of the Building, or one (1) vertical sign on the side of the tower portion of the Building, which exterior sign may be Tenant’s name and/or logo. Landlord shall work with Tenant to obtain City approval of such signs. Any such installation, repair and/or maintenance shall be subject to compliance with Applicable Laws and Landlord’s prior approval as to the shape, size and location of any such signs, which approval shall not be unreasonably withheld, conditioned or delayed. Landlord hereby approves of the signage shown on Exhibit O, and Landlord agrees that such Building sign may be back-lit. The term “Minimum Signage Threshold”) shall mean the Original Tenant and/or its Permitted Transferee Assignee shall, in the aggregate, lease no less than 200,000 rentable square feet of the Building (including space that Tenant has committed to lease, such as the Must-Take Space) even if Lease has not yet commenced as to such space. Landlord acknowledges that the Minimum Signage Threshold is intended to impose an obligation on Tenant to lease and pay Rent with respect to a minimum amount of space in the Building, but is not intended to impose any requirement on Tenant to occupy space in the Building. Landlord shall be entitled to grant exterior signage rights to other tenants in the Building; provided, however, Landlord shall not be entitled to grant rooftop signage rights or exterior signage on the podium or tower portion of the Building to any other entity except (x) another Building tenant that leases more than 200,000 rentable square feet in the Building, and (y) another Building tenant that leases retail space on the first (1st) floor of the Building, in which case such exterior signage rights shall be limited to signs on the street level floor of the podium portion of the Building and shall be located above the applicable retail tenant. Tenant shall be entitled to transfer its exterior signage rights to its “Permitted Subtenants” (as that term is defined

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below). For purposes of this Lease, the term “Permitted Subtenant” shall mean any subtenant of the Tenant that, pursuant to a sublease approved by Landlord pursuant to Article 14 above (or which did not require Landlord’s consent pursuant to Section 14.8, above), (i) occupies a portion of the Premises no less than 75,000 rentable square feet, and (ii) subleases such portion of the Premises for a term of no less than a two (2) years.

23.6 **Name Change.** If Tenant changes its name at any time, Tenant shall have the right, at Tenant’s cost, to make such changes to its signage as necessary to reflect the changed name, and may modify or change existing signs to do so. To the extent Tenant desires to change the name and/or logo set forth on new or existing signs, such name and/or logo shall not have a name which relates to an entity which is of a character or reputation, or is associated with a political faction or orientation, which is inconsistent with the quality of the Property, or which would otherwise reasonably offend a landlord of the Comparable Buildings (an “Objectionable Name”). Objectionable Name shall also include the name of a “Bank Objectionable Institution,” as that term is defined below, for so long as Landlord is bound by such restriction in its lease with the Bank. As used herein, a “Bank Objectionable Institution” shall mean any entity which performs one or more of the following activities: (a) operation of a commercial bank, savings bank, savings and loan association, credit union, a mutual or thrift association or any other institution that accepts deposits of money, (b) operation of any sort of automated teller machine or cash dispensing machine (an “ATM”), and (c) operation of a cash vault facility. Notwithstanding anything set forth in this Lease to the contrary, in no event shall the name “Square, Inc.” or any reasonable derivation thereof, be deemed an Objectionable Name, and, with respect to the Original Tenant only, in no event shall any name containing “Square” be deemed the name of a Bank Objectionable Institution. In the event of a Transfer, such Transferee shall have the right to continue to use the signage installed by Tenant, including the logo and colors utilized by Tenant prior to the date of such Transfer.

23.7 **Building Directory.** Tenant shall have the right, at no charge to Tenant, to have Tenant’s name entered into Landlord’s directory in the lobby of the Building.

23.8 **Roof Rights.**

23.8.1 **Right to Install Equipment.** Throughout the Lease Term, as the same may be extended, subject to Landlord’s reasonable approval and the terms of this Section 23.8, Tenant shall have the non-exclusive right, at no additional cost to install, repair, maintain (including access thereto) and replace on any of the roofs of the Building (but any new installation may only be installed on the podium roof), one (1) satellite dish, television or communications antenna or facility, related receiving or transmitting equipment, related cable connections and any and all other related or similar equipment (collectively, the “Communications Equipment”) and supplemental HVAC and other system infrastructure (collectively with the Communications Equipment, the “Equipment”), for use in connection with Tenant’s business within the Premises, in a location mutually acceptable to both Landlord and Tenant; provided, however, any installation shall be performed pursuant to this Section 23.8, and it shall be deemed reasonable for Landlord to withhold its approval to the extent any such installation would (i) require the use by Tenant of more than Tenant’s Share of the usable portion of the roof, as reasonably determined by Landlord, and (ii) interfere with the Landlord’s or any other tenant’s use, operation, repair and/or maintenance of then-existing equipment and systems.
installed on the roof. Without having to pay any rental or license fees therefor, Tenant may also use the Building’s risers, conduits and towers for purposes of installing cabling from the Equipment to the Premises in the interior of the Building. Tenant may not license, assign or sublet the right to use any of such Equipment or roof space, other than to Transferees permitted under Article 14, without Landlord’s prior written consent, which consent may be withheld in Landlord’s sole and absolute discretion. Notwithstanding any provision set forth in the Lease, Tenant shall be responsible, at Tenant’s sole cost and expense, for (i) obtaining, as applicable, and maintaining all permits or other governmental approvals required in connection with the Equipment, (ii) repairing and maintaining and causing the Equipment to comply with all Applicable Laws, and (iii) the removal of the Equipment and all associated wiring promptly following the expiration or earlier termination of this Lease (and the repair of all affected areas to the condition existing prior to the installation thereof). In no event shall Tenant permit the Equipment to interfere with the Building Systems or any other communications equipment at the Building.

23.8.2 Right of Use. Landlord may grant to others the right to use any of the roofs or exterior portions of the Building or the parking facilities (for other than parking purposes), provided that such installations do not materially interfere with any existing then Equipment of Tenant.

23.8.3 Installation, Maintenance, Operation and Removal of Communications Equipment. Landlord shall cause its telecommunications rooftop management company (the “TRMC”) to install, repair, maintain and replace the Communications Equipment at Tenant’s sole cost and expense. Tenant shall have access to the Communications Equipment at all times, subject to any reasonable restrictions of Landlord. Any installation and maintenance of Communications Equipment shall be completed by TRMC in accordance with all Applicable Laws. Tenant shall be permitted from time to time to alter its Communications Equipment in connection with technological upgrades or changes in Tenant’s technological or communications requirements, subject to the terms of this Article 23. Tenant shall pay for any and all costs and expenses in connection with the installation, maintenance, and removal of the Communications Equipment, and all costs and expenses associated with repairing damage to the roof caused by Tenant, its employees or agents, including, but not limited to, any and all costs related to ensuring that any roof warranties for the Building are not terminated or negated in any way by reason of any such installations or by repair and maintenance of such facilities, but in no event shall Tenant be obligated to pay Landlord or the TRMC any rental or license fees for any area(s) on which the Communications Equipment shall be located. Notwithstanding anything to the contrary contained in this Article 23, in the event of an emergency, Landlord shall have the right, in its sole and absolute discretion, to (or cause TMRC to) repair, maintain, or replace the Communications Equipment, as Landlord deems necessary or appropriate, without prior notice to Tenant so long as TRMC charges a market competitive price for such repair, maintenance or replacement. No portion of any of the roof space shall be included in or designated as part of the Premises.
ARTICLE 24

COMPLIANCE WITH LAW

Tenant shall not do anything or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or other governmental rule, regulation or requirement now in force or which may hereafter be enacted or promulgated (collectively, “Applicable Laws”). At its sole cost and expense, Tenant shall promptly comply with all Applicable Laws which relate to (i) Tenant’s use of the Premises, (ii) any Alterations made by Tenant to the Premises, and any Tenant Improvements in the Premises, or (iii) the Base Building, but as to the Base Building, only to the extent such obligations are triggered by Alterations made by Tenant to the Premises to the extent such Alterations are not normal and customary business office improvements for the SOMA area, or triggered by the Tenant Improvements to the extent such Tenant Improvements are not normal and customary business office improvements for the SOMA area, or triggered by Tenant’s use of the Premises for non-general office use in the SOMA area. Should any standard or regulation now or hereafter be imposed on Landlord or Tenant by a state, federal or local governmental body charged with the establishment, regulation and enforcement of occupational, health or safety standards for employers, employees, landlords or tenants, then Tenant agrees, at its sole cost and expense, to comply promptly with such standards or regulations. Tenant shall be responsible, at its sole cost and expense, to make all alterations to the Premises as are required to comply with the governmental rules, regulations, requirements or standards described in this Article 24. The judgment of any court of competent jurisdiction or the admission of Tenant in any judicial action, regardless of whether Landlord is a party thereto, that Tenant has violated any of said governmental measures, shall be conclusive of that fact as between Landlord and Tenant. Tenant shall promptly pay all fines, penalties and damages that may arise out of or be imposed because of its failure to comply with the provisions of this Article 24. Notwithstanding anything to the contrary in this Lease, including Section 10.2, to the extent required in order for Tenant to obtain a certificate of occupancy, or its legal equivalent, or legally occupy the Premises for normal and customary office use, or to the extent required in order for Tenant to pull a construction permit or to otherwise comply with the requirements of the applicable permitting authority, Landlord (rather than Tenant) shall comply with all Applicable Laws or American Insurance Association’s or any similar body’s requirements relating to the Base Building, except to the extent such compliance is triggered by (a) Tenant’s particular use of the Premises for other than normal and customary business office use in the SOMA area, assuming an office occupancy density no greater than one (1) person for any one hundred twenty-five (125) rentable square feet, or (b) Tenant’s construction of Alterations or Tenant Improvements in the Premises that are not normal and customary office improvements in the SOMA area, assuming an office occupancy density no greater than one (1) person for any one hundred twenty-five (125) rentable square feet, in which case compliance with such Applicable Laws shall be the responsibility of Tenant under this Lease. Landlord shall be permitted to include in Operating Expenses any costs or expenses incurred by Landlord under this Article 24 to the extent not prohibited by the terms of Section 4.2.7 above.
ARTICLE 25

LATE CHARGES

If any installment of Rent or any other sum due from Tenant shall not be received by Landlord or Landlord’s designee within five (5) days after said amount is due, then Tenant shall pay to Landlord a late charge equal to five percent (5%) of the overdue amount plus any attorneys’ fees incurred by Landlord by reason of Tenant’s failure to pay Rent and/or other charges when due hereunder. The late charge shall be deemed Additional Rent and the right to require it shall be in addition to all of Landlord’s other rights and remedies hereunder or at law and shall not be construed as liquidated damages or as limiting Landlord’s remedies in any manner. In addition to the late charge described above, any Rent or other amounts owing hereunder which are not paid within ten (10) days after the date they are due shall bear interest from the date when due until paid at a rate per annum equal to the lesser of (i) the annual “Bank Prime Loan” rate cited in the Federal Reserve Statistical Release Publication H.15(519), published weekly (or such other comparable index as Landlord and Tenant shall reasonably agree upon if such rate ceases to be published) plus two (2) percentage points, and (ii) the highest rate permitted by Applicable Law. Notwithstanding the foregoing, before assessing a late charge or late interest the first time in any twelve (12) month period, Landlord shall provide Tenant written notice of the delinquency, and shall waive such late charge if Tenant pays such delinquency within five (5) days thereafter.

ARTICLE 26

LANDLORD’S RIGHT TO CURE DEFAULT; PAYMENTS BY TENANT

26.1 Landlord’s Cure. All covenants and agreements to be kept or performed by Tenant under this Lease shall be performed by Tenant at Tenant’s sole cost and expense and without any reduction of Rent, except to the extent, if any, otherwise expressly provided herein. If Tenant shall fail to perform any obligation under this Lease, and such failure shall continue in excess of the time allowed under Section 19.1.2, above, unless a specific time period is otherwise stated in this Lease, Landlord may, but shall not be obligated to, make any such payment or perform any such act on Tenant’s part without waiving its rights based upon any default of Tenant and without releasing Tenant from any obligations hereunder.

26.2 Tenant’s Reimbursement. Except as may be specifically provided to the contrary in this Lease, Tenant shall pay to Landlord, upon delivery by Landlord to Tenant of statements therefor: (i) sums equal to expenditures reasonably made and obligations incurred by Landlord in connection with the remedying by Landlord of Tenant’s defaults pursuant to the provisions of Section 26.1; (ii) sums equal to all losses, costs, liabilities, damages and expenses referred to in Article 10 of this Lease; and (iii) subject to Section 29.21, sums equal to all expenditures made and obligations incurred by Landlord in collecting or attempting to collect the Rent or in enforcing or attempting to enforce any rights of Landlord under this Lease or pursuant to law, including, without limitation, all reasonable legal fees and other amounts so expended. Tenant’s obligations under this Section 26.2 shall survive the expiration or sooner termination of the Lease Term.
ARTICLE 27

ENTRY BY LANDLORD

27.1 In General. Landlord reserves the right at all reasonable times and upon reasonable notice to Tenant (except in the case of an emergency) to enter the Premises to (i) inspect them; (ii) show the Premises to prospective purchasers, mortgagees or to current or prospective mortgagees, ground or underlying lessors or insurers, or, during the last ten (10) months of the Lease Term, to prospective tenants; (iii) post notices of nonresponsibility; or (iv) repair the Premises or the Building, or for structural repairs to the Building or the Building’s systems and equipment. Notwithstanding anything to the contrary contained in this Article 27, Landlord may enter the Premises at any reasonable time to (A) perform services required of Landlord, including janitorial service; (B) take possession due to any breach of this Lease in the manner provided herein; and (C) perform any covenants of Tenant which Tenant fails to perform. Landlord may make any such entries without the abatement of Rent and may take such reasonable steps as required to accomplish the stated purposes. Tenant hereby waives any claims for damages or for any injuries or inconvenience to or interference with Tenant’s business, lost profits, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. For each of the above purposes, Landlord shall at all times have a key with which to unlock all the doors in the Premises, excluding Tenant’s vaults, safes and special security areas designated in advance by Tenant. In an emergency, Landlord shall have the right to use any means that Landlord may deem proper to open the doors in and to the Premises. Any entry into the Premises by Landlord in the manner hereinbefore described shall not be deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an actual or constructive eviction of Tenant from any portion of the Premises. No provision of this Lease shall be construed as obligating Landlord to perform any repairs, alterations or decorations except as otherwise expressly agreed to be performed by Landlord herein. Any entry by Landlord and Landlord’s agents shall not impair Tenant’s operations more than reasonably necessary, and shall comply with Tenant’s reasonable security measures. Landlord shall use commercially reasonable efforts to promptly complete any work to be performed pursuant to any such entry.

27.2 Mechanical Penthouse; Satellite Dishes and Telecommunications Rooms. In addition to the rights of Landlord set forth in Section 27.1, notwithstanding anything to the contrary set forth in this Lease, Landlord and its agents, including without limitation, the Building’s engineers and their contractors and employees, shall have the right to enter the 9th floor of the Building and/or the Outdoor Terraces in order to access those engineering rooms, satellite dishes and telecommunications rooms accessible from the 9th floor of the Building and/or the South Outdoor Terrace, as the case may be, as depicted on Exhibit L attached to this Lease (collectively, as such areas to be known as the “Mechanical Penthouse”). Landlord may make any such entries without the abatement of Rent and may take such reasonable steps as required to accomplish the stated purposes. Tenant hereby waives any claims for damages or for any injuries or inconvenience to or interference with Tenant’s business, lost profits, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. In an emergency, Landlord shall have the right to use any means that Landlord may deem proper to access the Mechanical Penthouse. Any entry into the Premises and/or the South Outdoor Terrace by Landlord in the manner hereinbefore described shall not be deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an actual or constructive eviction of Tenant.
from any portion of the Premises. No provision of this Lease shall be construed as obligating Landlord to perform any repairs, alterations or decorations except as otherwise expressly agreed to be performed by Landlord herein. Notwithstanding the foregoing, any access under this Section 27.2 shall be subject to the terms of Section 27.1, shall be only pursuant to a path of travel reasonably agreed upon by Landlord and Tenant and shall be limited to employees of Landlord and its agents, including its engineers and sub-engineers, with a need to access the Mechanical Penthouse.

**ARTICLE 28**

**TENANT PARKING**

Subject to the terms of this Article 28, Tenant shall have the right to rent from Landlord, commencing on the Rent Commencement Date, the amount of unreserved parking passes set forth in Section 9 of the Summary (of which up to five (5) may be converted to reserved parking passes), on a monthly basis throughout the Lease Term, which parking passes shall pertain to the Property parking facility. Tenant shall pay to Landlord for automobile parking passes on a monthly basis the prevailing rate charged from time to time at the location of such parking passes; provided, however, during the first year of the Lease Term following the Rent Commencement Date only, Tenant shall be entitled to rent the unreserved parking passes at a rate of One Hundred Fifty and 00/100 Dollars ($150.00) per unreserved parking pass per month; and provided, further, that thereafter, the prevailing rate charged by Landlord shall be subject to market rate increases consistent with the parking rates being charged by landlords of Comparable Buildings in the Mid-Market/Civic Center Area. The foregoing parking rates may only be utilized by Tenant, its Permitted Transferee Assignees and any other assignee, sublessee, or transferee of the Tenant’s interest in this Lease. In addition, Tenant shall be responsible for the full amount of any taxes imposed by any governmental authority in connection with the renting of such parking passes by Tenant or the use of the parking facility by Tenant. Tenant may change the number of parking passes rented pursuant to this Article 28 upon thirty (30) days prior written notice to Landlord; provided that notwithstanding any contrary provision of this Lease, if Tenant elects to rent less than all of the unreserved parking passes at any time during the Lease Term, then Tenant’s right to again increase the number of parking passes that it elects to rent under this Lease shall be subject to availability (as determined by Landlord in its reasonable discretion); and provided, further, that in no event shall Tenant be entitled to rent more than the amount and type of parking passes allocated to Tenant as set forth in Section 9 of the Summary during the Lease Term. Tenant’s continued right to use the parking passes is conditioned upon Tenant abiding by all rules and regulations which are reasonably prescribed from time to time for the orderly operation and use of the parking facility where the parking passes are located, including any sticker or other identification system established by Landlord and Tenant’s cooperation in seeing that Tenant’s employees and visitors also comply with such rules and regulations. So long as the same do not unreasonably interfere with Tenant’s parking rights, Landlord specifically reserves the right to change the size, configuration, design, layout and all other aspects of the Property parking facility at any time and Tenant acknowledges and agrees that Landlord may, without incurring any liability to Tenant and without any abatement of Rent under this Lease, from time to time, close-off or restrict access to the Property parking facility for purposes of permitting or facilitating any such construction, alteration or improvements. Landlord may delegate its responsibilities hereunder to a parking operator in
which case such parking operator shall have all the rights of control attributed hereby to the Landlord. The parking passes rented by Tenant pursuant to Article 28 are provided to Tenant solely for use by Tenant’s own personnel and such passes may not be transferred, assigned, subleased or otherwise alienated by Tenant, except in connection with a Transfer of the Premises pursuant to Article 14 of this Lease, without Landlord’s prior approval. Tenant may validate visitor parking by such method or methods as the Landlord may establish, at the validation rate from time to time generally applicable to visitor parking. If Landlord adds a parking valet, Tenant shall have the right to use such valet’s services at the rate established by Landlord for the Building. In addition, if Landlord expands the parking area, Tenant shall have the right to its proportionate share of such additional spaces.

**ARTICLE 29**

**MISCELLANEOUS PROVISIONS**

29.1 **Terms; Captions.** The words “Landlord” and “Tenant” as used herein shall include the plural as well as the singular. The necessary grammatical changes required to make the provisions hereof apply either to corporations or partnerships or individuals, men or women, as the case may require, shall in all cases be assumed as though in each case fully expressed. The captions of Articles and Sections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such Articles and Sections.

29.2 **Binding Effect.** Subject to all other provisions of this Lease, each of the covenants, conditions and provisions of this Lease shall extend to and shall, as the case may require, bind or inure to the benefit not only of Landlord and of Tenant, but also of their respective heirs, personal representatives, successors or assigns, provided this clause shall not permit any assignment by Tenant contrary to the provisions of Article 14 of this Lease.

29.3 **No Air Rights.** No rights to any view or to light or air over any property, whether belonging to Landlord or any other person, are granted to Tenant by this Lease. If at any time any windows of the Premises are temporarily darkened or the light or view therefrom is obstructed by reason of any repairs, improvements, maintenance or cleaning in or about the Property, for a reasonable time period, the same shall be without liability to Landlord and without any reduction or diminution of Tenant’s obligations under this Lease.

29.4 **Modification of Lease.** Should any current or prospective mortgagee or ground lessor for the Building or Property require a modification of this Lease, which modification will not cause an increased cost or expense to Tenant or in any other way materially and adversely change the rights and obligations of Tenant hereunder or interfere with Tenant’s use or operation of the Premises, then and in such event, Tenant agrees that this Lease may be so modified and agrees to execute whatever documents are reasonably required therefor and to deliver the same to Landlord within ten (10) days following a request therefor. At the request of Landlord or any mortgagee or ground lessor, Tenant agrees to execute a short form of Lease and deliver the same to Landlord within ten (10) days following the request therefor.

29.5 **Transfer of Landlord’s Interest.** Tenant acknowledges that Landlord has the right to transfer all or any portion of its interest in the Property or Building and in this Lease, and
Tenant agrees that in the event of any such transfer, provided the assignee assumes in writing all Landlord’s obligations hereunder, Landlord shall automatically be released from all liability under this Lease and Tenant agrees to look solely to such transferee for the performance of Landlord’s obligations hereunder accruing after the date of transfer and such transferee shall be deemed to have fully assumed and be liable for all obligations of this Lease to be performed by Landlord, including the return of any Security Deposit, and Tenant shall attorn to such transferee. Tenant further acknowledges that Landlord may assign its interest in this Lease to a mortgage lender as additional security and agrees that such an assignment shall not release Landlord from its obligations hereunder and that Tenant shall continue to look to Landlord for the performance of its obligations hereunder.

29.6 **Prohibition Against Recording.** Except as provided in Section 29.4 of this Lease, neither this Lease, nor any memorandum, affidavit or other writing with respect thereto, shall be recorded by Tenant or by anyone acting through, under or on behalf of Tenant; provided, however, at Tenant’s request, Landlord and Tenant shall execute a short form memorandum hereof in the form attached hereto as **Exhibit Q,** and Tenant shall have the right to record such short form memorandum.

29.7 **Landlord’s Title.** Landlord’s title is and always shall be paramount to the title of Tenant. Nothing herein contained shall empower Tenant to do any act which can, shall or may encumber the title of Landlord.

29.8 **Relationship of Parties.** Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturer or any association between Landlord and Tenant.

29.9 **Application of Payments.** If a default by Tenant exists beyond applicable notice and cure periods, Landlord shall have the right to apply payments received from Tenant pursuant to this Lease, regardless of Tenant’s designation of such payments, to satisfy any obligations of Tenant hereunder, in such order and amounts as Landlord, in its sole discretion, may elect.

29.10 **Time of Essence.** Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

29.11 **Partial Invalidity.** If any term, provision or condition contained in this Lease shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision and condition of this Lease shall be valid and enforceable to the fullest extent possible permitted by law.

29.12 **No Warranty.** In executing and delivering this Lease, Tenant has not relied on any representations, including, but not limited to, any representation as to the amount of any item comprising Additional Rent or the amount of the Additional Rent in the aggregate or that Landlord is furnishing the same services to other tenants, at all, on the same level or on the same basis, or any warranty or any statement of Landlord which is not set forth herein or in one or more of the exhibits attached hereto.
29.13 **Landlord Exculpation**. The liability of Landlord or the Landlord Parties to Tenant for any default by Landlord under this Lease or arising in connection herewith or with Landlord’s operation, management, leasing, repair, renovation, alteration or any other matter relating to the Property or the Premises shall be limited solely and exclusively to an amount which is equal to the lesser of (a) the interest of Landlord in the Building or (b) the equity interest Landlord would have in the Building if the Building were encumbered by third-party debt in an amount equal to eighty percent (80%) of the value of the Building (as such value is determined by Landlord), including any condemnation, rental, sales or insurance proceeds received by Landlord in connection with the Property, Building or Premises. None of the Landlord Parties shall have any personal liability therefor, and Tenant hereby expressly waives and releases such personal liability on behalf of itself and all persons claiming by, through or under Tenant. The limitations of liability contained in this Section 29.13 shall inure to the benefit of Landlord’s and the Landlord Parties’ present and future partners, beneficiaries, officers, directors, trustees, shareholders, agents and employees, and their respective partners, heirs, successors and assigns. Under no circumstances shall any present or future partner of Landlord (if Landlord is a partnership), or trustee or beneficiary (if Landlord or any partner of Landlord is a trust), have any liability for the performance of Landlord’s obligations under this Lease. Notwithstanding any contrary provision herein, neither Landlord nor the Landlord Parties shall be liable under any circumstances for injury or damage to, or interference with, Tenant’s business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity or loss of goodwill, in each case, however occurring.

29.14 **Entire Agreement**. It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Lease and this Lease constitutes the parties’ entire agreement with respect to the leasing of the Premises and supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. None of the terms, covenants, conditions or provisions of this Lease can be modified, deleted or added to except in writing signed by the parties hereto.

29.15 **Right to Lease**. Landlord reserves the absolute right to effect such other tenancies in the Property as Landlord in the exercise of its sole business judgment shall determine to best promote the interests of the Building or Property. Tenant does not rely on the fact, nor does Landlord represent, that any specific tenant or type or number of tenants shall, during the Lease Term, occupy any space in the Building or Property.

29.16 **Force Majeure**. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain services, labor, or materials or reasonable substitutes therefor (including, without limitation, inability due to any Bank-ordered shut-down of all work in the Building), governmental actions, civil commotions, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent and other charges to be paid by Tenant pursuant to this Lease and except as to Tenant’s obligations under Articles 5 and 24 of this Lease (collectively, a “**Force Majeure**”), notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of
either party, that time period shall be extended by the period of any delay in such party’s performance caused by a Force Majeure but shall not delay any of Tenant’s rent abatement or termination rights set forth herein.

29.17 **Waiver of Redemption by Tenant.** Tenant hereby waives, for Tenant and for all those claiming under Tenant, any and all rights now or hereafter existing to redeem by order or judgment of any court or by any legal process or writ, Tenant’s right of occupancy of the Premises after any termination of this Lease.

29.18 **Notices.** All notices, demands, statements, designations, approvals or other communications (collectively, “**Notices**”) given or required to be given by either party to the other hereunder or by law shall be in writing, shall be (A) sent by United States certified or registered mail, postage prepaid, return receipt requested (“**Mail**”), (B) delivered by a nationally recognized overnight courier, or (C) delivered personally. Any Notice shall be sent, transmitted, or delivered, as the case may be, to Tenant at the appropriate address set forth in Section 10 of the Summary, or to such other place as Tenant may from time to time designate in a Notice to Landlord, or to Landlord at the addresses set forth below, or to such other places as Landlord may from time to time designate in a Notice to Tenant. Any Notice will be deemed given (i) three (3) business days after the date it is posted if sent by Mail, (ii) the date the overnight courier delivery is made, or (iii) the date personal delivery is made or attempted to be made. If Tenant is notified of the identity and address of Landlord’s mortgagee or ground or underlying lessor, Tenant shall give to such mortgagee or ground or underlying lessor written notice of any default by Landlord under the terms of this Lease by registered or certified mail, and such mortgagee or ground or underlying lessor shall be given a reasonable opportunity to cure such default prior to Tenant’s exercising any remedy available to Tenant. As of the date of this Lease, any Notices to Landlord must be sent, transmitted, or delivered, as the case may be, to the following addresses:

Hudson 1455 Market, LLC  
11601 Wilshire Boulevard, Suite 1600  
Los Angeles, California 90025  
Attention: Mr. Howard Stern

and

Allen Matkins Leck  
Gamble Mallory & Natsis  
1901 Avenue of the Stars, Suite 1800  
Los Angeles, California 90067  
Attention: Anton N. Natsis, Esq.

29.19 **Joint and Several.** If there is more than one Tenant, the obligations imposed upon Tenant under this Lease shall be joint and several.

29.20 **Authority.** If Tenant is a corporation, trust or partnership, Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in California and that Tenant has full right and authority to execute and deliver this Lease and
that each person signing on behalf of Tenant is authorized to do so. In such event, Tenant shall, within ten (10) days after Landlord’s request, deliver to Landlord satisfactory evidence of such authority.

29.21 **Attorneys' Fees.** In the event that either Landlord or Tenant should bring suit for the possession of the Premises, for the recovery of any sum due under this Lease, or because of the breach of any provision of this Lease or for any other relief against the other, then all costs and expenses, including reasonable attorneys’ fees, incurred by the prevailing party therein shall be paid by the other party, which obligation on the part of the other party shall be deemed to have accrued on the date of the commencement of such action and shall be enforceable whether or not the action is prosecuted to judgment.

29.22 **Governing Law; WAIVER OF TRIAL BY JURY.** This Lease shall be construed and enforced in accordance with the laws of the State of California. IN ANY ACTION OR PROCEEDING ARISING HEREFROM, LANDLORD AND TENANT HEREBY CONSENT TO (I) THE JURISDICTION OF ANY COMPETENT COURT WITHIN THE STATE OF CALIFORNIA, (II) SERVICE OF PROCESS BY ANY MEANS AUTHORIZED BY CALIFORNIA LAW, AND (III) IN THE INTEREST OF SAVING TIME AND EXPENSE, TRIAL WITHOUT A JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR THEIR SUCCESSORS IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY.

29.23 **Submission of Lease.** Submission of this instrument for examination or signature by Tenant does not constitute a reservation of, option for or option to lease, and it is not effective as a lease or otherwise until execution and delivery by both Landlord and Tenant.

29.24 **Brokers.** Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, excepting only the real estate brokers or agents specified in Section 12 of the Summary (the “Brokers”), other than Wixen Real Estate Services, which is a subcontractor of, and will be compensated solely by, Custom Spaces Commercial Real Estate, and Tenant’s indemnity obligation to Landlord as set forth in this Section 29.24, below, shall expressly apply, without limitation, to any claims from Wixen Real Estate Services, and that they know of no other real estate broker or agent who is entitled to a commission in connection with this Lease. Landlord shall pay the commission, if any, owing to the Brokers in connection with the execution of this Lease pursuant to the terms of a separate agreement. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation reasonable attorneys’ fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent, other than the Brokers, occurring by, through, or under the indemnifying party.

29.25 **Independent Covenants.** This Lease shall be construed as though the covenants herein between Landlord and Tenant are independent and not dependent and Tenant hereby
expressly waives the benefit of any statute to the contrary and agrees that if Landlord fails to perform its obligations set forth herein, Tenant shall not be entitled to make any repairs or perform any acts hereunder at Landlord’s expense or to any setoff of the Rent or other amounts owing hereunder against Landlord.

29.26 **Property or Building Name and Signage.** Landlord shall have the right at any time to change the name of the Property or Building and, subject to Section 23.5, to install, affix and maintain any and all signs on the exterior and on the interior of the Property or Building as Landlord may, in Landlord’s reasonable discretion, desire. Tenant shall not use the name of the Property or Building or use pictures or illustrations of the Property or Building in advertising or other publicity or for any purpose other than as the address of the business to be conducted by Tenant in the Premises, without the prior written consent of Landlord.

29.27 **Counterparts.** This Lease may be executed in counterparts with the same effect as if both parties hereto had executed the same document. Both counterparts shall be construed together and shall constitute a single lease.

29.28 **Intentionally Omitted.**

29.29 **Transportation Management.** So long as the same do not unreasonably interfere with Tenant’s use of the Premises or materially increase Tenant’s costs, Tenant shall fully comply with all present or future programs intended to manage parking, transportation or traffic in and around the Building, and in connection therewith, Tenant shall take responsible action for the transportation planning and management of all employees located at the Premises by working directly with Landlord, any governmental transportation management organization or any other transportation-related committees or entities.

29.30 **Building Renovations.** It is specifically understood and agreed that Landlord has made no representation or warranty to Tenant and has no obligation and has made no promises to alter, remodel, improve, renovate, repair or decorate the Premises, Building, or any part thereof and that no representations respecting the condition of the Premises or the Building have been made by Landlord to Tenant except as specifically set forth herein or in the Tenant Work Letter. However, Tenant hereby acknowledges that Landlord is currently renovating or may during the Lease Term renovate, improve, alter, or modify (collectively, the “**Renovations**”) the Property, the Building and/or the Premises including without limitation the parking structure, common areas, systems and equipment, roof, and structural portions of the same, which Renovations may include, without limitation, (i) installing sprinklers in the Building common areas and tenant spaces, (ii) modifying the common areas and tenant spaces to comply with applicable laws and regulations, including regulations relating to the physically disabled, seismic conditions, and building safety and security, and (iii) installing new floor covering, lighting, and wall coverings in the Building common areas, and in connection with any Renovations, Landlord may, among other things, erect scaffolding or other necessary structures in the Building, limit or eliminate access to portions of the Property, including portions of the common areas, or perform work in the Building, which work may create noise, dust or leave debris in the Building. Landlord shall use commercially reasonable efforts to complete any Renovations in a manner which does not materially, adversely affect Tenant’s use of or access to the Premises, and, subject to the foregoing, Tenant hereby agrees that such Renovations and Landlord’s actions in connection with
such Renovations shall in no way constitute a constructive eviction of Tenant nor entitle Tenant to any abatement of Rent. Landlord shall have no responsibility or for any reason be liable to Tenant for any direct or indirect injury to or interference with Tenant’s business arising from the Renovations, nor shall Tenant be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Premises or of Tenant’s personal property or improvements resulting from the Renovations or Landlord’s actions in connection with such Renovations, or for any inconvenience or annoyance occasioned by such Renovations or Landlord’s actions, provided that the foregoing shall not limit Landlord’s liability, if any, pursuant to Applicable Laws for personal injury and property damage to the extent caused by the gross negligence or willful misconduct of Landlord, its agents, employees or contractors.

29.31 No Violation. Tenant hereby warrants and represents that neither its execution of nor performance under this Lease shall cause Tenant to be in violation of any agreement, instrument, contract, law, rule or regulation by which Tenant is bound, and Tenant shall protect, defend, indemnify and hold Landlord harmless against any third party claims or demands, asserted against Landlord, including, without limitation, reasonable attorneys’ fees and costs, arising from Tenant’s breach of this warranty and representation.

29.32 Communications and Computer Lines. Tenant may install, maintain, replace, remove or use any communications or computer wires and cables (collectively, the “Lines”) at the Property in or serving the Premises, provided that (i) Tenant shall use an experienced and qualified contractor approved in writing by Landlord, and comply with all of the other provisions of Articles 7 and 8 of this Lease, (ii) an acceptable amount of space for additional Lines shall be maintained for existing and future occupants of the Property, as determined in Landlord’s reasonable opinion, (iii) the Lines therefor (including riser cables) shall be appropriately insulated to prevent excessive electromagnetic fields or radiation, and shall be surrounded by a protective conduit reasonably acceptable to Landlord, (iv) any new or existing Lines servicing the Premises shall comply with all applicable governmental laws and regulations, (v) as a condition to permitting the installation of new Lines, Landlord may require that Tenant remove any existing unused Lines installed by Tenant and repair any damage in connection with such removal, and (vi) Tenant shall pay all costs in connection therewith. Landlord reserves the right to require that Tenant remove any Lines installed by Tenant and located in or serving the Premises which are installed in violation of these provisions, or which are at any time in violation of any laws or represent a dangerous or potentially dangerous condition.

29.33 Development of the Property.

29.33.1 Subdivision. So long as the same does not unreasonably interfere with Tenant’s use of the Premises, Landlord reserves the right to further subdivide all or a portion of the Property. Tenant agrees to execute and deliver, upon demand by Landlord and in the form reasonably requested by Landlord, any additional documents needed to conform this Lease to the circumstances resulting from such subdivision.

29.33.2 The Other Improvements. If portions of the Property or property adjacent to the Property (collectively, the “Other Improvements”) are owned by an entity other than Landlord, so long as the same does not unreasonably interfere with Tenant’s use of the Premises, Landlord, at its option, may enter into an agreement with the owner or owners of any
or all of the Other Improvements to provide (i) for reciprocal rights of access and/or use of the Property and the Other Improvements, (ii) for the common management, operation, maintenance, improvement and/or repair of all or any portion of the Property and the Other Improvements, (iii) for the allocation of a portion of the Direct Expenses to the Other Improvements and the operating expenses and taxes for the Other Improvements to the Property, and (iv) for the use or improvement of the Other Improvements and/or the Property in connection with the improvement, construction, and/or excavation of the Other Improvements and/or the Property. Nothing contained herein shall be deemed or construed to limit or otherwise affect Landlord’s right to convey all or any portion of the Property or any other of Landlord’s rights described in this Lease.

29.33.3 Construction of Property and Other Improvements. Tenant acknowledges that portions of the Property and/or the Other Improvements may be under construction following Tenant’s occupancy of the Premises, and that such construction may result in levels of noise, dust, obstruction of access, etc. which are in excess of that present in a fully constructed project. So long as the same does not unreasonably interfere with Tenant’s use of the Premises, Tenant hereby waives any and all rent offsets (except as specifically set forth in Section 19.5.2 of this Lease) in connection with such construction. Furthermore, provided that Landlord employs commercially reasonable efforts to minimize interference with the conduct of Tenant’s business, Tenant hereby waives any claims of constructive eviction which may arise in connection with such construction.

29.34 Patriot Act and Executive Order 13224. Tenant represents, warrants and covenants that, to Tenant’s knowledge, each party that (other than through the passive ownership of interests) constitutes, owns, controls, is not, and at no time during the Lease Term will be, (i) in violation of any applicable laws relating to terrorism or money laundering, or (ii) among the parties identified on any list compiled pursuant to Executive Order 13224 for the purpose of identifying suspected terrorists or on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, http://www.treas.gov/ofac/tllsdn.pdf or any replacement website or other replacement official publication of such list.

29.35 Green Cleaning/Recycling Program. Tenant shall reasonably cooperate if and to the extent Landlord implements a green cleaning program and/or recycling program for the Property, and hereby agrees that the reasonable costs associated with any such green cleaning and/or recycling program shall be included in Operating Expenses.

29.36 Asbestos Notifications. Landlord has advised Tenant that there is asbestos-containing material (“ACM”) in the Building. Attached hereto as Exhibit M is a disclosure statement regarding ACM in the Building. Tenant acknowledges that such notice complies with the requirements of Section 25915 et. seq. and Section 25359.7 of the California Health and Safety Code.

29.37 Cooperation. Landlord and Tenant shall use commercially reasonable efforts and cooperate with each other in good faith, at Tenant’s request to (i) cause the Mayor of San Francisco to extend that certain “Payroll Tax Exclusion Zone” to include the Building at no cost to Landlord; and (ii) develop and implement a shuttle service to and from CalTrain for tenants of
the Building at no cost to Landlord. Tenant hereby acknowledges that Landlord has made no representation or warranty to Tenant with respect to the probability of either event described above actually occurring. In the event the Payroll Tax Exclusion Zone is not extended to include the Building, and/or the parties are not able to develop and/or implement a shuttle service, Tenant’s and Landlord’s rights and obligations under the remaining terms and conditions of this Lease shall be unaffected.

29.38 Approvals. Whenever this Lease requires an approval, consent, determination, selection or judgment by either Landlord or Tenant, unless another standard is expressly set forth, such approval, consent, determination, selection or judgment and any conditions imposed thereby shall be reasonable and shall not be unreasonably withheld or delayed.
IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed the day and date first above written.

**LANDLORD:**

HUDSON 1455 MARKET, LLC, a Delaware limited liability company

By: Hudson Pacific Properties, L.P.,
a Maryland limited partnership

Its: Sole Member

By: Hudson Pacific Properties, Inc.,
a Maryland corporation

Its: General Partner

By: /s/ Howard Stern
Name: Howard Stern
Title: President

**TENANT:**

SQUARE INC.,
a Delaware corporation

By: /s/ Keith Rabers
Name: Keith Rabers
Title: COO

By: /s/ Sarah Friar
Name: Sarah Friar
Title: CFO

PLEASE NOTE: THIS LEASE MUST BE EXECUTED BY EITHER (I) BOTH (A) THE CHAIRMAN OF THE BOARD, THE PRESIDENT OR ANY VICE PRESIDENT OF TENANT, AND (B) THE SECRETARY, ANY ASSISTANT SECRETARY, THE CHIEF FINANCIAL OFFICER, OR ANY ASSISTANT TREASURER OF TENANT; OR (II) AN AUTHORIZED SIGNATORY OF TENANT PURSUANT TO A CERTIFIED CORPORATE RESOLUTION, A COPY OF WHICH SHOULD BE DELIVERED WITH THE EXECUTED ORIGINALS.
EXHIBIT A

OUTLINE OF PREMISES

A-1: Initial Premises
EXHIBIT B

1455 MARKET STREET

TELENT WORK LETTER

This Tenant Work Letter shall set forth the terms and conditions relating to the construction of the Premises. This Tenant Work Letter is essentially organized chronologically and addresses the issues of the construction of the Premises, in sequence, as such issues will arise during the actual construction of the Premises. All references in this Tenant Work Letter to Articles or Sections of “this Lease” shall mean the relevant portions of Articles 1 through 29 of the Office Lease to which this Tenant Work Letter is attached as Exhibit B, and all references in this Tenant Work Letter to Sections of “this Tenant Work Letter” shall mean the relevant portions of Sections 1 through 5 of this Tenant Work Letter. All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Lease. All references in this Tenant Work Letter to Articles or Sections of “this Lease” shall mean the Initial Premises and the Must-Take Space; provided, however, to the extent the Expansion Space and/or any Availability Premises is actually leased by Tenant, for purposes of Sections 1, 2, 5.5 and 5.6 of this Tenant Work Letter only, all references to the “Premises” shall mean the Initial Premises, the Must-Take Space, and any Expansion Space and/or Availability Premises, as the case may be. Additionally, to the extent such Expansion Space and/or Availability Premises is actually leased by Tenant, all references in this Tenant Work Letter to the “Tenant Improvement Allowance” shall be deemed to include any Expansion Improvement Allowance and/or Availability Premises Improvement Allowance, as the case may be.

SECTION 1

BASE SHELL AND CORE; DELIVERY CONDITION

Base, Shell and Core. Landlord has constructed, at its sole cost and expense, the base, shell, and core (i) of the Premises, and (ii) of the floors of the Building on which the Premises are located (collectively, the “Base, Shell, and Core”). The Base, Shell and Core shall be delivered by Landlord to Tenant in their presently existing, “as-is” condition, except as otherwise expressly provided in this Tenant Work Letter. Notwithstanding the foregoing, the Building Systems servicing each portion of the Premises shall be in good working order and condition as of the date Landlord delivers such portion of the Premises to Tenant.

Delivery Condition. Landlord shall, at Landlord’s sole cost, complete the work items set forth in Schedule 1 attached hereto (collectively, the “Landlord Work”), as applicable to each floor of the Premises, on or before the dates set forth in Schedule 1 with respect to each work item, including, to the extent applicable, any work items that are required to be completed by Landlord prior to the applicable Commencement Date. Upon the completion of the Landlord Work required in any particular portion of the Premises (and, if applicable, the removal of any Hazardous Substances therefrom in accordance with the immediately preceding sentence), such portion shall be deemed to be in the applicable “Delivery Condition” for purposes of the Lease. Landlord shall perform the Landlord Work in a good and workmanlike manner, and, to the
extent necessary for Landlord to pull any necessary construction permits or for Tenant to legally occupy the Premises for the Permitted Use, in accordance with Applicable Laws, and in accordance with the approved plans therefor and in a manner that will not unreasonably and materially interfere with Tenant’s completion of the Tenant Improvements. Landlord and Tenant shall mutually cooperate in good faith with each other in connection with the concurrent construction and completion of Landlord’s Work and the Tenant Improvements.

**Compliance with Law.** Notwithstanding anything to the contrary in this Tenant Work Letter or the Lease, as part of the Landlord Work, (a) Landlord shall be solely responsible for all costs related to the presence of existing Hazardous Substances on or about the Premises to the extent required for Tenant’s legal occupancy of the Premises or to perform the Tenant Improvement work; (b) to the extent required in order for Tenant to legally occupy the Premises, or in order to pull a construction permit for Tenant Improvement work for normal and customary office improvements in the SOMA area, assuming an office occupancy density no greater than 1 person per 125 RSF (the “Density Standard”), or to otherwise comply with requirements of the applicable permitting authority (except to the extent such compliance is triggered by Tenant’s particular use of the Premises or Tenant’s construction of Tenant Improvements that are not normal and customary office improvements in the SOMA area or above the Density Standard), Landlord shall be solely responsible for all costs to bring (i) the non-tenant portions of the Building and project outside of the Premises, including Common Area restrooms and Common Area elevator lobbies and Building Systems, (ii) all structural portions of the Premises and the portions of the Building Systems inside the Premises (such as the main loop of the sprinkler system and the main HVAC trunk/loop), and (iii) all emergency evacuation stairways, into compliance with Applicable Laws; and (c) the date Tenant is obligated to commence paying rent for any Premises shall be extended by one (1) day for each day Tenant’s substantial completion of the Tenant Improvements is delayed due to a “Landlord Delay” or “Tenant Force Majeure Delay,” as those terms are defined below. Landlord hereby acknowledges that, to the extent allowed by Applicable Law, Tenant may build-out and occupy the sixth (6th) floor of the Building at a density level greater than the Density Standard; provided that Tenant shall pay for any modifications to the Base Building to the extent such modification would not have been required had the build-out or occupancy met the Density Standard. As used herein, “Tenant Force Majeure Delay” shall mean acts of God, casualties, natural disasters, strikes, war, terrorist attacks, lockouts, labor disputes or civil commotion. As used herein, “Landlord Delay” shall mean an actual delay resulting from the acts or omissions of Landlord including, but not limited to (i) failure of Landlord to timely approve or disapprove any Construction Documents; (ii) unreasonable and material interference by Landlord, its agents or contractors with the completion of the Tenant Improvements and which objectively preclude construction of tenant improvements in the Building; and (iii) delays due to the acts or failures to act of Landlord, its agents or contractors with respect to payment of the Tenant Improvement Allowance. If Tenant contends that a Landlord Delay has occurred, Tenant shall notify Landlord in writing (the “Delay Notice”) of the event which constitutes such Landlord Delay. If the actions or inactions or circumstances described in the Delay Notice qualify as a Landlord Delay, and are not cured by Landlord within one (1) business day after Tenant’s delivery of the Delay Notice, then a Landlord Delay shall be deemed to have occurred.
SECTION 2

TENANT IMPROVEMENTS

Tenant Improvement Allowance. Tenant shall be entitled to a one-time tenant improvement allowance (the “Tenant Improvement Allowance”) in the amount of $60.00 per rentable square foot of the Premises for the costs relating to the initial design and construction of Tenant’s improvements, which, except as provided in Section 2.2.1.10, below, are permanently affixed to the Premises (the “Tenant Improvements”). Except with respect to the Landlord Work, in no event shall Landlord be obligated to make disbursements pursuant to this Tenant Work Letter in a total amount which exceeds the Tenant Improvement Allowance and “Landlord’s Drawing Contribution” (as that term is defined below). In the event that the Tenant Improvement Allowance for any particular portion of the Premises is not fully utilized by Tenant within one (1) year after the applicable Rent Commencement Date for such portion, then such unused amounts shall revert to Landlord, and Tenant shall have no further rights with respect thereto. Any Tenant Improvements that require the use of Building risers, raceways, shafts and/or conduits, shall be subject to Landlord’s reasonable rules, regulations, and restrictions, including the requirement that any cabling vendor to the extent performing work in the riser must be reasonably approved by Landlord, and that the amount and location of any such cabling must be reasonably approved by Landlord, subject to the terms of Section 6.1.7 of the Lease. All Tenant Improvements for which the Tenant Improvement Allowance has been used shall be deemed Landlord’s property under the terms of the Lease; provided, however, Landlord may, by written notice to Tenant prior to the end of the Lease Term, or given following any earlier termination of this Lease, require Tenant, at Tenant’s expense, to remove any Tenant Improvements and to repair any damage to the Premises and Building caused by such removal and return the affected portion of the Premises to their condition existing prior to the installment of such Tenant Improvements; provided, however, that, notwithstanding the foregoing, (i) upon request by Tenant at the time of Tenant’s request for Landlord’s approval of the “Final Working Drawings,” as that term is defined in Section 3.3 of this Tenant Work Letter, Landlord shall notify Tenant whether the Tenant Improvements will be required to be removed pursuant to the terms of this Section 2.1, and (ii) Tenant’s removal and restoration obligation with respect to the Tenant Improvements shall be subject to the terms of Section 8.5 of the Lease, including, without limitation, any restrictions on Landlord’s right to require Tenant’s removal of specific improvements. In addition, Landlord shall contribute an amount not to exceed $0.15 per rentable square foot of the Initial Premises, the Must-Take 1 Space, and the Must-Take 2 Space (“Landlord’s Drawing Contribution”) toward the cost of a preliminary analysis and fit plan to be prepared by the “Architect” (as that term is defined below), and no portion of the Landlord’s Drawing Contribution, if any, remaining after completion of the Tenant Improvements shall be available for use by Tenant. Tenant shall deliver one (1) hard copy and one (1) electronic copy of the preliminary space plan to Landlord within fifteen (15) days after Tenant’s execution of the Lease (the “Space Plan Delivery Date”). Landlord shall disburse such Landlord Drawing Contribution amount within thirty (30) days of written request by Tenant accompanied by an invoice and proof of payment from the Architect for such work.
**Additional Tenant Improvement Allowance.** In addition to the Tenant Improvement Allowance, Tenant shall have the right, exercisable no later than the applicable Rent Commencement Date, to use up to $10.00 per rentable square foot of the Initial Premises, the Must-Take 1 Space, and/or the Must-Take 2 Space (the “Additional Tenant Improvement Allowance”) towards the payment of the costs of the “Tenant Improvement Allowance Items” (as that term is defined below). In the event Tenant exercises its right to use all or any portion of the Additional Tenant Improvement Allowance, an amount equal to the “Additional Monthly Base Rent,” as that term is defined below, shall be added to each month’s Base Rent payment in order to repay the Additional Tenant Improvement Allowance to Landlord. The “Additional Monthly Base Rent” shall be determined as the missing component of an annuity, which annuity shall have (i) the amount of the Additional Tenant Improvement Allowance utilized by Tenant as the starting principal amount, (ii) the number of monthly Base Rent payments to be made by Tenant during the Lease Term as the number of payments, (iii) sixty-seven one-hundredths (.67), which is equal to eight percent (8%) divided by twelve (12) months per year, as the monthly interest factor and (iv) the Additional Monthly Base Rent as the missing component of the annuity. As an example only, if Tenant elects to use the entire Additional Tenant Improvement Allowance with respect to the Initial Premises (i.e., $1,818,050.00 based on 181,805 rentable square feet), and the applicable one hundred twenty (120) monthly Base Rent payments, the Additional Monthly Base Rent shall be equal to $22,057.96. In this event, (a) the “Tenant Improvement Allowance”, shall be deemed to include the Additional Tenant Improvement Allowance which Tenant elects to utilize, (b) the parties shall promptly execute an amendment (the “Amendment”) to the Lease setting forth the additional amount of the Base Rent with respect to only the applicable space (i.e., Initial Premises, the Must-Take 1 Space or the Must-Take 2 Space), and the additional amount of Tenant Improvement Allowance with respect to only the applicable space (i.e., Initial Premises, the Must-Take 1 Space or the Must-Take 2 Space), computed in accordance with this Section 2.1.2, and (c) the additional amount of monthly Base Rent owing in accordance with this Section 2.1.2 for the first full month of the Lease Term which occurs after the expiration of any free rent period shall be paid by Tenant to Landlord at the later of the date Landlord delivers the applicable portion of the Premises to Tenant in the required condition and the time of Tenant’s execution of the Amendment.

**Disbursement of the Tenant Improvement Allowance.**

**Tenant Improvement Allowance Items.** Except as otherwise set forth in this Tenant Work Letter, the Tenant Improvement Allowance shall be disbursed by Landlord only for the following items and costs (collectively the “Tenant Improvement Allowance Items”):

Payment of the fees of the Architect and the “Engineers” (as that term is defined in Section 3.1 of this Tenant Work Letter), which fees shall, notwithstanding anything to the contrary contained in this Tenant Work Letter, not exceed an aggregate amount equal to $3.00 per rentable square foot of the Premises, and Tenant’s construction manager;

The payment of plan check, permit and license fees relating to construction of the Tenant Improvements;
The cost of construction of the Tenant Improvements, including, without limitation, testing and inspection costs, deposits for materials, freight elevator usage, hoisting and trash removal costs, and contractors’ fees and general conditions;

The cost of any changes in the Base Building when such changes are required by the Construction Documents (including if such changes are due to the fact that such work is prepared on an unoccupied basis), such cost to include all direct architectural and/or engineering fees and expenses, and any City or permit costs, incurred in connection therewith;

The cost of any changes to the Construction Documents or Tenant Improvements required by all applicable building codes (the “Code”);

The cost of connection of the Premises to the Building’s energy management systems;

The cost of any demolition work on the 6th Floor Premises that Tenant requests Landlord perform on Tenant’s behalf concurrently with Landlord’s performance of the Landlord Work, in an amount agreed upon in writing by Tenant and Landlord prior to Landlord’s commencement of such work;

The cost of the “Coordination Fee,” as that term is defined in Section 4.2.2 of this Tenant Work Letter;

Sales and use taxes and Title 24 fees;

The cost of cabling, not to exceed an aggregate amount equal to $3.00 per rentable square foot of the Premises;

The cost to install a full gas range cooking kitchen with venting and grease traps; and

Subject to Applicable Laws and Landlord’s prior written approval, which may be withheld in Landlord’s reasonable discretion, the cost to construct stairwells between the podium floors (connecting the 6th, 7th, 8th, and 9th Floor Premises, to the extent adjacent floors are leased by Tenant);

**Disbursement of Tenant Improvement Allowance.** During the construction of the Tenant Improvements, Landlord shall make monthly disbursements of the Tenant Improvement Allowance for Tenant Improvement Allowance Items for the benefit of Tenant and shall authorize the release of monies for the benefit of Tenant as follows.

**Monthly Disbursements.** Once each calendar month during the construction of the Tenant Improvements (or such other date as Landlord may designate), Tenant may deliver to Landlord: (i) a request for payment of the “Contractor,” as that term is defined in Section 4.1 of this Tenant Work Letter, approved by Tenant, in a reasonable form to be provided by Landlord, showing the schedule, by trade, of percentage of completion of the Tenant Improvements in the Premises, detailing the portion of the work completed and the portion not completed; (ii) invoices from all of “Tenant’s Agents,” as that term is defined in Section 4.1.2 of...
this Tenant Work Letter, for labor rendered and materials delivered to the Premises; (iii) executed conditional mechanic’s lien releases from all of Tenant’s Agents which shall comply with the appropriate provisions, as reasonably determined by Landlord, of California Civil Code Section 3262(d); and (iv) all other information reasonably requested by Landlord. Within thirty (30) days thereafter, Landlord shall deliver a check to Tenant made payable to Tenant in payment of the lesser of: (A) the amounts so requested by Tenant, as set forth in this Section 2.2.2.1, above, and (B) the balance of any remaining available portion of the Tenant Improvement Allowance, provided that Landlord does not reasonably dispute any request for payment based on non-compliance of any work with the “Approved Working Drawings,” as that term is defined in Section 3.4 below, or due to any substandard work. Landlord’s payment of such amounts shall not be deemed Landlord’s approval or acceptance of the work furnished or materials supplied as set forth in Tenant’s payment request. Tenant hereby agrees to withhold a ten percent (10%) retention (the aggregate amount of such retentions to be known as the “Final Retention”) of all amounts paid to Contractor.

**Final Retention.** Tenant shall not pay Contractor the Final Retention until the completion of construction of the Premises, including all of the following: (i) Tenant delivers to Landlord properly executed mechanics lien releases in compliance with both California Civil Code Section 3262(d)(2) and either Section 3262(d)(3) or Section 3262(d)(4), (ii) Landlord has determined that no substandard work exists which adversely affects the mechanical, electrical, plumbing, heating, ventilating and air conditioning, life-safety or other systems of the Building, the curtain wall of the Building, the structure or exterior appearance of the Building, or any other tenant’s use of such other tenant’s leased premises in the Building, (iii) Architect delivers to Landlord a certificate, in a form reasonably acceptable to Landlord, certifying that the construction of the Tenant Improvements in the Premises has been substantially completed, and (iv) Tenant delivers to Landlord two (2) hard copies and one (1) electronic copy of the “Close-Out Package” (as that term is defined in Section 4.3 below).

**Other Terms.** Landlord shall only be obligated to make disbursements from the Tenant Improvement Allowance to the extent costs are incurred by Tenant for Tenant Improvement Allowance Items. All Tenant Improvement Allowance Items for which the Tenant Improvement Allowance has been made available shall be deemed Landlord’s property under the terms of this Lease.

**Standard Tenant Improvement Package.** Landlord has established specifications (the “Specifications”) for the Building standard components to be used in the construction of the Tenant Improvements in the Premises (collectively, the “Standard Improvement Package”), which Specifications have been provided to Tenant by Landlord. The quality of Tenant Improvements shall be equal to or of greater quality than the quality of the Specifications, provided that the Tenant Improvements shall comply with certain Specifications as reasonably designated by Landlord. The parties hereby agree and acknowledge that notwithstanding anything to the contrary set forth in the Lease or this Tenant Work Letter, to the extent any Tenant Improvements do not comply with the Specifications designated by Landlord, the maintenance and repair of such Tenant Improvements shall be the responsibility of Tenant, at Tenant’s sole cost and expense.
Failure to Disburse Tenant Improvement Allowance. If Landlord fails to timely fulfill its obligation to fund any portion of the Tenant Improvement Allowance, Tenant shall be entitled to deliver notice (the “Payment Notice”) thereof to Landlord and to any mortgage or trust deed holder of the Building whose identity and address have been previously provided to Tenant. If Landlord still fails to fulfill any such obligation within twenty (20) business days after Landlord’s receipt of the Payment Notice from Tenant and if Landlord fails to deliver notice to Tenant within such twenty (20) business day period explaining Landlord’s proper reasons that Landlord believes that the amounts described in Tenant’s Payment Notice are not due and payable by Landlord (“Refusal Notice”), Tenant shall be entitled to offset the amount so owed to Tenant by Landlord but not paid by Landlord (or if Landlord delivers a Refusal Notice but only with respect to a portion of the amount set forth in the Payment Notice and Landlord fails to pay such undisputed amount as required by the next succeeding sentence, the undisputed amount so owed to Tenant) from the last day of such 20-business day period until the date of offset, against Tenant’s next obligations to pay Rent. Notwithstanding the foregoing, Landlord hereby agrees that if Landlord delivers a Refusal Notice disputing a portion of the amount set forth in Tenant’s Payment Notice, Landlord shall pay to Tenant, concurrently with the delivery of the Refusal Notice, the undisputed portion of the amount set forth in the Payment Notice. However, if Tenant is in default under Section 19.1.1 of the Lease at the time that such offset would otherwise be applicable, Tenant shall not be entitled to such offset until such default is cured. If Landlord delivers a Refusal Notice, and if Landlord and Tenant are not able to agree on the disputed amounts to be so paid by Landlord, if any, within ten (10) days after Tenant’s receipt of a Refusal Notice, Tenant may submit such dispute to arbitration in accordance with the American Arbitration Association. If Tenant prevails in any such arbitration, Tenant shall be entitled to apply such award as a credit against Tenant’s obligations to pay Rent.

SECTION 3

CONSTRUCTION DRAWINGS

Selection of Architect/Construction Documents. Tenant shall retain an architect/space planner reasonably approved by Landlord (the “Architect”) to prepare the “Construction Documents,” as that term is defined in this Section 3.1. Tenant shall retain engineering consultants reasonably approved by Landlord (the “Engineers”) to prepare all plans and engineering working drawings relating to the structural, mechanical, electrical, plumbing, HVAC, lifesafety, and sprinkler work in the Premises, which work is not part of the Base Building; provided, however, Tenant hereby agrees and shall be required to hire Honeywell for fire-life-safety work and DDC for HVAC controls; provided that Landlord shall use commercially reasonable efforts to cause Honeywell to charge a competitive market price. Landlord hereby approves of Bohlin Cywinski Jackson as the Architect and Tipping Mar (Structural) and CB Engineers (Mechanical, Electrical, Plumbing, Fire Protection) as the Engineers. The plans and drawings to be prepared by Architect and the Engineers hereunder shall be known collectively as the “Construction Documents.” Tenant shall deliver one (1) hard copy and one (1) electronic copy of the Construction Documents to Landlord within ninety (90) days after the Space Plan Delivery Date. Tenant shall be required to include in its contracts with the Architect and the Engineers a provision which requires ownership of all Construction Documents to be transferred to Tenant upon the Substantial Completion of the Tenant Improvements and Tenant hereby grants to Landlord a non-exclusive right to use such
Construction Documents, including, without limitation, a right to make copies thereof. All Construction Documents shall comply with the reasonable drawing format and specifications reasonably determined by Landlord, and shall be subject to Landlord’s approval. Tenant and Architect shall verify, in the field, the dimensions and conditions as shown on the relevant portions of the base building plans, and Tenant and Architect shall be solely responsible for the same, and Landlord shall have no responsibility in connection therewith. Landlord’s review of the Construction Documents as set forth in this Section 3, shall be for its sole purpose and shall not imply Landlord’s review of the same, or obligate Landlord to review the same, for quality, design, Code compliance or other like matters. Accordingly, notwithstanding that any Construction Documents are reviewed by Landlord or its space planner, architect, engineers and consultants, and notwithstanding any advice or assistance which may be rendered to Tenant by Landlord or Landlord’s space planner, architect, engineers, and consultants, Landlord shall have no liability whatsoever in connection therewith and shall not be responsible for any omissions or errors contained in the Construction Documents, and Tenant’s waiver and indemnity set forth in this Lease shall specifically apply to the Construction Documents.

**Final Space Plan.** Tenant shall supply Landlord with four (4) copies of its concept design drawings for the Premises before any architectural working drawings or engineering drawings have been commenced. The concept design drawings (the “Final Space Plan”) shall include a layout and designation of all offices, rooms and other partitioning, their intended use, and equipment to be contained therein. Landlord may request clarification or more specific drawings for special use items not included in the Final Space Plan. Landlord shall advise Tenant within five (5) business days after Landlord’s receipt of the Final Space Plan for the Premises if the same is approved, or, if the Final Space Plan is not reasonably satisfactory or is incomplete in any respect, disapproved, in which event Landlord shall include in its notice of disapproval a reasonably detailed explanation as to which items are not satisfactory or complete and the reason(s) therefor. If Tenant is so advised, Tenant shall promptly cause the Final Space Plan to be revised to correct any deficiencies or other matters Landlord may reasonably require. Subject to Landlord’s review of fully engineered construction drawings, Landlord hereby approves the conceptual plan dated October 9, 2012, prepared by Bohlin Cywinski Jackson (the “Conceptual Plan”), and Landlord shall not withhold its consent to the Final Space Plan to the extent such Final Space Plan is consistent with the Conceptual Plan.

**Final Working Drawings.** After the Final Space Plan has been approved by Landlord, Tenant shall supply the Engineers with a complete listing of standard and non-standard equipment and specifications, including, without limitation, B.T.U. calculations, electrical requirements and special electrical receptacle requirements for the Premises, to enable the Engineers and the Architect to complete the “Final Working Drawings” (as that term is defined below) in the manner as set forth below. Upon the approval of the Final Space Plan by Landlord and Tenant, Tenant shall promptly cause the Architect and the Engineers to complete the architectural and engineering drawings for the Premises, and Architect shall compile a fully coordinated set of architectural, structural, mechanical, electrical and plumbing working drawings in a form which is complete to allow subcontractors to bid on the work and to obtain all applicable permits, commonly referred to as construction documents (collectively, the “Final Working Drawings”) and shall submit the same to Landlord for Landlord’s approval. Tenant shall supply Landlord with four (4) copies of such Final Working Drawings. Landlord shall advise Tenant within five (5) business days after Landlord’s receipt of the Final Working
Drawings for the Premises if the same are approved, or, if the Final Working Drawings are not reasonably satisfactory or are incomplete in any respect, disapproved, in which event Landlord shall include in its notice of disapproval a reasonably detailed explanation as to which items are not satisfactory or complete and the reason(s) therefor. If Tenant is so advised, Tenant shall immediately revise the Final Working Drawings in accordance with such review and any disapproval of Landlord in connection therewith.

Approved Working Drawings. The Final Working Drawings shall be approved by Landlord (the “Approved Working Drawings”) prior to the submission of the same to the appropriate municipal authorities for all applicable building permits (the “Permits”) and commencement of construction of the Premises by Tenant; provided, however, at Tenant’s election and at Tenant’s risk with respect to any subsequent changes that may be required by Landlord in accordance with this Tenant Work Letter, Tenant may submit the Final Working Drawings to the appropriate municipal authorities for Permits concurrently with Landlord’s review thereof. After approval by Landlord of the Final Working Drawings, Tenant shall submit such Approved Working Drawings for the Permits.

Tenant hereby agrees that neither Landlord nor Landlord’s consultants shall be responsible for obtaining any building permit for the Tenant Improvements or certificate of occupancy for the Premises and that obtaining the same shall be Tenant’s responsibility; provided, however, that Landlord shall cooperate with Tenant in executing permit applications and performing other ministerial acts reasonably necessary to enable Tenant to obtain any such permit or certificate of occupancy. No material changes, modifications or alterations in the Approved Working Drawings may be made without the prior written consent of Landlord, which consent may not be unreasonably withheld. Landlord shall provide any approvals and take any actions required under this Tenant Work Letter within the time periods specified herein, or, if no time period is specified, then within five (5) business days. Landlord’s failure to timely respond shall be deemed a Landlord Delay, subject to the terms of Section 1.3, above.

SECTION 4

CONSTRUCTION OF THE TENANT IMPROVEMENTS

Tenant’s Selection of Contractors.

The Contractor. Tenant shall retain a licensed general contractor, approved in advance by Landlord (“Contractor”), to construct the Tenant Improvements. Landlord’s approval of the Contractor shall not be unreasonably withheld. Landlord hereby approves of BCCI Construction Company as the Contractor.

Tenant’s Agents. All subcontractors, laborers, materialmen, and suppliers used by Tenant, together with the Contractor, shall be known collectively as “Tenant’s Agents.”

Construction of Tenant Improvements by Tenant’s Agents.

Construction Contract; Cost Budget. Tenant hereby agrees that Tenant’s construction contract and general conditions with Contractor (the “Contract”) shall contain commercially reasonably warranties and indemnifications that inure to Landlord’s benefit. Prior
to the commencement of the construction of the Tenant Improvements, and after Tenant has accepted all bids for the Tenant Improvements, Tenant shall provide Landlord with a detailed breakdown, by trade, of the final costs to be incurred or which have been incurred, as set forth more particularly in Sections 2.2.1.1 through 2.2.1.13 above, in connection with the design and construction of the Tenant Improvements to be performed by or at the direction of Tenant or the Contractor, which costs form a basis for the amount of the Contract (the “Final Costs”). Prior to the commencement of construction of the Tenant Improvements, Tenant shall identify the amount (the “Over-Allowance Amount”) equal to the difference between the amount of the Final Costs and the amount of the Tenant Improvement Allowance (less any portion thereof already disbursed by Landlord, or in the process of being disbursed by Landlord, on or before the commencement of construction of the Tenant Improvements). In the event that the Final Costs are greater than the amount of the Tenant Improvement Allowance (the “Over-Allowance Amount”), then Tenant shall pay thirty percent (30%) of each amount requested by the Contractor or otherwise to be disbursed under this Tenant Work Letter, and such payments by Tenant (the “Over-Allowance Payments”) shall be a condition to Landlord’s obligation to pay any amounts from the Tenant Improvement Allowance. Landlord shall pay seventy percent (70%) of each amount requested by the Contractor or otherwise to be disbursed under this Tenant Work Letter, until the Tenant Improvement Allowance has been paid. Once the entire Tenant Improvement Allowance has been paid by Landlord, Tenant shall thereafter pay one hundred percent (100%) of each amount requested by the Contractor or otherwise to be disbursed under this Tenant Work Letter. In connection with any payment of the Over-Allowance Amount made by Tenant pursuant to this Section 4.2.1, Tenant shall provide Landlord with the documents described in Sections 2.2.2.1(i), (ii), (iii) and (iv) of this Tenant Work Letter, above, for Landlord’s approval, prior to Tenant paying such costs. Notwithstanding anything set forth in this Tenant Work Letter to the contrary, construction of the Tenant Improvements shall not commence until (a) Landlord has approved the Contract, and (b) Tenant has procured and delivered to Landlord a copy of all Permits for the applicable Tenant Improvements. Landlord acknowledges that the demolition work and other phases of construction will commence on different dates.

**Tenant’s Agents.**

**Landlord’s General Conditions for Tenant’s Agents and Tenant Improvement Work.** Tenant’s and Tenant’s Agent’s construction of the Tenant Improvements shall comply with the following: (i) the Tenant Improvements shall be constructed in accordance with the Approved Working Drawings, subject to minor field adjustments; (ii) Landlord’s reasonable rules and regulations for the construction of improvements in the Building, a copy of which have been provided to Tenant, (iii) Tenant’s Agents shall submit schedules of all work relating to the Tenant’s Improvements to Contractor and Contractor shall, within five (5) business days of receipt thereof, inform Tenant’s Agents of any changes which are necessary thereto, and Tenant’s Agents shall adhere to such corrected schedule; and (iv) Tenant shall abide by all reasonable rules made by Landlord’s Building manager with respect to the use of freight, loading dock and service elevators, storage of materials, coordination of work with the contractors of other tenants, and any other matter in connection with this Tenant Work Letter, including, without limitation, the construction of the Tenant Improvements. Tenant shall pay a logistical coordination fee (the “Coordination Fee”) to Landlord in an amount equal to one percent (1%) of the lesser of (i) the Tenant Improvement Allowance, and (ii) an amount equal to
the “hard costs” of construction of the Tenant Improvements, which Coordination Fee shall be for services relating to the coordination of the construction of the Tenant Improvements.

**Indemnity.** Tenant’s indemnity of Landlord as set forth in this Lease shall also apply with respect to any and all costs, losses, damages, injuries and liabilities related in any way to any act or omission of Tenant or Tenant’s Agents, or anyone directly or indirectly employed by any of them, or in connection with Tenant’s non-payment of any amount arising out of the Tenant Improvements and/or Tenant’s disapproval of all or any portion of any request for payment. The foregoing indemnity shall not apply to claims caused by the negligence or willful misconduct of Landlord, its member partners, shareholders, officers, directors, agents, employees, and/or contractors, or Landlord’s violation of this Lease. Landlord’s indemnity obligations as set forth in the Lease shall apply with respect to the Landlord Work, except to the extent arising from the negligence or willful misconduct of Tenant, its member partners, shareholders, officers, directors, agents, employees, and/or contractors, or Tenant’s violation of this Lease.

**Requirements of Tenant’s Agents.** Each of Tenant’s Agents shall guarantee to Tenant and for the benefit of Landlord that the portion of the Tenant Improvements for which it is responsible shall be free from any defects in workmanship and materials for a period of not less than one (1) year from the date of completion thereof. Each of Tenant’s Agents shall be responsible for the replacement or repair, without additional charge, of all work done or furnished in accordance with its contract that shall become defective within one (1) year after the completion of the work performed by such contractor or subcontractors. The correction of such work shall include, without additional charge, the cost of correcting all or any part of the Tenant Improvements, and/or the Building and/or common areas that may be damaged or disturbed thereby. All such warranties or guarantees as to materials or workmanship of or with respect to the Tenant Improvements shall be contained in the Contract or subcontract and shall be written such that such guarantees or warranties shall inure to the benefit of both Landlord and Tenant, as their respective interests may appear, and can be directly enforced by either. To the extent reasonably necessary, Tenant covenants to give to Landlord any assignment or other assurances which may be necessary to effect such right of direct enforcement.

**Insurance Requirements.**

**General Coverages.** All of Tenant’s Agents (except materialmen and suppliers) shall carry worker’s compensation insurance covering all of their respective employees, and shall also carry public liability insurance, including property damage, all with limits, in form and with companies as are required to be carried by Tenant as set forth in this Lease.

**Special Coverages.** Tenant shall carry “Builder’s All Risk” insurance in an amount approved by Landlord covering the construction of the Tenant Improvements, and such other insurance as Landlord may require, it being understood and agreed that the Tenant Improvements shall be insured by Tenant pursuant to this Lease immediately upon completion thereof. Such insurance shall be in amounts and shall include such extended coverage endorsements as may be reasonably required by Landlord, and in form and with companies as are required to be carried by Tenant as set forth in this Lease.
General Terms. Certificates for all insurance carried pursuant to this Section 4.2.2.4 shall be delivered to Landlord before the commencement of construction of the Tenant Improvements and before the Contractor’s equipment is moved onto the site. Tenant shall immediately notify Landlord in the event any policy of insurance carried by Tenant is cancelled or the coverage materially changed. Tenant’s Contractor and subcontractors shall maintain all of the foregoing insurance coverage in force until the Tenant Improvements are fully completed and accepted by Landlord, except for any Products and Completed Operation Coverage insurance required by Landlord, which is to be maintained for three (3) years following completion of the work and acceptance by Landlord and Tenant. All policies carried under this Section 4.2.2.4 shall insure Landlord and Tenant, as their interests may appear. All insurance, except Workers’ Compensation, maintained by Tenant’s Agents shall preclude subrogation claims by the insurer against anyone insured thereunder. Such insurance shall provide that it is primary insurance as respects the owner and that any other insurance maintained by owner is excess and noncontributing with the insurance required hereunder. The requirements for the foregoing insurance shall not derogate from the provisions for indemnification of Landlord by Tenant under Section 4.2.2.2 of this Tenant Work Letter.

Governmental Compliance. The Tenant Improvements shall comply in all respects with the following: (i) the Code and other state, federal, city or quasi-governmental laws, codes, ordinances and regulations, as each may apply according to the rulings of the controlling public official, agent or other person; (ii) applicable standards of the American Insurance Association (formerly, the National Board of Fire Underwriters) and the National Electrical Code; and (iii) building material manufacturer’s specifications.

Inspection by Landlord. Landlord shall have the right to inspect the Tenant Improvements at all times, provided however, that Landlord’s failure to inspect the Tenant Improvements shall in no event constitute a waiver of any of Landlord’s rights hereunder nor shall Landlord’s inspection of the Tenant Improvements constitute Landlord’s approval of the same. Should Landlord reasonably disapprove any portion of the Tenant Improvements, Landlord shall notify Tenant in writing of such disapproval and shall specify the items disapproved and the reasons therefor. Any defects or deviations in, and/or disapproval by Landlord of, the Tenant Improvements shall be rectified by Tenant at no expense to Landlord, provided however, that in the event Landlord reasonably determines that a defect or deviation exists or disapproves of any matter in connection with any portion of the Tenant Improvements and such defect, deviation or matter might adversely affect the mechanical, electrical, plumbing, heating, ventilating and air conditioning or life-safety systems of the Building, the structure or exterior appearance of the Building or any other tenant’s use of such other tenant’s leased premises, and Tenant fails to correct such item within five (5) business days of written notice from Landlord, then Landlord may take such action as Landlord reasonably deems necessary, at Tenant’s expense and without incurring any liability on Landlord’s part, to correct any such defect, deviation and/or matter, including, without limitation, causing the cessation of performance of the construction of the Tenant Improvements until such time as the defect, deviation and/or matter is corrected to Landlord’s satisfaction.

Meetings. Commencing upon the execution of this Lease, Tenant shall hold meetings not less than twice per month (and weekly following commencement of construction of the Tenant Improvements) at a reasonable time, with the Architect and the Contractor regarding
the progress of the preparation of Construction Documents and the construction of the Tenant Improvements, which meetings shall be held at a mutually agreeable location, and Landlord and/or its agents shall receive prior notice of, and shall have the right to attend, all such meetings. In addition, minutes shall be taken at all such meetings, a copy of which minutes shall be promptly delivered to Landlord. One such meeting each month shall include the review of Contractor’s current request for payment.

**Notice of Completion; Record Set of As-Built Drawings; Close-Out Package.**

**Notice of Completion.** Within ten (10) days after completion of construction of the Tenant Improvements, Tenant shall cause a Notice of Completion to be recorded in the office of the Recorder of the county in which the Building is located in accordance with Section 3093 of the Civil Code of the State of California or any successor statute, and shall furnish a copy thereof to Landlord upon such recordation. If Tenant fails to do so, Landlord may execute and file the same on behalf of Tenant as Tenant’s agent for such purpose, at Tenant’s sole cost and expense.

**Record Set of As-Built Drawings.** At the conclusion of construction, Tenant shall cause the Architect and Contractor (A) to update the Approved Working Drawings as necessary to reflect all changes made to the Approved Working Drawings during the course of construction, (B) to certify to the best of their knowledge that the “record-set” of as-built drawings (the “Record Set”) is true and correct, which certification shall survive the expiration or termination of this Lease, and (C) to deliver to Landlord four (4) hard copies and two (2) electronic copies (in .pdf and CAD format) of such Record Set within ninety (90) days following issuance of a certificate of occupancy for the Premises.

**Close-Out Package.** At the conclusion of construction, Tenant shall deliver to Landlord two (2) hard copies and one (1) electronic copy of the Certificate of Occupancy, all closed Permits, all warranties, guaranties, and operating manuals and information relating to the improvements, equipment, and systems in the Premises, and any other items reasonably requested by Landlord (collectively, along with the recorded Notice of Completion described in Section 4.3.1 above and the Record Set described in Section 4.3.2 above, the “Close-Out Package”).

**SECTION 5**

**MISCELLANEOUS**

**Tenant’s Representative.** Tenant has designated Maja Henderson as its sole representative with respect to the matters set forth in this Tenant Work Letter, who shall have full authority and responsibility to act on behalf of the Tenant as required in this Tenant Work Letter.

**Landlord’s Representative.** Landlord has designated Dan Wright as its sole representatives with respect to the matters set forth in this Tenant Work Letter, who, until further notice to Tenant, shall have full authority and responsibility to act on behalf of the Landlord as required in this Tenant Work Letter.
**Time of the Essence in This Tenant Work Letter.** Unless otherwise indicated, all references herein to a “number of days” shall mean and refer to calendar days. If any item requiring approval is timely disapproved by Landlord, the procedure for preparation of the document and approval thereof shall be repeated until the document is approved by Landlord.

**Tenant’s Agents.** All subcontractors and laborers retained directly by Tenant shall all be union labor in compliance with the then existing master labor agreements.

**Tenant’s Lease Default.** Notwithstanding any provision to the contrary contained in this Lease, if an event of default as described in the Lease or this Tenant Work Letter has occurred at any time on or before the Substantial Completion of the Premises, then (i) in addition to all other rights and remedies granted to Landlord pursuant to this Lease, Landlord shall have the right to withhold payment of all or any portion of the Tenant Improvement Allowance and/or Landlord may cause Contractor to cease the construction of the Premises (in which case, Tenant shall be responsible for any delay in the substantial completion of the Premises caused by such work stoppage), and (ii) all other obligations of Landlord under the terms of this Tenant Work Letter shall be forgiven until such time as such default is cured pursuant to the terms of this Lease (in which case, Tenant shall be responsible for any delay in the substantial completion of the Premises caused by such inaction by Landlord).

**No Obligation to Build Tenant Improvements.** Notwithstanding anything to the contrary in this Tenant Work Letter, Tenant shall have no obligation to design or build any Tenant Improvements, and may at any time reduce the scope of the Tenant Improvements.

**Utilities and Staging.** Notwithstanding anything to the contrary in the Lease, Tenant shall not be obligated to pay for any utility usage prior to the earlier of (i) substantial completion of the Tenant Improvements, and (ii) the Rent Commencement Date, or any charges for elevator usage or use of the loading dock in connection with its construction of the Tenant Improvements. Upon Tenant’s reasonable request, Landlord shall provide Tenant, subject to availability as reasonably determined by Landlord, but at no cost to Tenant, a reasonable staging area as needed for the construction of the Tenant Improvements.
SCHEDULE 1 TO EXHIBIT B

LANDLORD WORK

Each portion of the Premises shall be delivered in vacant, broom-clean condition.

**CORE AND SHELL WORK**

<table>
<thead>
<tr>
<th>Item</th>
<th>Estimated Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Renovation of main lobby of the podium building in order to cause</td>
<td>Prior to the first Rent Commencement Date</td>
</tr>
<tr>
<td>the same to be consistent with Landlord’s “Building standards” using</td>
<td></td>
</tr>
<tr>
<td>“Building standard” colors, methods, materials and finishes.</td>
<td></td>
</tr>
</tbody>
</table>

**6th Floor Premises**

<table>
<thead>
<tr>
<th>Item</th>
<th>Estimated Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Perform multi-tenant corridor and restroom work (&quot;Common Area Work&quot;)</td>
<td>Prior to Rent Commencement Date</td>
</tr>
<tr>
<td>in order to cause the same to be consistent with Landlord’s “Building standards” using “Building standard” colors, methods, materials and finishes.</td>
<td></td>
</tr>
<tr>
<td>Add a mutually agreeable number of windows along the perimeter walls (&quot;Perimeter Window Work&quot;)</td>
<td>5 months after Lease Commencement Date</td>
</tr>
<tr>
<td>The location and quantity of such perimeter windows shall be as</td>
<td></td>
</tr>
<tr>
<td>shown on Exhibit J to the Lease and such windows shall be of a</td>
<td></td>
</tr>
<tr>
<td>materially similar size, quality and design as the perimeter</td>
<td></td>
</tr>
<tr>
<td>windows on the fourth (4th) and fifth (5th) floors of the Building.</td>
<td></td>
</tr>
<tr>
<td>Upon completion of the installation of the new perimeter windows,</td>
<td></td>
</tr>
<tr>
<td>Landlord will insulate the interior side of the tops and bottoms</td>
<td></td>
</tr>
<tr>
<td>of the new precast panels, install metal stud furring to conceal</td>
<td></td>
</tr>
<tr>
<td>back side of upper and lower precast panels, install 5/8” sheet</td>
<td></td>
</tr>
<tr>
<td>rock on new metal stud furring, provide required drywall sill/surround at new window openings, patch any perimeter drywall columns impacted by new window/precast panel installation and reinstall any removed raised access flooring system impacted by the new window/precast panel installation.</td>
<td></td>
</tr>
<tr>
<td>Provide separate sub-meters for the electrical system; install</td>
<td>4 months after Lease Commencement Date</td>
</tr>
<tr>
<td>panels and transformers (to the</td>
<td></td>
</tr>
</tbody>
</table>
extent they do not already exist) to provide a minimum of 5 watts per rentable square foot for Tenant’s convenience outlets and 1.5 watts per rentable square foot for Tenant’s lighting.

Ensure the control system (“brain”) for the life safety system has sufficient capabilities to control Tenant’s strobes, horns, and sprinklers within Tenant’s Premises, elevator, and stairwell doors, and meets all current codes and regulations.

Ensure completion of Bank’s decommissioning work/removal of Bank’s systems, equipment, and furniture, including halon system, CRAC units, check processing equipment, shelving and pre-action fire suppression system, and the environmental water supply and return manifolds and piping branches that serve the CRAC units on the seventh (7th) floor of the Building (“Bank’s Decommissioning Work”); provided, however, the Bank’s Decommissioning Work shall not include the removal (and Tenant shall have no right to remove) of (i) the environmental water supply and return loops on the 6th floor of the Building, (ii) the environmental water supply and return loops on the 8th floor of the Building, and (iii) the vertical piping connecting the 6th floor environmental water supply and return loops to the 8th floor environmental water supply and return loops, including the valves located at each floor of each vertical pipe; provided further, however, (a) to the extent necessary in connection with Tenant’s slab openings between the 7th and the 8th floors of the Building or to support the bottom of the lower stair/amphitheater on the 6th floor of the Building, Landlord shall, concurrently with Tenant’s installation of improvements related to the stairs/amphitheater, in a manner that will not unreasonably delay such work, at Landlord’s sole cost, relocate the environmental water supply and return loops on the 6th and/or 8th floor of the Building so as to reasonably accommodate such work, and (b) in such areas as the Bank’s halon or other fire suppression systems.

4 months after Lease Commencement Date

Prior to Lease Commencement Date, unless Tenant exercises its right set forth in Section 2.4 of the Lease and requests that Landlord commence demolition of any existing tenant improvements in any portion of the Initial Premises and/or the construction of other improvements in any portion of the Initial Premises, on Tenant’s behalf, in which event such work will be completed 2 months after Lease Commencement Date. In addition, to the extent Landlord is obligated to install a (or modify the existing) Base Building sprinkler loop as required by Applicable Law, then, notwithstanding the foregoing, Landlord shall complete such work on or before the date that occurs 6 weeks after Lease Commencement Date.
system is removed, install a (or modify the existing) Base Building sprinkler loop as required by Applicable Law. In connection with Tenant’s design of its internal stairs/amphitheater, Tenant shall consider reasonable suggestions by Landlord to minimize any conflicts with environmental water supply and return loops on the 6th and/or 8th floor of the Building so long as such suggestions do not increase the cost or time to construct the Tenant Improvements or adversely affect Tenant’s design of the Tenant Improvements.

Construct demising wall between Premises and adjacent space ("Demising Work").

The Demising Work necessary in order to allow Tenant to securely separate the portion of the Premises located on such floor of the Building from the remainder of the space on such floor of the Building, and to demise the elevator lobby on such floor, shall be completed on or before the Lease Commencement Date.

The completion of the Demising Work, including the installation of the finishes on both sides, shall be completed on or before the Rent Commencement Date.

Must-Take 1 Space (balance of 6th Floor)

Same work as applicable to the 6th Floor Premises except no Demising Work, Common Area Work or Perimeter Window Work shall be required; provided that all references to the applicable Lease Commencement Date shall mean the Must-Take 1 Lease Commencement Date.

9th Floor Premises

Same work as applicable to the 6th Floor Premises except no Demising Work, Common Area Work or Perimeter Window Work shall be required.

9th Floor Mezzanine Premises

Same work as applicable to the 6th Floor Premises except no Demising Work, Common Area Work or Perimeter Window Work shall be required.

18th Floor Premises

Provide separate sub-meters for the electrical 4 months after Lease Commencement Date
system/install panels and transformers (to the extent they do not already exist) to provide a minimum of 5 watts per rentable square foot for Tenant’s convenience outlets and 1.5 watts per rentable square foot for Tenant’s lighting.

Ensure the control system (“brain”) for the life safety system has sufficient capabilities to control Tenant’s strobes, horns, and sprinklers within Tenant’s Premises, elevator, and stairwell doors, and meets all current codes and regulations.

Ensure completion of Bank’s Decommissioning Work.

4 months after Lease Commencement Date

Prior to Lease Commencement Date, unless Tenant exercises its right set forth in Section 2.4 of the Lease and requests that Landlord commence demolition of any existing tenant improvements in any portion of the Initial Premises and/or the construction of other improvements in any portion of the Initial Premises, on Tenant’s behalf, in which event such work will be completed 2 months after applicable Lease Commencement Date.

19th Floor Premises

Same work as applicable to the 18th Floor Premises.

Must-Take 2 Space (portion of 7th Floor)

Same work as applicable to the 6th Floor Premises; provided that all references to the Lease Commencement Date shall mean the Must-Take 2 Lease Commencement Date. With respect to the demising wall to be constructed on the seventh (7th) floor of the Building, Landlord shall construct the demising wall in accordance with the specifications attached hereto as Schedule 2 to Exhibit B; provided, however, Tenant shall pay to Landlord, within thirty (30) days of receiving an invoice therefore, an amount equal to the difference between (i) the actual and reasonable out-of-pocket costs incurred by Landlord in connection with the construction of the seventh (7th) floor demising wall, and (ii) the actual and reasonable out-of-pocket costs Landlord would have incurred in connection with the construction of the seventh (7th) floor demising wall if such demising wall had been contracted pursuant to Building standard specifications.

Expansion Space (8th Floor)

Same work as applicable to the 6th Floor Premises; provided that all references to the Lease Commencement Date shall mean the Expansion Space Lease Commencement Date. In addition, Landlord shall decommission (or caused to be decommissioned) the Bank’s existing NER space located on the 8th floor on or before the Expansion Space Lease Commencement Date.
Availability Premises located on Floors 1 - 8

If Availability Premises consists of any space that is less than an entire floor, Delivery Condition shall require same work as applicable to the 6th Floor Premises; provided that all references to the Lease Commencement Date shall mean the applicable Availability Premises Lease Commencement Date.

If Availability Premises consists of an entire floor, Delivery Condition shall require same work as applicable to the 6th Floor Premises, except no Demising Work or Common Area Work shall be required; provided that all references to the Lease Commencement Date shall mean the applicable Availability Premises Lease Commencement Date.

Availability Premises located on Floors 9 - 22

If Availability Premises consists of any space that is less than an entire floor, Delivery Condition shall require same work as applicable to the 9th Floor Premises, plus Demising Work; provided that all references to the Lease Commencement Date shall mean the applicable Availability Premises Lease Commencement Date.

If Availability Premises consists of an entire floor, Delivery Condition shall require same work as applicable to the 18th Floor Premises; provided that all references to the Lease Commencement Date shall mean the applicable Availability Premises Lease Commencement Date.
SCHEDULE 2 TO EXHIBIT B

SPECIFICATIONS FOR SEVENTH FLOOR DEMISING WALL

NOTES:
1. STUDS SHOULD BE STAGGERED IN DOUBLE-STUD WALL CONSTRUCTION TO PREVENT RIGID BRIDGING.
2. FOR 1-HOUR OR 2-HOUR FIRE RATING USE UL DESIGN CH65.

PREFERRED SOUND-RATED DEMISING WALL

FIGURE 1
EXHIBIT C

1455 MARKET STREET

NOTICE OF LEASE TERM DATES

To: __________________________________________

__________________________________________

Re: Office Lease dated , 20 between , a

("Landlord"), and , a

("Tenant") concerning Suite on floor(s)

of the office building located at .

Gentlemen:

In accordance with the Office Lease (the “Lease”), we wish to advise you and/or confirm as follows:

1. The Lease Term shall commence on or has commenced on for a term of ending on .

2. Rent commenced to accrue on , in the amount of .

3. If the Lease Commencement Date is other than the first day of the month, the first billing will contain a pro rata adjustment. Each billing thereafter, with the exception of the final billing, shall be for the full amount of the monthly installment as provided for in the Lease.

4. Your rent checks should be made payable to at .

5. The exact number of rentable/usable square feet within the Premises is square feet.

6. Tenant’s Share as adjusted based upon the exact number of usable square feet within the Premises is %.

“Landlord”

__________________________________________

a _______________________________________

By: ______________________________________
Agreed to and Accepted by Tenant
as of ____, 20__.

“Tenant”
a
By:
Its: ________________________________

Its: ________________________________
Tenant shall faithfully observe and comply with the following Rules and Regulations. Landlord shall not be responsible to Tenant for the nonperformance of any of said Rules and Regulations by or otherwise with respect to the acts or omissions of any other tenants or occupants of the Property. In the event of any conflict between the Rules and Regulations and the other provisions of this Lease, the latter shall control.

1. Tenant shall not alter any lock or install any new or additional locks or bolts on any doors or windows of the Premises without obtaining Landlord’s prior written consent. Tenant shall bear the cost of any lock changes or repairs required by Tenant. Two keys will be furnished by Landlord for the Premises, and any additional keys required by Tenant must be obtained from Landlord at a reasonable cost to be established by Landlord. Upon the termination of this Lease, Tenant shall restore to Landlord all keys of stores, offices, and toilet rooms, either furnished to, or otherwise procured by, Tenant and in the event of the loss of keys so furnished, Tenant shall pay to Landlord the cost of replacing same or of changing the lock or locks opened by such lost key if Landlord shall deem it necessary to make such changes. The foregoing does not apply to Tenant’s card access system.

2. All doors opening to public corridors shall be kept closed at all times except for normal ingress and egress to the Premises.

3. Landlord reserves the right to close and keep locked all entrance and exit doors of the Building during such hours as are customary for comparable buildings in the San Francisco, California area. Tenant, its employees and agents must be sure that the doors to the Building are securely closed and locked when leaving the Premises if it is after the normal hours of business for the Building. Any tenant, its employees, agents or any other persons entering or leaving the Building at any time when it is so locked, or any time when it is considered to be after normal business hours for the Building, may be required to sign the Building register. Access to the Building may be refused unless the person seeking access has proper identification or has a previously arranged pass for access to the Building. Landlord will furnish passes to persons for whom Tenant requests same in writing. Tenant shall be responsible for all persons for whom Tenant requests passes and shall be liable to Landlord for all acts of such persons. The Landlord and his agents shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. In case of invasion, mob, riot, public excitement, or other commotion, Landlord reserves the right to prevent access to the Building or the Property during the continuance thereof by any means it deems appropriate for the safety and protection of life and property.

4. No large furniture, freight or equipment of any kind shall be brought into the Building without prior notice to Landlord. All moving activity into or out of the Building shall be scheduled with Landlord and done only at such time and in such manner as Landlord reasonably designates. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy property brought into the Building and also the times and manner of moving the same.
in and out of the Building. Safes and other heavy objects shall, if considered necessary by Landlord, stand on supports of such thickness as is necessary to properly distribute the weight. Landlord will not be responsible for loss of or damage to any such safe or property in any case. Any damage to any part of the Building, its contents, occupants or visitors by moving or maintaining any such safe or other property shall be the sole responsibility and expense of Tenant.

5. No furniture, packages, supplies, equipment or merchandise will be received in the Building or carried up or down in the elevators, except between such hours, in such specific elevator and by such personnel as shall be reasonably designated by Landlord.

6. The requirements of Tenant will be attended to only upon application at the management office for the Property or at such office location designated by Landlord. Employees of Landlord shall not perform any work or do anything outside their regular duties unless under special instructions from Landlord.

7. No sign, advertisement, notice or handbill shall be exhibited, distributed, painted or affixed by Tenant on any part of the Premises or the Building without the prior written consent of the Landlord. Tenant shall not disturb, solicit, peddle, or canvass any occupant of the Property and shall cooperate with Landlord and its agents of Landlord to prevent same.

8. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, and no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the tenant who, or whose servants, employees, agents, visitors or licensees shall have caused same.

9. Tenant shall not overload the floor of the Premises, nor, except as permitted by the Lease, mark, drive nails or screws, or drill into the partitions, woodwork or drywall or in any way deface the Premises or any part thereof without Landlord’s prior written consent. Tenant shall not purchase spring water, ice, towel, linen, maintenance or other like services from any person or persons not reasonably approved by Landlord.

10. Except for vending machines intended for the sole use of Tenant’s employees and invitees, no vending machine or machines other than fractional horsepower office machines shall be installed, maintained or operated upon the Premises without the written consent of Landlord.

11. Tenant shall not use or keep in or on the Premises, the Building, or the Property any kerosene, gasoline, explosive material, corrosive material, material capable of emitting toxic fumes, or other inflammable or combustible fluid chemical, substitute or material except as permitted under the Lease. Tenant shall provide material safety data sheets for any Hazardous Material used or kept on the Premises.

12. Tenant shall not without the prior written consent of Landlord use any method of heating or air conditioning other than that supplied by Landlord.

13. Tenant shall not use, keep or permit to be used or kept, any foul or noxious gas or substance in or on the Premises, or permit or allow the Premises to be occupied or used in a manner in violation of this Lease by reason of noise, odors, or vibrations, or interfere with other tenants or those having business therein, whether by the use of any musical instrument, radio, phonograph, or
14. Tenant shall not bring into or keep within the Property, the Building or the Premises any animals, birds, or, except in areas designated by Landlord, bicycles or other vehicles.

15. Except as permitted under the Lease, including in the 9th Floor Premises kitchen, no cooking shall be done or permitted on the Premises, nor shall the Premises be used for the storage of merchandise, for lodging or for any improper, objectionable or immoral purposes. Notwithstanding the foregoing, in addition to kitchen and dining facilities and equipment permitted under the Lease, Underwriters’ laboratory-approved equipment and microwave ovens may be used in the Premises for heating food and brewing coffee, tea, hot chocolate and similar beverages for employees and visitors, provided that such use is in accordance with all applicable federal, state, county and city laws, codes, ordinances, rules and regulations.

16. The Premises shall not be used for manufacturing or for the storage of merchandise except as such storage may be incidental to the use of the Premises provided for in the Summary. Tenant shall not occupy or permit any portion of the Premises to be occupied as an office for a messenger-type operation or dispatch office, public stenographer or typist, or for the manufacture or sale of liquor, narcotics, or tobacco in any form, or for a medical office, or as a barber or manicure shop, or as an employment bureau without the express prior written consent of Landlord. Tenant shall not engage or pay any employees on the Premises except those actually working for such tenant on the Premises nor advertise for laborers giving an address at the Premises.

17. Landlord reserves the right to exclude or expel from the Property any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of these Rules and Regulations.

18. Tenant, its employees and agents shall not loiter in or on the entrances, corridors, sidewalks, lobbies, courts, halls, stairways, elevators, vestibules or any Common Areas for the purpose of smoking tobacco products, nor in any way obstruct such areas, and shall use them only as a means of ingress and egress for the Premises.

19. Tenant shall not waste electricity, water or air conditioning and agrees to cooperate fully with Landlord to ensure the most effective operation of the Building’s heating and air conditioning system, and shall refrain from attempting to adjust any controls. Tenant shall participate in recycling programs undertaken by Landlord.

20. Tenant shall store all its trash and garbage within the interior of the Premises. No material shall be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in San Francisco, California without violation of any law or ordinance governing such disposal. All trash, garbage and refuse disposal shall be made only through entry-ways and elevators provided for such purposes at such times as Landlord shall designate. If the Premises is or becomes infested with vermin as a result of the use or any misuse or neglect of the Premises by Tenant, its agents, servants, employees, contractors, visitors or licensees, Tenant shall forthwith, at Tenant’s expense, cause the Premises to be exterminated from time to time to the satisfaction of Landlord and shall employ such licensed exterminators as shall be approved in writing in advance by Landlord.
21. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any governmental agency.

22. Any persons employed by Tenant to do janitorial work shall be subject to the prior written approval of Landlord, which shall not be unreasonably withheld or delayed, and while in the Building and outside of the Premises, shall be subject to and under the control and direction of the Building manager (but not as an agent or servant of such manager or of Landlord), and Tenant shall be responsible for all acts of such persons.

23. No awnings or other projection shall be attached to the outside walls of the Building without the prior written consent of Landlord, and no curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises other than Landlord standard drapes, blinds or shades. All electrical ceiling fixtures hung in the Premises or spaces along the perimeter of the Building must be fluorescent and/or of a quality, type, design and a warm white bulb color approved in advance in writing by Landlord. Neither the interior nor exterior of any windows shall be coated or otherwise sunscreened without the prior written consent of Landlord. Tenant shall be responsible for any damage to the window film on the exterior windows of the Premises and shall promptly repair any such damage at Tenant’s sole cost and expense. Prior to leaving the Premises for the day, Tenant shall draw or lower window coverings and extinguish all lights. Tenant shall abide by Landlord’s regulations concerning the opening and closing of window coverings which are attached to the windows in the Premises, if any, which have a view of any interior portion of the Building or Building Common Areas.

24. The sashes, sash doors, skylights, windows, and doors that reflect or admit light and air into the halls, passageways or other public places in the Building shall not be covered or obstructed by Tenant, nor shall any bottles, parcels or other articles be placed on the windowsills.

25. Tenant must comply with requests by the Landlord concerning the informing of their employees of items of importance to the Landlord.

26. Tenant must comply with all applicable “NO-SMOKING” or similar ordinances, rules, laws and regulations.

27. Except as expressly provided in the Lease, Tenant hereby acknowledges that Landlord shall have no obligation to provide guard service or other security measures for the benefit of the Premises, the Building or the Property. Tenant hereby assumes all responsibility for the protection of Tenant and its agents, employees, contractors, invitees and guests, and the property thereof, from acts of third parties, including keeping doors locked and other means of entry to the Premises closed, whether or not Landlord, at its option, elects to provide security protection for the Property or any portion thereof other than that required under Section 6.1.8 of the Lease. Tenant further assumes the risk that any safety and security devices, services and programs which Landlord elects, in its sole discretion, to provide may not be effective, or may malfunction or be circumvented by an unauthorized third party, and Tenant shall, in addition to its other insurance obligations under this Lease, obtain its own insurance coverage to the extent Tenant desires protection against losses related to such occurrences. Tenant shall cooperate in any reasonable safety or security program developed by Landlord or required by law.
28. All office equipment of any electrical or mechanical nature shall be placed by Tenant in the Premises in settings approved by Landlord, to absorb or prevent any vibration, noise and annoyance.

29. Tenant shall not use in any space or in the public halls of the Building, any hand trucks except those equipped with rubber tires and rubber side guards.

30. No auction, liquidation, fire sale, going-out-of-business or bankruptcy sale shall be conducted in the Premises without the prior written consent of Landlord.

31. No tenant shall use or permit the use of any portion of the Premises for living quarters, sleeping apartments or lodging rooms.

32. Tenant shall not purchase janitorial or maintenance or other similar services from any company or persons not reasonably approved by Landlord, which approval will not be unreasonably withheld. Landlord shall approve a sufficient number of sources of such services to provide Tenant with a reasonable selection, but only in such instances and to such extent as Landlord in its judgment shall consider consistent with the security and proper operation of the Building.

33. Tenant shall install and maintain, at Tenant’s sole cost and expense, an adequate, visibly marked and properly operational fire extinguisher next to any duplicating or photocopying machines or similar heat producing equipment, which may or may not contain combustible material, in the Premises.

Landlord reserves the right at any time reasonably to change or rescind any one or more of these Rules and Regulations, or to make such other and further reasonable Rules and Regulations as in Landlord’s judgment may from time to time be necessary for the management, safety, care and cleanliness of the Premises, Building, the Common Areas and the Property, and for the preservation of good order therein, as well as for the convenience of other occupants and tenants therein. Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular tenants, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of any other tenant, nor prevent Landlord from thereafter enforcing any such Rules or Regulations against any or all tenants of the Property. Notwithstanding the foregoing, Landlord shall not intentionally enforce the rules in a discriminating manner against Tenant. Upon Tenant’s written request, Landlord shall use commercially reasonable efforts to enforce the Rules and Regulations as to other Building occupants. Tenant shall be deemed to have read these Rules and Regulations and to have agreed to abide by them as a condition of its occupancy of the Premises.
EXHIBIT E

FORM OF TENANT'S ESTOPPEL CERTIFICATE

The undersigned as Tenant under that certain Office Lease (the “Lease”) made and entered into as of __________, 20__ by and between ______________________ as Landlord, and the undersigned as Tenant, for Premises on the __________ floor(s) of the office building located at ________________, certifies as follows:

1. Attached hereto as Exhibit A is a true and correct copy of the Lease and all amendments and modifications thereto. The documents contained in Exhibit A represent the entire agreement between the parties as to the Premises.

2. The undersigned currently occupies the Premises described in the Lease, the Lease Term commenced on __________, and the Lease Term expires on __________, and the undersigned has no option to terminate or cancel the Lease or to purchase all or any part of the Premises, the Building and/or the Property.

3. Base Rent became payable on __________.

4. The Lease is in full force and effect and has not been modified, supplemented or amended in any way except as provided in Exhibit A.

5. Tenant has not transferred, assigned, or sublet any portion of the Premises nor entered into any license or concession agreements with respect thereto except as follows:

6. All monthly installments of Base Rent, all Additional Rent and all monthly installments of estimated Additional Rent have been paid when due through __________. The current monthly installment of Base Rent is $__________.

7. To Tenant's actual knowledge, all conditions of the Lease to be performed by Landlord necessary to the enforceability of the Lease have been satisfied and Landlord is not in default thereunder. In addition, the undersigned has not delivered any notice to Landlord regarding a default by Landlord thereunder.

8. No rental has been paid more than thirty (30) days in advance and no security has been deposited with Landlord except as provided in the Lease.

9. To Tenant's actual knowledge, as of the date hereof, there are no existing defenses or offsets, or, to the undersigned's knowledge, claims or any basis for a claim, that the undersigned has against Landlord.

10. If Tenant is a corporation or partnership, each individual executing this Estoppel Certificate on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in California and that Tenant has full right and authority to execute and deliver this Estoppel Certificate and that each person signing on behalf of Tenant is authorized to do so.
11. To Tenant’s actual knowledge, there are no actions pending against the undersigned under the bankruptcy or similar laws of the United States or any state.

12. Other than in compliance with all applicable laws and incidental to the ordinary course of the use of the Premises, the undersigned has not used or stored any hazardous substances in the Premises.

13. To Tenant’s actual knowledge, all tenant improvement work to be performed by Landlord under the Lease has been completed in accordance with the Lease and has been accepted by the undersigned and all reimbursements and allowances due to the undersigned under the Lease in connection with any tenant improvement work have been paid in full.

The undersigned acknowledges that this Estoppel Certificate may be delivered to Landlord or to a prospective mortgagee or prospective purchaser, and acknowledges that said prospective mortgagee or prospective purchaser will be relying upon the statements contained herein in making the loan or acquiring the property of which the Premises are a part and that receipt by it of this certificate is a condition of making such loan or acquiring such property.

Executed at ______________________ on the ______________________ day of __________, 20____.  

“Tenant”

______________________________, a ________________________________
By: ___________________________________________________________________
   Its: __________________________________________________________________

By: ___________________________________________________________________
   Its: __________________________________________________________________
EXHIBIT F - CRITICAL ENVIRONMENTS

LEVEL 10

BANK CRITICAL ENVIRONMENT
EXHIBIT F-1

CEWA CAP TRAINING SUMMARY

Critical Environment Work Authorization (CEWA)

Critical Awareness Process (CAP)

Training

1455 Market Street is home to a Bank of America Data Center and contains many critical environments which may be affected by the work your company does onsite. All contractors & vendors performing work at the property must complete the Critical Environment Work Authorization (CEWA) and Critical Awareness (CAP) training course, prior to beginning any work. Upon completion of the training you will receive a certificate which will be valid for eighteen months. The training course is completed online and takes about thirty minutes.

1) To access CEWA/CAP Training, go to the following website:

CEWA Training

2) If you are an existing user, please click on the button. If you’re a new user, click on The button.

   a. Existing Users: enter your username and password and skip to step (4), below.
   b. New Users: enter the registration code in the available field and click the Start the Registration Process button.

   i. Registration code: cewa

3) A new screen will populate. Enter the following information and click the Register button:

   a. Basic Information
      i. Full name
      ii. Company name
      iii. Primary BAC Site: SF Data Center
      iv. Primary City: San Francisco
      v. Primary State: California

   b. Account Information:
      i. Username: select a username that is easy for you to remember
      ii. Email address: this is optional; however entering your email address will allow you to receive emails when your CEWA training is expiring
      iii. Password: select a password that is easy for you to remember
      iv. Verify Password

4) You will be redirected to a login screen. Enter your username and password and click the login button.

5) Click on the Critical Awareness Learning Guide link.

6) A new page will populate. This screen details the level of CEWA training which contractors and vendors will need. Scan the left hand column entitled Who Should Take the Training to find out where your company/scope of work falls. Read the steps in the middle column (Group Name/Steps to Complete Certification) that you are required to follow in order to become
CEWA certified. Click on the link in the right hand column (**Required Training**), to enter your training course.

7) A new screen will populate. Click the **Click Here To Begin The Training** link. A new window will populate that contains the training video. The video contains a combination of slides & live action video. The video also contains several ‘quiz’ questions that must be answered along the way. Follow along with the video until you reach the end. Note that the video paces itself, so there is no way to fast-forward to the end.

8) Upon completion of the video, take the quiz. You must answer 100% of the answers correct in order to pass; however there is no limit on the amount of times you may take the quiz.

9) When you have successfully completed the quiz, click on the “My transcript” link to print your certificate. Sign your certificate and bring it to the building. It will need to be signed off by the Chief Engineer or Assistant Chief Engineer. Your card will be laminated and it must be carried with you at all times while you’re performing your work.

For questions related to CEWA/CAP Training, please contact the Building Management Office at .
Hudson Pacific Properties is the building owner for the property located at 1455 Market Street, San Francisco, California. As building owner, Hudson Pacific Properties will be involved in all tenant improvement work in the building, including original build-outs as well as any alterations of tenant spaces. Hudson Pacific Properties shall be involved in all stages of work in the building, from “kick-off” to “move-in”, regardless of whether Hudson Pacific Properties or Tenant holds the construction contract.

Such involvement shall include, without limitation, plan review, pre-testing, testing and pre-qualification of contractors and coordination of the building systems tie-in. All general contractors, subcontractors, suppliers, material-men, and their employees and anyone working for or on their behalf (hereafter referred to as “Contractors”), shall be immediately advised of the following Construction Rules and Regulations concerning their proper conduct within the property. It is the general contractor’s responsibility to ensure that its subcontractors and suppliers read and understand these rules and regulations. Ignorance of these rules and regulations is not a waiver of liability or responsibility.

The tenant and contractor involved in the work shall comply with each and every one of these Construction Rules and Regulations, as applicable. In addition, tenant and contractor shall incorporate these Construction Rules and Regulations into each contract and subcontract, if executed in connection with work in the building. In all cases, to the extent that there are any inconsistencies between these Contractor Rules and Regulations and any other contract document(s), these regulations shall govern.

Nothing contained in these Regulations shall (i) create any contractual obligations for Hudson Pacific Properties in connection with the work, (ii) in any way affect, modify or supersede any of the terms set forth in the tenant’s lease for space at the 1455 Market Street, including, without limitation, any indemnification set forth therein. In addition, Hudson Pacific Properties shall not be responsible for any property belonging to the contractor, its employees, agents or subcontractors or of others associated in any way with the work.
GENERAL RULES & REGULATIONS:

I. No one shall be allowed to endanger the property, its premises, or its occupants in any manner whatsoever. In the event that a situation occurs which threatens the property or its occupants in any manner, the contractor, subcontractor, supplier, etc., must immediately take steps to correct the hazardous condition and inform property management of the event or situation, always following the guidelines outlined in the CEWA Training Process. In the event that the contractor’s personnel fail to correct the hazardous condition, the owner reserves the right to immediately take steps to correct the situation at the contractor’s expense.

II. The following general policy shall apply to all work which at the property:

a. All work performed on the property is subject to the discretion of the property manager and engineering department. No work shall be performed which in any way affects the operation or quiet enjoyment due to existing tenants.

b. Property Management and/or Building Engineers reserve the right to inspect work, stop work, and/or have a worker removed from the job at any time.

c. Work efforts inside the building’s critical environments are subject to rigorous review, approval and ongoing observation. Work within these environments needs to be completed with extreme care due to the higher potential to affect building operations. Contractors are required to follow the specific guidelines contained in this document, and the Critical Environment Work Authorization (CEWA) process.

d. Proper care shall be taken at all times to ensure the safety of all furnishings, fixtures and equipment, and in the event of emergency work or work approved by the Property Manager, the complete safety of tenant and Property personnel.

e. CRITICAL ENVIRONMENTS WORKPLACE AUTHORIZATION (CEWA) and CRITICAL AWARENESS PROCESS (CAP) TRAINING:

All contractors, subcontractors, and affiliated personnel doing work on the property which may affect a critical environment must complete CEWA/CAP training before starting. In general, all mechanical, electrical, plumbing, automation and construction work will require CEWA/CAP training. Schedule this training process with the Building Management Office on the 11th floor or by phone at

i. Complete online training at

ii. Successfully pass the Level 1 or 2 exam online.

iii. Print a copy of your CAP Certification Card and sign it.

iv. Obtain a “validation signature” from the Chief or Assistant Chief Building Engineer on the CAP Certification Card. You are not authorized to complete any work prior to receiving this validation signature on your CAP card.
v. Contact the Property Manager/Chief Building Engineer to schedule an onsite CEWA session to have your certificate validated & to discuss any other aspects of the project that involve the CEWA process.

vi. When working in critical environments:

1. Always obtain approval from the engineering department before plugging anything into an outlet in a critical environment. Never plug anything into a UPS Fed Outlet. A Ground Fault Indicator (GFCI) is required for all equipment that will be plugged into a receptacle.

2. Never activate the Emergency Power-Off (EPO) button unless a life safety emergency exists such as electrocution or significant fire. This button immediately shuts off power to data center equipment, severely impacting building & tenant operations.

Project Start-Up Package: Prior to project start, the contractor is required to submit a start-up package to the Building Management Office which contains the following items:

a. Signed Construction Rules & Regulations: Contractor (and tenant, if applicable) must execute the signature page of this document, verifying that these rules and regulations have been read and understood.

b. Project Start Notification: This document details the phone numbers and contact information of subcontractors & project personnel. This list will be maintained by Building Management and Security for the duration of the project. The contractor is required to provide updates to the Project Start Notification as available. (See Addendum 1)

c. Evidence of current CEWA/CAP certification for all project personnel: Signed off CAP certification cards is considered sufficient evidence.

d. Evidence of current & valid insurance coverage: At all times, contractor is required to maintain evidence of current and valid insurance coverage. (See Addendum 2)

e. Work Plan & completed CEWA document: The Work Plan & CEWA document detail the project scope and highlight any details which may affect the building’s critical environments.

f. Permit or Job Card (if applicable)

g. Project Schedule

h. Material Safety & Data Sheets (if applicable)

IV. Project Kick-off meeting & progress meetings: Contractor is required to meet with building management and the engineering department in advance of project-start for a kick-off meeting. Depending on the scope and duration of the project, regular progress meetings may be required. Contractor shall schedule progress meetings at a time that is mutually agreeable to all parties.
V. Contractor Access

a. Access Forms (See Addendum 3): The contractor shall submit, on a weekly basis, a Contractor Access Form to the Building Management Office. This form will detail the trades/companies & number of personnel requiring access, the dates & time of access. Contractor should also include a brief description of all work (including that which needs to be done after hours) to be done in the forthcoming period.

b. Checking in & out:
   
i. Contractors, subcontractors and all project personnel who have been approved to park within the premises, will enter the building via Gate 23, which is accessible from 11th Street. Parking is limited to the non-reserved spots on Level B. Vehicles parked in any other areas of the garage will be towed without notice at the vehicle owner’s expense.
   
   All other project personnel will be required to park on the street or in neighboring public parking garages.

   ii. Prior to beginning work each day, all project personnel shall report to the security desk in the main lobby to receive a temporary visitor badge. Temporary visitor badges are valid for the day they are issued; a new badge must be obtained each day. Project personnel must carry a visitor badge at all times while onsite.

   iii. At the start & finish of work each day, the contractor’s superintendent or other project manager must check in & out with the engineering department.

VI. Loading Dock & Freight Elevator Procedures: The building is equipped with a loading dock and three freight elevators, for the express use of transporting material, tools, equipment, and construction personnel to a jobsite.

a. Loading Dock and Freight Elevator hours are as follows: Monday-Friday: 7:00am-12:00pm and 1:00pm-4:00 pm.

b. All material pick-ups & deliveries must be made via the loading dock & freight elevators. This work must be scheduled with the Building Management Office in accordance with the following rules:
   
i. Provide the number of and name (if possible) of all delivery personnel to the Building Management Office at least 48 hours in advance of pickup, delivery or scheduled work to allow for appropriate entry of these persons into the visitor management system.

   ii. Driver and/or delivery personnel MUST have proper photo ID (license) and proper paperwork indicating date/time of scheduled pickup.

   iii. Upon check-in at the building, all personnel requiring access must present a photo ID. Visiting personnel will receive a temporary visitor pass, which must be
maintained on his/her person for the duration of the work.

ev. Continuous escort of the person(s) on site may be required if the project occurs within a critical area of the building

c. All contractors, subcontractors and other personnel shall enter and exit the project site via the freight elevators at all times. No materials, tools, equipment, or other construction personnel are permitted to be transported via the building lobby and/or passenger elevators. If the freight elevator is unavailable, contractors must obtain written permission from the property manager prior to use the passenger elevators.

If a contractor, subcontractor or other personnel are found using the passenger elevators, the elevators will immediately be inspected for damage, and all damages, whether a result of the contractor’s use or not, shall be corrected at the contractor’s expense. Use of the passenger elevators for construction purposes shall be grounds for immediate expulsion from the building.

d. Contractors shall not block freight elevator doors. A door hold button has been supplied in the freight elevator for temporarily holding the doors open to off-load tools, equipment, and supplies, but only for that purpose. It is not to be used to hold the doors open for extended periods of time.

e. Building security personnel have the right to inspect all toolboxes of any and all contractors, subcontractors and other personnel upon departure from the building.

VII. Project Standards

a. Occupied Spaces & Restroom Use

i. All work performed in occupied tenant spaces or public corridors will be done in a manner designed to produce the least amount of disruption to normal property operations.

ii. Any work involving loud noise or the use of power tools that creates any reverberation, such as ceiling shots, coring or roto-hammering, shall be performed after business hours and shall be scheduled at least 48 hours in advance.

iii. Contractors will be instructed by the Property Manager which restrooms may be used. Contractors will be permitted to use the building restrooms; provided, however, that the contractor must keep the restrooms clean and owner reserves the right to prohibit contractor’s use of the building restrooms at any time.

b. Building Doors: Stairway doors, and doors to janitorial closets, electrical & telephone rooms, and any other building door shall be kept closed at all times. At no time, shall any equipment or debris block a stairwell door, or other building door or closet. Contractors found blocking the doors open shall be subject to a $500.00 fine.

c. Coring Requirements: Prior to conducting any coring work or slab penetrations, Contractor is required to use ground penetrating radar (GPR) to identify all existing conditions,
obstructions or conflicts. All obstructions or conflicts are to be reviewed by Landlord and Building Engineers. Work is not allowed to proceed without approval from Landlord. GPR work must be performed by a certified vendor.

d. **Penetrations of the fire-rated walls**: Contractor is to preserve existing fire ratings on all existing assemblies. Contractor is responsible for restoring fire rating to all assemblies affected by their work, including all fire caulking and smoke seals, as required.

e. **No gasoline operated devices**, (i.e. concrete saws, coring machines, welding machines), etc., shall be permitted within the property. All equipment of this nature shall be electrically operated.

f. All gas and oxygen canisters shall be properly chained and supported to eliminate all potential hazards and removed immediately from the building upon completion of work. Storage of gas or oxygen canisters is not permitted.

g. Contractor will effectively protect the building walls, floors, doorways and paths of travel for the duration of the project. Protection includes, but is not limited to, masonite floor/wall protection for the transportation of heavy/cumbrous loads, plastic floor coverings and door mats to prevent the tracking of dust and debris through the common areas, sprinkler head protection, etc.

h. All dollies, carts, hand trucks, or any other equipment used to transport materials, equipment/tools or debris, shall be outfitted with rubber or polyurethane wheels.

i. Tool belts should not be worn outside the work area. Tools and equipment shall be properly stored and organized at the end of each work day.

**Clean-up & Debris Removal**: Contractor’s personnel shall at all times maintain the highest level of cleanliness. Prior to project-start, a Work Plan, requesting permission to use the restrooms and/or common areas of the building & loading dock for clean-up and debris removal, shall be submitted to and approved by the Building Management Office.

   i. **Construction Debris**: All construction debris shall be removed daily via the freight elevators, transported in appropriate containers so as to ensure zero leakage of debris or liquids. Debris shall not be allowed to accumulate so as to produce a fire hazard or block the path of egress. **No construction debris can be placed in the property compactors or dumpsters.**

   ii. **Public areas**: Corridors, restrooms, janitors’ closets, etc., shall be maintained and kept free of construction debris, dust, etc. Contractors are **not** permitted to use the restrooms for tool cleanup. In the event a contractor is allowed to utilize a corridor, restroom, janitor’s closet, etc., it must be kept clean at all times.

   iii. **General cleaning & final clean-up**: All work performed in occupied areas must be cleaned by the contractor at the end of each business day. A final detailed cleaning shall be done upon project completion. In the event that the contractor fails to keep the project area free of accumulated waste, the owner reserves the right to
enter said premises and remove the debris at the contractor’s expense. k.

**Electrical Power & Energy Consumption**

i. The contractor shall be responsible for minimizing energy consumption in its construction area by securing equipment when not in use. The owner will provide normal electrical consumption during business hours, 7:00 a.m. to 5:00 p.m., Monday through Friday. All lights and equipment must be turned off at the end of each business day. Should the contractor continue to leave lights and equipment on during off-hours, the owner has the right to bill contractor for the excess electrical consumption.

ii. The contractor will be required to provide temporary electrical power within the project area for use by its subcontractors. Contractors will not be permitted to run extension cords through public areas or on occupied tenant floors that could cause a trip hazard.

I. **Hazardous Materials Work:** All work involving hazardous materials, including, but not limited to asbestos and lead based paint, shall be performed in strict accordance with the Site Specific Asbestos Operations and Maintenance Plan and the Site Specific Lead Based Paint Operations and Maintenance Plan. These operations & maintenance plans are available, upon request to the Building Management Office. Attached hereto (Addendum 4) is the Owner’s standard Asbestos Containing Materials & Lead Based Paint notification to vendors.

m. **Fire Life Safety System:** Any work involving the property fire alarm system or its components shall be performed in strict accordance with the CEWA processes. No adjustments, corrections, or work to the fire alarm system will be made without prior approval of the Building Engineers & the building’s life safety system monitoring contractor, Honeywell.

Anytime the fire alarm system is required to be removed from service during construction, it shall be placed back into service at the end of each work day. Requests of this nature should be included in the original Work Plan.

Contractors are not permitted to enter the Fire Command Center at any time, without prior approval from Property Manager and must be accompanied by the Property Manager, a Building Engineer, or a Security Officer.

n. **Fire Extinguishers:** All contractors are required to provide and make available fire extinguisher(s) as specified/required by SFFD, within the project area at all times during construction.

o. **Hot Work Permits:** Contractor will schedule, in advance with property management and the engineering department, all work requiring a hot work permit.

**General Behavior:**
i. All contractors, sub-contractors, material men and other project personnel shall wear clothing that clearly identifies his/her company. Appropriate attire will be required at all times, including full length pants and close-toed shoes. Shorts and sandals are not considered appropriate attire. Clothing containing words, symbols or other forms of communication considered offensive or in bad taste are not permitted.

ii. Proper safety equipment shall be required at all times. (i.e., hard hats, safety glasses, goggles, respirators, etc.)

iii. Any contractor, subcontractors or laborers, found using profanity, exhibiting a lack of courtesy to a tenant, visitor, or employee will be immediately ejected from the property and will not be allowed to return.

iv. Graffiti or vandalism will be not tolerated. Any contractor found responsible for any graffiti or vandalism shall be immediately removed from the building, and will not be allowed to return. Any expenses associated with the removal or repair resulting from the graffiti or vandalism will be at the contractor’s expense.

v. Smoking is not permitted within 20 feet of the building entrances, operable windows and air intakes, per San Francisco Health Code, Article 19F. Any contractor or personnel found smoking will be immediately removed from the property and will not be allowed to return.

vi. Chewing gum and tobacco are not permitted on the job site.

vii. No radios are permitted in the building, including “Walkman” type radios with headsets. Radio Frequency Devices, including two-way radios, are not allowed in building as they are disruptive and may interfere with the equipment in critical environments and facilities. The contractor may check-out radios from Engineering on a daily basis, if required.

VIII. Project Close-out package: Upon completion of the project, contractor shall submit to property management a close-out package consisting of the following items:

a. Two (2) Close-out Binders containing:
   i. CD of architectural as-builts in CAD and PDF formats (3 copies)
   ii. CD of MEP, Life Safety, and Fire Sprinkler as-builts in CAD and PDF formats (3 copies)
   iii. Hard copy permit drawings (1 copy)
   iv. Final certified air balance report from independent contractor
   v. Environmental consultant’s final report (if applicable)
   vi. Maintenance manuals and warranties
vii. Completed punch-list
viii. Permit cards with final signatures
ix. Summary report of landfill diversion rates
x. Unconditional/final lien releases for general contractor and all subcontractors
xi. For Landlord-run projects: final invoices

IX. Amendment

Hudson Pacific Properties reserves the right to add to or generally amend these rules and regulations at any time before, during or after a project. It is the responsibility of the contractor to remain up to date with and to abide by the rules and regulations contained herein, and those forthcoming.

Contractor & Tenant Acknowledgement

I confirm that I have read and understand the rules and regulations as set forth in this document.

Contractor:
By:
Name:
Date:

Tenant:
By:
Name:
Date:
Addendum 1

Submit this form to:
Hudson Pacific Properties
1455 Market Street, Suite 1101
San Francisco, CA 94103

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**Project Start Notification - 1455 Market Street**

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<th>Project Name:</th>
<th>Project #:</th>
<th>PM #:</th>
<th>Scheduled Start Date:</th>
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<tr>
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<th>Project Manager:</th>
<th>Tel:</th>
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**GENERAL CONTRACTOR:**

**EMERGENCY CONTACT**

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There will be a **mandatory** Job Start meeting on

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All general contractors are required to meet with building management prior to any construction work beginning. Please provide building management with the day and time for said meeting.

**For Office Use: Only:**

**Copies distributed to:**

- Project Manager
- Senior Property Manager
- Property Manager
- Engineering
- Security

1455 Market Street, Suite 1101, San Francisco, CA 94103
Addendum 2

Hudson 1455 Market, LLC
INSURANCE REQUIREMENTS
Vendors Performing Work on behalf of Building Owner

A current and valid Certificate of Insurance must be on file prior to service. Contractor must maintain the following minimum insurance over the duration of the service:

Contractor shall maintain the following insurance coverage:

- **General Liability**
  Vendor/Contractor shall maintain insurance covering Contractor, any subcontractor, or anyone directly or indirectly employed by either of them, including commercial general liability insurance on an occurrence basis. For bodily injury liability and property damage liability, Contractor shall maintain coverage of $1,000,000 for each occurrence, $2,000,000 general aggregate, and $1,000,000 products and completed operations aggregate.

  The commercial general liability insurance must include Blanket Contractual Liability, Broad Form Liability, including Products/Completed Operations, Independent Contractors, Broad Form Property Damage, Personal Injury, Fellow Employee Exclusion deleted, “X”, “C” and “U” Exclusions deleted. If the policy is subject to a “general aggregate”, it must contain a “per job” or “per location” aggregate extension with respect to work for Owner.

- **Automobile Liability**
  For automobile liability, Contractor must carry Bodily Injury Liability and Property Damage Liability in an amount not less than $1,000,000 Combined Single Limit, and the insurance must include Owned (Long Term Leased), Employer’s Non-Owned and Hired Automobile Coverage.

- **Excess Umbrella Liability**
  For umbrella liability, Contractor shall maintain coverage of $5,000,000 general aggregate per location or per job and $1,000,000 products and completed operations aggregate. The umbrella policy must apply to both primary Commercial General Liability and Automobile Liability.

- **Workers Compensation & Employers Liability**
  Contractor must carry evidence of workers compensation coverage in compliance with applicable California law, and a minimum policy of $1,000,000 for employer’s liability.

- **Additional Insured**
  Contractor shall add, by Additional Insured Endorsement CG2011, the following:

    “Hudson 1455 Market, LLC, its parent and all of their subsidiaries, agents and employees are Additional Insured jointly and/or severally, regarding any coverage afforded by this policy with respect to services and/or materials performed, furnished or supplied on, for or to such Property. This insurance shall be primary with respect to any other insurance available to such additional insured, and shall be endorsed in a manner that will prohibit Contractor’s insurers from seeking contribution from such insurance of the additional insured.”

  **Important**: A statement on the certificate does **not** confer additional insured rights. The policy must be endorsed and the appropriate endorsement must accompany the certificate.

- **Description of Operations**
  The contractor/vendor’s scope of work shall be summarized as follows:

  **Re: Operations performed on behalf of Building Owner at 1455 Market Street, San Francisco, CA 94103**

- **Certificate Holder**
  Certificate Holder shall read:

  Hudson 1455 Market, LLC
  1455 Market Street, Suite 1101
  San Francisco, CA 94103
INSURANCE REQUIREMENTS

Vendors Performing Work on behalf of Tenants

A current and valid Certificate of Insurance must be on file prior to service. Contractor must maintain the following minimum insurance over the duration of the service:

Contractor shall maintain the following insurance coverage:

- **General Liability**
  Vendor/Contractor shall maintain insurance covering Contractor, any subcontractor, or anyone directly or indirectly employed by either of them, including commercial general liability insurance on an occurrence basis. For bodily injury liability and property damage liability, Contractor shall maintain coverage of $1,000,000 for each occurrence, $2,000,000 general aggregate, and $1,000,000 products and completed operations aggregate.
  The commercial general liability insurance must include, Broad Form Liability, including Products/Completed Operations, Independent Contractors, Broad Form Property Damage, Personal Injury, Fellow Employee Exclusion deleted, “X”, “C” and “U” Exclusions deleted. If the policy is subject to a “general aggregate”, it must contain a “per job” or “per location” aggregate extension with respect to work for Owner.

- **Automobile Liability**
  For automobile liability, Contractor must carry Bodily Injury Liability and Property Damage Liability in an amount not less than $1,000,000 Combined Single Limit, and the insurance must include Owned (Long Term Leased), Employer’s Non-Owned and Hired Automobile Coverage.

- **Excess Umbrella Liability**
  For umbrella liability, Contractor shall maintain coverage of $5,000,000 general aggregate per location or per job and $1,000,000 products and completed operations aggregate. The umbrella policy must apply to both primary Commercial General liability and Automobile Liability.

- **Workers Compensation & Employers Liability**
  Contractor must carry evidence of workers compensation coverage in compliance with applicable California law, and a minimum policy of $1,000,000 for employer’s liability.

- **Additional Insured**
  Contractor shall add, by Additional Insured Endorsement CG2011, the following:
  
  “Hudson 1455 Market, LLC, its parent and all of their subsidiaries, agents and employees are Additional Insured jointly and/or severally, regarding any coverage afforded by this policy with respect to services and/or materials performed, furnished or supplied on, for or to such Property. This insurance shall be primary with respect to any other insurance available to such additional insured, and shall be endorsed in a manner that will prohibit Contractor’s insurers from seeking contribution from such insurance of the additional insured.”
  
  Blanket Endorsements are only acceptable in the following circumstance: The contract between Tenant and Tenant’s contractor/vendor must expressly name the building owner, Hudson 1455 Market, LLC, et al, as Additional Insured.

  **Important:** A statement on the certificate does **not** confer additional insured rights. The policy must be endorsed and the appropriate endorsement must accompany the certificate.

- **Description of Operations**
  The contract/vendor’s scope of work shall be summarized as follows:

  **Re: Operations performed for <INSERT TENANT COMPANY> at 1455 Market Street, San Francisco, CA 94103**

- **Certificate Holder**
  Certificate Holder shall read:
  
  Hudson 1455 Market, LLC
  1455 Market Street, Suite 1101
  San Francisco, CA 94103
Submit this form to:

**Contractor Access Form**

<table>
<thead>
<tr>
<th>Darlene Breech</th>
<th>General Manager</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ray Kuryla</td>
<td>Chief Engineer</td>
<td></td>
</tr>
</tbody>
</table>

From:

<table>
<thead>
<tr>
<th>General Contractor</th>
<th>Tenant:</th>
<th>Job #:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Project Manager</th>
<th>Floor #:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Project Superintendent</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Cell#</th>
<th>Pager#</th>
<th>Office#</th>
<th>Home#</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The following is a list of subcontractors who will require building access to the above referenced space on the below date(s). Please note that access forms can only be set up for a **one week period at a time**.

<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th>Contact/Emergency#</th>
<th>Date (From-To)</th>
<th>Time (From-To)</th>
<th>Subcontractor/ Include Quantity of Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Brief Description of Work.

---

**IMPORTANT NOTES:**

1) It is the General Contractor’s responsibility to have their Superintendent and/or their Subcontractors responsible party sign in and out with Engineering prior to the commencement of ANY work.

2) A minimum of **48 HOURS NOTICE** must be given for such items as Life Safety Testing, Smoke Detector(s) needing to be towed off, HVAC/Air Off Requests (ACM work), Sprinkler Work, Loud noise, Coring, and Roto-Hammering

3) Any work in and around elevators must be coordinated and scheduled in advance with the Building Office. Please note that Bus Taps will require a longer notification period. Prior arrangements must be made with the Building Office for freight elevator reservations and Debris Boxes must be scheduled with Security directly.

4) Please note that the notification boxes must be completed before submitting the access form. If voicemail is left and access has not been approved, it is the responsibility of the General Contractor to call back for that Individual’s approval.

Ray Kuryla (Jones Lang LaSalle, Engineering)  
Building Office Notified  
Jaime Castellanos, Security Manager Notified

Building Office to coordinate access with Engineering and Security for the items mentioned in the above Note section.
DISCLOSURE OF INFORMATION ON ASBESTOS-CONTAINING MATERIALS AND LEAD-BASED PAINT HAZARDS FOR

1455 Market Street, San Francisco, California (“Property”)

Employees, Vendors, and Tenants are advised that the presence of certain types of toxins and contaminants, including, but not limited to asbestos-containing materials and lead-containing paints, finishes, coatings, and sheetings (collectively, “materials”) may be present at the Property. Employees, Vendors, and Tenants and representatives of same are encouraged to inquire as to the asbestos and/or lead content of such materials, paints, finishes, coatings, and sheetings before disturbing them. Hudson 1455 Market, LLC (Owner) is aware of the materials specified in this disclosure and has implemented an Asbestos Operations and Maintenance Program. Owner will also implement a Lead-containing Material Operations and Maintenance Program shortly. Other materials may be present, but have not been tested.

Owner’s Disclosure

(a) Presence of asbestos-containing materials and lead based paint hazards:

(i) Asbestos-Containing Materials/Asbestos-Containing Construction Materials (hereafter “ACM/ACCM”) and Lead-Based Paints (hereafter “LBP”) are often found in buildings constructed prior to the late 1970’s. Asbestos was commonly used, for example, as spray-applied fireproofing on structural steel beams, in some floor tiles, and in canvas-encased pipe and elbow insulation. Lead was commonly used in paints.

(ii) Work that may involve the removal or physical disturbance of ACM/ACCM, Presumed ACM, LBP and Presumed LBP, which may cause the release of asbestos fibers and/or lead dust into the air, must be done by a licensed asbestos and/or lead abatement contractor or other trained personnel with the proper equipment, and under no circumstances by a vendor, tenant, representative of same, or any other employee of Hudson 1455 Market, LLC or its contractors, subcontractors, agents or unauthorized person.

(iii) So long as ACM/ACCM and/or LBP remain intact, the asbestos and/or lead do not pose a health hazard. Therefore, if you notice any ACM/ACCM or LBP that is broken or crumbling, please avoid contact and notify the designated Hudson 1455 Market, LLC representative.

(iv) Please be advised that no person is permitted to disturb any suspect ACM/ACCM or LBP without prior testing to determine whether or not this material is asbestos-containing and/or lead-containing. Since this facility contains ACM/ACCM and Presumed LBP, it is your responsibility (i.e., as

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www.hudsonpacificproperties.com
required by applicable federal, state and local laws and regulations) to inform any worker employed by your firm that will work in this facility and provide required asbestos awareness and/or lead awareness training. It is also your responsibility to inform your subcontractors of the presence and locations of ACM/ACCM and Presumed LBP in this facility and of their obligations.

(v) Based on the survey reports received by Owner, known ACM/ACCM, Presumed ACM, and Presumed LBP have been identified in the locations listed below.

(b) List of records and reports available to the Owner:

The foregoing is a summary of the operations and maintenance plan and test results for known ACM and lead-containing material hazards. Copies of the following can be reviewed at the Management Office:


You may also contact the Hudson 1455 Market, LLC representative designated below, for more detailed information.

**CONTACT:** DARLENE BEECH  
**PHONE**

Acknowledgement

We have received and reviewed a copy of Asbestos and Lead Notification to Tenants and Vendors. We will contact the Hudson 1455 Market, LLC representative with any questions or concerns.

<table>
<thead>
<tr>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Print Name</th>
<th>Title</th>
</tr>
</thead>
</table>

1455 Market Street, Suite 1101, San Francisco, CA 94103  
www.hudsonpacificproperties.com
ASBESTOS CONTAINING MATERIALS SUMMARY
1455 MARKET STREET
SAN FRANCISCO, CALIFORNIA

MATERIALS IDENTIFIED TO CONTAIN ASBESTOS
Material Types and General Locations of known Asbestos-Containing Materials/Asbestos-Containing Construction Materials (ACM/ACCM), as of April 2011.

TABLE 1— MATERIALS IDENTIFIED TO CONTAIN ASBESTOS
1455 MARKET STREET, SAN FRANCISCO, CA

<table>
<thead>
<tr>
<th>Material Type and Location</th>
<th>Location Details</th>
<th>Quantity</th>
<th>DOSH Definition</th>
<th>EPA Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cove Base Mastic Yellow &amp; Brown</td>
<td>Floor A—Throughout</td>
<td>150 LF</td>
<td>ACM</td>
<td>CAT I</td>
</tr>
<tr>
<td>Cove Base Mastic Brown</td>
<td>Floor L— Mail Room</td>
<td>150 LF</td>
<td>ACM</td>
<td>CAT I</td>
</tr>
<tr>
<td>Mastic under 12” x12” Floor Tile, White w/Brown Streaks</td>
<td>Basement— Elevator Lobby, Floor A— Elevator Lobby, 6 th Floor — Elevator Lobby, 7 th Floor — Elevator Lobby, 8 th Floor — Elevator Lobby, 9 th Floor — Elevator Lobby, 10 th Floor — Elevator Lobby, 23 rd Floor— Elevator Lobby</td>
<td>12,4005E</td>
<td>ACM</td>
<td>CAT I</td>
</tr>
<tr>
<td>Floor Tile, White &amp; Green w/Brown Spacing</td>
<td>Basement— Elevator Lobby</td>
<td>0 SF</td>
<td>ACM</td>
<td>CAT I</td>
</tr>
<tr>
<td>Mastic under 12” Beige &amp; Dark Gray</td>
<td>18 th Floor— Break Room</td>
<td>130 SF</td>
<td>ACM</td>
<td>CAT I</td>
</tr>
<tr>
<td>4” Cove Base Mastic, Brown</td>
<td>18 th Floor— Room 1803</td>
<td>0 SF</td>
<td>ACM</td>
<td>CAT I</td>
</tr>
<tr>
<td>Mastic, Black under 12” Beige w/Black Streak Tile</td>
<td>23 rd Floor— Freight Elevator Lobby</td>
<td>100 SF</td>
<td>ACM</td>
<td>CAT I</td>
</tr>
<tr>
<td>Gasket</td>
<td>9 th Floor— Mechanical Room</td>
<td>0 SF</td>
<td>ACM</td>
<td>RACM</td>
</tr>
<tr>
<td>HVAC Flex Connector</td>
<td>8 th Floor— Mechanical Room</td>
<td>150 SF</td>
<td>ACM</td>
<td>RACM</td>
</tr>
</tbody>
</table>

SF = Square Feet, LF = Linear Feet, ACM = Asbestos-Containing Material, Cat I = Category I Non-friable ACM, RACM = Regulated Asbestos-Containing Materials

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MATERIALS PRESUMED TO CONTAIN LEAD
Based on the age of the building, pre-1978, the following materials are presumed to contain lead.

TABLE 2 — MATERIALS PRESUMED TO CONTAIN LEAD
1455 MARKET STREET, SAN FRANCISCO, CA

<table>
<thead>
<tr>
<th>Materials Description</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interior Painted Surfaces</td>
<td>Painted Surfaces Throughout the Interior of Building</td>
</tr>
<tr>
<td>Exterior Painted Surfaces</td>
<td>Painted Surfaces Throughout the Exterior of Building</td>
</tr>
<tr>
<td>Ceramic Tiles</td>
<td>Various Locations Throughout Including Restrooms, Kitchen Areas, Break Rooms, Etc.</td>
</tr>
</tbody>
</table>

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EXHIBIT G

MARKET RENT ANALYSIS

When determining Market Rent, the following rules and instructions shall be followed.

1. The “Market Rent,” as used in this Lease, shall be derived from an analysis (as such derivation and analysis are set forth in this Exhibit G) of the “Net Equivalent Lease Rates,” of the “Comparable Transactions”. The “Market Rent,” as used in this Lease, shall be equal to the annual rent per rentable square foot as would be applicable on the commencement of the applicable Option Term at which tenants, are, pursuant to transactions consummated within the twelve (12) month period immediately preceding the first day of the Option Term (provided that timing adjustments shall be made to reflect any perceived changes which will occur in the Market Rent following the date of any particular Comparable Transaction up to the date of the commencement of the Option Term) leasing non-sublease, non-encumbered, non-equity space comparable in location and quality to the Premises and consisting of at least fifty thousand (50,000) rentable square feet, for a comparable term, in an arm’s-length transaction, which comparable space is located in the “Comparable Buildings,” as that term is defined in Section 4, below (transactions satisfying the foregoing criteria shall be known as the “Comparable Transactions”). The terms of the Comparable Transactions shall be calculated as a Net Equivalent Lease Rate pursuant to the terms of this Exhibit G and shall take into consideration only the following terms and concessions (the “Concessions”): (i) the rental rate and escalations for the Comparable Transactions, (ii) the amount of parking rent per parking permit paid in the Comparable Transactions, (iii) operating expense and tax escalation protection granted in such Comparable Transactions such as a base year or expense stop; (iv) tenant improvements or allowances provided or to be provided for such comparable space, taking into account, the value of the existing improvements, if any, in the Premises, such value of existing improvements to be based upon the age, quality and layout of the improvements and the extent to which the same could be utilized by general office users (as contrasted to the Tenant), (v) rental/parking abatement concessions, if any, being granted such tenants in connection with such Comparable Transactions; provided, however, that no consideration shall be given to (1) the fact that Landlord is or is not required to pay a real estate brokerage commission in connection with the applicable term or the fact that the Comparable Transactions do or do not involve the payment of real estate brokerage commissions, and (2) with respect to the determination of Option Rent only (but not with respect to the determination of any Availability Premises Rent) any period of rental abatement, if any, granted to tenants in Comparable Transactions in connection with the design, permitting and construction of tenant improvements in such comparable space; provided, however, to the extent any of the tenants in the Comparable Transactions complete (or is reasonable anticipated to complete) the construction of tenant improvements in such comparable space early, and are allowed to occupy their premises for purpose of conducting business without the payment of rent (similar to Tenant’s beneficial occupancy right in Section 2.5.2 of this Lease), then such occupancy period shall be considered in connection with the determination of Option Rent. The Market Rent shall include adjustment of the stated size of the Premises, based upon the standards of measurement utilized in the Comparable Transactions.

2. Intentionally Omitted.
3. CONCESSIONS. If, in determining the Market Rent for an Option Term, Tenant is entitled to Concessions, Tenant shall not be granted such Concessions in-kind, but instead the rental rate component of the Market Rent shall be adjusted (pursuant to the methodology provided in Section 5), to reflect the fact that Tenant shall not be receiving such Concessions; provided, however, Landlord may, at Landlord’s sole option, elect to grant any “free rent” or “rent abatement” Concessions to Tenant in-kind (i.e., as free rent or rent abatement), in which the rental rate component of the Market Rent shall not be adjusted with respect to such free rent and/or rent abatement Concessions (but shall still be adjusted for any other Concession Tenant is entitled to but not granted).

4. COMPARABLE BUILDINGS. For purposes of this Lease, the term “Comparable Buildings” shall mean the Building and those certain other similarly sized and otherwise comparable multi-tenant office buildings of similar quality to the Building and located in the area bounded by Van Ness Street on the West side, Market Street on the North side, Mission Street on the South side, and Fifth Street on the East side (the “Market Area”). The parties hereby agree and acknowledge that based on its size and quality as of the date of this Lease, 1355 Market is a Comparable Building. Buildings located on the streets forming the Market Area, shall be deemed inside the Market Area regardless of whether such buildings are located on the side of the street that the remainder of the Market Area is located, or on the side of the street opposite from the Market Area. With respect to Comparable Transactions that are not located in the Building, the Market Rent shall be adjusted, if necessary, to take into consideration the size, age, quality of construction and appearance of the Comparable Buildings as they relate to the Building. In the event the Neutral Arbitrator determines that there are not enough Comparable Transactions to effectively and accurately establish the Market Rent, then the Market Area shall be expanded to include all office sub-markets in San Francisco, California.

5. METHODOLOGY FOR REVIEWING AND COMPARING THE COMPARABLE TRANSACTIONS. In order to analyze the Comparable Transactions based on the factors to be considered in calculating Market Rent, and given that the Comparable Transactions may vary in terms of length or term, rental rate, concessions, etc., the following steps shall be taken into consideration to “adjust” the objective data from each of the Comparable Transactions. By taking this approach, a “Net Equivalent Lease Rate” for each of the Comparable Transactions shall be determined using the following steps to adjust the Comparable Transactions, which will allow for an “apples to apples” comparison of the Comparable Transactions.

5.1 The contractual rent payments for each of the Comparable Transactions should be arrayed monthly or annually over the lease term. All Comparable Transactions should be adjusted to simulate a net rent structure, wherein the tenant is responsible for the payment of all property operating expenses and taxes in a manner consistent with this Lease. This results in the estimate of Net Equivalent Rent received by each landlord for each Comparable Transaction being expressed as a periodic net rent payment.

5.2 Any free rent or similar inducements received over time should be deducted in the time period in which they occur, resulting in the net cash flow arrayed over the lease term.
5.3 The resultant net cash flow from the lease should be then discounted (using an annual discount rate equal to 8.0%) to the lease commencement date, resulting in a net present value estimate.

5.4 From the net present value, up front inducements (improvements allowances and other concessions) should be deducted. These items should be deducted directly, on a “dollar for dollar” basis, without discounting since they are typically incurred at lease commencement, while rent (which is discounted) is a future receipt.

5.5 The net present value should then amortized back over the lease term as a level monthly or annual net rent payment using the same annual discount rate of 8.0% used in the present value analysis. This calculation will result in a hypothetical level or even payment over the option period, termed the “Net Equivalent Lease Rate” (or constant equivalent in general financial terms).

6. **USE OF NET EQUIVALENT LEASE RATES FOR COMPARABLE TRANSACTIONS.** The Net Equivalent Lease Rates for the Comparable Transactions shall then be used to reconcile, in a manner usual and customary for a real estate appraisal process, to a conclusion of Market Rent which shall be stated as a Net Equivalent Lease Rate applicable the Option Term.
EXHIBIT H
FORM OF LETTER OF CREDIT

October  , 2012

Hudson 1455 Market, LLC
11601 Wilshire Boulevard, Suite 1600
Los Angeles, California 90025
Attention: Mr. Howard Stern

Gentlemen:

We hereby establish our Irrevocable Letter of Credit and authorize you to draw on us at sight for the account of SQUARE, INC., 901 Mission Street, San Francisco, California 94013 (“Applicant”), a Delaware corporation, the aggregate amount of Nine Million Dollars ($9,000,000).

Funds under this Letter of Credit are available to the beneficiary hereof as follows:

Any or all of the sums hereunder may be drawn down at any time and from time to time from and after the date hereof by Hudson 1455 Market, LLC (“Beneficiary”) by presentation of a sight draft on us when accompanied by this Letter of Credit and a written dated statement signed by Beneficiary, certifying that:

(i) “Hudson 1455 Market, LLC (“Beneficiary”) is otherwise allowed to draw down on the Letter of Credit No. in the requested amount of USD pursuant to the terms of that certain office lease by and between Beneficiary and Square, Inc. (“Applicant”) dated October , 2012, as amended (collectively, the “Lease”), or

(ii) “Hudson 1455 Market, LLC (“Beneficiary”) is entitled to draw down the full available amount of letter of credit no. in the requested amount of USD 9,000,000, as the result of the filing of a voluntary petition under the U.S. Bankruptcy Code or a State Bankruptcy Code by Square, Inc. (“Applicant”), which filing has not been dismissed at the time of this drawing”, or

(iii) “Hudson 1455 Market, LLC (“Beneficiary”) is entitled to draw down the full available amount of letter of credit no. in the requested amount of USD 9,000,000, as the result of the filing of an involuntary petition having been filed under the U.S. Bankruptcy Code or a State Bankruptcy Code against Square, Inc. (“Applicant”), which filing has not been dismissed as of the later of 30 days after the filing and the time of this drawing”.

THIS LETTER OF CREDIT IS TRANSFERABLE, BUT ONLY IN ITS ENTIRETY, AND MAY BE SUCCESSIVELY TRANSFERRED. TRANSFER OF THIS LETTER OF CREDIT SHALL BE EFFECTED BY US UPON YOUR SUBMISSION OF THIS ORIGINAL
LETTER OF CREDIT, INCLUDING ALL AMENDMENTS, IF ANY, ACCOMPANIED BY OUR TRANSFER REQUEST FORM DULY COMPLETED AND SIGNED, WITH THE SIGNATURE THEREON AUTHENTICATED BY YOUR BANK, ALONG WITH PAYMENT OF OUR TRANSFER CHARGES AS INDICATED THEREIN****. IF YOU WISH TO TRANSFER THE LETTER OF CREDIT, PLEASE CONTACT US FOR THE FORM WHICH WE SHALL PROVIDE TO YOU UPON YOUR REQUEST. IN ANY EVENT, THIS LETTER OF CREDIT MAY NOT BE TRANSFERRED TO ANY PERSON OR ENTITY LISTED IN OR OTHERWISE SUBJECT TO, ANY SANCTION OR EMBARGO UNDER ANY APPLICABLE RESTRICTIONS.

We hereby agree with you that if drafts are presented to [bank name] under this Letter of Credit on a business day, and provided that such drafts presented conform to the terms and conditions of this Letter of Credit, payment shall be initiated by us in immediately available funds by our close of business on the third business day following receipt of such draft. As used in this Letter of Credit, “business day” shall mean any day other than a Saturday, Sunday or a day on which banking institutions in the state of Illinois are authorized or required by law to close; and a day on which inter-bank payments can be effected on Fedwire System.

We hereby engage with you that drafts drawn under and in compliance with the terms and conditions of this Letter of Credit will be duly honored by us if presented at our offices located at , attention: (or at such other office of the bank as to which you have received written notice from us by certified mail, courier service or hand delivery, as being the applicable such address) on or before the then current expiration date. We agree to send notice to you in writing by certified mail, courier service or hand delivery, of any change in such address.

Presentation of a drawing under this Letter of Credit may be made on or prior to the then current expiration date hereof by hand delivery, courier service, overnight mail, or facsimile. Presentation by facsimile transmission shall be by transmission of the above required sight draft drawn on us together with this Letter of Credit and Beneficiary’s signed statement specified above to our facsimile number, attention: the manager, standby letter of credit department, with telephonic confirmation of our receipt of such facsimile transmission at our telephone number or to such other facsimile or telephone numbers, as to which you have received written notice from us as being the applicable such number). We agree to notify you in writing, by certified mail, courier service or hand delivery, of any change in such direction.

This Letter of Credit shall expire on October 31, 2013.

Notwithstanding the above expiration date of this Letter of Credit, the term of this Letter of Credit shall be automatically extended for successive, additional one (1) year periods unless, at least sixty (60) days prior to any such date of expiration, the undersigned shall give send written notice to Beneficiary, by certified mail, return receipt requested or courier service; and at the address set forth above or at such other address as may be given to the undersigned by Beneficiary, that this Letter of Credit will not be extended beyond December 31, 2023.

THIS LETTER OF CREDIT IS GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AND, EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, TO THE INTERNATIONAL STANDBY
PRACTICES, ICC PUBLICATION NO. 590 (THE “ISP98”), AND IN THE EVENT OF ANY CONFLICT, THE LAWS OF THE STATE OF NEW YORK WILL CONTROL, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS.

Very truly yours,

[Name of Issuing Bank]

By: _______________________________
EXHIBIT I

OUTDOOR TERRACES AND EXPANDED TERRACE
**AFTER HOURS HVAC COST CALCULATOR**

---

**Hudson Pacific Properties**

**1455 Market St. S.F.**

**Utility Cost Calculator**

<table>
<thead>
<tr>
<th>Equipment</th>
<th>FLA (kW)</th>
<th>volts</th>
<th>% of operation/load</th>
<th>KWhr/4hr</th>
<th>Total KWhr/mo</th>
<th>Cost per KWhr</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chiller 2 - Centrifugal with VFD</td>
<td>110.0</td>
<td>480</td>
<td>10%</td>
<td>78.95</td>
<td>67.64</td>
<td></td>
</tr>
<tr>
<td>Supply fan 6A and 7B</td>
<td>32.0</td>
<td>480</td>
<td>25%</td>
<td>29.50</td>
<td>24.83</td>
<td></td>
</tr>
<tr>
<td>Return fan 6R &amp; 7R</td>
<td>3.0</td>
<td>480</td>
<td>56%</td>
<td>18.08</td>
<td>15.60</td>
<td></td>
</tr>
<tr>
<td>Chilled water pump</td>
<td>40.0</td>
<td>480</td>
<td>56%</td>
<td>26.10</td>
<td>22.49</td>
<td></td>
</tr>
<tr>
<td>Condenser Water pump</td>
<td>7.0</td>
<td>480</td>
<td>25%</td>
<td>12.55</td>
<td>10.94</td>
<td></td>
</tr>
<tr>
<td>B&amp;G Cooling tower &amp; fan</td>
<td>28.0</td>
<td>480</td>
<td>100%</td>
<td>20.06</td>
<td>17.55</td>
<td></td>
</tr>
<tr>
<td>Exhaust fan (Toilet and ELC Rm)</td>
<td>20.0</td>
<td>480</td>
<td>50%</td>
<td>9.84</td>
<td>8.36</td>
<td></td>
</tr>
<tr>
<td>Air compressor</td>
<td>10.0</td>
<td>480</td>
<td>50%</td>
<td>9.84</td>
<td>8.36</td>
<td></td>
</tr>
<tr>
<td>Heating hot water pump</td>
<td>1.0</td>
<td>480</td>
<td>10%</td>
<td>0.11</td>
<td>0.09</td>
<td></td>
</tr>
<tr>
<td>Condensate Return Pump</td>
<td>0.6</td>
<td>480</td>
<td>10%</td>
<td>0.11</td>
<td>0.09</td>
<td></td>
</tr>
</tbody>
</table>

**Total Electrical Cost per hour of operation:** $22.33

**Gas Cost Calculator**

<table>
<thead>
<tr>
<th>Equipment</th>
<th>BTU/Hr (in)</th>
<th>% of operation/load</th>
<th>Therm/4hr</th>
<th>Total Therms/mo</th>
<th>Cost per Therm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Pressure Steam Boiler</td>
<td>5,800,000</td>
<td>15%</td>
<td>8.25</td>
<td>8.25</td>
<td>98.29</td>
</tr>
</tbody>
</table>

**Total Gas Cost per hour of operation:** $6.29
## Electrical Cost Calculator

<table>
<thead>
<tr>
<th>Equipment</th>
<th>Amount</th>
<th>PL/kWh (Dh)</th>
<th>Voltage</th>
<th>% of operation load</th>
<th>KWH each</th>
<th>Total KWH</th>
<th>Cost ($H)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chiller #1 - centrifugal with VFD</td>
<td>1</td>
<td>1101.0</td>
<td>480</td>
<td>40%</td>
<td>315.79</td>
<td>315.79</td>
<td>231.36</td>
</tr>
<tr>
<td>Supply fan #5 &amp; #6 &amp; SE and SE</td>
<td>4</td>
<td>170.0</td>
<td>480</td>
<td>59%</td>
<td>71.92</td>
<td>287.68</td>
<td>228.65</td>
</tr>
<tr>
<td>Return fan #1 &amp; #2</td>
<td>2</td>
<td>97.0</td>
<td>480</td>
<td>58%</td>
<td>39.01</td>
<td>78.02</td>
<td>71.76</td>
</tr>
<tr>
<td>Chilled water pump</td>
<td>1</td>
<td>140.0</td>
<td>480</td>
<td>65%</td>
<td>60.16</td>
<td>60.16</td>
<td>43.99</td>
</tr>
<tr>
<td>Condenser Water Pump</td>
<td>1</td>
<td>70.0</td>
<td>480</td>
<td>52%</td>
<td>20.10</td>
<td>20.10</td>
<td>2.49</td>
</tr>
<tr>
<td>BAC Cooling tower &amp; fan</td>
<td>2</td>
<td>68.0</td>
<td>480</td>
<td>38%</td>
<td>10.45</td>
<td>52.76</td>
<td>25.07</td>
</tr>
<tr>
<td>Exhaust fan (Total and 1st Floor)</td>
<td>3</td>
<td>28.0</td>
<td>600</td>
<td>100%</td>
<td>20.04</td>
<td>40.08</td>
<td>2.60</td>
</tr>
<tr>
<td>Air compressor</td>
<td>1</td>
<td>15.0</td>
<td>480</td>
<td>30%</td>
<td>3.25</td>
<td>3.25</td>
<td>0.32</td>
</tr>
<tr>
<td>Heating hot water pump</td>
<td>1</td>
<td>7.0</td>
<td>460</td>
<td>70%</td>
<td>3.51</td>
<td>3.51</td>
<td>0.35</td>
</tr>
<tr>
<td>Air &amp; Supply and return fans (3rd &amp; 4th floor)</td>
<td>2</td>
<td>22.0</td>
<td>480</td>
<td>100%</td>
<td>15.76</td>
<td>31.53</td>
<td>3.13</td>
</tr>
</tbody>
</table>

Total Electrical Cost per hour of operation: **$189.76**

## Gas Cost Calculator

<table>
<thead>
<tr>
<th>Equipment</th>
<th>Amount</th>
<th>BTU/kWh (Dh)</th>
<th>% of operation load</th>
<th>Thermo/ Hr</th>
<th>Total Thermo</th>
<th>Cost ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Pressure Steam Boiler</td>
<td>1</td>
<td>5.300,000</td>
<td>46%</td>
<td>22.00</td>
<td>22.00</td>
<td>9.19</td>
</tr>
</tbody>
</table>

Total Gas Cost per hour of operation: **$9.19**

---

**Developed for:**

**Hudson Pacific Properties**

1455 Market St. S.F.

To be used specifically for: [Building description]

Zones or systems: [Building zones or systems]

Prepared by: [Preparer name]

Warning: use of this program on any property other than specifically identified above (use SH) is a violation of the EUSA and Federal Copyright protection act, and subject to all fines and penalties as permissible by law.

---

## Utility Cost Calculator

<table>
<thead>
<tr>
<th>Utility Cost Calculator</th>
<th>Electric</th>
<th>Gas</th>
</tr>
</thead>
<tbody>
<tr>
<td>1455 Market St. S.F.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## Electrical Cost Calculator

<table>
<thead>
<tr>
<th>Equipment</th>
<th>Amount</th>
<th>PL/kWh (Dh)</th>
<th>Voltage</th>
<th>% of operation load</th>
<th>KWH each</th>
<th>Total KWH</th>
<th>Cost ($H)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chiller #2 - centrifugal with VFD</td>
<td>1</td>
<td>1101.0</td>
<td>480</td>
<td>30%</td>
<td>235.64</td>
<td>235.64</td>
<td>235.64</td>
</tr>
<tr>
<td>Supply fan #5 &amp; #6 &amp; SE and SE</td>
<td>2</td>
<td>210.0</td>
<td>480</td>
<td>60%</td>
<td>139.48</td>
<td>268.96</td>
<td>268.96</td>
</tr>
<tr>
<td>Return fan #1 &amp; #2</td>
<td>1</td>
<td>97.0</td>
<td>480</td>
<td>58%</td>
<td>39.01</td>
<td>78.02</td>
<td>78.02</td>
</tr>
<tr>
<td>Chilled water pump</td>
<td>1</td>
<td>140.0</td>
<td>480</td>
<td>65%</td>
<td>60.16</td>
<td>60.16</td>
<td>60.16</td>
</tr>
<tr>
<td>Condenser Water Pump</td>
<td>1</td>
<td>70.0</td>
<td>480</td>
<td>52%</td>
<td>20.10</td>
<td>20.10</td>
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<td>480</td>
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<td>10.45</td>
<td>52.76</td>
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</tr>
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<td>Exhaust fan (Total and 1st Floor)</td>
<td>3</td>
<td>28.0</td>
<td>600</td>
<td>100%</td>
<td>20.04</td>
<td>40.08</td>
<td>40.08</td>
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<tr>
<td>Air compressor</td>
<td>1</td>
<td>15.0</td>
<td>480</td>
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<td>3.25</td>
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<tr>
<td>Heating hot water pump</td>
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<td>7.0</td>
<td>460</td>
<td>70%</td>
<td>3.51</td>
<td>3.51</td>
<td>3.51</td>
</tr>
<tr>
<td>Air &amp; Supply and return fans (3rd &amp; 4th floor)</td>
<td>2</td>
<td>22.0</td>
<td>480</td>
<td>100%</td>
<td>15.76</td>
<td>31.53</td>
<td>31.53</td>
</tr>
</tbody>
</table>

Total Electrical Cost per hour of operation: **$562.97**

## Gas Cost Calculator

<table>
<thead>
<tr>
<th>Equipment</th>
<th>Amount</th>
<th>BTU/kWh (Dh)</th>
<th>% of operation load</th>
<th>Thermo/Hr</th>
<th>Total Thermo</th>
<th>Cost ($)</th>
</tr>
</thead>
</table>

Total Gas Cost per hour of operation: **$2.23**
<table>
<thead>
<tr>
<th>Low Pressure Steam Boiler</th>
<th>1</th>
<th>6,500,000</th>
<th>26%</th>
<th>13.76</th>
<th>13.76</th>
<th>$10.48</th>
</tr>
</thead>
</table>

Total Gas Cost per hour of operation $10.48
EXHIBIT M

ASBESTOS NOTICE

DISCLOSURE OF INFORMATION ON ASBESTOS-CONTAINING MATERIALS
AND LEAD-BASED PAINT HAZARDS FOR
1455 Market Street, San Francisco, California (“Property”)

Employees, Vendors, and Tenants are advised that the presence of certain types of toxins and contaminants, including, but not limited to asbestos-containing materials and lead-containing paints, finishes, coatings, and sheeting (collectively, “materials”) may be present at the Property. Employees, Vendors, and Tenants and representatives of same are encouraged to inquire as to the asbestos and/or lead content of such materials, paints, finishes, coatings, and sheetings before disturbing them. Hudson 1455 Market, LLC (Owner) is aware of the materials specified in this disclosure and has implemented an Asbestos Operations and Maintenance Program. Owner will also implement a Lead-containing Material Operations and Maintenance Program shortly. Other materials may be present, but have not been tested.

Owner’s Disclosure

(a) Presence of Asbestos-containing materials and lead based paint hazards:

(i) Asbestos-Containing Materials/Asbestos-Containing Construction Materials (HEREAFTER “ACM/ACCM”) and Lead-Based Paints hereafter “LBP”) are often found in buildings constructed prior to the late 1970’s. Asbestos was commonly used, for example, as spray-applied fireproofing on structural steel beams, in some floor tiles, and in canvas-encased pipe and elbow insulation. Lead was commonly used in paints.

(ii) Work that may involve the removal or physical disturbance of ACM/ACCM, Presumed ACM, LBP and Presumed LBP, which may cause the release of asbestos fibers and/or lead dust into the air, must be done by a licensed asbestos and/or lead abatement contractor or other trained personnel with the proper equipment, and under no circumstances by a vendor, tenant, representative of same, or any other employee of Hudson 1455 Market, LLC or its contractors, subcontractors, agents or unauthorized person.

(iii) So long as ACM/ACCM and/or LBP remain intact, the asbestos and/or lead do not pose a health hazard. Therefore, if you notice any ACM/ACCM or LBP that is broken or crumbling, please avoid contact and notify the designated Hudson 1455 Market, LLC representative.

(iv) Please be advised that no person is permitted to disturb any suspect ACM/ACCM or LBP without prior testing to determine whether or not this material is asbestos-containing and/or lead-containing. Since this facility contains ACM/ACCM and Presumed LBP, it is your responsibility (i.e., as required by applicable federal, state and local laws and regulations) to inform any worker employed by your firm that will work in this facility and provide required asbestos awareness and/or lead awareness training. It is also your responsibility to inform your subcontractors of the presence and locations of ACM/ACCM and Presumed LBP in this facility and of their obligations.

(v) Based on the survey reports received by Owner, known ACM/ACCM, Presumed ACM, and Presumed LBP have been identified in the locations listed below.

(b) List of records and reports available to the Owner:

The foregoing is a summary of the operations and maintenance plan and test results for known ACM and lead-containing material hazards. Copies of the following can be reviewed at the Management Office:


You may also contact the Hudson 1455 Market, LLC representative designated below, for more detailed information.

CONTACT: DARLENE BEECH

Acknowledgement

We have received and reviewed a copy of Asbestos and Lead Notification to Tenants and Vendors. We will contact the Hudson 1455 Market, LLC representative with any questions or concerns.

_________________________________________  __________________________
Signature                                      Date

_________________________________________
Print Name

_________________________________________
Title
MATERIALS IDENTIFIED TO CONTAIN ASBESTOS
Material Types and General Locations of known Asbestos-Containing Materials/Asbestos-Containing Construction Materials (ACM/ACCM), as of April 2011.

TABLE 1 — MATERIALS IDENTIFIED TO CONTAIN ASBESTOS
1455 MARKET STREET, SAN FRANCISCO, CA

<table>
<thead>
<tr>
<th>Location</th>
<th>Quantity</th>
<th>DOSH Definition</th>
<th>EPA Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cove Base Mastic Yellow &amp; Brown Floor A—Throughout</td>
<td>150 LF</td>
<td>ACM</td>
<td>CAT I</td>
</tr>
<tr>
<td>Cove Base Mastic Brown Floor L— Mail Room</td>
<td>150 LF</td>
<td>ACM</td>
<td>CAT I</td>
</tr>
<tr>
<td>Mastic under 12” x12” Floor Tile, White w/Brown Streaks Basement— Elevator Lobby</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Floor A— Elevator Lobby</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6 th Floor — Elevator Lobby</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>7 th Floor — Elevator Lobby</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>8 th Floor — Elevator Lobby</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>9 th Floor — Elevator Lobby</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>10 th Floor— Elevator Lobby</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>23 rd Floor— Elevator Lobby</td>
<td>12,4005E</td>
<td>ACM</td>
</tr>
<tr>
<td>Floor Tile, White &amp; Green w/Brown Spacing Basement— Elevator Lobby</td>
<td>0 SF</td>
<td>ACM</td>
<td>CAT I</td>
</tr>
<tr>
<td>Mastic under 12” Beige &amp; Dark Gray 18 th Floor — Break Room</td>
<td>130 SF</td>
<td>ACM</td>
<td>CAT I</td>
</tr>
<tr>
<td>4” Cove Base Mastic, Brown 18 th Floor— Room 1803</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>23 rd Floor— Freight Elevator Lobby</td>
<td>0 SF</td>
<td>ACM</td>
</tr>
<tr>
<td>Mastic, Black under 12” Beige w/Black Streak Tile 23 rd Floor— Freight Elevator Lobby</td>
<td>100 SF</td>
<td>ACM</td>
<td>CAT I</td>
</tr>
<tr>
<td>Gasket 9 th Floor— Mechanical Room</td>
<td>0 SF</td>
<td>ACM</td>
<td>RACM</td>
</tr>
<tr>
<td>HVAC Flex Connector 8 th Floor— Mechanical Room</td>
<td>150 SF</td>
<td>ACM</td>
<td>RACM</td>
</tr>
</tbody>
</table>

SF = Square Feet, LF = Linear Feet, ACM = Asbestos-Containing Material, Cat I = Category I Non-friable ACM, RACM = Regulated Asbestos-Containing Materials

MATERIALS PRESUMED TO CONTAIN LEAD
Based on the age of the building, pre-1978, the following materials are presumed to contain lead.

TABLE 2 — MATERIALS PRESUMED TO CONTAIN LEAD
1455 MARKET STREET, SAN FRANCISCO, CA

<table>
<thead>
<tr>
<th>Materials Description</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interior Painted Surfaces</td>
<td>Painted Surfaces Throughout the Interior of Building</td>
</tr>
<tr>
<td>Exterior Painted Surfaces</td>
<td>Painted Surfaces Throughout the Exterior of Building</td>
</tr>
<tr>
<td>Ceramic Tiles</td>
<td>Various Locations Throughout Including Restrooms, Kitchen Areas, Break Rooms, Etc.</td>
</tr>
</tbody>
</table>
EXHIBIT N

TENANT'S PROPERTY

- Server racks (4-post)
- Network racks (2-post)
- Telco racks (2 and 4-post)
- Cable trays
- Innerduct (for fiber and copper)
- Structured network cabling
- Structured fiber optic cabling
- Wireless access points and mounts
- A/V equipment and mounts
- Inventory shelving
- A/V racks (2 and 4 post)
- Cabinet and rack mount Power distribution units
- Room-installed audio equipment including microphones, speakers, mixers, etc.
- Room-installed video conferencing equipment
- Wall mounted displays, single and multi screen and attached computing devices
- Projector screens
- Network cable whips
- Power whips
- Structured audio cabling
- Structured video cabling
- Cellular repeaters
- Cellular receivers
• Wireless telephone equipment
• Security cameras and any custom security access control equipment
• Kitchen appliances
EXHIBIT O

EXTERIOR SIGNAGE
MISSION STREET ELEVATION
EXHIBIT P

JANITORIAL SPECIFICATIONS

LANDLORD’S MINIMUM SCOPE OF WORK

The following Minimum Scope of Work is intended to define and describe the requirements for Janitorial Services for the Building’s Common Areas to be provided by Landlord at Landlord’s cost at 1455 Market Street.

I. MAIN FLOOR LOBBY and PUBLIC CORRIDORS - General Specifications

A. Nightly Services (Monday – Friday), except City holidays
   1. Spot clean all glass including low partitions and the corridor side of all windows and glass doors
   2. Spot clean all brightwork including, guard’s desk, security monitors, swinging door hardware, kick plates, base partition tops, handrails, waste paper receptacles, planters, elevator call button plates, hose cabinets and visible hardware on the corridor side of the tenant entry doors
   3. Mop and/or vacuum lobby floors.
   4. Spot clean and dust the directory board glass, signage, art, benches and ledges, as required
   5. Empty, clean and sanitize all waste paper baskets and refuse receptacles as required.
   6. Vacuum all carpets

B. Weekly Service (Once a week)
   1. Thoroughly clean all door saddles of dirt and debris

C. Quarterly Services (Once per quarter)
   1. Scrub and buff to a high luster Building lobby flooring.

II. PASSENGER ELEVATOR – General Specifications

A. Nightly Service (Monday – Friday), except City holidays
   1. Spot clean cab walls and interior door
   2. Spot clean the outside surfaces of all elevator doors and frames
   3. Clean all cab floors thoroughly. Edge thoroughly

B. Weekly Services (Once per week)
   1. Thoroughly clean the entire interior and exterior surfaces of all doors and frames
   2. Stain and polish cab walls and rails to eliminate scratch marks on wood, as required
C. Quarterly Services (Once per quarter)
   1. Wipe clean elevator cab lamps
   2. Wipe clean entire cab ceiling
   3. Thoroughly clean all elevator thresholds

III. BUILDING EXTERIOR and GROUNDS SERVICES – General Specifications

A. Daily Services (Monday – Friday), except City holidays
   1. Spot clean accumulations of dirt, paper and leaves in all corner areas where winds cause debris to collect
   2. Spot clean all exterior glass doors at the building entrances
   3. Lift nap on all entry walk-off mats with a heavy bristle brush and vacuum, as necessary
   4. Sweep sidewalk, stairs and remove all gum as required or as directed

B. Monthly Service (Once per month)
   1. Power wash sidewalk around perimeter of the building

C. Semi-annual Services
   Wash all exterior windows including glass, ledges and window frames to be wiped clean and dry

D. Annual Service
   1. Wash interior side of exterior windows in the Premises

IV. COMMON AREA RESTROOM SERVICE – General Specifications

A. Daily Services (Monday – Friday), except City holidays
   1. Re-stock all restrooms including paper towels, toilet tissue, seat covers and hand soap, as required.
   2. Re-stock all sanitary napkin and tampon dispensers from Contractor’s supplies, as required. Monies collected from the coin dispensing machines are the sole responsibility of the Contractor. Machines are to be repaired and maintained as needed by the Contractor.
   3. Wash and polish all mirrors, dispensers, faucets, flushometers, and brightwork with a non-scratch disinfectant cleaner.
   4. Wash and sanitize all toilets, toilet seats, urinals, and sinks with a non-scratch disinfectant cleaner. Wipe all sinks dry.
   5. Remove stains and scrub toilets, urinals, and sinks as required.
   6. Mop all restroom floors with disinfectant, germicidal cleaners. Scrub all baseboards, inside corners and hard to reach areas.
   7. Empty and sanitize all sanitary napkin and tampon waste receptacles.
   8. Remove all restroom trash.
   9. Spot clean fingerprints, marks, and graffiti from walls, partitions, doors, glass, aluminum and light switches as required.
B. Monthly Services (Twice per month)
1. Dust all low and high reach areas, including but not limited to, structural ledges, mirror tops, partition tops and edges, air conditioning diffusers and return air grilles.
2. Wipe and clean all walls, metal partitions, and privacy screens. Partitions should be left clean and not streaked after this work is performed.

C. Monthly Services (Once per month)
1. Clean all ventilation grilles

D. Quarterly Services (Once per quarter)
1. Thoroughly clean and strip permanent sealer and reseal all ceramic/CT tile floors using approved sealers
2. Dust all doorjambs

E. Consumable Supplies
1. Landlord shall supply all consumable supplies required including paper towels, toilet tissue, hand soap, sanitary disposal bags, plastic trash bags, compostable trash bags, toilet seat covers, cleaning products and/or supplies, batteries, etc.

V. DAY PORTER SERVICES - Daily Services (Monday – Friday)
A qualified day porter. Work hours to be: from 7:00 am to 4:00 pm and Monday through Friday, except City holidays. Day Porter shall work under the supervision of the Building Manager for 1455 Market Street and may be asked to perform duties not specifically described herein, but which may be considered a part of the Day Porters’ general responsibilities as customary for a first class San Francisco highrise. The daily duties of the Day Porter shall be, but not be limited to, the following:

A. Entrance Lobby and Exterior Perimeter Area
The lobby and exterior sidewalk and perimeter areas are to be kept clean and neat at all times. Day Porter is expected to perform the following minimum cleaning operations, as required.
1. Clean or spot clean floors and carpet runners as necessary
2. Clean or spot clean all metal, stone or other hard surfaces, including the security guard station daily as necessary
3. Wipe and clean glass doors twice daily and as necessary
4. Empty garbage receptacles as necessary
5. Remove gum and foreign matter from the sidewalks and tree containers surrounding the building before 8:00 am each day and as required or directed by the Building Manager
6. Hose down sidewalk around the perimeter of the building, as necessary
B. Elevators
   1. Clean or spot clean cab floors daily as needed
   2. Clean or spot clean lobby elevator saddles, interior and exterior doors and frames daily as necessary
   3. Clean sides of elevator cars daily as needed; polish brightwork in cab and on doors and frames
   4. Keep freight elevator broom clean daily and as needed

C. Restrooms
   1. Check and confirm night crew cleaned and re-stocked each bathroom before 9:00 am
   2. Spot Clean all bathrooms each day. Restock restroom supplies as required.
   3. Fill soap, paper towel, seat cover and toilet tissue dispensers as required.
   4. Report all mechanical and plumbing problems and other deficiencies to the Building Manager (e.g., leaky faucets, malfunctioning urinals or toilets, etc.)
   5. Spot Clean all mirrors, powder shelves and lavatory tops. Mirrors should be wiped clean to remove all spots and streaks
   6. Empty paper towel waste receptacles daily and as needed or requested
   7. Stock and maintain all sanitary napkin product vending machines located in the restrooms, if any.

D. Public Areas
   1. Stairwells – Police and keep in clean condition. Sweep, dust, hand wipe and mop as necessary and as requested (includes escalator cleaning).
   2. Dust stairwell railings as necessary and as requested
   3. Public Corridors – Vacuum and keep in clean condition as necessary and as requested
   4. Assist in changing interior lamps and light bulbs throughout the building as required
   5. Spot clean lobby signage and building directories and all other appropriate glass enclosures

E. Building Service Areas
   1. Loading Dock – Sweep area daily
   2. Lay down and remove lobby runners during inclement weather, as necessary and as requested
   3. Assist in replacing lamps and light bulbs throughout the building as required; clean diffusers and grilles when relamping
   4. Assist in recycling lamps and light bulbs, ballasts, chemicals, electronics by putting them in designated areas for recycling these products in the building
   5. Keep electrical rooms, fire control room, telephone and electrical closets clean and free of debris
   6. Keep recycling area and bins clean and area swept
I. SERVICES FOR THE PREMISES (Monday – Friday after 7:00 pm, and Sunday between 7:00 am and 10:00 pm)

A. Nightly Services
   1. Secure all lights as soon as possible each night
   2. Vacuum all carpets. Move electric cords to prevent damage to the corner bead
   3. Dust mop all resilient and composition floors with dust mops. Damp mop the floors to remove spills and water stains as required
   4. Spot clean stains on carpet
   5. Dust all desktops and office furniture with dust cloths. Papers and folders on the desktop are not to be moved
   6. Wipe and clean all tables, counters, and desktops
   7. Empty all waste paper baskets and other trash containers and remove all trash from floors to the designated trash areas. Remove recyclable material and compost to Building’s centralized recycle bins.
   8. Remove fingerprints, dirt smudges, from all doors, frames, glass partitions, windows, light switches, walls, elevator doorjambs and elevator interiors
   9. Return chairs and wastebaskets to proper positions
   10. Police all interior public planters, if any
   11. Wipe clean smudged brightwork
   12. Glass:
       a. Clean both sides of entrance glass door
       b. Spot clean interior glass windows, as necessary

B. Weekly Services (once per week)
   1. Dust all low reach areas including, but not limited to, chair rungs, structural and furniture ledges, baseboards, window sills, door louvers, wood paneling molding, etc
   2. Clean all door thresholds & jambs
   3. Edge vacuum all carpeted areas
   4. Move all plastic carpet protectors and thoroughly vacuum under and around all desks and office furniture
   5. Wipe all exposed vinyl bases

C. Monthly Services (once per month)
   1. Dust all high reach areas including, but not limited to, tops of doors, frames, furniture, ledges, air conditioning diffusers and return grilles, tops of partitions, picture frames, etc.
   2. Dust and or vacuum all window coverings
D. **Quarterly Services** (once per quarter)
   1. Thoroughly scrub all resilient or composition flooring.
   2. If requested, shampoo carpeting in the “high-traffic” common areas. i.e. lobbies and other high-traffic” corridors.
   3. Vacuum upholstered furniture and wipe down vinyl chair pads
   4. Dust light diffusers

E. **Annual Services** (once per year)
   1. Recondition all resilient or composition flooring to provide a level of appearance equivalent to a completely refinished floor.
   2. Shampoo carpeting in all areas as requested

A. **Nightly Services**
   1. Spot clean entrance doors
   2. Empty trash, recycling, compost and receptacles
   3. Empty sanitary receptacles and re-line them
   4. Clean mirrors
   5. Wipe down stall partition and walls
   6. Clean and sanitize sinks, toilet bowls & urinals
   7. Refill paper towel, toilet paper, soap & fem. hygiene dispensers
   8. Sweep and damp mop hard floors

B. **Quarterly Services**
   1. Dust ceiling vents and high areas

C. **Annual Services**
   1. Recondition all resilient or composition flooring to provide a level of appearance equivalent to a completely refinished floor.
   2. Thoroughly scrub of all surfaces

II. **GENERAL REQUIREMENTS**
A. **Quality Standards**
   1. Landlord’s janitorial service contractor (“contractor”) must have a minimum of five (5) years of relevant experience.
   2. In the event contractor’s work repeatedly does not meet quality standards, Tenant may request the Building Manager replace contractor personnel. Landlord’s contractor must be available during regular business hours, to participate in an inspection walk-through.
   3. The Building Manager will keep a janitorial log in which deficiencies in performance and special problems or instructions will be noted. The contractor must check the log daily and correct any deficiencies in service within twenty-four (24) hours of the log entry. When the deficiency has been corrected, the contractor must initial and date each entry.
4. Contractor accepts all responsibility for determining that all necessary safeguards for the protection of Contractor’s employees will be furnished to employees e.g., gloves, masks, aprons, support belts. All work performed must conform to CAL-OSHA standards.

5. Contractor must comply with all laws and government regulations.

6. Contractor must be fully insured and bonded to standards typical of first class office buildings in San Francisco.

7. Contractor shall not unplug any of Tenant’s equipment and shall only use designated service electrical outlets. Contractor shall not move any papers or folders on Tenant’s work surfaces.

8. Contractor shall take all actions to prevent and shall be responsible for any damage to the Premises (including but not limited to dragging extension cords around corners and spilling cleaning products on the carpeting, broken glass, etc.).

B. Employees

1. All contractor employees (including coordinators and supervisors) must wear uniforms. All personnel must have a visible company name, logo, badge, etc., on their uniforms.

2. All employees must be fully trained in the custodial service trade.

3. Tenant may request contractor remove any janitor from its premises for inappropriate behavior or alleged inappropriate behavior at any time it desires and for any reason whatsoever, and the contractor shall provide an immediate replacement.

C. Maintenance Reporting

1. The contractor’s employees shall report maintenance requirements (such as broken glass, missing or burnt out light bulbs, inoperative fixtures, etc.) to the Building Manager.

D. Materials and Equipment

1. Landlord, at no cost to Tenant, shall provide adequate space in the building to the contractor for the storage of supplies and equipment.

2. The contractor shall furnish all labor, cleaning materials (paper and cloth towels, cleaning chemicals, floor wax, wax stripper, protective gloves, and other expendable supplies), equipment (including, but not limited to, ladders, vacuum cleaners, extractors, floor machines, mops, hoses, and buckets) and occupant supplies (including hand soap, paper hand towels, toilet tissue, paper seat covers and deodorants for tenant use only) required to perform the janitorial service as specified. Tenant shall supply trash, recycling, and composting containers within the Premises. Contractor shall supply liners

E. Recycling

1. Contractor will be responsible for the removal of recyclables and appropriately depositing such materials in a Landlord provided central collection point in the building.

III. SPECIAL SERVICES – GENERAL

Tenant shall have the right to request additional or other cleaning services not included in this scope of work. The fee for these services shall be at contractor’s direct cost but not to exceed
that typically charged for such services at other first class office buildings. The fee for such services shall be agreed upon by Tenant and Landlord before such services are performed. Landlord shall supply to Tenant a written quote for such Tenant requested work and Landlord shall promptly perform such work upon receipt of Tenant’s authorized acceptance of the cost.
MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("Memorandum of Lease") is executed as of October 23, 2012, by and between HUDSON 1455 MARKET, LLC, a Delaware limited liability company ("Landlord"), and SQUARE, INC., a Delaware corporation ("Tenant").

RECITALS

WHEREAS, Landlord and Tenant have executed that certain Office Lease ("Lease") dated as of October 23, 2012, for premises (the "Premises") located at real property commonly known as 1455 Market Street, San Francisco, California (the "Building"), as more particularly described in Exhibit A, attached hereto and incorporated herein; and

WHEREAS, Landlord and Tenant desire to record notice of the Lease in the real estate records of San Francisco County, California:

NOW, THEREFORE, in consideration of the foregoing, Landlord and Tenant hereby declare as follows:

1. **Lease.** Landlord leases to Tenant the Premises for an initial term of ten (10) years on the terms set forth in the Lease. The Premises include premises located on the 6th, 7th, 9th, 18th and 19th floors of the Building.

2. **Option to Renew.** Landlord grants Tenant two (2), five (5) year options to renew the Lease, as more particularly described in Section 2.2 of the Lease.

3. **Expansion Rights.** Landlord grants Tenant certain expansion rights on portions of the Building located on the 8th floor as described in Section 1.3 of the Lease and the remainder of the Building as described in Section 1.4 of the Lease.
IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum of Lease as of the date and year first written above.

LANDLORD:

HUDSON 1455 MARKET, LLC,
a Delaware limited liability company

By: ____________________________
Name: ___________________________
Its: _____________________________

TENANT:

SQUARE, INC.,
a Delaware corporation

By: ____________________________
Name: ___________________________
Its: _____________________________
STATE OF CALIFORNIA

County of

On , before me, a Notary Public, personally appeared who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct WITNESS my hand and official seal.

Signature of Notary

(Affix seal here)

STATE OF CALIFORNIA

County of

On , before me, a Notary Public, personally appeared who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct WITNESS my hand and official seal.

Signature of Notary

(Affix seal here)
OFFICE LEASE

1455 MARKET STREET

HUDSON 1455 MARKET, LLC,

a Delaware limited liability company,

as Landlord,

and

SQUARE, INC.,

a Delaware corporation,

as Tenant.
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This FIRST AMENDMENT TO OFFICE LEASE (this “First Amendment”) is made and entered into as of March 22, 2013, by and between HUDSON 1455 MARKET, LLC, a Delaware limited liability company (“Landlord”), and SQUARE, INC., a Delaware corporation (“Tenant”).

RECITALS

A. Landlord and Tenant are parties to that certain Office Lease dated October 17, 2012 (the “Original Lease”), pursuant to which Landlord leases to Tenant, and Tenant leases from Landlord, certain premises defined in Section 2.2 of the Summary of the Original Lease as the “Initial Premises” in the building located at 1455 Market Street, San Francisco, California (the “Building”), as more particularly described in the Original Lease.

B. Landlord and Tenant now desire to amend the Original Lease to (i) confirm Tenant’s exercise of its right to lease the “Expansion Space” (as described in Section 2.5 of the Summary of the Original Lease and depicted on Exhibit A-4 of the Original Lease), and include such Expansion Space under the Original Lease upon the same terms and conditions as the Initial Premises (except as set forth in Section 1.3 of the Original Lease), (ii) provide that the Must-Take 1 Lease Commencement Date (as defined in Section 3.6 of the Summary of the Original Lease) will occur on the later of (x) April 1, 2013, and (y) the date on which Landlord delivers possession of the Must-Take 1 Space (as described in Section 2.3 of the Summary of the Original Lease and depicted on Exhibit A-2 of the Original Lease, as amended by this First Amendment) to Tenant in the Delivery Condition, and (iii) provide that that certain portion of the sixth (6th) floor of the Building containing approximately 5,060 rentable square feet, as generally depicted on Exhibit A attached hereto (the “New 6th Floor Space”) shall be included as part of the Must-Take 1 Space, all in accordance with the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Defined Terms. All capitalized terms used herein but not specifically defined in this First Amendment shall have the meanings ascribed to such terms in the Original Lease. The term “Lease” where used in the Original Lease and this First Amendment shall hereafter refer to the Original Lease, as amended by this First Amendment.

2. Expansion Space Lease Term. Subject to the terms of the last sentence of Section 1.3.2 of the Original Lease, the Lease shall commence with respect to the Expansion Space on the “Expansion Space Lease Commencement Date” (as defined in Section 1.3.2 of the Original Lease). Consequently, effective upon the Expansion Space Lease Commencement Date, all references in the Lease to the “Premises” shall include the Expansion Space. The lease term of the Expansion Space shall expire on the “Lease Expiration Date” (as defined in Section 2.1 of the Original Lease), as the same may be extended.

3. Expansion Rent. Notwithstanding anything to the contrary set forth in this First Amendment, prior to the Expansion Space Lease Commencement Date, Tenant shall pay “Rent” (as defined in Section 4.1 of the Original Lease) for the Premises in accordance with the terms of the Lease. Subject to the terms of the last sentence of Section 1.3.2 of the Original Lease, commencing on the “Expansion Space Rent Commencement Date” (as defined in Section 1.3.5 of the Original Lease), Tenant
shall also pay to Landlord the “Expansion Rent” (as defined in Section 1.3.3 of the Original Lease). Tenant’s Share and the Base Year with respect to the Expansion Space shall be determined as set forth in Section 1.3.3 of the Original Lease. Construction in the Expansion Space shall be subject to the terms and conditions set forth in Section 1.3.4 of the Original Lease (including, without limitation, the provision of the Expansion Improvement Allowance).

4. Must-Take 1 Space. Section 2.3 of the Summary of the Original Lease is hereby deleted in its entirety and replaced with the following:

2.3 Must-Take 1 Space: Approximately 20,801 rentable square feet of space located on the sixth (6th) floor of the Building (the “Must-Take 1 Space”), as further depicted on Exhibit A-2 to this Lease.

Exhibit A-2 of the Original Lease is hereby supplemented by adding to it the New 6th Floor Space as shown on Exhibit A attached to this First Amendment.

5. Must-Take 1 Lease Commencement Date. Section 3.6 of the Summary of the Original Lease is hereby deleted in its entirety and replaced with the following:

3.6 Must-Take 1 Lease Commencement Date: The later to occur of (i) April 1, 2013 and (ii) the date on which Landlord delivers possession of the Must-Take 1 Space to Tenant in the Delivery Condition.

The reference in the first (1st) sentence of Section 2.4 in the Original Lease to “July 1, 2013” is hereby deleted and replaced with “April 1, 2013”.

6. Must-Take 1 Space Tenant’s Share. The reference in the fourth (4th) sentence of Section 1.5.3 in the Original Lease to “1.56%” is hereby deleted and replaced with “2.06%”.

7. Invalidity of Provisions. If any provision of this First Amendment is found to be invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of any such provision shall not affect the validity and enforceability of the remaining provisions hereof.

8. Further Assurances. In addition to the obligations required to be performed under the Lease, Landlord and Tenant shall each perform such other acts, and shall execute, acknowledge and/or deliver such other instruments, documents and other materials, as may be reasonably required in order to accomplish the intent and purpose of the Original Lease, as amended by this First Amendment.

9. Brokers. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this First Amendment other than the “Brokers” (as defined in Section 29.24 of the Original Lease) and Wixen Real Estate Services, which is a subcontractor of, and will be compensated solely by, Custom Spaces Commercial Real Estate, and Tenant’s indemnity obligation to Landlord as set forth in Section 29.24 of the Original Lease shall expressly apply, without limitation, to any claims from Wixen Real Estate Services, and that they know of no other real estate broker or agent who is entitled to a commission in connection with this First Amendment. Landlord shall pay the commission, if any, owing to the Brokers in connection with the execution of this First Amendment pursuant to the terms of a separate agreement. Each party agrees.
to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including, without limitation, reasonable attorneys’ fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent, other than the Brokers, occurring by, through, or under the indemnifying party. The terms of this Section 9 shall survive the expiration or earlier termination of the Original Lease, as amended hereby.

10. Authority. Each of the parties hereto represents and warrants to the other as follows: (a) it has the legal power, right and authority to enter into this First Amendment; (b) all requisite action (corporate, trust, partnership or otherwise) has been taken by it in connection with the entering into of this First Amendment and no further consent of any partner, shareholder, creditor, investor, judicial or administrative body, governmental authority or other party is required, including without limitation, any lender, or if any such consent is required, such consent has been obtained; (c) the individuals executing this First Amendment have the legal power, right, and actual authority to bind it to the terms of this First Amendment; and (d) it understands that the other party is relying on the foregoing representations in entering into this First Amendment, and that the other party would not enter into this First Amendment without such representations. Landlord represents to Tenant that there are not any Superior Holders as of the date of this First Amendment.

11. Governing Law. This First Amendment shall be governed by and construed and enforced in accordance with the laws of the State of California.

12. Lease in Full Force. Except for those provisions which have been modified by this First Amendment and those terms, covenants and conditions for which performance has heretofore been completed, all other terms, covenants and conditions of the Original Lease are hereby ratified and shall remain unmodified and in full force and effect.

13. Digital Image. The parties agree to accept a digital image of this First Amendment, as executed, as a true and correct original and admissible as best evidence to the extent permitted by a court with proper jurisdiction.

14. Counterparts. This First Amendment may be executed in counterparts, each of which shall be deemed an original part and all of which together shall constitute a single agreement.

[remainder of page intentionally left blank; signature page follows]
IN WITNESS WHEREOF, Landlord and Tenant have caused this First Amendment to be executed as of the date set forth above.

LANDLORD:

HUDSON 1455 MARKET, LLC,
a Delaware limited liability company

By: Hudson Pacific Properties, L.P.,
a Maryland limited partnership,
its sole member

By: Hudson Pacific Properties, Inc.,
a Maryland corporation,
its General Partner

By: /s/ Howard Stern
Name: Howard Stern
Title: President

TENANT:

SQUARE, INC.,
a Delaware corporation

By: /s/ Sarah Friar
Name: Sarah Friar
Title: COO & CFO

By: /s/ James Kelly
Name: James Kelly
Title: Controller
EXHIBIT A

NEW 6th FLOOR SPACE
SECOND AMENDMENT TO OFFICE LEASE

This SECOND AMENDMENT TO OFFICE LEASE (this “Second Amendment,”) is made and entered into as of January 22, 2014, by and between HUDSON 1455 MARKET, LLC, a Delaware limited liability company (“Landlord”), and SQUARE, INC., a Delaware corporation (“Tenant”).

RECITALS

A. Landlord and Tenant are parties to that certain Office Lease dated October 17, 2012 (the “Office Lease”), as amended by that certain First Amendment to Office Lease dated March 22, 2013 (the “First Amendment,” and, together with the Office Lease, the “Original Lease”). Pursuant to the Original Lease, Landlord currently leases to Tenant, and Tenant currently leases from Landlord, certain premises consisting of approximately 202,606 aggregate rentable square feet of space (the “Existing Premises”) (consisting of 181,805 rentable square feet in the Initial Premises and 20,801 rentable square feet in the Must-Take 1 Space, but excluding the Must-Take 2 Space and the Expansion Space, each as defined in the Original Lease), in the building located at 1455 Market Street, San Francisco, California (the “Building”), as more particularly described in the Original Lease.

B. Landlord and Tenant now desire to amend the Original Lease to (i) clarify the depiction of the “18th Floor Premises” (as that term is defined in the Lease) set forth on page four (4) of Exhibit A-1 attached to the Office Lease and revise the square footage of the “Must-Take 2 Space” (as that term is defined in Section 2.4 of the Summary of Basic Lease Information in the Office Lease), (ii) expand the Premises (as that term is defined in the Original Lease) to include that certain space consisting of 2,157 rentable square feet of space located on the first (1st) level of the Building (the “1st Floor Premises”), as delineated on Exhibit B attached hereto and made a part hereof, (iii) provide for the allocation of costs between Landlord and Tenant with respect to certain improvements constructed within the corridor of the 6th Floor Premises and the Building access control system, (iv) set forth Tenant’s right to install a sign on the exterior podium portion of the Building, and (v) to otherwise amend the Original Lease on the terms and conditions set forth in this Second Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Defined Terms. All capitalized terms used herein but not specifically defined in this Second Amendment shall have the meanings ascribed to such terms in the Original Lease. The term “Lease” where used in the Original Lease and this Second Amendment shall hereafter refer to the Original Lease, as amended by this Second Amendment.

2. Revisions to Premises.

2.1 18th Floor Premises. Tenant hereby acknowledges and agrees that the cross-hatched area shown on Exhibit A attached hereto is not, and has never been, a part of the 18th Floor Premises, and such area shall not be considered a part of the Premises for purposes of the Lease, as hereby amended.

2.2 Must-Take 2 Space. Tenant hereby acknowledges and agrees that the area designated as Must Take 2 Space on Exhibit A-3 attached to this Second Amendment is the “Must-
Take 2 Space” for all intents and purposes under the Lease. Accordingly, the reference to “48,532 rentable square feet” in Section 2.4 of the Summary of Basic Lease Information in the Office Lease is hereby deleted in its entirety and replaced with “47,099 rentable square feet”, and Exhibit A-3 attached to the Office Lease is hereby deleted in its entirety and replaced with Exhibit A-3 attached hereto.

3. 1st Floor Premises.

3.1 Modification of Existing Premises. Effective as of the “1st Floor Premises Commencement Date” (as that term is defined in Section 3.2 below), Tenant shall lease from Landlord, and Landlord shall lease to Tenant, the 1st Floor Premises. Consequently, effective upon the 1st Floor Premises Commencement Date, the Existing Premises shall be increased to include the 1st Floor Premises. Landlord and Tenant hereby acknowledge that such addition of the 1st Floor Premises to the Existing Premises shall, effective as of the 1st Floor Premises Commencement Date, increase the size of the “Premises” then leased by Tenant under the Lease, as hereby amended, to 204,763 rentable square feet of space, and that the 1st Floor Premises shall be deemed to be a part of the Premises for all purposes under the Lease.

3.2 1st Floor Premises Term. The term with respect to the 1st Floor Premises (the “1st Floor Premises Term”) shall commence on the date that is five (5) business days following Tenant’s receipt of notice from Landlord that the 1st Floor Premises has been vacated by the current tenant and is ready for delivery to Tenant (the “1st Floor Premises Commencement Date”), which date shall occur on or before March 1, 2014. The 1st Floor Premises Term shall expire coterminously with Lease Term for the Existing Premises under the Original Lease, as the same may be extended.

3.3 Base Rent. Commencing on the 1st Floor Premises Commencement Date, and continuing until the first (1st) anniversary of the 1st Floor Premises Commencement Date, Tenant shall pay to Landlord monthly installments of Base Rent for the 1st Floor Premises in the amount of Six Thousand Nine Hundred Thirty-Five and 00/100 Dollars ($6,935.00) (i.e., $30.00 per rentable square foot of the 1st Floor Premises per annum). On the first (1st) anniversary of the 1st Floor Premises Commencement Date, and on each anniversary of the 1st Floor Premises Commencement Date thereafter, the annual base rental rate per rentable square foot of the 1st Floor Premises shall increase by One and 00/100 Dollars ($1.00), and the monthly installment of Base Rent for the 1st Floor Premises shall adjust accordingly. Throughout the 1st Floor Premises Term, the monthly Base Rent shall be paid in accordance with the provisions of Article 3 of the Original Lease, as hereby amended.

3.4 Tenant’s Share of Direct Expenses. Commencing on the 1st Floor Premises Commencement Date, and continuing throughout the 1st Floor Premises Term, Tenant shall be obligated to pay Tenant’s Share of the annual Direct Expenses attributable to the 1st Floor Premises which are in excess of the amount of Direct Expenses attributable to the Base Year in accordance with the terms of Article 4 of the Original Lease, as hereby amended. Tenant’s Share with respect to the 1st Floor Premises shall be 0.213%.

3.5 Condition of 1st Floor Premises. Landlord shall, at Landlord’s sole cost, construct a full-height demising wall with finish-ready dry wall on the interior and painted dry wall or wall covering on the exterior (“Landlord’s 1st Floor Work”) prior to the 1st Floor Premises Commencement Date. Subject to completion of Landlord’s Floor Work, Tenant shall accept the 1st Floor Premises vacated, broom-clean, and otherwise in its presently existing, “as-is” condition, and Landlord shall not be obligated to provide or pay for any other improvement work or services related to the improvement of the 1st Floor Premises. Notwithstanding the foregoing, Landlord shall deliver the 1st Floor Premises to Tenant free of Hazardous Substances and with the Building Systems servicing the 1st Floor Premises in good working order and condition if it is determined that any of the Building Systems were not in good
working order and condition as of the date Landlord delivers possession of the 1st Floor Premises to Tenant under this Second Amendment, Landlord shall not be liable to Tenant for any damages, but as Tenant’s sole remedy, Landlord, at no cost to Tenant, shall promptly commence such work or take such other action as may be necessary to place the same in good working order and condition, and shall thereafter diligently pursue the same to completion. For purposes of Section 1938 of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that the Existing Premises and the 1st Floor Premises have not undergone inspection by a Certified Access Specialist (CASp).

3.6 Relocation of 1st Floor Premises. Notwithstanding anything to the contrary contained in this Second Amendment, not more than twice during the 1st Floor Premises Term, as the same may be extended, upon not less than thirty (30) days notice to Tenant, Landlord shall have the right, at Landlord’s sole cost (including the cost of cabling, relocating personal property and tenant improvements at least equal in quality to those in the 1st Floor Premises) to relocate the 1st Floor Premises to another location of substantially similar size on the first (1st) level of the Building that is reasonably acceptable to Tenant, in which event Base Rent and Tenant’s Share shall be proportionately adjusted to reflect any change in the rentable square footage from the 1st Floor Premises, provided that in no event shall Tenant’s Base Rent increase as a result of such relocation.

3.7 1st Floor Tenant Improvement Allowance. Tenant shall be entitled to a one-time tenant improvement allowance (the “1st Floor Tenant Improvement Allowance”) in the amount of Ten and 00 100 Dollars ($10.00) per rentable square foot of the 1st Floor Premises, for the costs relating to the initial design and construction of Tenant’s improvements which are permanently affixed to the Premises (the “1st Floor Tenant Improvements”). Except with respect to Landlord’s 1st Floor Work, in no event shall Landlord be obligated to make disbursements pursuant to this Second Amendment in a total amount which exceeds the 1st Floor Tenant Improvement Allowance. In the event that the 1st Floor Tenant Improvement Allowance is not fully utilized by Tenant within one (1) year after the 1st Floor Premises Commencement Date, then such unused amounts shall revert to Landlord, and Tenant shall have no further rights with respect thereto. Any 1st Floor Tenant Improvements that require the use of Building risers, raceways, shafts and/or conduits shall be subject to Landlord’s reasonable rules, regulations and restrictions, including the requirement that any cabling vendor, to the extent performing work in the riser, must be reasonably approved by Landlord, and that the amount and location of any such cabling must be reasonably approved by Landlord, subject to the terms of Section 6.1.7 of the Original Lease. All 1st Floor Tenant Improvements for which the Tenant Improvement Allowance has been used shall be deemed Landlord’s property under the terms of the Lease, as hereby amended; provided, however, Landlord may, by written notice to Tenant prior to the end of the Lease Term, or given following any earlier termination of the Lease, as hereby amended, require Tenant, at Tenant’s expense, to remove any 1st Floor Tenant Improvements and to repair any damage to the Premises and Building caused by such removal and return the affected portion of the Premises to their condition existing prior to the installment of such 1st Floor Tenant improvements. Except as modified by this Section 3.7, the terms and conditions of Exhibit B to the Original Lease shall apply to the disbursement of the 1st Floor Tenant Improvement Allowance and the construction of the 1st Floor Tenant Improvements, such that the 1st Floor Tenant Improvement Allowance and the 1st Floor Tenant Improvements shall be deemed to be part of the “Tenant Improvement Allowance” and the “Tenant Improvements,” respectively (as those terms are defined in Section 2.1.1 of Exhibit B of the Original Lease), for all purposes.

4. Allocation of Costs for 6th Floor Corridor Improvements. Landlord and Tenant hereby acknowledge and agree that Tenant has previously constructed a new wall measuring approximately two hundred seventy-five (275) linear feet within the corridor of the 6th Floor Premises (the “6th Floor Corridor Wall”). Tenant hereby acknowledges and agrees that Landlord has reimbursed Tenant for fifty percent (50%) of the out-of-pocket costs actually incurred by Tenant to construct the 6th Floor Corridor.
5. **Access Control System.** Landlord and Tenant hereby acknowledge that: (i) Landlord shall modify the existing Building access-control system in order to install a card key access system in the Building elevators, which card key access system shall read Tenant’s card keys; (ii) Tenant intends to install Tenant’s Security System within the Premises pursuant to the terms of the Lease, which system shall be compatible with the Building access-control system; and (iv) Tenant shall reimburse Landlord for one-third (1/3) of the actual, out-of-pocket costs incurred by Landlord for the installation of the card key access system in the Building elevators, in a total reimbursable amount not to exceed Sixty-One Thousand One Hundred Thirty-Two and No 100 Dollars ($61,132.00), within thirty (30) days following Landlord’s demand therefore together with substantiation of such reimbursable costs. In addition, Landlord and Tenant shall comply with the Building access-control guidelines (“Building Access-Control Guidelines”) attached to this Second Amendment as Exhibit C; provided, however, that Landlord and Tenant hereby acknowledge and agree that Landlord and/or Tenant may need to reasonably revise such Building Access-Control Guidelines from time-to-time, upon the mutual written consent of both Landlord and Tenant, and that any failure to strictly comply with such Building Access-Control Guidelines due to circumstances that are not within Landlord’s or Tenant’s reasonable control shall not constitute a default under the Lease by such non-complying party.

6. **Exterior Podium Signage.** Due to Applicable Laws, Tenant has been unable to obtain City approval for the installation of a building top sign on the tower portion of the Building, as contemplated by Section 23.5 and Exhibit O of the Office Lease. Therefore, Tenant shall have the right to install, repair and maintain one (1) exterior sign on the podium portion of the Building (the “Podium Sign”), subject to all of the terms and conditions set forth in Section 23.5 of the Office Lease. Landlord hereby approves of the signage shown on Exhibit D attached hereto, and Landlord agrees that the Podium Sign may be backlit. Notwithstanding the foregoing, in the event that Tenant is able to obtain approval from the City for the installation of either (x) a building top sign on the tower portion of the Building, or (y) a vertical sign on the tower portion of the Building following the date of this Second Amendment, Tenant shall have the right, upon removal of the Podium Sign (and provided that Tenant shall, at its sole cost and expense, repair any and all damage to the Building caused by such removal), to install, at Tenant’s option, either (i) a new building top sign on the top of the tower portion of the Building, or (ii) a new vertical sign on the tower portion of the Building, in either event in accordance with the terms and conditions set forth in Section 23.5 of the Office Lease and subject to Landlord’s prior written approval of such building top or vertical signage, as the case may be, which approval shall not be unreasonably withheld, conditioned or delayed.

7. **Invalidity of Provisions.** If any provision of this Second Amendment is found to be invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of any such provision shall not affect the validity and enforceability of the remaining provisions hereof.

8. **Further Assurances.** In addition to the obligations required to be performed under the Lease, Landlord and Tenant shall each perform such other acts, and shall execute, acknowledge and/or deliver such other instruments, documents and other materials, as may be reasonably required in order to accomplish the intent and purpose of the Original Lease, as amended by this Second Amendment.

9. **Brokers.** Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Second Amendment other than the “Brokers” (as defined in Section 29.24 of the Original Lease) and Wixen Real Estate Services, which is a subcontractor of, and will be compensated solely by, Custom Spaces Commercial Real Estate, and Tenant’s indemnity obligation to Landlord as set forth in Section 29.24 of
the Original Lease shall expressly apply, without limitation, to any claims from Wixen Real Estate Services, and that they know of no other real estate broker or agent who is entitled to a commission in connection with this Second Amendment. Landlord shall pay the commission, if any, owing to the Brokers in connection with the execution of this Second Amendment pursuant to the terms of a separate agreement. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including, without limitation, reasonable attorneys’ fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent, other than the Brokers, occurring by, through, or under the indemnifying party. The terms of this Section 9 shall survive the expiration or earlier termination of the Lease, as amended hereby.

10. **Authority.** Each of the parties hereto represents and warrants to the other as follows: (a) it has the legal power, right and authority to enter into this Second Amendment; (b) all requisite action (corporate, trust, partnership or otherwise) has been taken by it in connection with the entering into of this Second Amendment and no further consent of any partner, shareholder, creditor, investor, judicial or administrative body, governmental authority or other party is required, including without limitation, any lender, or if any such consent is required, such consent has been obtained; (c) the individuals executing this Second Amendment have the legal power, right, and actual authority to bind it to the terms of this Second Amendment; and (d) it understands that the other party is relying on the foregoing representations in entering into this Second Amendment, and that the other party would not enter into this Second Amendment without such representations. Landlord represents to Tenant that there are not any Superior Holders as of the date of this Second Amendment.

11. **Governing Law.** This Second Amendment shall be governed by and construed and enforced in accordance with the laws of the State of California.

12. **Lease in Full Force.** Except for those provisions which have been modified by this Second Amendment and those terms, covenants and conditions for which performance has heretofore been completed, all other terms, covenants and conditions of the Original Lease are hereby ratified and shall remain unmodified and in full force and effect.

13. **Digital Image.** The parties agree to accept a digital image of this Second Amendment, as executed, as a true and correct original and admissible as best evidence to the extent permitted by a court with proper jurisdiction.

14. **Counterparts.** This Second Amendment may be executed in counterparts, each of which shall be deemed an original part and all of which together shall constitute a single agreement.

[remainder of page intentionally left blank; signature page follows]
IN WITNESS WHEREOF, Landlord and Tenant have caused this Second Amendment to be executed as of the date set forth above.

**LANDLORD:**

HUDSON 1455 MARKET, LLC,
a Delaware limited liability company

By: Hudson Pacific Properties, L.P.,
a Maryland limited partnership,
its sole member

By: Hudson Pacific Properties, Inc.,
a Maryland corporation,
its General Partner

By: ____________________________
Name: __________________________
Title: __________________________

**TENANT:**

SQUARE, INC.,
a Delaware corporation

By: /s/ James Kelly
Name: James Kelly
Title: Dir., Finance

By: /s/ Dana Wagner
Name: Dana Wagner
Title: General Counsel
EXHIBIT A
18th FLOOR PREMISES
**EXHIBIT C**

**BUILDING ACCESS-CONTROL GUIDELINES**

**Visitor Access**: Tenant shall provide one hundred (100) Square-branded visitor access cards ("Visitor Access Cards") in sequential numbers to be handed out by Landlord’s security guards upon the presentation of a photo ID and confirmation of access in Landlord’s Workspeed Visitor System ("Workspeed") at the Main Lobby Console. The Visitor Access Cards will be programmed for access through the Building turnstiles, and for restricted access via the Building elevators to Level 6 only. Tenant’s security officer(s) shall return the Visitor Access Cards two (2) times per day to Landlord’s security officer(s) at the Building’s main lobby desk, so that such cards may be inventoried and stored numerically for reuse by Landlord’s security officers in the presence of Tenant’s security officer(s). Tenant’s Operations Manager shall be notified of any missing Visitor Access Cards following each performance of such twice-daily inventory process. To ensure that Landlord’s security officers always have an adequate supply of Visitor Access Cards available to process Tenant’s visitors, any missing Visitor Access Cards shall be replenished by Tenant promptly following each daily inventory process in which any missing Visitor Access Cards are identified. The above process is intended to provide Tenant with an additional level of visitor access control through Workspeed, and to have the ability to check on visitor activities for any one day or other period of time.

**Access Control**: Tenant may submit requests for changes (additions, deletions and/or modifications) to its permanent building access cards ("Tenant Access Cards") by entering such requests directly into Workspeed. To the extent Tenant enters such requests as “High Priority”, Landlord shall use commercially reasonable efforts to make any necessary corresponding changes to the Base Building access control system (the "AMAG System") within two (2) normal office hours following receipt of such request.

Tenant acknowledges and agrees that due to Landlord’s concerns regarding access control and hacking into the AMAG System by outside parties, and because Landlord does not have a dedicated Network Engineer to continually monitor the online activity, Tenant is prohibited from having a direct connection to the AMAG System. However, upon receipt of written request from Tenant, Landlord shall provide Tenant with hard copies of the compliance reports on a monthly basis, or as needed from time-to-time (Tenant further acknowledges and agrees that Landlord is unable and shall have no obligation to email electronic copies of the compliance reports to Tenant).

**Monitoring of Active Card Keys and Input Devices**: Tenant’s Security System (as that term is defined in the Lease) shall monitor all the of card readers which control access into all primary entry points and interior stairwells between the floors of the Premises. Landlord’s Building access-control system will monitor card reader activity in the building egress stairwells, freight elevators and garage access points, however an audible alarm is currently heard when access to a door, floor or stairwell door is attempted using a card that is not programmed for entry point. Landlord shall follow Tenant’s security protocol and contact Square Global Safety and Security at when Landlord receives such an alarm.

Landlord has requested Emergency Contact Information from Tenant to include an Escalation Process that can be incorporated into Landlord’s Security Post Orders, as Landlord does for all the other tenants in the Building. Escalation Process for Square facilities shall include the notification of Mr. George McCloskey at during an emergency.
Landlord Access to Roof Area:

Landlord and its agents, including, without limitation, the Building’s engineers and their contractors and employees, shall have the right to access the roof area off of the ninth (9th) floor of the Building (which area shall include, without limitation, all Outdoor Terraces and the Mechanical Penthouse (as those terms are defined in the Lease)), subject to the terms and conditions of Article 27 of the Lease. Landlord’s entry into the roof area shall be pursuant to the walking and equipment paths of travel indicated on Schedule 1 attached to this Exhibit C. Notwithstanding anything to the contrary set forth in Article 27 or elsewhere in the Lease, Landlord may enter the roof area at all reasonable times, upon at least twenty-four (24) hours prior notice to Tenant’s designated representative; provided, however, the parties agree and acknowledge that (i) at least two (2) hours prior notice to Tenant’s designated representative shall be required for entry into such areas by Building engineers, Building management, and/or vendors escorted by Building engineers and or Building management in order to access the Mechanical Penthouse, and (ii) no prior notice to or check-in with Tenant shall be required in the case of an emergency.
SCHEDULE 1 TO EXHIBIT C

PATHS OF TRAVEL TO MECHANICAL PENTHOUSE

EXHIBIT 1: OUTDOOR TERRACES AND EXPANDED TERRACE
LEVEL 9

- NORTH TERRACE
- SOUTH TERRACE
- EXPANDED SOUTH TERRACE
THIRD AMENDMENT TO OFFICE LEASE

This THIRD AMENDMENT TO OFFICE LEASE (this “Third Amendment”) is made and entered into as of June 6, 2014, by and between HUDSON 1455 MARKET, LLC, a Delaware limited liability company (“Landlord”), and SQUARE, INC., a Delaware corporation (“Tenant”).

RECITALS

A. Landlord and Tenant are parties to that certain Office Lease dated October 17, 2012 (the “Original Lease”), as amended by that certain First Amendment to Office Lease dated March 22, 2013 (the “First Amendment”), and that certain Second Amendment to Office Lease dated January 22, 2014 (the “Second Amendment”), together with the Office Lease, the “Lease”). Pursuant to the Lease, Landlord currently leases to Tenant, and Tenant currently leases from Landlord, certain premises consisting of approximately 333,216 aggregate rentable square feet of space (the “Existing Premises”) (consisting of 181,805 rentable square feet in the Initial Premises, 20,801 rentable square feet in the Must-Take 1 Space, 47,099 rentable square feet in the Must-Take 2 Space, and 81,354 rentable square feet in the Expansion Space, each as defined in the Original Lease), in the building located at 1455 Market Street, San Francisco, California (the “Building”), as more particularly described in the Original Lease.

B. On January 16, 2014, Landlord sent notice to Tenant that as of January 10, 2014 it had delivered to Tenant the “Expansion Space” (as described in Section 2.5 of the Summary of Basic Lease Information in the Original Lease), in the applicable “Delivery Condition” (as that term is defined in Section 1.1.4 of the Original Lease).

C. Landlord contends that pursuant to Section 1.3.2 of the Original Lease, with respect to the Expansion Space, the Expansion Space Lease Commencement Date occurred on January 10, 2014, and pursuant to Section 1.3.5 of the Original Lease, the Expansion Space Rent Commencement Date is to occur on July 9, 2014.

D. Tenant disputes that a) Landlord delivered the Expansion Space in the applicable Delivery Condition as required by the Original Lease, b) the Expansion Space Lease Commencement Date occurred on January 10, 2014, and c) the Expansion Space Rent Commencement Date is to occur on July 9, 2014.

E. On January 16, 2014, Landlord sent notice to Tenant that as of January 15, 2014 it had delivered to Tenant the “Must-Take 2 Space” (as described in Section 2.4 of the Summary of Basic Lease Information in the Original Lease, and as amended by Section 2.2 of the Second Amendment), in the applicable Delivery Condition.

F. Landlord contends that pursuant to Section 3.7 of the Summary of Basic Lease Information in the Original Lease, with respect to the Must-Take 2 Space, the Must-Take 2 Lease Commencement Date occurred on January 15, 2014, and pursuant to Section 1.6.3 of the Original Lease, the Must-Take 2 Rent Commencement Date is to occur on August 13, 2014.

G. Tenant disputes that a) Landlord delivered the Must-Take 2 Space in the applicable Delivery Condition as required by the Original Lease, b) the Must-Take 2 Lease Commencement Date occurred on January 15, 2014, and c) the Must Take 2 Rent Commencement Date is to occur on August 13, 2014.

Landlord and Tenant now desire to amend the Lease on the terms and conditions set forth in this Third Amendment in order to, among other things, clarify and redefine the Expansion Space Lease.
NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Defined Terms. All capitalized terms used herein but not specifically defined in this Third Amendment shall have the meanings ascribed to such terms in the Original Lease. The term “Lease” where used in the Original Lease, the First Amendment, the Second Amendment and this Third Amendment shall hereafter refer to the Original Lease, as amended by the First Amendment, the Second Amendment and this Third Amendment.

2. Expansion Space Lease Commencement Date. Landlord and Tenant each hereby acknowledge and agree that the Expansion Space Lease Commencement Date as defined in Section 1.3.2 of the Original Lease shall be deemed to have occurred on March 10, 2014.

3. Expansion Space Rent Commencement Date. Landlord and Tenant each hereby acknowledge and agree that the Expansion Space Rent Commencement Date shall be deemed to be September 6, 2014 (i.e., the date that occurs one hundred eighty (180) days after the Expansion Space Lease Commencement Date).

4. Must-Take 2 Lease Commencement Date. Landlord and Tenant each hereby acknowledge and agree that the Must-Take 2 Lease Commencement Date shall be deemed to have occurred on March 15, 2014.

5. Must-Take 2 Space Commencement Date. Landlord and Tenant each hereby acknowledge and agree that the Must-Take 2 Rent Commencement Date shall be deemed to be October 11, 2014 (i.e., the date that occurs two hundred ten (210) days after the Must-Take 2 Lease Commencement Date).

6. Brokers. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Third Amendment. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including, without limitation, reasonable attorneys’ fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent, occurring by, through, or under the indemnifying party. The terms of this Section 6 shall survive the expiration or earlier termination of the Lease, as amended hereby.

7. Authority. Each of the parties hereto represents and warrants to the other as follows: (a) it has the legal power, right and authority to enter into this Third Amendment; (b) all requisite action (corporate, trust, partnership or otherwise) has been taken by it in connection with the entering into of this Third Amendment and no further consent of any partner, shareholder, creditor, investor, judicial or administrative body, governmental authority or other party is required, including without limitation, any lender, or if any such consent is required, such consent has been obtained; (c) the individuals executing this Third Amendment have the legal power, right, and actual authority to bind it to the terms of this Third Amendment; and (d) it understands that the other party is relying on the foregoing representations in entering into this Third Amendment, and that the other party would not enter into this Third Amendment without such
representations. Landlord represents to Tenant that there are not any Superior Holders as of the date of this Third Amendment.

8. **Governing Law.** This Third Amendment shall be governed by and construed and enforced in accordance with the laws of the State of California.

9. **Lease in Full Force.** Except for those provisions which have been modified by this Third Amendment and those terms, covenants and conditions for which performance has heretofore been completed, all other terms, covenants and conditions of the Original Lease are hereby ratified and shall remain unmodified and in full force and effect.

10. **Digital Image.** The parties agree to accept a digital image of this Third Amendment, as executed, as a true and correct original and admissible as best evidence to the extent permitted by a court with proper jurisdiction.

11. **Counterparts.** This Third Amendment may be executed in counterparts, each of which shall be deemed an original part and all of which together shall constitute a single agreement.

[remainder of page intentionally left blank; signature page follows]
IN WITNESS WHEREOF, Landlord and Tenant have caused this Third Amendment to be executed as of the date set forth above. IN WITNESS WHEREOF, Landlord and Tenant have caused this First Amendment to be executed as of the date set forth above.

LANDLORD:

HUDSON 1455 MARKET, LLC,
a Delaware limited liability company

By: Hudson Pacific Properties, L.P.,
a Maryland limited partnership,
its sole member

By: Hudson Pacific Properties, Inc.,
a Maryland corporation,
its General Partner

By: /s/ Christopher J. Barton
Name: Christopher J. Barton
Title: Executive Vice President

TENANT:

SQUARE, INC.,
a Delaware corporation

By: /s/ Sarah Friar
Name: Sarah Friar
Title: COO & CFO
This Master Development and Supply Agreement (this “Agreement”) is made as of October 1, 2013 (the “Effective Date”), by and between Square, Inc., a Delaware corporation with offices at 901 Mission Street, San Francisco, CA 94103 (“Square”), and TDK Corporation, a Japan corporation with offices at 3-9-1, Shibaura, Minato-ku, Tokyo, 108-0023 Japan on behalf of itself and its subsidiaries listed in Exhibit C (“Supplier”). Square and Supplier are each referred to as a “Party” and are collectively referred to as the “Parties.”

RECITALS

A. Supplier is in the business of developing, manufacturing, testing, and selling certain hardware products.

B. Square and Supplier desire to have Supplier develop, manufacture, test, and sell to Square certain hardware products, subject to and in accordance with the terms and conditions of this Agreement.

C. The Parties have previously entered into a Letter Agreement for the development, by Supplier for Square, of custom read head product, dated October 9, 2012.

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

   1.1. “Affiliate” means, with respect to any entity, any other entity that controls, is controlled by or is under common control with such entity, for so long as such control exists. For the purposes of this definition, the word “control” (including, with correlative meaning, the terms “controlled by” or “under the common control with”) means the actual power, either directly or indirectly through one or more intermediaries, to direct or cause the direction of the management and policies of such entity, whether by the ownership of more than fifty percent (50%) of the voting stock of such entity, or by contract or other means. Supplier’s Affiliates are limited to those identified in Exhibit C.

   1.2. “Authorized Individuals” means Supplier’s and its Affiliates’ employees specifically authorized to perform activities contemplated under this Agreement and acting within the scope of such authorization.

   1.3. “Authorized Purchaser” means Square’s Affiliate, contract manufacturer or other third party authorized by Square and approved by Supplier to purchase or take delivery from Supplier on behalf or for the benefit of Square, provided that Supplier’s approval will only be withheld in circumstances where the third party is (a) not already an authorized purchaser of Supplier and (b) Supplier reasonably deems such third party a credit risk.
1.4. “Background Intellectual Property Rights” means any and all Intellectual Property Rights which (a) prior to the date of the Letter Agreement were owned or controlled by a Party and/or any of its Affiliates (including Intellectual Property Rights in and to the Square Technology, which shall be deemed Square’s Background Intellectual Property Rights); (b) were obtained after the date of the Letter Agreement by a Party and/or its Affiliates through acquisition of such Intellectual Property Rights; or (c) result from independent activities by a Party and/or its Affiliates outside the scope of this Agreement and the Letter Agreement whether or not the subject matter of such Intellectual Property Rights is incorporated into and/or such Intellectual Property Rights cover any Product or development activity under this Agreement.

1.5. “Bill of Materials” means the engineering bill of materials for the Development Deliverables or Product approved by Square.

1.6. “Designs” means any and all designs, deliverables, drawings, files, or other materials that relate to the fit, finish, appearance, or other ornamental, aesthetic, branding, or look-and-feel aspects of the Development Deliverables or the Product. For avoidance of doubt, all Intellectual Property Rights in the Designs constitute either Square Background Intellectual Property Rights or Square Owned Foreground Intellectual Property Rights owned by Square.

1.7. “Development Deliverables” means the deliverables to be developed and delivered by Supplier to Square or an Authorized Purchaser under the applicable Statement of Work, including prototypes, EVT and DVT.


1.9. “DVT” means design verification testing.

1.10. “Environmental Compliance Failure” means the failure by Supplier to comply with the environmental requirements set forth in Section 9 of the Agreement.

1.11. “EVT” means engineering validation testing.

1.12. “Excessive Failure” means that one percent (1%) or more of any lot, batch or other separately distinguishable manufacturing run of Products delivered to Square is found to be defective with the same or similar defects.

1.13. “Exclusive Technology” means all Supplier Owned Foreground Intellectual Property Rights conceived, created or developed within the scope of this Agreement or the Letter Agreement that are associated with a read head that is (a) [***] and (b) [***].

1.14. “Intellectual Property Rights” means any and all intellectual property rights worldwide arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired, including without limitation (a) all present and future patents and patent applications and all reissues, divisions, renewals,

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extensions, continuations and continuations-in-part thereof; (b) inventions, invention disclosures, improvements, trade secrets, manufacturing processes, test and qualification processes, technical designs, compositions, formulae, models, schematics, proprietary information, know-how, technology, technical data and mask works, and all documentation relating to any of the foregoing; (c) registered and unregistered copyrights (without limitation copyright on designs, software, both source and object code, mask works, and all derivative works thereof), copyright registrations and applications therefore; (d) industrial designs and any registrations and applications therefore; and (e) any other form of intellectual property protection afforded by law which otherwise arises or is enforceable under the laws of any jurisdictions or any bilateral or multi-lateral treaty regime.


1.16. “Materials Lead Time” means the minimum amount of time for Supplier to place each respective raw material or component purchase order as set forth in the agreement between Supplier and the applicable third-party vendor to meet original on time delivery for the Products.

1.17. “Non-Public Products” means (a) the Development Deliverables and (b) any products (including, without limitation, the Product) that have not been publicly announced by Square.

1.18. “NRE Costs” means the out-of-pocket costs incurred by Supplier to purchase and/or manufacture Tooling as set forth in the applicable Statement of Work, without any mark-up. For clarity, no fees will be payable to Supplier for the performance of development, design or customization services under this Agreement.

1.19. “Order Lead Time” means the minimum amount of time (set forth in the applicable Statement of Work) between the date on which a Purchase Order is received by Supplier and the date on which the relevant Product is delivered to the shipping location designated by Square or an Authorized Purchaser.

1.20. “Product” means the product to be manufactured by Supplier on behalf of and for Square and supplied to Square or an Authorized Purchaser under this Agreement.

1.21. “Production Date” means the date on which Supplier begins manufacturing the Product for Square after Square has approved and qualified the Product.

1.22. “Purchase Orders” means purchase orders issued by Square or an Authorized Purchaser to Supplier in accordance with the terms of this Agreement.

1.23. “Qualification Date” means the date on which the Product has conformed to Square defined specifications, requirements, and quality standards by passing development phases of engineering validation and testing, development validation and testing, and production validation and testing, and Square approves Supplier as a qualified vendor to produce the Product for Square.
1.24. “Replacement Product” means any Products provided by Supplier to replace any Products that fail to conform to Supplier’s representations and warranties set forth in Sections 8.1(e) or (f).


1.26. “Safety Risk” means a risk of serious bodily injury or property damage.

1.27. “Service Units” means Replacement Products, spare parts and service modules for Products.

1.28. “Specifications” means the specifications detailing functions, capabilities, and features of the Development Deliverables or the Product referenced in or created pursuant to an applicable Statement of Work. For avoidance of doubt, all Intellectual Property Rights in the Specifications constitute either Square Background Intellectual Property Rights or Square Owned Foreground Intellectual Property Rights owned by Square.

1.29. “Square Owned Foreground Intellectual Property Rights” means all Intellectual Property Rights conceived, created or developed jointly by the Parties or solely by Square within the scope of this Agreement or the Letter Agreement. Square Owned Foreground Intellectual Property Rights do not include either Party’s Background Intellectual Property Rights or Supplier Owned Foreground Intellectual Property Rights.

1.30. “Square Technology” means any software, schematics, specifications, net lists, microcode, designs, techniques, or other technology or property supplied by Square to Supplier for use in the Design or otherwise incorporated in the Development Deliverables or the Product. For avoidance of doubt, all Intellectual Property Rights in the Square Technology constitute Square Background Intellectual Property Rights.

1.31. “Square Tooling” means all Tooling for which NRE Costs are set forth under the applicable Statement of Work.

1.32. “Statement of Work” means a written statement of work, mutually agreed upon and executed by the Parties, that: (a) specifically references this Agreement; (b) identifies the particular design, development, customization, and/or other services to be provided by Supplier to Square and/or or an Authorized Purchaser in relation to a given Product; and (c) sets forth the Development Schedule and other pertinent details substantially in the form set forth in Exhibit A.

1.33. “Supplier Controlled Components” means components (a) uniquely designed by Supplier, (b) sourced through Supplier’s authorized vendor list, or (c) added to the Bill of Materials by Supplier.

1.34. “Supplier Owned Foreground Intellectual Property Rights” means Intellectual Property Rights conceived, created or developed solely by Supplier within the scope of this Agreement or the Letter Agreement. Supplier Owned Foreground Intellectual Property Rights do not include either Party’s Background Intellectual Property Rights or Square Owned Foreground Intellectual Property Rights.
1.35. “Tooling” any tooling or equipment used by Supplier to develop the Development Deliverables or manufacture the Product.

1.36. “Warranty Period” means a period of [***] from the date of shipment of the Products.


2. DEVELOPMENT

2.1. Design Services. Supplier will provide design, development, customization, and related services (such as prototype manufacturing, testing, and applicable regulatory certification) for the Products, all as set forth in and in accordance with the initial Statement of Work attached hereto as Exhibit A or (where applicable) the Statement(s) of Work for any future project(s) that may be added to this Agreement by mutual agreement of the Parties.

2.2. Delivery. Supplier shall deliver the Development Deliverables to Square or an Authorized Purchaser in accordance with the Specifications and the applicable Statement of Work.

2.3. Tooling Use and Care. Without Square’s prior written consent, Supplier shall not at any time use any Square Tooling for the production of goods or products or the performance of services for or on behalf of any third party or for any purposes other than the performance of services or manufacture of Development Deliverables and Products for Square pursuant to this Agreement. Supplier will be responsible for any loss of or damage to Square Tooling while on Supplier’s premises or in its control, will maintain any Square Tooling in good condition and repair, and will provide all necessary calibration services for such Square Tooling. Upon Square’s request (during or after the term of this Agreement), Supplier will cooperate with Square in all ways reasonably necessary to facilitate the Square directed destruction, delivery, or other disposition of any Square Tooling under this Agreement.

2.4. Acceptance. Square will be entitled to a reasonable time to inspect any Designs, draft Specifications, prototypes, and other deliverables furnished in connection with Supplier’s design and development services prior to accepting or rejecting the same in writing. Development Deliverables (and the services associated with those deliverables) will not be considered complete until accepted by Square in writing. In the event that Development Deliverables are not in conformity with the Specifications to which they relate, Supplier shall at its own expense promptly rework such Development Deliverables to conform to the Specifications and resubmit such reworked Development Deliverables to Square within a reasonable time frame specified by Square. These acceptance criteria under Section 2.4 shall apply to any such reworked Development Deliverables.

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2.5. **Changes.** The Statements of Work, Specifications, and Designs are subject to modification only upon written agreement between the Parties. Without limiting the foregoing, Supplier must receive the written approval of Square’s authorized representative before making any change that affects the fit, finish, appearance, function, quality, safety or manufacturing location of the Development Deliverables or Product or of any component, part or accessory. If Square requests any change to a Statement of Work, Specification, and/or Design, Supplier will promptly inform Square of any price or schedule impacts associated with the proposed change. Once a proposed change is approved by both Parties in writing, a written document updating the affected Statement of Work, Specifications and/or Design to reflect the approved change shall be exchanged by the Parties.

2.6. **Inspection.** Square shall have the right, upon reasonable advance notice, during normal business hours to inspect, review, and monitor the services to be provided by Supplier under this Agreement and any completed work, work in progress, components, other deliverables, manufacturing logs and records, and/or Supplier’s testing of Development Deliverables or Products, provided that such inspection shall not unreasonably disrupt Supplier’s normal business operations.

2.7. **Project Managers.** Each party shall designate one project manager for each Statement of Work, who shall be responsible for providing decisions relating to such Statement of Work, as well as communicating to each other technical and operational issues regarding the services.

### 3. PRODUCT SUPPLY

3.1. **General.** Subject to the terms and conditions of this Agreement, upon successful completion of development phases and Supplier’s qualification in accordance with the criteria set forth in the applicable Statement of Work, Supplier will manufacture Products in accordance with the Specifications, and supply Square or an Authorized Purchaser with such Products, and Square or an Authorized Purchaser will purchase Products ordered pursuant to Purchase Orders placed from time to time.

3.2. **Procurement.** Supplier will manage all material procurement and production planning, including, without limitation, support of procurement for development builds, and will be responsible for placing purchase orders for Square approved third-party components in a timely manner.

### 4. ORDERING TERMS

4.1. **Submission of Purchase Orders.** Square or Authorized Purchaser may order Products by submitting Purchase Orders to Supplier in writing or through electronic transmission. Such Purchase Order shall serve as authorization to Supplier to procure materials, manufacture Product and deliver Product.
4.2. Acceptance of Purchase Orders. Unless otherwise specified under an applicable SOW, Supplier will accept all Purchase Orders submitted by Square or an Authorized Purchaser within [***] of receipt. Supplier will only reject a Purchase Order for Products if the number of Products ordered exceeds the number forecasted in the then-current forecast by more than the applicable percentages set forth in Section 5.2 or in the applicable SOW, or if the Purchase Order does not conform with the terms of this Agreement.

4.3. No Conflicting Terms. The Parties will mutually agree on Purchase Order terms. Any terms and conditions contained in either Party’s documents that are inconsistent with or in addition to the terms and conditions of this Agreement or Purchase Orders are hereby rejected and will be deemed null and of no effect.

4.4. Cancellation and Rescheduling. Square or an Authorized Purchaser may cancel or change the scheduled delivery date of any accepted Purchase Order as follows:

(a) Outside of the Order Lead Time, Square or an Authorized Purchaser may cancel or modify a Purchase Order and/or change the scheduled delivery date at any time at no cost.

(b) Within the Order Lead Time, Square or an Authorized Purchaser may cancel or modify a Purchase Order and/or change the scheduled delivery date provided such action conforms with the requirements of Section 5.2 (Capacity Flexibility). Upon receipt of notice of cancellation, Supplier will immediately stop all work in progress associated with such cancelled Purchase Order. Within three (3) business days of receipt of any notice of cancellation or modification, Supplier will provide an itemized list of all work in progress and, if such cancellation or modification is within the Materials Lead Time and results in Supplier having excess materials, Supplier will include an itemized list of any such excess materials. Square agrees to compensate Supplier according to the liability schedule in the SOW.

4.5. Supply Constraint. If Supplier’s ability to supply Products in accordance with the then-current forecast is constrained for any reason, Supplier agrees that Supplier will work in good faith to address concerns of Square or Authorized Purchaser. In this circumstance, Supplier will (a) allocate the constrained material or resource so that Supplier is able to fulfill Square’s Purchase Orders on at least a pro rata basis of the constrained material or resource, and (b) immediately escalate the issue to both parties’ management for the purpose of resolving the supply constraint.

5. FORECASTS

5.1. Rolling Forecast. Square or its Authorized Purchasers will provide Supplier on a monthly basis with a rolling [***] forecast of its anticipated orders for each Product (each, a “Forecast”). Square and Supplier acknowledge and agree that: (a) each such Forecast is a good faith estimate of Square’s anticipated orders for Products based on information then available to Square and that Square is providing such Forecasts only as an accommodation to Supplier; and (b) Forecasts do not constitute a binding order or commitment of any kind by Square to purchase Products. Within three (3) business days of receipt of a Forecast, Supplier will respond, confirming supply of the Products available to meet the

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Forecast. Supplier agrees to confirm subsequent Forecasts with respect to each week of the Forecast to the extent that: (i) the subsequent Forecast does not exceed the previous Forecast for the same week by more than the applicable percentage set forth in Section 5.2, and if any, in the applicable SOW; or (ii) if no previous Forecast exists for a week, the subsequent Forecast does not exceed the last week forecasted in the prior Forecast by more than the applicable percentage set forth in Section 5.2, and if any, in the applicable SOW. If Supplier does not respond regarding supply of the Products within three (3) business days, the Forecast is deemed accepted by Supplier.

5.2. Capacity Flexibility. Subject to any provisions as may be set forth in an SOW, Supplier will, at all times, maintain sufficient manufacturing capacity to be able to meet up to a [***] increase per [***] in Square’s demand for the Products over the quantities stated in Square’s most recent Forecast, up to a maximum of a [***] increase over any three (3) month period, as per the following schedule:

[***]

6. PRODUCT DELIVERY

6.1. Shipping Requirements. Unless otherwise expressly specified in a Purchase Order by Square or an Authorized Purchaser, Supplier will ensure that the Products are packaged in a manner that is: (a) in accordance with good commercial practice; (b) acceptable to common carriers for shipment; and (c) adequate to ensure safe arrival of the Products at the delivery location designated in the applicable Purchase Order. Supplier will mark all containers and packaging with commercially standard lifting, handling and shipping information. Each shipment will be accompanied by a packing slip that sets forth the part numbers and quantities and the applicable Purchase Order number(s).

6.2. Shipment of Products. Supplier will ship the Products in accordance with [***]. In addition to Supplier’s obligations under Section 6.1, Supplier will be responsible for arranging all necessary transportation, packaging, insurance, and customs clearance and export documentation, as applicable, and for pre-payment of all costs and charges related thereto (collectively, “Shipping Costs”). Supplier will bear all risk of loss or damage to the Products and will retain title to the Products until the Products are delivered to the delivery location designated in the applicable Purchase Order. Square or an Authorized Purchaser may redirect shipments of any Goods under any Purchase Order to alternate locations. If Square redirects shipment it will pay any additional shipping charges.

6.3. Acceptance. Square or an Authorized Purchaser will have a period of [***] following delivery of the Products in accordance with Section 6.2 to notify Supplier of any discrepancies in the shipment quantity. Square or an Authorized Purchaser will have a period of [***] following delivery of the Products in accordance with Section 6.2 to test and inspect the Products and to notify Supplier of: (a) any nonconformities of the Product with the applicable Specifications; or (b) any defects in material or workmanship. Square or an Authorized Purchaser will notify Supplier in writing of its acceptance or rejection of any portion of any delivery of the Products prior to the expiration of such [***] period.

6.4. Delay in Shipment. The Parties acknowledge and agree that failure to meet the design, development, and delivery schedule specified in any Statement of Work or

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Purchase Order may cause substantial financial loss to Square. Supplier will promptly notify Square and its Authorized Purchaser in writing of any anticipated delay in meeting the delivery dates specified in the applicable Statement of Work or Purchase Order stating the reasons for the delay, and, where requested by Square or the Authorized Purchaser, use priority freight shipping at Supplier’s sole cost. In the event that Supplier has not delivered the Products more than [***] after such delivery dates then, Square or its Authorized Purchaser may cancel the Purchase Order and procure substitute products and receive from Supplier payment equal to the difference between: (a) the purchase price of the applicable Products; and (b) the purchase price of the substitute products plus Shipping Costs. Any amounts due shall be, at Square’s election, either (i) credited to Square or its Authorized Purchaser against any outstanding or future purchase orders hereunder or (ii) paid by Supplier to an Authorized Purchaser within [***] of issuance of an invoice from Square or such Authorized Purchaser. Supplier shall not be liable for delays caused by acts beyond Supplier’s control, including fire, flood, earthquake, accident, hazard, strike, labor conditions, or terrorist activity. Supplier shall notify Square in writing if it anticipates any delay, stating the reason for the delay and expediting the delivery at its own cost. In any such event the date of delivery shall be correspondingly increased or extended.

6.5. Product Returns. If Square or an Authorized Purchaser rejects a delivery of Products pursuant to the acceptance provisions of Section 6.3 or if Square or an Authorized Purchaser desires to return a Product to Supplier pursuant to the warranty provisions of this Agreement, then Square or an Authorized Purchaser will, in each instance, first obtain a Return Material Authorization (“RMA”) number from Supplier and will use reasonable efforts to return such Products to Supplier in accordance with Supplier’s RMA procedure. Supplier will be responsible for and will pay all Shipping Costs incurred by Square in connection with shipping such Products to Supplier and as well as for any Shipping Costs for shipping replacement Products to Square or an Authorized Purchaser. Notwithstanding the foregoing, if Product is determined by Supplier and Square (after review of Supplier’s failure analysis) not to be defective, Product will be returned to Square or Authorized Purchaser at its cost and the party will be invoiced for Product.

7. PRICING AND PAYMENT TERMS

7.1. Prices and Fees.

(a) Square or an Authorized Purchaser will pay for Development Deliverables the price set forth in the applicable Statement of Work.

(b) Square or an Authorized Purchaser will pay the NRE Costs as set forth in the applicable Statement of Work.

(c) Square or an Authorized Purchaser will pay for Products at the product unit price set forth in the applicable Statement of Work or as agreed upon by both Parties.

(d) Except for amounts due pursuant to a Purchase Order or Statement of Work, Square or any Authorized Purchaser will not be responsible for any costs in connection with the ordering and purchase of any Development Deliverables or Products.

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7.2. Payment Terms.

(a) For all Product delivered under this Agreement, Supplier will issue an invoice to Square or the Authorized Purchaser on the date that Supplier ships the Products to Square or the Authorized Purchaser and, unless Square or the Authorized Purchaser rejects a shipment of the Products (or a portion of a shipment) in accordance with the provisions of Section 6.3 or otherwise disputes an invoice, Square or the Authorized Purchaser will pay such undisputed invoices within [***] following Square’s or the Authorized Purchaser’s receipt thereof.

(b) Payment terms for any NRE Costs will be as set forth in the applicable Statement of Work; provided that if the Statement of Work does not specify applicable payment terms, undisputed amounts will be due [***] following Square’s or the Authorized Purchaser’s receipt of Supplier’s applicable invoice, which invoice will not be issued until completion of the deliverable or other milestone or task associated with such fees.

(c) Supplier must provide supporting documentation to Square for any disputed invoice within [***] after receiving any such notice. If a correction is warranted, Square will pay the corrected amount within [***] after receipt of the corrected invoice, or if the correction is reflected on the next regular invoice, within [***] after the date of that invoice. While the Parties work to resolve good-faith disputes under this section, neither party will be deemed to be in breach of this Agreement.

7.3. Quality. Supplier shall manufacture Products at an outgoing quality level of [***], and at an annualized failure rate of less than [***]. Supplier shall also work toward [***] through continuous process improvement. If outgoing quality level is higher than [***] after production, the parties will discuss and mutually agree on acceptable failure rates and other recourse.

7.4. Taxes. Square or the Authorized Purchaser will pay all taxes and duties that are assessed by any national, federal, state or local governmental authority on Square’s or the Authorized Purchaser’s purchase of the Products, including, without limitation, sales, use, excise, value-added and withholding taxes, but excluding any taxes based on Supplier’s income or gross receipts (collectively, “Taxes”). Notwithstanding the foregoing, Square or the Authorized Purchaser will have no obligation to pay any such Taxes to the extent Square or the Authorized Purchaser timely provides Supplier with a valid tax exemption resale certificate or other similar document.

8. WARRANTY

8.1. Representations and Warranties. Supplier represents and warrants that:

(a) Supplier has the complete power and authority to enter into this Agreement, to carry out its obligations under this Agreement, and to grant the rights and licenses granted to Square and any Authorized Purchaser under this Agreement;

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(b) on the date delivered to Square or an Authorized Purchaser, the Products (including any replacement Products delivered to Square or an Authorized Purchaser pursuant to Section 8.2) will be new;

(c) on the date delivered to Square or an Authorized Purchaser, Square or the Authorized Purchaser will acquire good title to the Products, free and clear of all security interests, liens and other encumbrances;

(d) for the Warranty Period, the Products will be free from defects in materials or workmanship and will comply with the Specifications;

(e) the Products are and will be safe, are non-toxic, present no abnormal hazards to persons or their environment, comply with all applicable environmental and safety laws and regulations and may be disposed of without special precautions; and

(f) the Product is custom developed by Supplier for Square, and Supplier shall not develop, distribute, license, sell, or otherwise transfer the Product to any third parties other than in accordance with this Agreement.

The representations and warranties set forth in this Section 8.1 will survive inspection, acceptance and payment.

8.2. Remedies. If any Products fail to conform to Supplier’s representations and warranties set forth in Sections 8.1(d) or (e), then Supplier will, at its expense, replace such nonconforming Products. Replacement Products supplied by Supplier under this Section 8.2 will be warranted for the period of time remaining in the original warranty for the Product. The return provisions of Section 6.6 will apply to Square’s or the Authorized Purchaser’s return of nonconforming Products to Supplier under this Section 8.2.

LIABILITY UNDER THIS WARRANTY SHALL BE LIMITED, AT SUPPLIER’S OPTION, TO THE REPLACEMENT OR REPAIR OF ANY DEFECTIVE PRODUCT. RESULTS OF ORDINARY WEAR AND TEAR, IMPROPER OPERATION OR MAINTENANCE, OR USE OF CORROSIVE OR ABRASIVE MATERIALS SHALL NOT BE CONSIDERED A DEFECT IN MATERIAL OR WORKMANSHIP. THE WARRANTY HEREIN CONTAINED IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8.3. Service Units Inventory. Supplier will, at Supplier’s expense, provide an inventory of Service Units in accordance with the applicable SOW.
9. QUALITY AND SAFETY REQUIREMENTS

9.1. Requirements and Qualifications. Supplier will comply with the quality, safety and regulatory requirements as set forth in the applicable Statement of Work, or in the absence of such requirements, with good commercial practice and applicable law.

9.2. Testing Requirements. Supplier will test the Development Deliverables and the Products in accordance with the testing requirements as set forth in the applicable Statement of Work, or in the absence of such testing requirements, in a manner sufficient to confirm conformance with all applicable Specifications. Upon Square’s or an Authorized Purchaser request, Supplier will provide and ship Development Deliverables and Products to Square or the Authorized Purchaser to be used for testing.

9.3. Environmental Compliance. Supplier will, with respect to the provision of Development Deliverables and Products, and all related processes and materials used in connection therewith, including packaging, comply with: (a) all applicable laws and regulations governing the use, declaration, preparation and marketing of hazardous substances and energy consumption efficiency, including, without limitation, the requirements set forth under the ROHS and WEEE Directives and related national legislation, to the extent applicable to the manufacturing of the Products, and (b) any additional requirements set forth in the applicable Statement of Work.

9.4. Excessive Failure, Environmental Compliance Failure and Safety Risk.

(a) Supplier must notify Square immediately if it has reason to believe that the Products provided under this Agreement may (a) produce an Excessive Failure; (b) produce an Environmental Compliance Failure; or (c) present a Safety Risk.

(b) If there is an Excessive Failure, an Environmental Compliance Failure, or the Products present a Safety Risk, Supplier will:

(i) Promptly (a) dedicate sufficient resources to thoroughly investigate the cause of the defect; (b) perform root cause analysis; and (c) implement any necessary corrective action in consultation with Square;

(ii) Reimburse Square or the Authorized Purchaser for all actual related expenses incurred to respond to such Excessive Failure, Environmental Compliance Failure, or Safety Risk caused by the Products, including the expenses incurred to diagnose any defect, develop tests and remedies for any defects, perform testing, promptly respond to customer inquiries and complaints, promptly replace the Products, and promptly remove and transport the Products to and from Supplier and respectively Square or the Authorized Purchaser, using overnight or priority freight service if Square, at its sole discretion, deems it appropriate to do so to meet its customers’ needs;

(iii) Upon Square’s or an Authorized Purchaser request, promptly replace the affected Products, whether or not the applicable Warranty Period has expired.
(c) Exceptions. Supplier will not be liable under this Section 9.4 for an Excessive Failure or a Safety Risk to the extent (i) the Excessive Failure or Safety Risk is primarily attributable to hardware or software designed by Square that could not reasonably have been implemented by Supplier in a way that would have avoided the Excessive Failure or the Safety Risk; or (ii) the Products were subjected to abuse, misuse, negligence, accident, tampering or faulty repair after transfer of title to Square or an Authorized Purchaser at delivery. Square’s approval or acceptance of Products will not relieve Supplier of the remedies set forth in this Section 9.4.

(d) Tracking. Supplier must track the date Products are produced and make such information available to Square or the Authorized Purchaser upon Square’s or the Authorized Purchaser’s request during the term of this Agreement and for [***] after the Products are delivered.

(e) Costs. Except for amounts due pursuant to a Purchase Order or Statement of Work, Square or any Authorized Purchaser will not be responsible for any costs in connection with Supplier’s obligations in this Section 9.

10. INDEMNITY

10.1. Supplier Indemnity.

(a) Supplier will, at its expense, indemnify, defend (or settle) and hold harmless Square, and its officers, directors, employees, agents, and Affiliates, and Authorized Purchasers (collectively, the “Square Indemnitees”) from and against any loss, damage, cost, liability, and expense (including reasonable fees for attorneys and other experts), as incurred, arising out of or resulting from any suit, action, claim or proceeding (each a “Claim”) brought by a third party against any Square Indemnitee alleging that: (i) any Product or the use or sale thereof by a Square Indemnitee, infringes, misappropriates or violates any third-party Intellectual Property Rights, applicable law and/or regulations, including without limitation any noncompliance in connection with customs brokerage (except to the extent that (A) such infringement, misappropriation, or violation was caused by Square Technology incorporated in the Products at Square’s request or Specifications; or that the infringement was caused by the combination of Products delivered hereunder with equipment, devices or software not contemplated in this Agreement, or (B) Square’s use of Products delivered hereunder in a manner not contemplated in this Agreement, or (C) modification by Square or an Authorized Purchaser of Products delivered hereunder to the extent such modification is the cause of the Claim); and (ii) the use of any Product results in personal injury, death or tangible or real property damage or loss of use therefrom, including, without limitation, any Claim that alleges a defect in the design, testing or manufacture of a Product, regardless of the legal or statutory bases of the Claim except to the extent that the Claim was caused by Square Technology or improper maintenance or improper modification of the Products by Square or an Authorized Purchaser.

(b) Square agrees to: (i) promptly notify Supplier in writing of any such Claim; (ii) provide Supplier, at Supplier’s expense, any assistance reasonably requested by

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Supplier and necessary for the defense or settlement of such Claim; and (iii) allow Supplier to direct and control the defense or settlement of such Claim, provided, however, that Square reserves the right to retain counsel to participate in any Claim for which indemnification is sought, at Square’s expense.

(c) Without limiting Supplier’s obligations in Section 10.1(a), if an injunction is issued that limits or prohibits a Square Indemnitee’s right to use or sell a Product or, if in Supplier’s reasonable opinion, such an injunction is likely to be issued, then Supplier will, at its expense, either: (i) procure for the Square Indemnitee the right to continue to use and sell Product; (ii) replace or modify such Product so that it becomes non-infringing, provided that such modification or replacement does not alter or affect the functionality, use or operation of such Product or the conformity of the Product with the applicable Specifications; or (iii) if the alternatives set forth in (a) and (b) are not commercially feasible, refund to Square any amounts paid for such Product pursuant to this Agreement upon Square’s return of such Product to Supplier.

10.2. **Square Indemnity.**

(a) Square will, at its expense, indemnify, defend (or settle) and hold harmless Supplier, and its officers, directors, employees, agents, and Affiliates (collectively, the “Supplier Indemnitees”) from any Claims brought by a third party against any Supplier Indemnitees alleging that any Square Intellectual Property Rights incorporated into the Products at Square’s request infringe, misappropriate or violate any third-party Intellectual Property Rights (except to the extent that (i) such infringement, misappropriation, or violation was caused by Supplier Intellectual Property Rights incorporated in the Products; or that the infringement was caused by the combination of Products delivered hereunder with equipment, devices or software not contemplated in this Agreement, or (ii) Supplier or third party use of Products delivered hereunder in a manner not contemplated in this Agreement, or (iii) modification by Supplier or third party of Products delivered hereunder to the extent such modification is the cause of the Claim). Supplier agrees to: (A) promptly notify Square in writing of any such Claim; (B) provide Square, at Square’s expense, any assistance reasonably requested by Square and necessary for the defense or settlement of such Claim; and (C) allow Square to direct and control the defense or settlement of such Claim, provided, however, that Supplier reserves the right to retain counsel to participate in any Claim for which indemnification is sought, at Supplier’s expense.

(b) If Square has any reason to believe that Square Technology may infringe misappropriate or violate any third-party Intellectual Property Rights, then Square shall so notify Supplier, and Supplier shall, upon receipt of such notice, immediately cease incorporating the Square Technology into the Products and cooperate with Square to identify a workable design-around or other solution acceptable to Square.

11. **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT AND EXCEPT FOR LIABILITY ARISING UNDER SECTION 9.4 (EXCESSIVE FAILURE, ENVIRONMENTAL COMPLIANCE FAILURE AND SAFETY RISK), SECTION 10 (INDEMNITY), A BREACH BY EITHER PARTY OF SECTION 12 (CONFIDENTIALITY), OR SUPPLIER’S INFRINGEMENT OR
MISAPPROPRIATION OF SQUARE’S INTELLECTUAL PROPERTY RIGHTS, OR FRAUD OR INTENTIONAL OR WILLFUL MISCONDUCT, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR: (A) ANY SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOST PROFITS ARISING OUT OF THE USE OR PERFORMANCE OF THE PRODUCTS), EVEN IF SUCH PARTY HAS BEEN ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES; OR (B) ANY DIRECT DAMAGES IN EXCESS OF THE AGGREGATE AMOUNTS PAID BY SQUARE AND ITS AUTHORIZED PURCHASERS TO SUPPLIER HEREUNDER.

WITH THE EXCEPTION OF DAMAGES CAUSED BY BREACH OF CONFIDENTIALITY, FRAUD, OR BY INTENTIONAL OR WILLFUL MISCONDUCT, ALL DAMAGES, INCLUDING THOSE UNDER SECTION 10 (INDEMNITY), WILL BE CAPPED AT AN AMOUNT OF (A) [***] OR (B) THE AGGREGATE AMOUNTS PAID BY SQUARE AND ITS AUTHORIZED PURCHASERS TO SUPPLIER DURING THE [***] PRECEDING THE CLAIM, WHICHEREVER IS GREATER.

12. CONFIDENTIALITY

12.1. Definition. “Confidential Information” means: (a) all information related to the Development Deliverables and Products, including, without limitation, documentation, drawings, Designs and Specifications; (b) any non-public information of a Party, including, without limitation, any information relating to a Party’s technology, techniques, know-how, research, engineering, designs, finances, accounts, procurement requirements, manufacturing, customer lists, business forecasts and marketing plans; (c) any other information of a Party that is disclosed in writing and is conspicuously designated as “Confidential” at the time of disclosure as confidential or that would appear to a reasonable person in light of the circumstances surrounding its disclosure to be confidential; and (d) the specific terms and pricing set forth in this Agreement. Without limitation the foregoing, the Parties acknowledge and agree that the read head Specifications shall be deemed Square Confidential Information.

12.2. Exclusions. The obligations in Section 12.3 will not apply to the extent that any Confidential Information: (a) is or becomes generally known to the public through no fault of or breach of this Agreement by the receiving Party; (b) was rightfully in the receiving Party’s possession at the time of disclosure, without an obligation of confidentiality; (c) is independently developed by the receiving Party without use of the disclosing Party’s Confidential Information; or (d) is rightfully obtained by the receiving Party from a third party without restriction on use or disclosure.

12.3. Obligations. Neither Party will use the other Party’s Confidential Information, except as necessary for the performance of this Agreement, and will not disclose such Confidential Information to any third party, except to those of its employees, agents, Affiliates, and subcontractors that need to know such Confidential Information for the performance of this Agreement, provided that each such permitted recipient is subject to a written agreement that includes binding use and disclosure restrictions that are at least as protective as those set forth herein. Each Party will use all reasonable efforts to maintain the confidentiality of the other Party’s Confidential Information in its possession or control, but in

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no event less than the efforts that it ordinarily uses with respect to its own confidential information of similar nature and importance. The foregoing obligations will not restrict either Party from disclosing Confidential Information: (a) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the Party required to make such a disclosure gives reasonable notice to the other Party to enable it to contest such order or requirement; (b) on a confidential basis to its legal or professional financial advisors; (c) as required under applicable securities regulations; or (d) on a confidential basis to present or future providers of venture capital and/or potential private investors in or acquirees of such Party.

12.4 Additional Requirements. Without limiting Section 12.3, Supplier agrees to:

(a) maintain any Non-Public Products in a separate, dedicated, blocked-off area of Supplier’s facilities and ensure that only Authorized Individuals have access to such area;

(b) ensure that all parts of Non-Public Products are stored, manufactured and reviewed in secure rooms, and that only Authorized Individuals have access to such rooms;

(c) ensure that all materials used in connection with this Agreement are stored in a secure and protected area to successfully prevent anyone who is not an Authorized Individual from viewing any parts, systems, or plans related to Non-Public Products;

(d) provide, upon Square’s request, a separate manufacturing space, including a physical barrier around Square’s dedicated production space to keep Products out of view from the rest of the Supplier’s factory;

(e) ensure that all Square’s or an Authorized Purchaser’s business processes disclosed to Supplier are kept in strict confidence and utilized only in fulfillment of this Agreement;

(f) ensure that no name and/or code reference to the Products is in any way visible, including on hard or soft copies of any documents associated with the Product assembly or any fulfillment of this Agreement;

(g) refer to the activities contemplated under this Agreement using internally assigned code names only, with no reference to Square, or an Authorized Purchaser, or Square’s or an Authorized Purchaser’s products or business.

13. OWNERSHIP & INTELLECTUAL PROPERTY RIGHTS

13.1 Square Intellectual Property Rights. Square retains all right, title and interest in and to the Square Technology and Square Background Intellectual Property Rights. The Development Deliverables and Products are works made for hire to the extent permitted by applicable law. Square shall own all right, title, and interest in and to the Designs, Specifications, Square Tooling, Development Deliverables and Products and all Intellectual Property Rights therein, including without limitation all Square Owned Foreground Intellectual
Property Rights (but excluding any Supplier Owned Foreground Intellectual Property Rights and Supplier Background Intellectual Property Rights incorporated therein). If any of the Designs, Specifications, Square Owned Tooling, Development Deliverables, Products or any part thereof do not qualify as works made for hire, Supplier hereby irrevocably transfers and assigns to Square, and agrees to transfer and assign to Square in the future, all right, title and interest that Supplier may at any time have or acquire in or to the foregoing and any Intellectual Property Rights therein, including without limitation any Square Owned Foreground Intellectual Property (but excluding any Supplier Owned Foreground Intellectual Property Rights and Supplier Background Intellectual Property Rights incorporated therein). Supplier agrees to execute any documents reasonably requested by Square to enable Square to secure, register or enforce any Intellectual Property Rights in the foregoing, including without limitation any Square Owned Foreground Intellectual Property Rights.

13.2. **Supplier Intellectual Property Rights.** Supplier retains all right, title and interest in and to the Supplier Background Intellectual Property Rights. Supplier shall own all right, title and interest in and to the Supplier Owned Foreground Intellectual Property Rights.

13.3. **Square License to Supplier.** Subject to the terms and conditions of this Agreement, Square hereby grants Supplier a limited, non-exclusive, non-transferable, royalty-free license, without the right to sublicense (except as expressly permitted pursuant to Section 15.1), during the term of this Agreement to use the Square Technology, Square Background Intellectual Property Rights, and Square Owned Foreground Intellectual Property Rights solely internally to perform its obligations under this Agreement. Without limiting the foregoing, Supplier agrees that it shall not (a) develop, distribute, license, sell, or otherwise transfer the Square Owned Foreground Intellectual Property Rights to any third parties, or (b) use the Square Owned Foreground Intellectual Property Rights for the benefit of any other customer, licensee, or other third party.

13.4. **Supplier License to Square.** Subject to the terms and conditions of this Agreement, Supplier hereby grants to Square a worldwide, non-exclusive, transferable, royalty-free, sublicensable, perpetual, irrevocable license under the Supplier Background Intellectual Property Rights and Supplier Owned Foreground Intellectual Property Rights to display, perform, modify, distribute, use, practice, sell, offer to sell, import, exploit, and otherwise dispose of the Development Deliverables and Products and any improved versions, evolutions, or derivatives thereof in any manner.

13.5. **Exclusive Technology.** Supplier agrees that, for [***] from the Production Date, Supplier shall not (a) develop, distribute, license, sell, or otherwise transfer any Exclusive Technology to any third parties or (b) use the Exclusive Technology for the benefit of any other customer, licensee, or other third party. In the event that Square has not placed a Purchase Order for Supplier to start production of the Product within [***] of the Qualification Date, and Square’s failure to place such Purchase Order is due to market dynamics and demand uncertainty, the restrictions in this Section 13.6 will not apply unless otherwise mutually agreed. If Square has either, in Square sole discretion, (1)(A) ordered and taken delivery of at least [***] units of Product during the [***] following the Production Date and (B) agreed to order at least [***] units of Product during the year after the year following the Production Date, or (2)(A)

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agreed to pay Supplier an amount equal to the cost per unit of Product minus profit multiplied by [***] units (paid in quarterly installments), and (B) agreed to order at least [***] of Product during the year after year following the Production Date, the restriction in the foregoing sentence will continue for [***] year. In the event Square does not fulfill the conditions set forth in the foregoing clauses (1) or (2), the exclusivity period will not continue for [***] year.

13.6. Right of First Refusal. During the Term of this Agreement, if Supplier develops any technology or intellectual property rights outside the scope of this Agreement associated with a read head that is less than [***] and can be used in payment card products or related technology, Square will have right of first offer and refusal to enter into a mutual agreement with Supplier with respect to such technology and intellectual property rights. In accordance with this right of first offer and refusal, Supplier will notify Square of an opportunity to develop a read head that is less than [***] (on the same material terms set forth in this Agreement) and Square will have [***] to accept such opportunity. If Square does not accept the opportunity within [***] following notification, Supplier may enter into such opportunity with a third party. For clarity, if a third party requests Supplier to manufacture a read head outside the scope of this Agreement, Supplier retains the ability to pursue such an opportunity so long as the opportunity does not implicate or use Square’s intellectual property.

14. TERM AND TERMINATION

14.1. Term. This Agreement will commence on the Effective Date and will continue in effect for an initial term of three (3) years, unless earlier terminated in accordance with the terms of this Agreement. Following such initial term, this Agreement will automatically renew for successive two (2) year renewal terms unless either Party provides the other Party with notice of non-renewal at least one hundred eighty (180) days prior to the expiration of the initial term or any renewal term.

14.2. Termination for Breach. Without prejudice to any other right or remedy that may be available to it, each Party may terminate this Agreement immediately upon written notice to the other Party if such other Party materially breaches any of its obligations hereunder and fails to cure such breach within a period of thirty (30) days following receipt of written notice of such breach from the terminating Party.

14.3. Termination for Convenience. Square may terminate this Agreement for convenience upon [***] prior written notice to Supplier. Notwithstanding termination under this Section, Square agrees to compensate Supplier according to the liability schedule in the applicable SOW.

14.4. Termination for Financial Reasons. Either Party terminate this Agreement in the event the other Party: (a) seeks the liquidation, reorganization, dissolution or winding up of itself or the composition or readjustment of all or substantially all of its debts; (b) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or substantially all of its assets; (c) makes a general assignment for the benefit of its creditors; (d) commences against itself a case under the U.S. bankruptcy code; or (e) files a petition for relief or otherwise seeks relief from or readjustment of its debts under any other law relating to bankruptcy, insolvency, reorganization, winding-up or composition or readjustment of debts (including, without limitation, consenting to the entry of an order for relief in an involuntary bankruptcy case against it).

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14.5. **Effect of Termination.**

(a) Unless otherwise specified by Square in writing, upon any termination or expiration of this Agreement, Supplier will continue to process and deliver to Square (or to such other location as indicated on any applicable Purchase Order) any Products ordered pursuant to Purchase Orders transmitted by Square prior to the effective date of any such termination or expiration, except in the case of non-payment by Square where such payment is undisputed and delinquent by more than 90 days and Supplier has given Square 30 days notice of its intent to stop processing and delivering Products.

(b) Upon termination or expiration of this Agreement, other than as a result of a material breach by Supplier, Square will pay Supplier in accordance with the terms of this Agreement for any Products ordered prior to such termination or expiration.

14.6. **Survival.** The following provisions will survive termination or expiration of this Agreement for any reason: Sections 1 and 6 through 15 as well as any other provisions which should be reasonably understood by their terms as intended to survive termination or expiration.

15. **GENERAL**

15.1. **Subcontracting.** Supplier may use third party contractors that have been pre-approved by Square for particular services or materials (“Subcontractors”) that will be obligated to comply with the terms of this Agreement and Supplier will remain responsible for such Subcontractors’ performance. In the event that Supplier seeks to change a third party service or material used for the Product, Supplier must first receive Square’s written approval. Supplier’s use of any Subcontractor will not be deemed a waiver of any rights of Square hereunder nor relieve Supplier of any of its obligations pursuant to this Agreement. Supplier will enter into a written agreement with each Subcontractor that includes terms and conditions no less protective of Square’s proprietary and intellectual property rights than those set forth in this Agreement prior to Supplier permitting any such Subcontractor to perform any obligation hereunder. Supplier will be solely responsible for the payment of all amounts payable to, and the performance of all of Supplier’s obligations for, all such Subcontractors.

15.2. **No Exclusivity.** This Agreement is non-exclusive. Square will have the right to use and share with third parties the Specifications for building future read heads. Nothing in this Agreement will be construed or deemed to prevent or otherwise inhibit Square’s ability or right to manufacture the Products, whether at Square’s facility or at an alternate or additional third party facility(ies) of Square’s choice. Further, nothing in this Agreement will be construed or deemed to (a) require Square to order any minimum number of units of the Products to be manufactured by Supplier, or (b) prevent or otherwise inhibit Square’s ability or right to design, develop, manufacture, have manufactured, market, use, sell, or distribute any products similar to or derivative of the Products.

15.3. **Assignment.** Neither Party may assign or transfer this Agreement, in whole or in part, by operation of law or otherwise, without the prior written consent of the other Party except that no consent will be required for (a) Square’s assignment of this Agreement in whole or in part to any Affiliates of Square or (b) a Party’s assignment to a surviving corporation or acquirer in connection with a merger, acquisition, corporate reorganization, or sale of all, or substantially all, of a Party’s assets. Any attempted assignment in violation of this Section will be null and void and of no force or effect. Subject to the foregoing, this Agreement will bind and inure to the benefit of each Party’s permitted successors and assigns.

15.4. **Governing Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of California, excluding that body of laws known as conflicts of law. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. All legal actions or proceedings arising out of this Agreement will be brought exclusively in the federal or state courts located in the Northern District of California and the parties hereby irrevocably consent to the personal jurisdiction and venue therein.

15.5. **Compliance with Laws.** Each Party will comply with all laws, regulations and ordinances applicable to such Party in the exercise of its rights and obligations under this Agreement.

15.6. **Severability.** If any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, then such provision will automatically be adjusted to the minimum extent necessary in order to comply with the requirements for validity or enforceability, and as so adjusted, will be deemed a provision of this Agreement as though originally included herein. In the event that the provision held invalid or unenforceable is of such a nature that it cannot be so adjusted, such provision will be deemed deleted from this Agreement as though such provision had never been included herein. In either case, the remaining provisions of this Agreement will remain in full force and effect.

15.7. **Non-Waiver.** The failure by either Party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. The waiver of any provision of this Agreement will only be effective if in writing and signed by the Party waiving such provision.

15.8. **Notices.** All notices, demands, requests and other communications required or permitted under this Agreement will be in writing and will be delivered in person, by nationally recognized courier service, by facsimile or by registered or certified mail (postage prepaid, return receipt requested) and, in all cases, will be deemed to have been duly given or made upon receipt. All such notices, demands, requests and other communications will be delivered to the Parties at the addresses set forth on the first page of this Agreement (or at such other address for a Party as will be specified by like notice).

15.9. **Relationship Between the Parties.** The relationship between the Parties will be that of independent contractors and nothing in this Agreement is intended to nor will establish any relationship of partnership, joint venture, employment, franchise, agency or other form of legal association between the Parties. Neither Party will have, nor represent to any third party that it does have, any power or authority to bind the other Party or incur any obligations on the other Party’s behalf.
15.10. **Headings; Construction.** Section headings are a matter of convenience and will not be considered part of this Agreement. This Agreement has been negotiated by the Parties, which have had reasonable access to legal counsel. This Agreement will be fairly interpreted in accordance with its terms, without any construction in favor of or against either Party as a result of having drafted any particular provision.

15.11. **Remedies.** Except as expressly set forth in this Agreement, the exercise by either Party of any of its remedies under this Agreement will be without prejudice to its other remedies under this Agreement or at law or in equity.

15.12. **Entire Agreement.** This Agreement, including its exhibits and attachments, constitutes the entire and exclusive understanding and agreement between the Parties regarding its subject matter and supersedes any and all previous understandings and agreements, whether written or oral, regarding such subject matter. Any modification or amendment of any provision of this Agreement will be effective only if in writing and signed by duly authorized representatives of both Parties.

15.13. **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.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date by their duly authorized representatives.

**SQUARE, INC.**

By: /s/ Sarah Friar  
Name: Sarah Friar  
Title: CFO  
Date: Oct 14th 2013

**TDK CORPORATION**

By: /s/ Shigenao Ishiguro  
Name: Shigenao Ishiguro  
Title: General Manager Data Storage & Thin Film Technology Components Business Group  
Date: Oct 7, 2013
Exhibit A

Initial Statement of Work

A. Description of Services and Products:

[***] as defined per Specification in Exhibit B.

B. Specification and Requirements (including qualification criteria):

[***]

C. Development Schedule:

<table>
<thead>
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<th>Development Deliverable/Milestone</th>
<th>Quantity</th>
<th>Due Date</th>
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D. Total NRE Costs and Payment Terms:

A total of [***] as follows:

[***]
[***]
[***]

Sample cost: Free of charge for quantities below [***].

E. Product Unit Cost:

<table>
<thead>
<tr>
<th>Square Part Number</th>
<th>Supplier Part Number</th>
<th>Supplier Specification Number</th>
<th>Volume Per Month</th>
<th>Price for Unit (not to exceed)</th>
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F. Order Lead Time

[***]

Flexibility table figures are dependent on Supplier’s maximum capacity, which will be discussed on a regular basis.

G. Service Unit Inventory

[***]

H. Liability Schedule

<table>
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<th>Stage</th>
<th>Cancellation Fees</th>
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Certain information in this agreement has been omitted and filed separately with the Securities and Exchange Commission. [***] indicates that text has been omitted and is the subject of a confidential treatment request.
MASTER MANUFACTURING AGREEMENT

This Master Manufacturing Agreement (this “Agreement”) is made as of June 27, 2012 (the “Effective Date”), by and between Square, Inc., a Delaware corporation with offices at 901 Mission Street, San Francisco, CA 94103 (“Customer”), and Cheng Uei Precision Industry Co., Ltd., a Taiwan corporation with offices at No. 18 Chung Shan Road, Tu Cheng District, New Taipei City 236, Taiwan, R.O.C. (“Supplier”). Customer and Supplier are each referred to as a “Party” and are collectively referred to as the “Parties.”

RECITALS

A. Supplier is in the business of manufacturing, testing, and selling certain hardware products.

B. Customer and Supplier desire to have Supplier manufacture, test, and sell to Customer certain of Supplier’s hardware products, subject to and in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

1.1. “Affiliate” means, with respect to any entity, any other entity that controls, is controlled by or is under common control with such entity, for so long as such control exists. For the purposes of this definition, the word “control” (including, with correlative meaning, the terms “controlled by” or “under the common control with”) means the actual power, either directly or indirectly through one or more intermediaries, to direct or cause the direction of the management and policies of such entity, whether by the ownership of more than fifty percent (50%) of the voting stock of such entity, or by contract or other means.

1.2. “Authorized Individuals” means Supplier’s employees specifically authorized to perform activities contemplated under this Agreement and acting within the scope of such authorization.

1.3. “Bill of Materials” means the engineering bill of materials for the Products approved by Customer.

1.4. “Customer-Owned Tooling” means all Tooling for which NRE Costs are set forth under the applicable Statement of Work.

1.5. “Customer-Provided Technology” means any specifications or technology provided by Customer to Supplier under this Agreement.
1.6. “**Deliverables**” has the meaning set forth in Section 2.1.

1.7. “**Environmental Compliance Failure**” means the failure by Supplier to comply with the environmental requirements set forth in Section 9.3 of the Agreement.

1.8. “**Excessive Failure**” means that one percent (1%) or more of any lot, batch or other separately distinguishable manufacturing run of Products delivered to Customer is found to be defective with the same or similar defects resulting from the same root cause.

1.9. “**Intellectual Property Rights**” means copyright rights (including, without limitation, the exclusive right to use, reproduce, modify, distribute, publicly display and publicly perform the copyrighted work), trademark rights (including, without limitation, trade names, trademarks, service marks, and trade dress), patent rights (including, without limitation, the exclusive right to make, use and sell), trade secrets, moral rights, right of publicity, authors’ rights, contract and licensing rights, goodwill and all other intellectual property rights as may exist now or hereafter come into existence and all renewals and extensions thereof, regardless of whether such rights arise under the law of the United States or any other state, country or jurisdiction.

1.10. “**Order Lead Time**” means the minimum amount of time (set forth in the applicable Statement of Work) between the date on which a Purchase Order is received by Supplier and the date for the delivery of the Product to the shipping location designated by Customer, as set forth in such Purchase Order.

1.11. “**Manufacturing Standards**” means the following standards: IPC-A 610, Class 2.

1.12. “**Materials Lead Time**” means the minimum amount of time for Supplier to place each respective raw material or component purchase orders as set forth in the agreement between Supplier and the applicable third-party vendor to meet original on time delivery for the Products.

1.13. “**NRE Costs**” means the out-of-pocket costs incurred by Supplier to purchase and/or manufacture Tooling as set forth in the applicable Statement of Work, without any mark-up. For clarity, no fees will be payable to Supplier for the performance of development, design or customization services under this Agreement.

1.14. “**Non-Public Products**” means any Products that have not been publicly announced by Customer.

1.15. “**Product Design**” means any design that relate to the fit, finish, appearance, or other ornamental, aesthetic, branding, or look-and-feel aspects of the Deliverables and/or Products.

1.16. “**Products**” means the products to be manufactured on the behalf of the Customer and supplied by Supplier to Customer under this Agreement as set forth in an applicable Statement of Work.

1.17. “**Purchase Orders**” means purchase orders issued by Customer to Supplier in accordance with the terms of this Agreement.

1.19. “Safety Risk” means a risk of bodily injury or property damage.

1.20. “Service Units” means replacements, spare parts and service modules for Products.

1.21. “Specifications” means written specifications, as referenced in or created pursuant to an applicable Statement of Work (and as may be modified from time to time in accordance with this Agreement), that describe the design, functionality and/or performance requirements for a Product.

1.22. “Statement of Work” means a written statement of work, mutually agreed upon and executed by the Parties, that: (i) specifically references this Agreement; (ii) identifies the particular design, development, and/or customization services to be provided by Supplier for Customer in relation to a given Product; (iii) sets forth the manufacturing schedule and other pertinent details substantially in the form set forth in Exhibit A.

1.23. “Supplier-Controlled Components” means components (i) uniquely designed by Supplier, (ii) sourced through Supplier’s authorized vendor list, (iii) added to the Bill of Materials by Supplier and/or (iv) Manufacturing-Value Added (MVA) components.

1.24. “Supplier-Provided Technology” means (i) any component or technology incorporated by or on behalf of Supplier into the Deliverables or Products that is not supplied or approved by Customer, and (ii) any manufacturing process used by or on behalf of Supplier to manufacture Deliverables or Products.

1.25. “Tooling” any tooling and equipment used by Supplier to develop or manufacture the Product.

1.26. “Warranty Period” means a period of [***] from the date the Products are manufactured unless otherwise agreed in writing by both Parties in the Statement of Work, Purchase Order and/or other document mutually agreed in writing by the Parties.


2. PRODUCT

2.1. Products and Deliverables. Supplier will manufacture Products in accordance with Customer’s Specifications and provide related services, including prototype manufacturing, testing, and regulatory certification) for the Products, all as set forth in the applicable Statement of Work. With respect to each Product, Supplier shall provide to Customer prototypes and/or samples or other deliverables conforming to the Specifications in accordance with the applicable Statement of Work (collectively “Deliverables”). Customer shall issue a Purchase Order to Supplier for a quantity of Deliverables to be agreed by the Parties.

2.2. Delivery. Supplier shall deliver Deliverables to Customer in accordance with the applicable Statement of Work. Customer will be entitled to a reasonable time agreed by the parties to inspect Deliverables furnished in connection with Supplier’s services prior to accepting or rejecting the same. Deliverables will not be considered accepted until accepted by Customer in writing. In the event that Deliverables are not functional despite being manufactured by Supplier in accordance with

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Specifications, Customer shall be responsible for the cost to modify the Specifications and for all costs of retooling and re-manufacturing such Deliverables, provided that Supplier shall provide a detailed estimate of the foregoing costs, which shall be subject to Customer’s written approval. In the event that Deliverables are not in conformity with the Specifications to which they relate, Supplier shall rework such Deliverables to conform to the Specifications and resubmit them to Customer within the agreed time frame.

2.3. Tooling Use and Care. Without Customer’s prior written consent, Supplier shall not at any time use any Customer-Owned Tooling for the production of goods or products or the performance of services for or on behalf of any third party or for any purposes other than the performance of services for manufacture of Products for Customer pursuant to this Agreement Supplier will be responsible for routine maintenance of and any loss of or damage to Customer-Owned Tooling while on Supplier’s premises or in its control and will provide all necessary calibration services for such Customer-Owned Tooling. Customer shall be responsible for insurance, repair or extraordinary costs of maintenance of the Customer-Owned Tooling. Upon Customer’s request (during or after the term of this Agreement) and at Customer’s sole expense, Supplier will cooperate with Customer in all ways reasonably necessary to facilitate the Customer-directed destruction, delivery, or other disposition of any Customer-Owned Tooling under this Agreement.

2.4. Changes. The Statements of Work, Specifications, and Product Design are subject to modification only upon written agreement between the Parties. Without limiting the foregoing, Supplier must receive the written approval of Customer’s authorized representative before making any change that affects the fit, finish, appearance, function, quality, safety or manufacturing location of the Product or of any component, part or accessory. If Customer requests any change to a Statement of Work, Specification, and/or Product Design, Supplier will promptly inform Customer of any price or schedule impacts associated with the proposed change. Once a proposed change is approved by both Parties in writing, a written document updating the affected Statement of Work, Specifications and/or Product Design to reflect the approved change shall be exchanged by the Parties.

2.5. Inspection. Customer shall have the right, upon reasonable advance notice, during normal business hours to inspect, review, and monitor the services to be provided by Supplier under this Agreement and any completed Products, work in progress Products, Product components, other deliverables, manufacturing logs and records, and/or Supplier’s testing of Products, provided that such inspection shall not unreasonably disrupt Supplier’s normal business operations.

2.6. Project Managers. Each party shall designate one project manager for each Statement of Work, who shall be responsible for providing decisions relating to such Statement of Work, as well as communicating to each other technical and operational issues regarding the Services.

3. SUPPLY

3.1. General. Subject to the terms and conditions of this Agreement, upon successful completion by Supplier of the services contemplated in the Statement of Work and Supplier’s qualification in accordance with the criteria, as set forth in the applicable Statement of Work, Customer will issue Purchase Orders for Products, Supplier shall manufacture Products in accordance with the Specifications and Manufacturing Standards and supply Customer with such Products, and Customer will purchase Products ordered pursuant to Purchase Orders placed from time to time.

3.2. Procurement. Supplier will manage all material procurement and production planning, including, without limitation, support of procurement for development builds, and will be responsible for placing purchase orders for third-party components in a timely manner.
4. ORDERING TERMS

4.1. **Submission of Purchase Orders.** Customer may order Products by submitting Purchase Orders to Supplier in writing or through electronic transmission. Customer shall not submit a Purchase Order that is inconsistent with the Order Lead Times. Customer’s Purchase Order shall serve as authorization to Supplier to procure materials, manufacture Product and deliver Product.

4.2. **Acceptance of Purchase Orders.** Upon receipt of Customer’s Purchase Orders, Supplier will accept within [***] of receipt all Purchase Orders submitted by Customer that are consistent with the Order Lead Times and the pricing terms set forth in the applicable quotation or Statement of Work.

4.3. **No Conflicting Terms.** Except for ordering information and any Specifications referred to or incorporated into a Purchase Order, any terms and conditions contained in a Purchase Order or in Supplier’s quotation or order acknowledgment forms that are inconsistent with or in addition to the terms and conditions of this Agreement are hereby rejected by Supplier and will be deemed null and of no effect and the terms and conditions of this Agreement shall control.

4.4. **Cancellation and Rescheduling.** Customer may cancel or change the scheduled delivery date of any accepted Purchase Order as follows:

   (a) **Outside of the Order Lead Time,** Customer may cancel a Purchase Order or change the scheduled delivery date at any time at no cost. For clarity, the Order Lead Time shall not be extended if the delivery of Products is rescheduled as a result of a force majeure event affecting Supplier that is excusable pursuant to Section 15.13.

   (b) **Within the Order Lead Time,** Customer may cancel a Purchase Order or change the scheduled delivery date at any time, provided that, if such cancellation is within the manufacturing and Materials Lead Time and results in Supplier having excess materials, Supplier will present the issue to Customer management for amicable solution, and Customer will be responsible for paying for finished Products (excluding profits), work in progress, and raw materials purchased by Supplier no earlier than required by applicable Order Lead Time to fulfill the cancelled Purchase Order that Supplier cannot, using best efforts, cancel, return for credit, use as Service Units, sell or otherwise use.

4.5. **Supply Constraint.** If Supplier’s ability to supply Products in accordance with the then current Forecast is constrained for any reason, Supplier agrees that it will (i) fulfill Customer’s Purchase Orders on at least a pro rata basis of the constrained material or resource, and provided that any labor, factory space, capacity and general equipment previously committed to meet the then current Forecast shall be utilized to fulfill Customer’s Purchase Orders prior to fulfilling orders for other customers, and (ii) immediately escalate the issue to both parties’ management for the purpose of resolving the supply constraint.

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5. FORECASTS

5.1. **Rolling Forecast.** Customer will provide Supplier with a rolling [***] forecast of its anticipated orders for each Product (each a “Forecast”). Customer and Supplier acknowledge and agree that: (a) each such Forecast is a good faith estimate of its anticipated orders for Products based on information then available to Customer and that Customer is providing such Forecasts only as an accommodation to Supplier; and (b) Forecasts do not constitute a binding order or commitment of any kind by Customer to purchase Products.

5.2. **Capacity Flexibility.** Supplier will, at all times, maintain sufficient manufacturing capacity to be able to meet up to a [***] increase in Customer’s demand for the Products over the quantities stated in Customer’s most recent forecast.

6. PRODUCT DELIVERY

6.1. **Shipping Requirements.** Unless otherwise expressly specified in a Purchase Order by Customer, Supplier will ensure that the Products are packaged in a manner that is: (a) in accordance with good commercial practice; (b) acceptable to common carriers for shipment; and (c) adequate to ensure safe arrival of the Products at the delivery location designated in the applicable Purchase Order. Supplier will mark all containers and packaging with commercially standard lifting, handling and shipping information. Each shipment will be accompanied by a packing slip that sets forth the part numbers and quantities and the applicable Purchase Order number(s).

6.2. **Shipment of Products.** Supplier will ship the Products FCA Hong Kong (Incoterms 2010) unless otherwise agreed upon in an applicable Statement of Work. In addition to Supplier’s obligations under Section 6.1, Supplier will be responsible for arranging all necessary transportation, packaging, insurance, and customs clearance and export documentation, as applicable, and for pre-payment of all costs and charges related thereto (collectively, “Shipping Costs”). Supplier will bear all risk of loss or damage to the Products and will retain title to the Products until the Products are delivered to the delivery location designated in the applicable Purchase Order.

6.3. **Acceptance.** Customer will have a period of [***] following delivery of the Products in accordance with Section 6.2 to notify Supplier of any discrepancies in the shipment quantity. Customer will have a period of [***] following delivery of the Products in accordance with Section 6.2 to test and inspect the Products and to notify Supplier of: (a) any nonconformities of the Product with the applicable Specifications; or (b) any defects in material or workmanship. Customer will notify Supplier in writing of its acceptance or rejection of any portion of any delivery of the Products prior to the expiration of such [***].

6.4. **Delay in Shipment.** The Parties acknowledge and agree that failure to meet the schedule specified in any Statement of Work or Purchase Order may cause substantial financial loss to Customer. Supplier will promptly notify Customer in writing of any anticipated delay in meeting the

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delivery dates specified in the applicable Statement of Work or Purchase Order stating the reasons for the delay. In the event that Supplier has not delivered the Products more than [***] after such delivery dates then, without limiting Customer’s remedies under this Agreement or otherwise, Customer may, in addition to other remedies available to Customer under this Agreement or applicable laws, cancel the Purchase Order and procure substitute products and receive from Supplier payment equal to the difference between the purchase price of the applicable Products and the purchase price of the substitute products. Any amounts due shall be, at Customer’s election, either (i) credited to Customer against any outstanding or future purchase orders hereunder or (ii) paid by Supplier to Purchaser within [***] of issuance of an invoice from Customer.

6.5. Liquidated Damages. In addition to other remedies available to Customer under this Agreement or applicable laws, in case of Supplier’s failure to deliver Products for more than [***] after the delivery date specified in the applicable Purchaser Order Supplier shall pay to Customer, as liquidated damages and not as a penalty, an amount equal to [***] of the purchase price of the affected Products for each week of delay, provided that in each case of delay such liquidated damages shall not in the aggregate exceed [***] of the purchase price of the affected Products.

6.6. Product Returns. If Customer rejects a delivery of Products pursuant to the acceptance provisions of Section 6.3 or if Customer desires to return a Product to Supplier pursuant to the warranty provisions of Section 9.2, then Customer will, in each instance, first obtain a Return Material Authorization (“RMA”) number from Supplier and will use reasonable efforts to return such Products to Supplier in accordance with the terms and conditions of Supplier’s RMA procedure. Supplier will be responsible for and will pay all Shipping Costs incurred by Customer in connection with shipping such Products to Supplier and as well as for any Shipping Costs for shipping replacement Products to Customer, unless Supplier can demonstrate to Customer that the Products returned to Supplier do not exhibit any nonconformities or defects caused by Supplier.

7. PRICING AND PAYMENT TERMS

7.1. Prices and Fees.

(a) Customer will pay for Deliverables in accordance to an applicable Statement of Work at a price not to exceed [***] of the mass production price set forth in the quotation price provided by Supplier.

(b) Customer will pay the NRE Costs as set forth in the applicable Statement of Work.

(c) Customer will pay for Products according to the unit price set forth in the applicable Statement of Work.

(d) Except for amounts due pursuant to a Purchase Order or Statement of Work, Customer will not be responsible for any costs in connection with the ordering and purchase of any Deliverables or Products.

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7.2. Payment Terms.

(a) For all Product delivered under this Agreement, Supplier will issue an invoice to Customer on the date that Supplier ships the Products to Customer and, unless Customer rightfully rejects a shipment of the Products (or a portion of a shipment) in accordance with the provisions of Section 6.3, Customer will pay such invoices within [***] following Customer’s receipt thereof.

(b) Payment terms for any NRE Costs will be as set forth the applicable Statement of Work; provided that if the Statement of Work does not specify applicable payment terms, such amounts will be due [***] following Customer’s receipt of Supplier’s applicable invoice, which invoice will not be issued until completion of the Deliverable or other milestone or task associated with such fees.

7.3. Quality. Supplier shall manufacture Products at an outgoing quality level of [***], and at an annualized failure rate of less than [***]. Supplier shall also work toward zero defects through continuous process improvement.

7.4. Most Favored Customer Pricing Warranty. Supplier represents and warrants to Customer that the prices for the Products are and will at all times be no higher than the lowest prices offered by Supplier to any customer worldwide that is purchasing similar products in similar quantities (the “Lowest Product Price”). During the term of this Agreement and for a period of [***] thereafter, Customer will have the right, upon reasonable prior written notice, to have an independent auditor reasonably approved by Supplier audit Supplier’s applicable books and records as necessary to verify Supplier’s compliance with this Section 7.4. If such an audit reveals that Supplier has not complied with the foregoing warranty, then, at Customer’s option, Supplier will either: (a) promptly issue a credit to Customer applicable to future payment obligations of Customer (or, at Customer’s option, future payment obligations of a Customer Nominee); or (b) issue a refund to Customer. In either case, the amount will be calculated as the difference between the price paid by Customer for a Product and the Lowest Product Price. If such audit reveals that Supplier’s pricing to Customer for a Product has been more than [***] higher than the Lowest Product Price for such Product, then Supplier will also reimburse Customer for all reasonable out-of-pocket fees and expenses of such audit.

7.5. Taxes. Customer will pay all taxes and duties that are assessed by any national, federal, state or local governmental authority on Customer’s purchase or use of the Products, including, without limitation, sales, use, excise, value-added and withholding taxes, but excluding any taxes based on Supplier’s income or gross receipts (collectively, “Taxes”). Notwithstanding the foregoing, Customer will have no obligation to pay any such Taxes to the extent Customer timely provides Supplier with a valid tax exemption resale certificate or other similar document.

7.6. Cost Reporting. Supplier shall provide to Customer a quarterly cost report which complies with the following requirements: (a) fully indented and costed Bill of Materials, (b) forecast costing on a rolling 3-month basis including all cost reduction opportunities, and (c) reference multiple sourcing and percent mix of use, as applicable.

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7.7. **Price Adjustment.** Supplier shall make best effort to reduce the cost of Supplier-Controlled Components and manufacturing value each [***] and will pass the same amount of achieved reduction in the price of Products unit cost on a [***]. The Parties shall meet on a quarterly basis to review and discuss in good faith overall Product pricing.

7.8. **Audit.** Customer will be entitled, upon reasonable advance notice to Supplier, to audit Supplier’s books of account, bills of materials, and other applicable records as they relate to Customer’s Products under this Agreement to verify the accuracy of any cost or pricing information supplied or amounts charged by Supplier under this Agreement. Customer will keep such information in confidence and use it only for purposes of verifying compliance with this Agreement.

8. **WARRANTY**

8.1. **Supplier Representations and Warranties.** Supplier represents and warrants that:

(a) Supplier has the complete power and authority to enter into this Agreement, to carry out its obligations under this Agreement, and to grant the rights and licenses granted to Customer under this Agreement;

(b) on the date delivered to Customer, the Products (including any replacement Products delivered to Customer pursuant to Section 8.2) will be new;

(c) on the date delivered to Customer, Customer will acquire good title to the Products, free and clear of all security interests, liens and other encumbrances;

(d) the Supplier-Provided Technology does not and will not infringe, misappropriate or violate the intellectual property rights or proprietary rights of any third party;

(e) for the Warranty Period, the Products will be free from defects in materials or workmanship and will operate in accordance with the Specifications; and

(f) the Products are and will be safe for normal use, are non-toxic, present no abnormal hazards to persons or their environment, comply with all applicable laws and regulations and may be disposed of as normal refuse without special precautions.

The representations and warranties set forth in this Section 8.1 will survive inspection, acceptance and payment. The representations and warranties set forth above are exclusive and Supplier hereby disclaims all other warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose. The warranties contained in Sec. 8.1 are given only to Customer and Supplier makes no written or other warranty whatsoever other than as specifically provided herein.

8.2. **Remedies.** If any Products fail to conform to Supplier’s representations and warranties set forth in Sections 8.1(c) or (1), then Supplier will, at its expense, repair or replace such nonconforming Products. If Supplier is not able to repair or replace such nonconforming Products within a reasonable period of time, Supplier shall refund to Customer any amounts paid for such nonconforming Products. Replacement Products supplied by Supplier under this Section 8.2 will be warranted for the period of time remaining in the original warranty for the Product, but not less than one (1) year. The return provisions of Section 6.6 will apply to Customer’s return of nonconforming Products to Supplier under this Section 8.2.

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8.3. After Warranty Services.

(a) Service Units Inventory. Supplier will maintain an inventory of Service Units in accordance with the Service Unit inventory requirements set forth in document(s), if any, referenced in applicable Statement of Work.

(b) Service Units Availability. Supplier will accept and fulfill Purchase Orders for Service Units in accordance with the terms of this Agreement for five (5) years after the last purchase of a unit of the applicable Product under this Agreement (the “Initial Post-Warranty Period”), and Supplier agrees to maintain an adequate stock of Service Units, equipment and materials needed to produce Service Units throughout the Initial Post-Warranty Period; provided, that prior to the expiration of the Initial Post-Warranty Period, Customer and Supplier shall negotiate in good faith for Supplier to provide additional Service Units to meet the forecasted demand for two (2) additional years following the Initial Post-Warranty Period. The terms and conditions of this Agreement will govern all purchases of Service Units, and the price of a Service Unit (including packaging and handling fees) shall be provided to Customer in Supplier’s quotation for Service Units. In no event will there will be minimum order quantities for Service Units.

(c) Repairs. If Customer requests, and to the extent reasonable possible, Supplier will repair Products not covered by warranty on competitive terms and conditions.

8.4. Customer Representations and Warranties. Customer hereby represents and warrants that:

(a) Customer has the complete power and authority to enter into this Agreement, to carry out its obligations under this Agreement, and to grant the rights and licenses granted to Supplier under this Agreement;

(b) the Customer-Provided Technology incorporated into the Products upon Customer’s request will not infringe, misappropriate or violate the intellectual property rights or proprietary rights of any third party.

9. QUALITY AND SAFETY REQUIREMENTS

9.1. Requirements and Qualifications. Supplier will comply with the quality, safety and regulatory requirements as set forth in the applicable Statement of Work, or in the absence of such requirements, with good commercial practice and applicable law.

9.2. Testing Requirements. Supplier will test the Deliverables and the Products in accordance with the testing requirements as set forth in the applicable Statement of Work, or in the absence of such testing requirements, in a manner sufficient to confirm conformance with all applicable Specifications. Upon Customer’s request, Supplier will provide and ship Deliverables and Products to Customer to be used for testing.

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9.3. **Environmental Compliance.** Supplier will, with respect to the provision of Deliverables and Products, and all related processes and materials used in connection therewith, including packaging, comply with: (i) all applicable laws and regulations governing the use, declaration, preparation and marketing of hazardous substances and energy consumption efficiency, including, without limitation, the requirements set forth under the ROHS and WEEE Directives and related national legislation, to the extent applicable to the manufacturing of the Products, and (ii) any additional requirements set forth in the applicable Statement of Work.

9.4. **Excessive Failure, Environmental Compliance Failure and Safety Risk.**

(a) Supplier must notify Customer immediately if it has reason to believe that the Products provided under this Agreement may (i) produce an Excessive Failure; (ii) produce an Environmental Compliance Failure; or (iii) present a Safety Risk.

(b) If there is an Excessive Failure, an Environmental Compliance Failure, or the Products present a Safety Risk, Supplier will:

   (i) Promptly (A) dedicate sufficient resources to thoroughly investigate the cause of the defect; (B) perform root cause analysis; and (C) implement any necessary corrective action in consultation with Customer;

   (ii) (A) Reimburse Customer for all actual related expenses incurred to respond to such Excessive Failure, Environmental Compliance Failure, or Safety Risk, including the expenses incurred to diagnose any defect, develop tests and remedies for any defects, and perform testing; and (B) promptly respond to Customer inquiries and complaints

   (iii) Upon Customer’s request, promptly repair and/or replace the affected Products, whether or not the applicable Warranty Period has expired.

(c) **Exceptions.** Supplier will not be liable under this Section 9.4 for an Excessive Failure or a Safety Risk to the extent (i) the Excessive Failure or Safety Risk is primarily attributable to hardware or software designed by Customer that could not reasonably have been implemented by Supplier in a way that would have avoided the Excessive Failure or the Safety Risk; (ii) the Products were in compliance with Specifications finalized in whole and exclusively by Customer without any Supplier feedback, gross negligence, or willful misconduct or (iii) the Products were subjected to abuse, misuse, negligence, accident, tampering or faulty repair after transfer of title to an authorized purchaser. Customer’s approval or acceptance of Products will not relieve Supplier of the remedies set forth in this Section 9.4.

(d) **Tracking.** Supplier must track the date Products are produced and make such information available to Customer upon Customer’s request during the term of this Agreement and for five years after the Products are delivered.

(e) **Costs.** Except for amounts due pursuant to a Purchase Order or Statement of Work, Customer will not be responsible for any costs in connection with Supplier’s obligations in this Section 9.
10. INDEMNITY


(a) Supplier will, at its expense, indemnify, defend (or settle) and hold harmless Customer, and its officers, directors, agents and Affiliates (collectively, the “Customer indemnitees”) from and against any and all loss, damage, cost, liability, and expense (including reasonable fees for attorneys and other experts), as incurred, arising out of or resulting from any suit, action, claim or proceeding (each a “Claim”) brought by a third party against any Customer indemnitees alleging that: (a) any Supplier-Provided Technology infringes, misappropriates or violates any third-party Intellectual Property Rights; (b) the use of any Product results in personal injury, death or tangible or real property damage or loss of use therefrom, including, without limitation, any Claim that alleges a defect in the testing or manufacture of a Product, regardless of the legal or statutory basis of the Claim, and (c) any breach by Supplier of its obligations, representations and warranties under this Agreement. Customer agrees to: (i) promptly notify Supplier in writing of any such Claim; (ii) provide Supplier, at Supplier’s expense, any assistance reasonably requested by Supplier and necessary for the defense or settlement of such Claim; and (iii) allow Supplier to direct and control the defense or settlement of such Claim, provided, however, that Customer reserves the right to retain counsel to participate in any Claim for which indemnification is sought, at Customer’s expense.

(b) If an injunction is issued that limits or prohibits a Customer Indemnitee’s right to use or sell a Product or, if in Supplier’s reasonable opinion, such an injunction is likely to be issued, then Supplier will, at its expense, either: (a) procure for the Customer Indemnitee the right to continue to use and sell Product; (b) replace or modify such Product so that it becomes non-infringing, provided that such modification or replacement does not alter or affect the functionality, use or operation of such Product or the conformity of the Product with the applicable Specifications; or (c) if the alternatives set forth in (a) and (b) are not commercially feasible, refund to Customer any amounts paid for such Product pursuant to this Agreement upon Customer’s return of such Product to Supplier.

10.2. Supplier Indemnity.

(a) Customer will, at its expense, indemnify, defend (or settle) and hold harmless Supplier, and its officers, directors, agents and Affiliates (collectively, the “Supplier Indemnitees”) from any Claims brought by a third party against any Supplier Indemnitees alleging that any Customer-Provided Technology incorporated into the Products upon Customer’s request infringe, misappropriate or violate any third-party Intellectual Property Rights. Supplier agrees to: (a) promptly notify Customer in writing of any such Claim; (b) provide Customer, at Customer’s expense, any assistance reasonably requested by Customer and necessary for the defense or settlement of such Claim; and (c) allow Customer to direct and control the defense or settlement of such Claim, provided, however, that Supplier reserves the right to retain counsel to participate in any Claim for which indemnification is sought, at Supplier’s expense.

(b) If Customer has any reason to believe that Customer-Incorporated technology may infringe, misappropriate or violate any third-party Intellectual Property Rights, then Customer shall so notify Supplier, and Supplier shall, upon receipt of such notice, immediately cease incorporating the Customer-Incorporated Technology into the Products and cooperate with Customer to identify a workable design-around or other solution acceptable to Customer.
10.3. Exceptions

The indemnification obligations set forth in Section 10.1(a) shall not apply to liability arising under Section 9.4(c), and Customer shall in accordance with Customer’s obligations under Section 10.2(a) defend, hold harmless and indemnify Supplier against any claims arising from Sections 9.4(c)

11. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT AND EXCEPT FOR LIABILITY ARISING UNDER SECTION 9.4 (EXCESSIVE FAILURE, ENVIRONMENTAL COMPLIANCE FAILURE AND SAFETY RISK), SECTION 10 (INDEMNITY), A BREACH BY EITHER PARTY OF SECTION 12 (CONFIDENTIALITY), SUPPLIER’S FAILURE TO DELIVER PRODUCTS AS DESCRIBED IN SECTION 6.5, ABOVE, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOST PROFITS ARISING OUT OF THE USE OR PERFORMANCE OF THE PRODUCTS, EVEN IF SUCH PARTY HAS BEEN ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES.

12. CONFIDENTIALITY

12.1. Definition. “Confidential Information” means: (a) all information related to the Products, including, without limitation, documentation, drawings, designs and specifications; (b) any non-public information of a Party, including, without limitation, any information relating to a Party’s technology, techniques, know-how, research, engineering, designs, finances, accounts, procurement requirements, manufacturing, customer lists, business forecasts and marketing plans; (c) any other information of a Party that is disclosed in writing and is conspicuously designated as “Confidential” at the time of disclosure or that is disclosed orally or visually, is identified as “Confidential” at the time of disclosure, and is summarized in a writing sent by the disclosing Party to the receiving Party within thirty (30) days of any such disclosure; and (d) the specific terms and pricing set forth in this Agreement.

12.2. Exclusions. The obligations in Section 12.3 will not apply to the extent that any Confidential Information: (a) is or becomes generally known to the public through no fault of or breach of this Agreement by the receiving Party; (b) was rightfully in the receiving Party’s possession at the time of disclosure, without an obligation of confidentiality; (c) is independently developed by the receiving Party without use of the disclosing Party’s Confidential Information; or (d) is rightfully obtained by the receiving Party from a third party without restriction on use or disclosure.

12.3. Obligations. Each Party will not use the other Party’s Confidential Information, except as necessary for the performance of this Agreement, and will not disclose such Confidential Information to any third party, except to those of its employees and subcontractors that need to know such Confidential Information for the performance of this Agreement, provided that each such employee and subcontractor is subject to a written agreement that includes binding use and disclosure restrictions that are at least as protective as those set forth herein. Each Party will use all reasonable efforts to maintain the confidentiality of the other Party’s Confidential Information in its possession or control, but in no event less than the efforts that it ordinarily uses with respect to its own confidential information of similar nature and importance. The foregoing obligations will not restrict either Party from disclosing Confidential Information: (a) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the Party required to make such a disclosure gives reasonable notice to the other Party to enable it to contest such order or requirement; (b) on a confidential basis to its legal or professional financial advisors; (c) as required under applicable securities regulations; or (d) on a confidential basis to present or future providers of venture capital and/or potential private investors in or acquirers of such Party.
12.4. Additional Requirements. Without limiting Section 12.3, Supplier agrees to:

(a) maintain any Non-Public Products in a separate, dedicated, blocked-off area of Supplier’s facilities and ensure that only Authorized Individuals have access to such area;

(b) ensure that all parts of Non-Public Products are stored, manufactured and reviewed in secure rooms, and that only Authorized Individuals have access to such rooms;

(c) ensure that all materials used in connection with this Agreement are stored in a secure and protected area to successfully prevent anyone who is not an Authorized Individual from viewing any parts, systems, or plans related to Non-Public Products;

(d) provide, upon Customer’s request, a separate manufacturing space, including a physical barrier around Customer’s dedicated production space to keep Products out of view from the rest of the Supplier’s factory;

(e) ensure that all Customer’s business processes disclosed to Supplier are kept in strict confidence and utilized only in fulfillment of this Agreement.

(f) ensure that no name and/or code reference to the Products is in any way visible, including on hard or soft copies of any documents associated with the card reader assembly.

(g) discuss the activities contemplated under this Agreement only appropriate with third parties approved in writing by Customer.

(h) not engage external vendors without written permission from Customer.

(i) refer to the activities contemplated under this Agreement using internally assigned code names only, with no reference to Customer or its products or business.

13. INTELLECTUAL PROPERTY RIGHTS

13.1. Background Technology. Subject to the licenses granted under this Section 13, each Party retains all right, title and interest, including all Intellectual Property Rights related to any technology owned and/or controlled by each party prior to the Effective Date or after the Effective Date outside of the scope of this Agreement (as to each Party, “Background Technology”).

13.2. Customer Ownership. Supplier hereby irrevocably transfers and assigns to Customer, and agrees to transfer and assign to Customer, all right, title, and interest, including all Customer-Owned Technology in or to: (i) the Product Design (and any improvements or modifications thereto); (ii) any and all Deliverables and Specifications, and (iii) any and all Customer-Owned Tooling. The items under the preceding clauses (i), (ii) and (iii) will be referred to, collectively, as “Customer-Owned Technology”. Supplier agrees to provide assistance and execute any documents reasonably requested by Customer at Customer’s cost, to enable Customer to secure, register or enforce any Intellectual Property Rights in the Customer-Owned Technology. For the avoidance of doubt, Customer-Owned Technology does not include any Intellectual Property Rights that Supplier may at any time have or acquire in or to its general know-how and manufacturing process of the Products.
13.3. **Supplier License to Customer-Owned Technology.** Subject to the terms and conditions of this Agreement, Customer hereby grants Supplier a limited, non-exclusive, non-transferable, royalty-free license, without the right to sublicense, during the term of this Agreement, to use any Customer-Owned Technology, solely internally, and solely to perform its obligations under this Agreement. Supplier agrees that it will not engage in, nor will it authorize others to engage in, the reverse engineering, disassembly or the decompilation of any Customer-Owned Technology except as required to perform its obligations under this Agreement.

13.4. **Customer License to Background Intellectual Property.** Supplier grants to Customer a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sublicenseable license under any intellectual Property Rights Supplier may have in any Background Technology to make, have made, use, sell, offer for sale, import, and otherwise exploit any Deliverables and Products that is covered by and or incorporated with such Background Technology, and any improved versions or evolutions of such Deliverables and Products. For the avoidance of doubt, Supplier’s Background Technology does not include any intellectual Property Rights that Supplier may at any time have or acquire in or to its general know-how and manufacturing process of the Products.

13.5. **Customer License to Supplier Feedback.** If Supplier provides Customer with any written ideas, suggestions, or recommendations for the modification, correction, improvement or enhancement of Products or Customer-Owned Technology including via email (collectively referred to as “Supplier Feedback”), then Supplier grants Customer a non-exclusive, worldwide, perpetual, irrevocable, royalty-free license, sublicenseable to use and disclose such Supplier Licensed Feedback in any manner Customer chooses, and to display, perform, copy, have copied, make, have made, use, sell, offer to sell, import, distribute and otherwise dispose of products embodying such Supplier Licensed feedback in any manner, but without reference to Supplier being the source of such Supplier Licensed Feedback.

14. **TERM AND TERMINATION**

14.1. **Term.** This Agreement will commence on the Effective Date and will continue in effect for an initial term of two (2) years, unless earlier terminated in accordance with the terms of this Agreement. Following such initial term, this Agreement will automatically renew for successive one (1) year renewal terms unless either Party provides the other Party with notice of non-renewal at least ninety (90) days prior to the expiration of the initial term or any renewal term.

14.2. **Termination for Cause.** Without prejudice to any other right or remedy that may be available to it, each Party may terminate this Agreement immediately upon providing written notice of breach to the other Party, if such other Party materially breaches any of its obligations hereunder in a manner that is capable of remedy, but fails to cure such breach within a period of [***] following receipt of such written notice. Notwithstanding the foregoing, any such termination shall not relieve either Party of any of its obligations under this Agreement which were incurred prior to the effective date of such termination.

*** Certain information in this agreement has been omitted and filed separately with the Securities and Exchange Commission. [***] indicates that text has been omitted and is the subject of a confidential treatment request.
14.3. **Termination for Convenience.** Customer may terminate this Agreement, for any reason or for no reason, upon [***] prior written notice to Supplier.

14.4. **Termination for Financial Reasons.** Upon [***], either Party may terminate this Agreement in the event the other Party: (a) seeks the liquidation, reorganization, dissolution or winding up of itself or the composition or readjustment of all or substantially all of its debts; (b) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or substantially all of its assets; (c) makes a general assignment for the benefit of its creditors; (d) commences or has commenced against it a case under the bankruptcy code of applicable jurisdiction; or (e) files a petition for relief or otherwise seeks relief from or readjustment of its debts under any other law relating to bankruptcy, insolvency, reorganization, winding-up or composition or readjustment of debts (including, without limitation, consenting to the entry of an order for relief in an involuntary bankruptcy case against it).

14.5. **Effect of Termination.**

(a) Unless otherwise specified by Customer in writing or terminated by Supplier in accordance with Section 14.2 and 14.4, upon termination or expiration of this Agreement for any reason, Supplier will continue to process and deliver to Customer (or to such other location as indicated on any applicable Purchase Order) any Products ordered pursuant to Purchase Orders transmitted by Customer prior to the effective date of any such termination or expiration.

(b) Upon termination or expiration of this Agreement, other than as a result of a material breach by Supplier, Customer will pay Supplier in accordance with the terms of this Agreement for any Products ordered prior to such termination or expiration and delivered in accordance with the terms of this Agreement. In addition, if termination occurs within the Materials Lead Time and results in Supplier having excess materials, Customer will be responsible for paying for work in progress, and raw materials purchased by Supplier no earlier than required by applicable Order Lead Time to fulfill the Purchase Orders outstanding as of the effective date of such termination that Supplier cannot, using best efforts, cancel, return for credit, use as Service Units, sell or otherwise use.

(c) **Survival.** The following provisions will survive termination or expiration of this Agreement for any reason: 1, 8, 10, 11, 12, 13, 14.5, 14.6, 15 and any other sections by their nature are intended to survive.

15. **GENERAL**

15.1. **Subcontracting.** With the exception of Supplier’s Affiliates who may perform Supplier’s services under this Agreement on behalf of Supplier, provided that supplier shall at all times be responsible for such affiliates’ compliance with this, Supplier agrees that no portion of the assembly of the Products will be subcontracted to third parties without Customer’s specific prior written consent in each instance. Any permitted subcontractor approved in writing by Customer (“Subcontractor”) that Supplier may use to assist Supplier will be obligated to comply with the terms of this Agreement and Supplier will remain responsible for such Subcontractors’ performance. Customer’s consent to Supplier’s use of any Subcontractor will not be deemed a waiver of any Customer rights hereunder nor relieve Supplier of any of its obligations pursuant to this Agreement. Supplier will enter into a written agreement with each approved Subcontractor that includes terms and conditions no less protective of Customer’s proprietary and intellectual property rights than those set forth in this Agreement prior to Supplier permitting any such Subcontractor to perform any obligation.

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hereunder. Supplier will be solely responsible for the payment of all amounts payable to, and the performance of all of Supplier’s obligations for, all such Subcontractors. Immediately upon request of Customer, Supplier will commence such proceedings as necessary (i.e. termination notice, request to cure default) to terminate any Subcontractor that, in Customer’s sole opinion, does not perform to the standards set forth by Customer in this Agreement.

15.2. No Exclusivity. Except as may be otherwise expressly specified in a specific Statement of Work, this Agreement is non-exclusive. Customer will have the right to use other contract manufacturers to manufacture the Products. Nothing in this Agreement will be construed or deemed to prevent or otherwise inhibit Customer’s ability or right to manufacture the Products, whether at Customer’s facility or at an alternate or additional third party facility(ies) of Customer’s choice. Further, nothing in this Agreement will be construed or deemed to (a) require Customer to order any minimum number of units of the Products to be manufactured by Supplier, or (b) prevent or otherwise inhibit Customer’s ability or right to design, develop, manufacture, have manufactured, market, use, sell, or distribute any follow-on products or derivatives of the Products.

15.3. Cumulative Remedies. Unless otherwise expressly set forth in this Agreement, the remedies set forth under this Agreement for the benefit of either Party are cumulative.

15.4. Assignment. Neither Party may assign or transfer this Agreement, in whole or in part, by operation of law or otherwise, without the prior written consent of the other Party, except that no consent will be required for an assignment in connection with a merger, acquisition, corporate reorganization, or sale of all, or substantially all, of a Party’s assets. Any attempted assignment in violation of this Section will be null and void and of no force or effect. Subject to the foregoing, this Agreement will bind and inure to the benefit of each Party’s permitted successors and assigns.

15.5. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of California, excluding that body of laws known as conflicts of law. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. All legal actions or proceedings arising out of this Agreement will be brought exclusively in the federal or state courts located in the Northern District of California and the parties hereby irrevocably consent to the personal jurisdiction and venue therein, provided that the foregoing shall not prevent either Party from seeking any available injunctive relief in any court of competent jurisdiction.

15.6. Compliance With Laws. Each Party will comply with all laws, regulations and ordinances applicable to such Party in the exercise of its rights and obligations under this Agreement.

15.7. Severability. If any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, then such provision will automatically be adjusted to the minimum extent necessary in order to comply with the requirements for validity or enforceability, and as so adjusted, will be deemed a provision of this Agreement as though originally included herein. In the event that the provision held invalid or unenforceable is of such a nature that it cannot be so adjusted, such provision will be deemed deleted from this Agreement as though such provision had never been included herein. In either case, the remaining provisions of this Agreement will remain in full force and effect.

15.8. Non-Waiver. The failure by either Party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. The waiver of any provision of this Agreement will only be effective if in writing and signed by the Party waiving such provision.
15.9. **Notices.** All notices, demands, requests and other communications required or permitted under this Agreement will be in writing and will be delivered in person, by nationally recognized courier service, by facsimile or by registered or certified mail (postage prepaid, return receipt requested) and, in all cases, will be deemed to have been duly given or made upon receipt. All such notices, demands, requests and other communications will be delivered to the Parties at the addresses set forth on the first page of this Agreement (or at such other address for a Party as will be specified by like notice). For notices sent to Supplier by Customer, in addition to the address stated on the first page of this Agreement, a copy shall be sent to the following address:

Cheng Uei Precision Industry Co. Ltd.
No. 18 Chung Shan Road
Tu-Cheng District, New Taipei City 236
Taiwan, R.O.C.
Attn: Legal Department

15.10. **Relationship Between the Parties.** The relationship between the Parties will be that of independent contractors and nothing in this Agreement is intended to nor will establish any relationship of partnership, joint venture, employment, franchise, agency or other form of legal association between the Parties. Neither Party will have, nor represent to any third party that it does have, any power or authority to bind the other Party or incur any obligations on the other Party’s behalf.

15.11. **Headings; Construction.** Section headings are a matter of convenience and will not be considered part of this Agreement. This Agreement has been negotiated by the Parties, which have had reasonable access to legal counsel. This Agreement will be fairly interpreted in accordance with its terms, without any construction in favor of or against either Party as a result of having drafted any particular provision.

15.12. **Attorneys’ Fees.** In any suit or proceeding relating to this Agreement the prevailing Party will have the right to recover from the other its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal, separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of this Agreement, and will survive and not be merged into any such judgment.

15.13. **Force Majeure.** Any delay in performance by either party hereunder may be excused to the extent caused by any event or circumstance beyond the control of said party, including, without limitation, acts of God, war, acts of terrorism or strikes affecting such party. If an event of force majeure described in this Section extends for a period in excess of thirty (30) consecutive days, either party may immediately terminate this Agreement, and any outstanding Purchase Orders, by providing the other party with written notice of such termination.

15.14. **Remedies.** Except as expressly set forth in this Agreement, the exercise by either Party of any of its remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.
15.15. **Entire Agreement**. This Agreement, including its exhibits and attachments, constitutes the entire and exclusive understanding and agreement between the Parties regarding its subject matter and supersedes any and all previous understandings and agreements, whether written or oral, regarding such subject matter. Any modification or amendment of any provision of this Agreement will be effective only if in writing and signed by duly authorized representatives of both Parties. In the event of a conflict, the terms and conditions of the Statement of Work will take precedence over the terms and conditions of this Agreement with respect to matters that are specifically addressed in the Statement of Work. In all other instances, this Agreement will take precedence.

15.16. **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.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date by their duly authorized representatives.

**SQUARE, INC.**

By: /s/ Ross W. Nadel  
Name: ROSS W. NADEL  
Title: COUNSEL  
Date: 12/6/12

**Cheng Uei Precision Industry Co., Ltd.**

By: /s/ Spencer Chiu  
Name: Spencer Chiu  
Title: President  
Date: 2012.11.20
Exhibit A

Initial Statement of Work

A. Description of Services and Products:
[ _____ ]

B. Specification and Requirements (including qualification criteria):
[ _____ ]

C. Schedule:
[ _____ ]

D. Total NRE Fees and Payment Terms:
[ _____ ]

E. Product Unit Cost and Payment Terms:
[ _____ ]

F. Components Cancellation Schedule:
[ _____ ]

G. Warranty Period:
[ _____ ]

[Additional items to be discussed]
ON SEMICONDUCTOR
ASIC DEVELOPMENT AND SUPPLY AGREEMENT

This ASIC Development and Supply Agreement (“Agreement”) is made and entered into as of the 25th day of March, 2013 (“Effective Date”) by and between Semiconductor Components Industries, LLC, a Delaware limited liability company (d/b/a ON Semiconductor) having its principal place of business at 5005 E. McDowell Road, Phoenix, Arizona 85008, U.S.A., and ON Semiconductor Trading, Ltd., a corporation organized under the laws of Bermuda and having a principal place of business at Hamma Building – 3rd Floor, 1 Lane Hill, Hamilton HM19, Bermuda, on its own behalf and on behalf of its subsidiaries and affiliates (collectively “ON SEMICONDUCTOR”, it being understood that Semiconductor Components Industries, LLC and ON Semiconductor Trading, Ltd. shall be jointly liable for compliance with this Agreement by ON SEMICONDUCTOR), and Square, Inc., a Delaware corporation having its principal place of business at 901 Mission Street, San Francisco, California, 94103 (“SQUARE”). ON SEMICONDUCTOR and SQUARE also are hereinafter referred to individually as a “Party” and collectively as the “Parties.”

For purposes of clarity, the Parties agree that Semiconductor Components Industries, LLC shall be the responsible and applicable seller for any and all bill to addresses or purchase orders for delivery to any locations in the territory of the United States or its possessions, or Mexico or Brazil (hereinafter “US Sales Locations”), and that ON Semiconductor Trading Ltd. shall be the responsible and applicable seller for any and all bill to addresses or purchase orders for delivery to any worldwide locations other than US Sales Locations.

WHEREAS, SQUARE is engaged in the business of designing, developing and manufacturing products used for electronic payments; and

WHEREAS ON SEMICONDUCTOR develops, manufactures, and sells a broad range of integrated circuits which are used in a wide variety of applications for a number of end user including industrial and consumer products; and

WHEREAS the Parties wish to define the general terms and conditions governing the development by ON SEMICONDUCTOR and SQUARE of Application Specific Integrated Circuits (“ASIC’s”) for sale to SQUARE and/or Authorized Purchaser(s) (as defined below);

NOW, THEREFORE, in consideration of the above promises and mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

ARTICLE 1: SUBJECT OF THIS AGREEMENT
These general terms and conditions shall apply to all ASIC development projects performed by ON SEMICONDUCTOR for SQUARE, subject to any variations that may be agreed upon in writing between the Parties.
ARTICLE 2: DEFINITIONS

When used in this Agreement, the following words and expressions shall have the meaning as stated below, unless the context otherwise requires:

A. “ASIC Specification” means the ASIC specification detailing functions, capabilities, and features of the Product and any expressly referenced qualifications and reliability testing requirements, and criteria identified in Exhibit A, as such specification may be amended from time to time by the Parties by mutual agreement in writing.

B. “Authorized Purchaser” means the entity authorized by SQUARE to purchase Products from ON SEMICONDUCTOR pursuant to the Exhibit D Letter of Authorization signed by SQUARE and Authorized Purchaser, provided, however, that, (i) in the event ON SEMICONDUCTOR has reasonable grounds to doubt the Authorized Purchaser’s creditworthiness, SQUARE shall, upon ON SEMICONDUCTOR’s written request, provide any documentation available to SQUARE regarding such creditworthiness and consult in good faith with ON SEMICONDUCTOR, (ii) ON SEMICONDUCTOR shall not refuse to sell Products to the Authorized Purchaser if the documentation or other information provided by SQUARE is reasonably sufficient to confirm the Authorized Purchaser’s creditworthiness; and (iii) if the Authorized Purchaser is not an ON SEMICONDUCTOR direct purchaser, ON SEMICONDUCTOR may sell Product to such Authorized Purchaser through an ON SEMICONDUCTOR distributor. Subject to limitations set forth herein, ON SEMICONDUCTOR agrees to sell Product to the Authorized Purchaser and to extend to the Authorized Purchaser the same terms and conditions for the Products as set forth in this Agreement. All Products sold to SQUARE and the Authorized Purchaser shall be aggregated by SQUARE for the purpose of determining any applicable volume discounts or commitments.

C. “Background Intellectual Property Rights” means any and all Intellectual Property Rights which (i) at [***] were owned or controlled [***] or (ii) [***] or (iii) [***].

D. “Competing Product” means any product or technology used or incorporated in a debit or credit card reader.

E. “Confidential Information” means any non-public information, whether in tangible, machine readable, or electronic form, disclosed by one Party (“Discloser”) to the other (“Recipient”), which the Discloser identifies at the time of disclosure as confidential and/or proprietary by means of a legend, marking, stamp or other notice conspicuously designating the information to be confidential and/or proprietary, or information disclosed orally or visually by a

Confidential

*** Certain information in this agreement has been omitted and filed separately with the Securities and Exchange Commission. [***] indicates that text has been omitted and is the subject of a confidential treatment request.
Party to this Agreement, where the Discloser identifies such information as confidential and/or proprietary at the time of its disclosure and, within thirty (30) days after such oral or visual disclosure, reduces the subject matter of the disclosure to a tangible or electronic form properly identified in the manner described above and submits it to the Recipient. Confidential Information includes, without limitation, this Agreement, including the exhibits hereto, and any specification, layout, design, drawing, formula, technique, algorithm, know-how, sample product, test data, information related to engineering, manufacturing, sales, marketing, management or quality control, financial information or other information related to the business operations of the Discloser (including without limitation, with respect to Square, timing and quantity of product ordering).

F. “Development Activities” means the development activities with respect to the Product set forth in the applicable SOW.

G. “Development Phase” is defined as that time before the Product Release Date.

H. “Engineering Samples” means initial pre-production samples verified to best available tests at room temperature, assembled in non-production packaging, and intended for initial evaluation purposes only.


J. “Intellectual Property Rights” or “Intellectual Property” or “IPR” means any and all intellectual property rights worldwide arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired, including without limitation (a) all present and future patents and patent applications and all reissues, divisions, renewals, extensions, continuations and continuations-in-part thereof; (b) inventions, invention disclosures, improvements, trade secrets, manufacturing processes, test and qualification processes, technical designs, compositions, formulae, models, schematics, proprietary information, know-how, technology, technical data and mask works, and all documentation relating to any of the foregoing; (c) registered and unregistered copyrights (without limitation copyright on designs, software, both source and object code, mask works, and all derivative works thereof), copyright registrations and applications therefore; (d) industrial designs and any registrations and applications therefore; and (e) any other form of intellectual property protection afforded by law which otherwise arises or is enforceable under the laws of any jurisdiction or any bi-lateral or multi-lateral treaty regime.

K. “Mask Works” means one or more series of related images however fixed or encoded (a) used during the semiconductor fabrication process, (b) having or representing the predetermined three dimensional pattern of metallic, insulating or semiconductor material present or removed from the layers of a semiconductor chip product, and (c) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product as defined by the U.S. Semiconductor Chip Protection Act of 1984.

Confidential

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L. “ON SEMICONDUCTOR Deliverables” means any Product samples, prototypes, documentation and other Confidential Information supplied by ON SEMICONDUCTOR to SQUARE pursuant to a Statement of Work.

M. “ON SEMICONDUCTOR Foreground Intellectual Property Rights” means all Intellectual Property Rights conceived, created or developed [***], within the scope of this Agreement [***].

N. “Product(s)” means an ASIC developed specifically for SQUARE, as further defined in the applicable Statement of Work and meeting the requirements of the applicable ASIC Specification.

O. “Product Release Date” means the date of SQUARE’s written approval of the Production Prototypes.

P. “Production Activities” means the activities related to the manufacturing of Production Product following the Product Release Date.

Q. “Production Product” means Product manufactured following the Product Release Date.

R. “Production Prototypes” means production samples of Product built using final production processes, assembled in final production package, verified to conform to the ASIC Specification, and subjected to final product qualification testing.

S. “Product Topography” means the final and complete integrated circuit topography of the applicable ASIC as uniquely configured to the ASIC Specification and considered as a whole. Product Topography does not include any Mask Works or IPR thereof in the proprietary standard cells, libraries, macros and/or other design data that comprise the individual elements of the integrated circuit topography.

T. “Square Deliverables” means any software, schematics, specifications, netlists, microcode, designs, or techniques and other Confidential Information supplied by SQUARE to ON SEMICONDUCTOR for use in the design of the Product or otherwise incorporated therein.

U. “Square Owned Foreground Intellectual Property Rights” means all Intellectual Property Rights conceived, created or developed solely by or on behalf (other than by ON SEMICONDUCTOR) of SQUARE, within the scope of this Agreement since [***].

V. “Statement of Work” or “SOW” means a separate document attached to this Agreement that is substantially similar to the form set forth in Exhibit B and details the specific tasks to be performed by the Parties with respect to a particular Product.

ARTICLE 3: DEVELOPMENT EFFORTS

3.1. SQUARE Deliverables. SQUARE will provide ON SEMICONDUCTOR with the Square Deliverables and all other necessary documents and information as further detailed in

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the relevant Statement of Work or applicable ASIC Specification according to the delivery schedule detailed in the relevant document. The accuracy and integrity of the SQUARE Deliverables is and remains the entire responsibility of SQUARE.

3.2. ON SEMICONDUCTOR Tasks. ON SEMICONDUCTOR shall use all commercially and technically reasonable efforts to complete the development work according to the relevant SOW and/or ASIC Specification.

3.3. SQUARE Tasks. SQUARE hereby agrees to reasonably participate in the development of the Product(s) and shall render all reasonably required assistance, skill, and support to perform its obligations under this Agreement and as stipulated in the relevant SOW.

ARTICLE 4: PROGRESS REVIEW

4.1. Progress Reports. ON SEMICONDUCTOR will send at regular intervals (not less often than every two weeks) a progress report to the SQUARE’s program manager, procurement manager, or other designee as set forth in the relevant SOW.

4.2. Progress Reviews. The Parties will hold regular progress review meetings at times and places mutually agreed upon (not less often than every two weeks) to discuss the progress and the results, as well as the ongoing plans, or changes therein, with regard to the development of the Product(s). The SOW shall identify the Project Leader (and/or Program Manager) and key designers designated by ON SEMICONDUCTOR to perform the Development Activities (collectively “Key Members”). ON SEMICONDUCTOR may not replace any of the Key Members without providing SQUARE with prior written notice.

ARTICLE 5: PAYMENT

5.1. NRE Payment. SQUARE will pay ON SEMICONDUCTOR the amount due for the development of the Product by ON SEMICONDUCTOR for SQUARE as set forth in the applicable SOW (“NRE”).

5.2. Invoices. Invoicing of the NRE shall take place in accordance with the payment schedule as detailed in the applicable SOW. All invoices are payable within thirty (30) days of the date of invoice.

ARTICLE 6: CHANGE REQUEST PROCEDURE

6.1. Changes. Either Party may from time to time, during performance hereunder, request changes in the ASIC Specification and/or SOW. Such changes shall be implemented only upon the mutual written agreement of both Parties subject to the following conditions: (i) SQUARE shall have no obligation to agree to any change request by ON SEMICONDUCTOR that SQUARE believes would adversely affect the pricing or operation of the Product in SQUARE’s application; and (ii) neither Party shall unreasonably withhold, delay or condition its approval of a technically reasonable request. Any change request once agreed to by both Parties shall be treated as an Agreement modification and the terms of the relevant document, such as the NRE, pricing or development milestone schedule, shall if necessary be adjusted to take account thereof. No ASIC Specification changes will be implemented by ON SEMICONDUCTOR except and until such ASIC Specification changes and the consequences thereof have been agreed upon in writing and accepted by the Parties.

6.2. Payment for Changes. Payment of the charges in excess of the original NRE (if applicable) occasioned by the additional development work required by such agreed-upon change shall be made by SQUARE to ON SEMICONDUCTOR according to the mutually agreed-upon payment schedule and amount set forth in a written amendment to the applicable SOW and within thirty (30) days of the date of the invoice pertaining to such additional work.
ARTICLE 7: TERM AND TERMINATION OF THIS AGREEMENT

7.1. Term. This Agreement shall enter into force on the Effective Date and shall remain in force for a period of three (3) years (“Initial Term”) and thereafter shall be automatically extended by one-year periods, unless by the end of the original or any extended term hereof, the Agreement is terminated by either Party by giving a nine (9) months written notice of termination to the other Party prior to the end of the Initial Term or the then-applicable renewal term.

7.2. SQUARE’s Termination for Convenience During Development Phase. SQUARE may terminate this Agreement and any Development Activities hereunder for convenience immediately upon written notice, provided, however, that SQUARE shall remit to ON SEMICONDUCTOR within [***] of such termination such portion of the unpaid balance of the NRE as is sufficient to encompass the work performed by ON SEMICONDUCTOR up to the date of termination, further provided that, upon receipt of SQUARE’s notice, ON SEMICONDUCTOR shall immediately cease its Development Activities and shall use commercially reasonable efforts to cancel all obligations incurred by it in connection with such Development Activities as soon as reasonably practicable. In no event shall SQUARE’s liability to ON SEMICONDUCTOR under this Article 7.2 exceed [***].

7.3. Termination During Development Phase. In the event that ON SEMICONDUCTOR identifies issues that may affect the technical feasibility of the production of the Product or determines that it cannot complete the Development Activities according to the relevant SOW, ON SEMICONDUCTOR shall promptly inform SQUARE thereof, and the Parties shall work in good faith to resolve any issues with respect to the technical feasibility of the production of the Product identified by ON SEMICONDUCTOR. If the parties are unable to resolve such issues within thirty (30) days, either Party may terminate the Agreement upon written notice to the other Party. In such case, SQUARE shall not be required to pay additional NRE to ON SEMICONDUCTOR and ON SEMICONDUCTOR shall not be required to repay any amounts to SQUARE.

7.4. Breach. Either Party shall have the right to terminate this Agreement, or any development activities hereunder for material breach of this Agreement, provided that thirty (30) days notice in writing is given to the defaulting Party and such breach has not been remedied prior to the expiration of such notice period.

7.5. Survival of Provisions. The termination or expiration of this Agreement however arising shall be without prejudice to the provisions of Article 8 (Representations and Warranties), Article 9 (Production Product Warranty), Article 10 (Quality, Safety, and Packaging Requirements), Article 11 (Indemnification), Article 12 (Limitation of Liability), Article 13 (Confidentiality), Article 14 (Ownership), and to any other express obligations in this Agreement of a continuing nature and to any right of either Party which may have accrued at or up to the date of termination.

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ARTICLE 8: REPRESENTATIONS AND WARRANTIES

8.1. General Representation. Each Party represents and warrants that: (i) it has the right to enter into this Agreement and to grant to the other Party the rights granted hereunder without breaching any other agreements to which it is a party; and (ii) it has all of the permits and approvals necessary to perform the activities contemplated under this Agreement in accordance with applicable laws.

8.2. Development Warranty. ON SEMICONDUCTOR warrants that its performance of the SOW will be performed by employees, consultants, contractors and agents of ON SEMICONDUCTOR who are skilled in their profession and in accordance with high standards of workmanship in their profession. ON SEMICONDUCTOR warrants that the Product will be developed by ON SEMICONDUCTOR in accordance with the applicable ASIC Specification and will meet the function described therein.

8.3. Remedy Development Warranty. SQUARE shall notify ON SEMICONDUCTOR promptly in writing upon discovery of any failure in ON SEMICONDUCTOR’s performance as warranted hereunder. ON SEMICONDUCTOR shall comply with the response levels set forth in Exhibit F (“Warranty Response Times”), and after consultation with SQUARE in good faith, at ON SEMICONDUCTOR’s sole option, shall use its best efforts to either repair or replace pre-production Products or repeat the development tasks until resolution of the relevant issues as soon as reasonably practicable.

8.4. Future SOW Warranties. The Parties acknowledge that the SQUARE Deliverables under the SOW dated March 25, 2013 are in an industry standard format. In the even that the Parties enter into future SOWs that contemplate SQUARE providing data to ON SEMICONDUCTOR in a format other than an industry standard format, upon request by ON SEMICONDUCTOR, the Parties will negotiate in good faith a mutually acceptable start of project warranty with respect to such SQUARE provided data.

ARTICLE 9: PRODUCTION PRODUCT WARRANTY

9.1. ON SEMICONDUCTOR warrants that its Production Products will, at the time of shipment and for a period of [***] thereafter, be free from defects in material and workmanship and will conform to the ASIC Specification and applicable SOWs approved in writing by SQUARE and ON SEMICONDUCTOR. SQUARE or SQUARE’s Authorized Purchaser must advise ON SEMICONDUCTOR in writing of any claims within the warranty period and obtain ON SEMICONDUCTOR’s return authorization, and return the Products to a

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facility or location directed by ON SEMICONDUCTOR. If the Products do not conform to the ASIC Specification, ON SEMICONDUCTOR shall comply with the Warranty Response Times and implement corrective actions and use best efforts to replace the non-conforming Products within 14 days from SQUARE’s notice of non-conformance without additional payment by SQUARE or its Authorized Purchaser, and shall reimburse SQUARE or its Authorized Purchaser for any commercially reasonable cost of transporting the non-conforming Products. In no event, however, shall ON SEMICONDUCTOR be responsible for any non-conformance or other defects in the Products resulting from improper handling after delivery, misuse, neglect, improper installation or operation, repair, alteration, accident by SQUARE, any Authorized Purchaser and their respective agents, or for any other cause not attributable to defective workmanship or failure to meet specifications on the part of ON SEMICONDUCTOR.

9.2. SOFTWARE PROGRAMS ARE NOT WARRANTED AND ARE PROVIDED ON AN “AS IS” BASIS ONLY.

9.3. THIS WARRANTY EXTENDS TO SQUARE AND ITS AUTHORIZED PURCHASER(S) ONLY AND MAY BE INVOKED ONLY BY SQUARE AND ITS AUTHORIZED PURCHASER(S) FOR THE APPLICABLE CUSTOMER(S). ON SEMICONDUCTOR WILL NOT ACCEPT WARRANTY RETURNS FROM SQUARE’S CUSTOMERS OR USERS OF SQUARE’S PRODUCTS. THIS WARRANTY DOES NOT APPLY TO DEFECTS ARISING AS A RESULT OF SQUARE’S DESIGN. (HOWEVER, FOR CLARITY, IT WILL ACCEPT RETURNS FROM SQUARE AND/OR THE AUTHORIZED PURCHASER(S)).

9.4. THE FOREGOING WARRANTY CONSTITUTES ON SEMICONDUCTOR’S EXCLUSIVE LIABILITY AND THE EXCLUSIVE REMEDY OF SQUARE FOR ANY BREACH OF WARRANTY OR NON-CONFORMITY OF THE PRODUCTS. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE WARRANTIES FOR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED.

ARTICLE 10: QUALITY, SAFETY, AND PACKAGING REQUIREMENTS

10.1. Requirements and Qualifications. ON SEMICONDUCTOR will comply, at its cost, with the quality, safety, environmental and regulatory requirements set forth in ON SEMICONDUCTOR’S Quality Standards, or in the absence of such requirements, with good commercial practice and applicable law. ON SEMICONDUCTOR will maintain reasonable records sufficient to document its compliance.

10.2. All Products shall be packaged in accordance with ON SEMICONDUCTOR’S Packing and Labeling Reference Manual, attached as Exhibit E and any successor document acceptable to SQUARE.

10.3. Failures and Safety Risks. If ON SEMICONDUCTOR has reason to believe that any ON SEMICONDUCTOR Deliverables or Product provided under this Agreement may fail

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to comply with the requirements of Section 10.1, ON SEMICONDUCTOR will notify SQUARE immediately, and promptly take action to diagnose and remedy any noncompliance. ON SEMICONDUCTOR will reimburse SQUARE for all reasonable, incremental, actual, and documented related expenses incurred by SQUARE to respond to and address any such non-compliance SQUARE shall proactively make all commercially reasonable efforts to mitigate costs incurred.

ARTICLE 11: INDEMNIFICATION

11.1. ON SEMICONDUCTOR shall defend, indemnify, and hold SQUARE and Authorized Purchasers harmless from and against any claim brought against SQUARE including payment of any resulting damages (including costs and attorneys’ fees) awarded against SQUARE by a court of competent jurisdiction, insofar as such claim is based on an allegation that any Product(s) (including for clarity Production Products) supplied by ON SEMICONDUCTOR under this Agreement infringes [***] Intellectual Property, provided that SQUARE gives timely written notice to ON SEMICONDUCTOR of any such claim(s) and provides reasonable assistance to ON SEMICONDUCTOR in the defense of such claim at ON SEMICONDUCTOR’s cost. SQUARE agrees that, subject to Section 12.2, ON SEMICONDUCTOR shall have sole control of the defense and all related settlement negotiations, provided that (i) ON SEMICONDUCTOR shall keep SQUARE reasonably informed about the status of such defense (including any material deadline) and settlement negotiations, (ii) SQUARE may participate in such defense or settlement negotiations with its own counsel at SQUARE’S expense and (iii) ON SEMICONDUCTOR shall not settle or consent to the entry of any judgment that imposes any liability or restriction on SQUARE or Authorized Purchasers without SQUARE’s prior written consent. This indemnity does not extend to any claim to the extent based on (a) ON SEMICONDUCTOR’s compliance with SQUARE’s contributions to the ASIC Specification, (b) the use of SQUARE Background IPR, (c) a modification to the Product(s) by or on behalf of SQUARE not authorized by ON SEMICONDUCTOR, if the alleged infringement would not have occurred but for such modification, or (d) combination of the Product(s) by or on behalf of SQUARE, with other products, technology or software, if the alleged infringement would not have occurred but for such combination, or (e) use of any Product(s) other than as expressly authorized by this Agreement, nor does this indemnity extend to any claim that is part of any third party litigation pending or threatened in writing against SQUARE prior to the Effective Date.

In the event that any Product(s) (including for clarity Production Products) are held to infringe or the use of such that the Product(s) is enjoined, or may in both Party’s reasonable opinions infringe on any third party Intellectual Property Rights, ON SEMICONDUCTOR shall after consultation with SQUARE, and at ON SEMICONDUCTOR’S sole option (a) obtain the right to continue using such Product(s) or (b) modify the Product(s) to make them non-infringing provided that ON SEMICONDUCTOR can do so within the requirements of the applicable ASIC Specification. If neither (a) nor (b) is commercially practical, ON SEMICONDUCTOR shall refund to SQUARE the purchase price received with respect to such affected Product and reimburse SQUARE for all commercially reasonable transportation costs incurred by SQUARE to remove and/or replace the affected Products with other products, in which case SQUARE’s rights and licenses with respect thereto will terminate and ON SEMICONDUCTOR shall make all commercially reasonable efforts to avoid disrupting the supply of Products from ON SEMICONDUCTOR to SQUARE, provided, however, that SQUARE may terminate the whole Agreement upon written notice to ON SEMICONDUCTOR without liability to either Party.

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11.2. THIS SECTION STATES EACH PARTY’S ENTIRE LIABILITY FOR ANY INTELLECTUAL PROPERTY INFRINGEMENT.

11.3. SQUARE shall defend, indemnify, and hold ON SEMICONDUCTOR harmless from and against any claim brought against ON SEMICONDUCTOR including payment of any resulting damages, liabilities and costs (including costs and attorneys’ fees) awarded against ON SEMICONDUCTOR by a court of competent jurisdiction, insofar as such claim is based on an allegation of infringement of any third party Intellectual Property to the extent relating to (a) the use of SQUARE Background IPR in accordance with this Agreement, (b) ON SEMICONDUCTOR’s compliance with SQUARE’s contributions to the ASIC Specification, (c) SQUARE’s modification to the Products if the alleged infringement would not have occurred but for such modification, (d) SQUARE’s combination of the Product with other products, technology or software by SQUARE, if the alleged infringement would not have occurred but for such combination, and/or (e) SQUARE’s use of any Product(s) other than in accordance with this Agreement, provided however, that ON SEMICONDUCTOR shall notify SQUARE promptly of any such claim(s) and cooperate reasonably in the defense of such claim, and that, subject to Section 12.2, SQUARE shall have sole control of the defense and all related settlement negotiations, provided that (i) SQUARE shall keep ON SEMICONDUCTOR reasonably informed about the status of such defense (including any material deadline) and settlement negotiations, (ii) ON SEMICONDUCTOR may participate in such defense or settlement negotiations with its own counsel at ON SEMICONDUCTOR’s expense and (iii) SQUARE shall not settle or consent to the entry of any judgment that imposes any liability or restriction on ON SEMICONDUCTOR without ON SEMICONDUCTOR’s prior written consent.

ARTICLE 12: LIMITATION OF LIABILITY

12.1. Limitations During Development Activities. The Parties expressly agree that, except for damages awarded to third parties and covered under Article 11, and breach of the obligations under Articles 13 and Section 14.5 (first two sentences), each Party’s total liability for any kind of loss, damage or liability arising under or in connection with Development Activities under this Agreement, under any theory of liability, shall in no event exceed the NRE actually paid or payable by SQUARE to ON SEMICONDUCTOR under this Agreement.

12.2. Limitations During Production Activities. The Parties expressly agree that, except for the indemnification obligations under Articles 11 and breach of Article 13 and Section 14.5 (first two sentences), each Party’s total liability for any kind of loss, damage or liability arising under or in connection with Production Activities under this Agreement, shall not exceed [***]. Each Party’s total liability with respect to the indemnification obligations under Article 11 and breach of Article 13 and Section 14.5 (first two sentences) shall not exceed [***]. Damages stemming from events with substantially similar root causes are agreed to be aggregated to constitute one singular claim and shall have only one date of occurrence, deemed to occur when the claim first arises.

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12.3. EXCEPT FOR [***] BREACH OF SECTIONS 13 AND 14.5 (FIRST TWO SENTENCES), IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF USE, LOSS OF OPPORTUNITY, MARKET POTENTIAL, GOODWILL AND/OR PROFIT, LOSS OF REPUTATION AND OTHER ECONOMIC LOSS) ARISING OUT OF THIS AGREEMENT WHETHER BASED ON CONTRACT, TORT, THIRD PARTY CLAIMS OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12.4. For purposes of this Article 12 only, the Production Activities shall be deemed to commence as of the date of the first purchase order for a Production Product. Until such time, the obligations of the parties shall be deemed to fall within Development Activities.

12.5. Notwithstanding any language to the contrary, SQUARE’s obligations for payment under Article 5, and Exhibit C Section VI are not subject to any of the limitations in this Article 12.

ARTICLE 13: CONFIDENTIALITY

Notwithstanding the terms of the Confidential Disclosure Agreement, effective [***] between the Parties (the “NDA”), each Party will for a period of five (5) years after receipt of the other Party’s Confidential Information treat as confidential all Confidential Information of the other Party, will not use the Confidential Information except as expressly set forth herein or otherwise authorized in writing, will implement reasonable procedures to prohibit the disclosure, unauthorized duplication, misuse or removal of the other Party’s Confidential Information and will not disclose the Confidential Information to any third party except as may be necessary and required in connection with the rights and obligations of such Party under this Agreement, and subject to confidentiality obligations at least as protective as those set forth herein. Without limiting the foregoing, each of the Parties will use at least the same procedures and degree of care which it uses to prevent the disclosure of its own Confidential Information of like importance to prevent the disclosure of Confidential Information disclosed to it by the other Party under this Agreement, but in no event less than reasonable care.

Notwithstanding the above, neither Party will have liability to the other with regard to any Confidential Information of the other which:

(a) is now available or becomes available to the public without breach of this Agreement;
(b) is known by the receiving Party at the time of disclosure and is not subject to restriction;
(c) is independently developed or learned by the receiving Party;
(d) is lawfully obtained from a third party which has the right to make such disclosure; or
(e) is released for publication or use by the disclosing Party in writing.

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It is expressly understood that any drawings, blueprints, descriptions, or other papers, resumes, documents, tapes, or any other media transferred by the disclosing Party hereunder, and all copies, modifications, and derivatives thereof, will remain the property of the disclosing Party, and the receiving Party is authorized to use those materials only in accordance with the terms and conditions of this Agreement. Notwithstanding the period of confidentiality set forth herein, the receiving Party may not knowingly transfer such material or any part of it to any third party. Upon termination and upon written request, the receiving Party will, at the disclosing Party’s option, either return all Confidential Information (including Technical Information) to the disclosing Party along with all copies and/or derivatives made, including that on computer databases and copies of portions of the Confidential Information, or destroy all such Confidential Information and certify by written memorandum that all such Confidential Information has been destroyed, except that the receiving Party may retain archival copies of the Confidential Information, which are to be used only in case of a dispute concerning this Agreement.

ARTICLE 14: OWNERSHIP

14.1. Ownership. The design, development, or manufacture by ON SEMICONDUCTOR of Product(s) shall not be deemed to produce a work made for hire. All Background Intellectual Property Rights that belong to either Party shall remain with such Party. Subject to the license set forth in Section 14.2.1 and to Section 14.2.2, [***] shall be jointly owned by the Parties [***].

14.2. License to [***].

14.2.1 ON SEMICONDUCTOR hereby grants to SQUARE a perpetual, irrevocable, non-exclusive, worldwide, royalty-free, fully paid up license, without the right to sublicense, under [***].

14.2.2 Notwithstanding anything to the contrary, ON SEMICONDUCTOR may not use, license or otherwise exploit [***].

14.3. SQUARE Deliverables. [***]

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14.4. **Tooling**. ON SEMICONDUCTOR shall retain title to and possession of all tooling of any kind used in the production of the Product hereunder including, but not limited to, pattern generator tapes, reticles and probe cards used in the production of the Product hereunder (such reticles and test fixtures, “Licensed Tooling”). To the extent that the Products incorporate, in whole or in part, proprietary standard cells, libraries, macros and/or other design data of ON SEMICONDUCTOR, notwithstanding anything in this Agreement to the contrary (but subject in each case to the licenses granted under this Agreement), ON SEMICONDUCTOR retains exclusive ownership of all such proprietary standard cells, libraries, and macros, and all rights in Mask Works in and to all Products developed under this Agreement.

14.5. **Mask Works**. Subject to SQUARE’s payment in full to ON SEMICONDUCTOR of the NRE, ON SEMICONDUCTOR grants to SQUARE a perpetual, irrevocable, royalty-free, fully paid up and sublicensable (as needed for third parties to incorporate Product(s) into SQUARE products and commercialize such products) license to exercise all rights in the Mask Works embodied in the Product and in the Licensed Tooling. Such license is sole and exclusive (including as to ON SEMICONDUCTOR) with respect to the Product Topography and Licensed Tooling and non-exclusive with respect to the Mask Works embodied in ON SEMICONDUCTOR’s individual proprietary standard cells, libraries, macros and other design data contained in the Product. Furthermore, notwithstanding anything to the contrary, the parties agree that [***]. SQUARE shall have the right (at its sole discretion and expense) to pursue infringement actions against third party infringers of rights in the Mask Works licensed to SQUARE hereunder. However, nothing contained herein shall in any way limit ON SEMICONDUCTOR’s unrestricted right, at its sole discretion and expense and for its sole benefit, to institute an infringement action against any third party that ON SEMICONDUCTOR determines has infringed any Mask Work rights of ON SEMICONDUCTOR pertaining to ON SEMICONDUCTOR’s proprietary standard cells, libraries, macros and/or other design data. Except as set forth in this Agreement, ON SEMICONDUCTOR or its licensees or customers shall have the unrestricted right to use existing and/or future proprietary standard cells, libraries, macros and/or design data of ON SEMICONDUCTOR worldwide to design, make, have made, import, distribute and sell semiconductor products of any nature whatsoever.

ARTICLE 15: ASSIGNMENT – SUBCONTRACTING

15.1. **Assignment**. Except upon prior written consent of the other Party, neither Party may assign any right or obligation it may have under this Agreement except to an affiliate or a successor to all or substantially all of the assets (whether by merger, acquisition or sale) to which this Agreement relates.

15.2. **Subcontracting**. During the performance of the development work by ON SEMICONDUCTOR for SQUARE, ON SEMICONDUCTOR can use the services of its subcontractors and/or consultants provided that ON SEMICONDUCTOR remains fully liable for the performance of ON SEMICONDUCTOR and its subcontractors or consultants hereunder.

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ARTICLE 16: SUPPLY AGREEMENT
ON SEMICONDUCTOR shall supply Production Products to SQUARE in accordance with the terms set forth in Exhibit C.

ARTICLE 17: INTEGRATION
This Agreement and the Exhibit(s) annexed hereto collectively constitute the entire agreement between the Parties with respect to the subject matter hereof. This Agreement supersedes and repeals all previous negotiations or understandings between the Parties relating to the subject matter hereof.

ARTICLE 18: MODIFICATION
This Agreement may not be modified, altered, changed or amended in any respect except in a writing signed by the respective authorized representatives of both Parties.

ARTICLE 19: NOTICE
Any notice required to be given hereunder (other than routine transactional communications) shall be in writing and shall be sent by certified mail or courier service (such as FedEx) to the following addresses of the respective Parties (or to such other address as either Party may designate from time to time by written notice to the other Party):

To SQUARE At: TO ON SEMICONDUCTOR At:
SQUARE, INC. ON SEMICONDUCTOR
901 Mission Street 5005 E. McDowell Rd, M/S A700
San Francisco, CA 94103 Phoenix, AZ 85008
Attn. General Counsel Attn. Chief IP Counsel

ARTICLE 20: RELATIONSHIP OF THE PARTIES
Nothing in this Agreement shall be deemed to create a partnership or any agency relationship between ON SEMICONDUCTOR and SQUARE. ON SEMICONDUCTOR and SQUARE are independent companies. No Party shall be entitled to act on behalf of and/or to bind the other Party.

ARTICLE 21: SEVERANCE
If any provision or part of any provision of this Agreement or the Exhibits hereto is invalidated by operation of law or otherwise, that provision or part will, to that extent, be deemed omitted and the remainder of the Agreement or applicable Exhibit will remain in full force and effect. In

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the place of any such invalid provision or part thereof, the Parties undertake to agree on a similar but valid provision the effect of which is as close as possible to that of the invalid provision or part thereof.

ARTICLE 22: ENGLISH LANGUAGE AND CURRENCY
All communications, data, documentation and disclosures of information by the Parties under this Agreement will be in English and the English language will be the governing language in the performance of this Agreement. All prices set forth herein are in United States dollars, and all payments and computations shall be in United States dollars (or such other currency to which ON SEMICONDUCTOR, in its sole discretion, may expressly agree in writing).

ARTICLE 23: WAIVER
The failure of a Party to enforce at any time any of the provisions of this Agreement, or the failure to require at any time performance by any other Party of any of the provisions of this Agreement, shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the validity thereof or a Party’s right to enforce each and every such provision thereafter. The express waiver by a Party of any provision, condition or requirement of this Agreement shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement.

ARTICLE 24: UNITED STATES EXPORT CONTROLS
In order to facilitate the exchange of information in accordance with this Agreement and in conformity with the laws and regulations of the United States relating to the exportation of technical data, the Parties agree to comply fully with all relevant laws and regulations of the United States Government. Both Parties hereby certify that no technical data or direct products thereof will be made available or exported or re-exported, directly or indirectly, to anyone unless such prior authorization as may be required is first obtained by such Party from the Office of Export Administration of the U.S. Department of Commerce, International Trade Administration, in accordance with the Export Administration Regulations issued by the Department of Commerce of the United States in the administration of the Export Administration Act of 1979, as amended from time to time.

ARTICLE 25: FORCE MAJEURE
Neither Party will be liable for not performing any of its obligations hereunder to the extent such non-performance results from Force Majeure. Such non-performance will be excused for as long as such Force Majeure shall be continuing provided that the non-performing party gives immediate written notice to the other party of the Force Majeure. Such non-performing party shall exercise all reasonable efforts to eliminate the Force Majeure and to resume performance of its affected obligations as soon as practicable. The expression “Force Majeure” shall mean acts of God, (civil) war, insurrections, fires, floods, epidemics, freight embargoes, material shortage or labor conditions, or similar events beyond reasonable control. Force Majeure affecting a Party’s contractors/suppliers shall not be considered to be Force Majeure affecting said Party.

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Each Party shall promptly notify the other Party in writing of any delay caused by Force Majeure. If the non-performing party is unable to resume performance within thirty (30) days after the delivery of the said written notice, the other party may terminate this Agreement without any liability.

**ARTICLE 26: GOVERNING LAW**

26.1. **Choice of Law.** This Agreement shall be governed by, interpreted, construed and enforced in accordance with the laws of New York, without reference to its conflict of law principles. The United Nations Convention in the International Sale of Goods shall not apply to this Agreement or any transaction contemplated hereby.

26.2. **Dispute Resolution.** Any dispute concerning the validity, interpretation and/or performance of this Agreement shall first be discussed in good faith between the Parties in order to try to find an amicable solution.

**ARTICLE 27: PRODUCT USE RESTRICTION**

ON SEMICONDUCTOR’S PRODUCTS ARE NOT DESIGNED, INTENDED OR AUTHORIZED FOR USE AS CRITICAL COMPONENTS IN LIFE SUPPORT DEVICES OR SYSTEMS WITHOUT THE EXPRESS WRITTEN APPROVAL OF THE ON SEMICONDUCTOR. SQUARE agrees to indemnify and hold ON SEMICONDUCTOR, its officers, employees, subsidiaries, affiliates, and distributors, harmless against all claims, costs, damages and expenses, and reasonable attorney’s fees arising out of, directly or indirectly, any claims of personal injury or death associated with such unauthorized use, even if such claim alleges that ON SEMICONDUCTOR was negligent regarding the design or manufacture of the part.

As used herein: (1) Life support devices or systems are devices or systems which, (a) are intended for surgical implant into the body, or (b) support or sustain life, and whose failure to perform when used properly, and in accordance with ON SEMICONDUCTOR’s applicable instructions or labeling, could reasonably be expected to result in injury or death to a user of a Life support device or system. (2) A critical component is any component of a life support device or system whose failure to perform can be reasonably expected to cause the failure of the life support device or system, or to affect its safety or effectiveness.

**ARTICLE 28: EXHIBITS**

The following Exhibits are attached hereto and incorporated herein by this reference:

Exhibit A: ASIC Specification
Exhibit B: Statement of Work
Exhibit C: Production Product Supply Agreement Terms
Exhibit D: Letter of Authorization for SQUARE Authorized Purchaser
Exhibit E: ON SEMICONDUCTOR’S Packaging and Labeling Reference Manual
Exhibit F: Warranty Response Times
Exhibit G: Specified Technology

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representative as of the date below.

For SQUARE, Inc.
By: /s/ Sarah Friar
Name: Sarah Friar
Title: CFO Interim COO
Date: 4/2/2013

For Semiconductor Components Industries, LLC
By: /s/ Ruth Franklin
Name: Ruth Franklin
Title: Corporate Contracts Counsel
Date: 4/5/12

For ON Semiconductor Trading, Ltd.
By: /s/ Anne-Marie Hebert
Name: Anne-Marie Hebert
Title: General Manager, VP
Date: April 9, 2013

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ON Semiconductor undertakes to meet the following Product Specification. Any parameters or features which are not specified explicitly herein cannot be designed for and therefore cannot be warranted. Remedies for the failure of this device to comply with this Product Specification are set forth in other documents.

This Specification describes the behaviour of the circuit to be developed by ON Semiconductor. It is the customer’s responsibility to check it carefully to make sure that it meets the application requirements.

The parties agree to the terms of this Product Specification and agree it supersedes and cancels any and all previous agreements, written or oral, between the parties relating to the technical requirements the device must meet and expresses the complete and final understanding of the parties with respect thereto. This Specification must be signed by both parties at the exit of the Product Definition phase and at Product Release (Limited Transfer to Qualification or Limited Transfer to Production).

AGREED TO BY:

ON APPROVAL

Product Development
Technical Lead: Jerry Monsen
Signature
Date:

CUSTOMER APPROVAL

Design Engineer or Buyer:
Kartik Lamba
Signature
Date:

Business Unit
Program Manager: Pat Sedlymayer
Customer Name: Square
Division:

Signature
Date:

Signature
Date:

Project Name
Square M1

Address:

Specification Version Number:
1.12

Phone:
Customer Document Number
E-ICS-0076

[ PAGES 2-50 OF EXHIBIT A HAVE BEEN REDACTED ]

Confidential
This Statement of Work ("SOW") is dated March 25, 2013 and incorporates by reference the terms of the ASIC Development and Supply Agreement, entered into by and between ON SEMICONDUCTOR, ON Semiconductor Trading, Ltd. and SQUARE, dated as of March 25, 2013 ("Agreement"). Any capitalized term used in this SOW but not defined herein shall have the meaning ascribed to such term in the Agreement.

I. ASIC SPECIFICATION – See Exhibit A.

II. DEVELOPMENT PHASE– As of the Effective Date, all development tasks in tables A and B below through “Post-Layout Chip Simulations (MS)**” have been completed.

A. DEFINITION PHASE

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B. [***]

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<th>Development Task</th>
<th>Square Inc.</th>
<th>ON</th>
<th>Schedule (Critical Path)</th>
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C. [***]

<table>
<thead>
<tr>
<th>Development Task</th>
<th>Square Inc. ON Schedule (Critical Path)</th>
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III. KEY MEMBERS - [***]

IV. BASIC TERMS

Milestone Sign-Off: The signoff of the development milestones in this SOW by an authorized representative of SQUARE shall confirm acknowledgment by SQUARE of successful completion of those respective milestones.

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20
Engineering Samples: ON SEMICONDUCTOR shall use all commercially and technically reasonable efforts to develop, manufacture, package, test and ship to SQUARE, for SQUARE’s examination and testing. [***] Engineering Samples according to the milestone schedule in this SOW. SQUARE shall advise ON SEMICONDUCTOR in writing of SQUARE’s approval or rejection of such Engineering Samples in accordance with the Agreement and this SOW. Any written notice of rejection shall state with particularity the basis for SQUARE’s rejection of the Engineering Samples. ON SEMICONDUCTOR is obligated to repeat the Engineering Sample process set forth herein, at ON SEMICONDUCTOR’s expense, in the event that Product does not meet agreed specifications, or ON SEMICONDUCTOR misprocesses the Engineering Samples or the applicable requirements in Article 8 in the attached Agreement are not satisfied. ON SEMICONDUCTOR will use all commercially and technically reasonable efforts to repeat the Engineering Sample process within a period of time agreed by both Parties after SQUARE notifies ON SEMICONDUCTOR of its desire for the Engineering Sample process to be repeated.

Production Prototypes: Upon completion of development activities and SQUARE’s acceptance of the Engineering Samples, ON SEMICONDUCTOR shall deliver [***] Production Prototypes to SQUARE. SQUARE shall advise ON SEMICONDUCTOR in writing of SQUARE’s approval or rejection of Production Prototypes in accordance with the milestone schedule in this SOW. Rejection may only be for the failure of the Production Prototypes to comply with the applicable requirements in Article 8 in the attached Agreement. Any written notice of rejection shall state with particularity the basis for SQUARE’s rejection of the Production Prototypes. In the event that the Production Prototype does not operate properly per the ASIC Specification, SQUARE shall have the right to require ON SEMICONDUCTOR to repeat the Production Prototype process. The Parties will mutually agree on the changes necessary to redesign the Product so it conforms with applicable requirements. ON SEMICONDUCTOR will repeat the Production Prototype process set forth herein, at ON SEMICONDUCTOR’s expense, in the event that the prototypes do not meet the requirements herein. ON SEMICONDUCTOR will use all commercially and technically reasonable efforts to repeat the Production Prototype process within a period of time mutually agreed by both Parties after SQUARE notifies ON SEMICONDUCTOR of its desire for the Production Prototype process to be repeated.

Additional Engineering Samples: SQUARE may request additional Engineering Samples from the first shuttle run. If additional Engineering Samples are available, ON SEMICONDUCTOR will provide up to [***] at no additional cost to SQUARE. If additional Engineering Samples are not available from the first shuttle run, a second shuttle run will be required at a cost of [***] to SQUARE. The quantity of Engineering Samples provided to SQUARE will be [***] units but shall not exceed [***]. SQUARE shall not have any right to return such additional Engineering Samples to ON SEMICONDUCTOR.

Additional Production Prototypes: At SQUARE’s request, up to [***] additional Production Prototypes may be purchased by SQUARE from ON SEMICONDUCTOR at a price of [***]. These additional Production Prototypes shall be delivered in accordance with the milestone schedule mutually agreed by both Parties. Orders for additional Production Prototypes must be

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received by ON SEMICONDUCTOR before reticle generation. SQUARE shall not have any right to return such additional Production Prototypes to ON SEMICONDUCTOR. SQUARE shall not have any right to require ON SEMICONDUCTOR to provide any replacement additional Production Prototypes, unless the additional Production Prototypes delivered by ON SEMICONDUCTOR to SQUARE do not satisfy the ASIC Specification or the requirements of Article 8 in the attached Agreement.

V. NRE PAYMENT SCHEDULE
SQUARE shall pay the NRE to ON SEMICONDUCTOR in the total amount of [***] in accordance with the following schedule and within [***] days of issuance of ON SEMICONDUCTOR’s invoice applicable to the scheduled event:

<table>
<thead>
<tr>
<th>Development Activity</th>
<th>NRE Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>[***]</td>
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2. NRE Charges Payment Schedule

<table>
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<tr>
<th>Milestone</th>
<th>NRE Charge</th>
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<tbody>
<tr>
<td>[***]</td>
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** Previously invoiced and paid.

Confidential

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I. Pricing:

<table>
<thead>
<tr>
<th>Contract Year Volume</th>
<th>Price (US$)</th>
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<tbody>
<tr>
<td>[***]</td>
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</tbody>
</table>

Note: Pricing changes may occur by mutual written agreement. The Production Product pricing in this Exhibit is based on the annual volumes in the table above and a minimum purchase order quantity of [***], provided that SQUARE may specify under a purchase order multiple delivery dates (no more than three months apart) of not less than [***] per shippable line (based upon applicable reel size). If actual annual volumes fall below [***], the Parties will mutually agree in writing to pricing changes for annual volumes below [***].

II. Supply:

A. **Supply.** Subject to the terms and conditions of the Agreement, following the Product Release Date, ON SEMICONDUCTOR will manufacture Production Products in accordance with the ASIC Specification and any applicable SOWs approved in writing by SQUARE and supply SQUARE or an Authorized Purchaser with such Production Products, and SQUARE or an Authorized Purchaser will purchase Production Products ordered pursuant to purchase orders placed from time to time.

B. **Procurement.** ON SEMICONDUCTOR will manage all material procurement and production planning, including, without limitation, support of procurement for development builds, and will be responsible for placing purchase orders for SQUARE approved third-party components in a timely manner.

III. Ordering:

A. **Submission of Purchase Orders.** SQUARE or an Authorized Purchaser may order Production Products by submitting purchase orders to ON SEMICONDUCTOR in writing or through electronic transmission. Such purchase order shall serve as authorization to ON SEMICONDUCTOR to procure materials, manufacture Production Product and deliver Production Product.

B. **Acceptance of Purchase Orders.** Unless otherwise specified under an applicable SOW, ON SEMICONDUCTOR will accept all purchase orders submitted by SQUARE or an Authorized Purchaser that are both covered by a Forecast (as defined in this Exhibit) confirmed.
by ON SEMICONDUCTOR and conform with the terms of the Agreement and this Exhibit. ON SEMICONDUCTOR may only reject a purchase order for Production Products if the number of Production Products ordered exceeds the number forecasted in a then current Forecast, or if the purchase order does not conform with the terms of the Agreement and this Exhibit. If SQUARE’S purchase order provides for a delivery date that is shorter than the Lead Time, within three (3) business days of receipt of such purchase order, ON SEMICONDUCTOR shall notify SQUARE in writing if it cannot meet such delivery date and propose a new delivery date. Within three (3) business days of receipt of such notice, SQUARE will respond in writing by accepting such new delivery date or canceling the purchase order without liability. If SQUARE fails to respond in writing within such time period, the purchase order will be deemed accepted.

C. No Conflicting Terms. Any terms and conditions contained in ON SEMICONDUCTOR’S purchase order acknowledgments that are inconsistent with or in addition to the terms and conditions of the Agreement or purchase orders are hereby rejected by SQUARE and will be deemed null and of no effect.

D. Supply Constraint. If ON SEMICONDUCTOR’S ability to supply Production Products in accordance with the then-current Forecast is constrained for any reason, ON SEMICONDUCTOR agrees that ON SEMICONDUCTOR will (i) allocate the constrained material or resource so that ON SEMICONDUCTOR is able to fulfill SQUARE’s purchase orders on at least an equitable basis, and (ii) immediately escalate the issue to both Parties’ management for the purpose of resolving the supply constraint.

E. Rescheduling and Cancellation.

Re-scheduling policy:
1. Deliveries schedules in [***] (the “Lead Time”) may be rescheduled once to a later date without liability, provided, however, that if SQUARE has approved in writing a written request by ON SEMICONDUCTOR to order Raw Materials and start work prior to the Lead time, such later date may not be later than [***] from the original schedule delivery date.
2. Deliveries rescheduled within the current Quarter * can be rescheduled to a later date but no later than the end of the current quarter. No reschedules within [***] of the delivery date.
3. ON SEMICONDUCTOR will use all commercially reasonable efforts to support SQUARE’s requests for advanced deliveries. Specific arrangements will be made on a case by case basis.

Cancellation policy:
1. Orders scheduled for delivery in excess of the Lead Time may be cancelled without liability.
2. Orders cancelled within the Lead Time will be charged fees based on the following factors, WIP plus Raw Materials:
   a) Location of the Work In Progress (WIP), meaning any material started to cover the stock, at the time of receiving the written cancellation request.
   b) Device specific Raw Materials procured by ON SEMICONDUCTOR for the specific purpose of manufacturing the device being cancelled [***]

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3. WIP cancellation charges:
   a) [***]  [***]
   b) [***]  [***]
   c) [***]  [***]
   d) [***]  [***]

   Note: * Quarters are calendar quarters determined as follows:
   Quarter 1: calendar week 1 through 13;
   Quarter 2: calendar week 14 through 26;
   Quarter 3: calendar week 27 through 39;
   Quarter 4: calendar week 40 through 52.

IV. Forecasts:

A. Rolling Forecast. SQUARE or its Authorized Purchasers will provide ON SEMICONDUCTOR on a monthly basis with a rolling [***] forecast, and on a weekly basis with a [***] week forecast, of its anticipated orders for each Production Product (each, a “Forecast”). SQUARE and ON SEMICONDUCTOR acknowledge and agree that: (a) each such Forecast is a good faith estimate of SQUARE’s anticipated orders for Production Products based on information then available to SQUARE and that SQUARE is providing such Forecasts only as an accommodation to ON SEMICONDUCTOR; and (b) Forecasts do not constitute a binding order or commitment of any kind by Square to purchase Production Products. Within [***] of receipt of a Forecast, ON SEMICONDUCTOR will respond confirming supply of the Production Products available to meet the Forecast. ON SEMICONDUCTOR agrees to confirm subsequent Forecasts with respect to each week of the Forecast to the extent that: (i) the subsequent Forecast does not exceed the previous Forecast for the same week; or (ii) if no previous Forecast exists for a week, the quantity for such week is not materially greater than the last week of the previous Forecast. If ON SEMICONDUCTOR does not respond with confirmation of supply of the Production Products within [***], the Forecast is deemed accepted by ON SEMICONDUCTOR.

B. Buffer Stock.
   1. ON SEMICONDUCTOR requires the placement of a non-cancellable blanket purchase order from SQUARE to cover a mutually agreed upon quantity of finished product “Buffer Stock” of Production Product for device stocking at the unit price set forth in this Exhibit. ON SEMICONDUCTOR shall establish the Buffer Stock within the Lead Time following receipt of the blanket purchase order based on current lead-time. ON SEMICONDUCTOR will manage this Buffer Stock inventory in a finished goods stockroom designated by ON SEMICONDUCTOR. The stocking level of finished Products will be reviewed by the Parties [***].

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2. SQUARE will be liable for this Buffer Stock inventory and any work in progress (WIP) to support this inventory. For freshness and quality purposes, SQUARE is required to purchase Production Product in an amount equivalent to the number of stocked finished Products at least every [***] (at SQUARE’S option, either substituting such Buffer Stock inventory for, or adding such Buffer Stock inventory to, units of Production Product in the Forecast). In the event SQUARE does not take delivery of an amount equivalent to the finished Buffer Stock quantity within [***], ON reserves the right to cancel this Buffer Stock program and ship all finished Buffer Stock to SQUARE. In that event, SQUARE will be invoiced against the blanket purchase order for finished Buffer Stock and any WIP will be billed according to the cancellation schedule contained in this Exhibit.

3. To minimize the potential for the complete depletion of the Buffer Stock quantity, SQUARE will be required to keep a mutually agreed upon number of weeks of Production Product backlog in Buffer Stock at any given time with ON SEMICONDUCTOR.

4. If the quantity of Buffer Stock is depleted to less than the agreed upon amount, ON SEMICONDUCTOR shall restore the Buffer Stock within a reasonable time-frame which in no event shall be less than the Lead Time.

5. All Buffer Stock purchase orders canceled within the Lead Time window will be assessed a cancellation charge according to the cancellation schedule contained in this Exhibit.

6. This Buffer Stock program may be terminated by either Party with [***] prior written notice to the other Party. In the event of termination of the Buffer Stock program or the Agreement, SQUARE will be invoiced against the blanket purchase order for any Buffer Stock finished Production Product and any WIP. With respect to WIP, SQUARE shall promptly notify ON SEMICONDUCTOR whether to finish manufacturing or whether SQUARE wishes to pay the applicable cancellation charges as described within this Exhibit. Failure of SQUARE to specify its election [***] of notice of termination shall result [***].

V. Delivery:

A. Shipping Requirements. Unless otherwise expressly specified in a purchase order by SQUARE or an Authorized Purchaser, ON SEMICONDUCTOR will ensure that the Production Products are packaged, marked in a manner that is: (a) in accordance with ON SEMICONDUCTOR’S Packaging and Labeling Reference Manual attached as Exhibit E; Each shipment will be accompanied by a packing slip that sets forth the part numbers and quantities and the applicable purchase order number(s).

B. Shipping Terms. ON SEMICONDUCTOR will ship the Production Products FCA (Incoterms 2010). Risk of loss transfers at placement with SQUARE’s carrier at the applicable ON SEMICONDUCTOR hub global distribution center (“ON GDC”) designated by SQUARE.
ON SEMICONDUCTOR will be responsible for arranging all necessary transportation, packaging, insurance, and customs clearance and export documentation, as applicable, and for pre-payment of all costs and charges related thereto (collectively, “Shipping Costs”). ON SEMICONDUCTOR will bear all risk of loss or damage to the Production Products and will retain title to the Production Products until the Production Products are delivered to the ON GDC designated in the applicable purchase order.

C. Acceptance. SQUARE or an Authorized Purchaser will have a period of [***] following delivery of the Production Products to notify ON SEMICONDUCTOR of any discrepancies in the shipment quantity. SQUARE or an Authorized Purchaser will have a period of [***] following delivery of the Production Products to test and inspect the Production Products and to notify ON SEMICONDUCTOR of: (a) any nonconformities of the Production Product with the applicable ASIC Specification; or (b) any defects in material or workmanship. SQUARE or an Authorized Purchaser will notify ON SEMICONDUCTOR in writing of its acceptance or rejection of any portion of any delivery of the Production Products prior to the expiration of such [***] period.

D. Delay in Shipment. ON SEMICONDUCTOR will promptly notify SQUARE and its Authorized Purchaser in writing (including electronically) of any anticipated delay in excess of [***] in meeting the delivery dates specified in the accepted purchase order (or, if not set forth in the accepted purchase order, such other delivery date as may be mutually agreed to between the parties) stating the reasons for the delay, and, where requested by SQUARE or the Authorized Purchaser, use priority freight shipping at ON SEMICONDUCTOR’s sole cost.

E. Product Returns. If SQUARE or an Authorized Purchaser rejects a delivery of Production Products pursuant to this Exhibit or if SQUARE or an Authorized Purchaser desires to return a Production Product to ON SEMICONDUCTOR pursuant to the warranty provisions of the Agreement, then SQUARE or an Authorized Purchaser will, in each instance, first obtain a Return Material Authorization (“RMA”) number from ON SEMICONDUCTOR and will use reasonable efforts to return such Production Products to ON SEMICONDUCTOR in accordance with ON SEMICONDUCTOR’s RMA procedure. ON SEMICONDUCTOR will be responsible for and will pay all Shipping Costs incurred by SQUARE in connection with shipping such Production Products to ON SEMICONDUCTOR and as well as for any Shipping Costs for shipping replacement Production Products to SQUARE or an Authorized Purchaser.

VI. Invoicing and Payment Terms:

A. Invoicing. For all Production Product delivered under the Agreement, ON SEMICONDUCTOR will issue an invoice to SQUARE or the Authorized Purchaser on the date that ON SEMICONDUCTOR ships the Production Products to SQUARE or the Authorized Purchaser and, unless SQUARE or the Authorized Purchaser rejects a shipment of the Production Products (or a portion of a shipment) in accordance with the provisions of this Exhibit or otherwise disputes an invoice, SQUARE or the Authorized Purchaser will pay such undisputed amounts within [***] of invoice date.

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B. Invoice Disputes. ON SEMICONDUCTOR must provide supporting documentation to SQUARE for any disputed invoice within [*] after receiving any such notice. If a correction is warranted, SQUARE will pay the corrected amount within [*] the corrected invoice date, or if the correction is reflected on the next regular invoice, within [*] after the date of that invoice. While the Parties work to resolve good-faith disputes under this section, neither party will be deemed to be in breach of the Agreement.

C. Quality. ON SEMICONDUCTOR shall manufacture Production Products at an outgoing quality level of [*] or better, and at an annualized failure rate of less than [*] shall also work toward [*] through continuous process improvement.

D. Taxes. SQUARE or the Authorized Purchaser will pay all taxes and duties that are assessed by any national, federal, state or local governmental authority on SQUARE’s or the Authorized Purchaser’s purchase of the Production Products, including, without limitation, sales, use, excise, and value-added, but excluding any taxes based on ON SEMICONDUCTOR’s income or gross receipts (collectively, “Taxes”). Notwithstanding the foregoing, SQUARE or the Authorized Purchaser will have no obligation to pay any such Taxes to the extent SQUARE or the Authorized Purchaser timely provides ON SEMICONDUCTOR with a valid tax exemption resale certificate or other similar document.

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EXHIBIT D
Letter of Authorization
SQUARE’s Authorized Purchasers Authorization Letter Template

[DATE]

[SQUARE’s Authorized Purchaser]

[ADDRESS]

Re: Letter of Authorization (“LOA”)

To Whom It May Concern:

This Letter of Authorization is issued by SQUARE, INC. (“SQUARE”) in connection with the ASIC Development Agreement entered into between SQUARE and ON SEMICONDUCTOR as of [DATE] (the “Agreement”) to authorize (“SQUARE Authorized Purchaser”) under the Agreement as of [DATE] (the “Effective Date”).

SQUARE, SQUARE’s Authorized Purchaser and ON SEMICONDUCTOR hereby agree:

1. **Authorization.** SQUARE authorizes SQUARE’s Authorized Purchaser to purchase Products from ON SEMICONDUCTOR and gives ON SEMICONDUCTOR the right to sell Products to SQUARE’s Authorized Purchaser under the Agreement until this Letter of Authorization is terminated in accordance with Paragraph 3 below.

2. **Exclusivity.** SQUARE’s Authorized Purchaser agrees that Products purchased from ON SEMICONDUCTOR or its affiliates under the LOA will only be used in SQUARE’s products.

3. **Termination.** This LOA will automatically terminate, without further notice or action by any party hereto upon the earlier of: (i) the termination or expiration of the Agreement; (ii) if SQUARE terminates either or both of the authorizations in Paragraph 2 above upon written notice to SQUARE’s Authorized Purchaser and ON SEMICONDUCTOR. In the event that this LOA is terminated, the provisions of Paragraph 2 will survive.

4. **Counterparts.** This Letter of Authorization may be executed in one or more counterparts, each of which will be deemed an original, but which collectively will constitute one and the same instrument.

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IN WITNESS WHEREOF, the parties have caused this LOA to be duly signed by its authorized representatives as of the Effective Date.

Acknowledged and agreed:

SQUARE, INC.  
By: ____________________________  
Name: ____________________________  
Title: ____________________________  
Date: ____________________________  

SQUARE’s Authorized Purchaser:  
By: ____________________________  
Name: ____________________________  
Title: ____________________________  
Date: ____________________________  

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Definitions

• **MPN Label**: A bar code label containing the ON Semiconductor Manufacturer Part Number of the device and other traceability information. Label dimensions are 1.625” x 4.9” (41.3 mm x 124.5 mm).

• **CPN Label**: A bar code label containing the Customer part number of the device and other traceability information. Label dimensions are 1.625” x 4.9” (41.3 mm x 124.5 mm).

• **Intermediate Box**: The box that houses the reel or tube(s) containing product. Each Intermediate Box will have an MPN Label and a CPN Label when required. ON Semiconductor Intermediate boxes have ON Semiconductor logos and graphics on the exterior of the box, and have an electrostatic lining.

• **Shipping Label**: A bar coded label used to identify the contents of a shipping container. This also contains a “ship to” name and address. Label dimensions are 4.5” x 6.5” (114.3 mm x 165.1 mm).

• **Overpack Box**: The box that contains one or more Intermediate Boxes. Each Overpack box will have a Shipping Label. ON Semiconductor Overpack boxes have no logos or graphics.

Labels

**MPN Label**

Each Intermediate Box will have a standard ON Semiconductor MPN Label. The label consists of the following elements:

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>MPN (1P)*</td>
<td>Manufacturer Part Number</td>
</tr>
<tr>
<td>LOT (1T)*</td>
<td>Lot Number</td>
</tr>
<tr>
<td>DATE (9D)*</td>
<td>Date Code(s)</td>
</tr>
<tr>
<td>QTY (Q)*</td>
<td>Quantity in container</td>
</tr>
<tr>
<td>ASSY LOC (21)*</td>
<td>Assembly Location Code (Internal to ON Semiconductor)</td>
</tr>
<tr>
<td>SERIAL NBR (S)*</td>
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<td>Halide Free Logo</td>
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</tr>
<tr>
<td>2LI Category</td>
<td>Indicates type of 2nd level interconnect plated</td>
</tr>
<tr>
<td>UL Logo</td>
<td>Indicates if material is Underwriter Laboratories listed device</td>
</tr>
<tr>
<td>China RoHS Logo</td>
<td>Indicates if material complies with China RoHS</td>
</tr>
</tbody>
</table>

* Barcoded fields.

Sample MPN Label
CPN Label

Some intermediate boxes may have a standard ON Semiconductor CPN label. The label consists of the following elements:

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CUST PROD ID (P)*</td>
<td>Customer Part Number</td>
</tr>
<tr>
<td>QTY (Q)*</td>
<td>Quantity in container</td>
</tr>
<tr>
<td>VDR (2V)*</td>
<td>UCC Vendor Code for ON Semiconductor</td>
</tr>
<tr>
<td>COO (4L)*</td>
<td>Country of Origin</td>
</tr>
<tr>
<td>DTE (10)*</td>
<td>Date Code(s)</td>
</tr>
<tr>
<td>MPN</td>
<td>Manufacturer Part Number</td>
</tr>
</tbody>
</table>

* Barcoded fields.

Sample CPN Label

Shipping Label

Each Overpack will have a standard ON Semiconductor shipping label. The label consists of the following elements:

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>FROM</td>
<td>ON Semiconductor return address</td>
</tr>
<tr>
<td>SHIP TO</td>
<td>Customer Name and Address</td>
</tr>
<tr>
<td>MPN</td>
<td>Manufacturer Part Number</td>
</tr>
<tr>
<td>F0</td>
<td>Factory Order Number, Lot/Run, Factory Order Sub Job</td>
</tr>
<tr>
<td>(35) PWS ID*</td>
<td>ON Semiconductor UCC code, packing list number and three digit package number</td>
</tr>
<tr>
<td>(6) TRANS ID*</td>
<td>Package Order Number</td>
</tr>
<tr>
<td>(P) CUSTOMER PROD ID*</td>
<td>Customer Part Number</td>
</tr>
<tr>
<td>(Q) QUANTITY*</td>
<td>Package Quantity</td>
</tr>
<tr>
<td>(130) PACKAGE COUNT*</td>
<td>Which package out of the total number of packages in the shipment</td>
</tr>
<tr>
<td>S Serial #*</td>
<td>Packing List number + which package out of the total number of packages in the shipment</td>
</tr>
<tr>
<td>(No Header)</td>
<td>Various Environmental Logos</td>
</tr>
<tr>
<td>COO Assy</td>
<td>Country of Origin based on Assembly, with 2 digit ISO Country Code</td>
</tr>
</tbody>
</table>

* Barcoded fields.

Sample Shipping Label
**Dry Pack Labeling**

For products requiring dry packing, CPN labels will be included per the following process:

- **CPN Label 1**: will be permanently affixed on the outside of the dry pack bag above the MPN label.
- **CPN Label 2**: will be a REMOVABLE (peel and stick) label that will be placed on the outside of the dry pack bag.
- **CPN Label 3**: will be permanently affixed on the outside of the intermediate carton.

*Sample Dry Pack Labels and Example*
Package and Graphics

Shipments from ON Semiconductor will follow ON Semiconductor standard packaging process. The Overpack box may contain multiple Intermediate boxes of a single product. For each line item on an order that is shipped, there will be at least one overpack box (more if the quantity of intermediate boxes exceeds the capacity of the overpack box). Any overpack box will contain one and only one part number, but may contain varying lots and date codes based on the content of the Intermediate Boxes.

![Diagram of packaging and graphics]

Standard Rail (Tube) Boxes and Other Intermediate Boxes

Two Labels on one end: Any Intermediate Box that will accommodate 2 labels on one end. The MPN LABEL will be placed on the end of the box (small face) and to the left of the flap opening. If a CPN label is REQUIRED, it will be placed directly above the Standard Label. Labels may be centered on the Box End (small face) or may be placed to the left or right sides of the Box End as space allows. The requirement is for the CPN Label to be located above the MPN Label.
Enabling Energy Efficient Solutions

Sample ON Semiconductor Intermediate Boxes Showing Graphics

(Tubes Boxes and "Pizza" Boxes)

[Images of boxed packages]
### Packaging List and Certificate of Compliance

The primary Overpack box will contain a packing list detailing the contents of all Overpack boxes in the order. The Packing List contains the ON Semiconductor standard Certificate(s) of Compliance. The label consists of the following elements:

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ship From</td>
<td>ON Semiconductor Return Address</td>
</tr>
<tr>
<td>Ship To</td>
<td>Customer's Name and Address</td>
</tr>
<tr>
<td>Bill To</td>
<td>Customer's Billing Address</td>
</tr>
<tr>
<td>Customer code</td>
<td>ON Semiconductor designated customer identifier</td>
</tr>
<tr>
<td>End Customer PO No</td>
<td>Issuing Customer purchase order number</td>
</tr>
<tr>
<td>Sub</td>
<td>Pick Bank (formerly called Source Bank)</td>
</tr>
<tr>
<td>F/O</td>
<td>Sales Order (formerly called Factory Order)</td>
</tr>
<tr>
<td>S/J</td>
<td>Sub Job (3 maximum sub jobs, then prints multiple)</td>
</tr>
<tr>
<td>L/L</td>
<td>Sales Delivery (formerly called Line/Line) (3 maximum deliveries, then prints multiple)</td>
</tr>
<tr>
<td>Purchase Order Date</td>
<td>Purchase Order Issuance Date</td>
</tr>
<tr>
<td>Customer Req. Date</td>
<td>Customer Required Date</td>
</tr>
<tr>
<td>Manufacturer P.D. Date</td>
<td>Manufacturer Planned Delivery Date</td>
</tr>
<tr>
<td>CSDD</td>
<td>Customer Schedule Date</td>
</tr>
<tr>
<td>FOB</td>
<td>Freight On Board – Customer takes possession at the location specified</td>
</tr>
<tr>
<td>TERMS</td>
<td>Freight shipping terms (who pays the freight)</td>
</tr>
<tr>
<td>Ship VIA</td>
<td>Carrier or Freight Forwarder</td>
</tr>
<tr>
<td>PKG#</td>
<td>Shipment package number</td>
</tr>
<tr>
<td>Weight</td>
<td>Package weight in pounds and kilograms</td>
</tr>
<tr>
<td>Waybill Number</td>
<td>Shipper identification number for that shipment used for tracking</td>
</tr>
<tr>
<td>Lot Number</td>
<td>Product manufacturing lot number</td>
</tr>
<tr>
<td>Quantity</td>
<td>Manufacturing lot quantity</td>
</tr>
<tr>
<td>Date Code</td>
<td>Manufacturing dates</td>
</tr>
<tr>
<td>Revision</td>
<td>Revision number of part</td>
</tr>
<tr>
<td>Assembly Location</td>
<td>Manufacturing Location</td>
</tr>
<tr>
<td>Die Circa</td>
<td>Die Fabrication Location</td>
</tr>
<tr>
<td>(2V) Vendor ID</td>
<td>ON Semiconductor UCC number or Customer assigned Vendor Code</td>
</tr>
<tr>
<td>(11K) Packing List</td>
<td>Packing List number (ON Semiconductor pickref)</td>
</tr>
<tr>
<td>(4S) Package ID</td>
<td>Vendor ID and packing list number</td>
</tr>
<tr>
<td>(K) Trans ID</td>
<td>Customer's purchase order number</td>
</tr>
<tr>
<td>(P) Customer Prod ID</td>
<td>Customer Part Number</td>
</tr>
<tr>
<td>(TP) Manufacturer Part Number</td>
<td>ON Semiconductor Part Number</td>
</tr>
<tr>
<td>(2) Parcels</td>
<td>Total box count</td>
</tr>
<tr>
<td>(2Q) Total Weight in KG</td>
<td>Total Package weight of shipment in kilograms (weight in pound listed above kg)</td>
</tr>
<tr>
<td>(Q) Qty This Shipment</td>
<td>Package Quantity</td>
</tr>
<tr>
<td>(13D) Date Code</td>
<td>Product dated code(s)</td>
</tr>
</tbody>
</table>
SCILLC does not convey any license under its patent rights nor the rights of others. SCILLC products are not designed, intended, or authorized for use as components in systems intended for surgical implant into the body, or other applications intended to support or sustain life, or for any other application in which the failure of the SCILLC product could create a situation where personal injury or death may occur. Should Buyer purchase or use SCILLC products for any such unintended or unauthorized application, Buyer shall indemnify and hold SCILLC and its officers, employees, subsidiaries, affiliates, and distributors harmless against all claims, costs, damages, and expenses, and reasonable attorney fees arising out of, directly or indirectly, any claim of personal injury or death associated with such unintended or unauthorized use, even if such claim alleges that SCILLC was negligent regarding the design or manufacture of the part. SCILLC is an Equal Opportunity/Affirmative Action Employer. This literature is subject to all applicable copyright laws and is not for resale in any manner.

For a comprehensive listing of ON Semiconductor Sales Offices, please visit: www.onsemi.com/salessupport
Exhibit F
Warranty Response Times

- Acknowledgement in [***]
- Preliminary response in [***]
- Confirmation of failure in [***]

Confidential
*** Certain information in this agreement has been omitted and filed separately with the Securities and Exchange Commission. [***] indicates that text has been omitted and is the subject of a confidential treatment request.
Specified Technology consists of the following 3 items:

1. [***]
2. [***]
3. [***]

* For purposes of clarity, ON SEMICONDUCTOR shall own all ON SEMICONDUCTOR Foreground Intellectual Property rights in ON SEMICONDUCTOR’S implementation of the [***] in the Product [***]. The foregoing ON SEMICONDUCTOR Foreground Intellectual Property rights in the [***] shall be excluded from the license set forth in Section 14.2.1 of the Agreement and the restriction set forth in Section 14.2.2 of the Agreement.

Confidential
*** Certain information in this agreement has been omitted and filed separately with the Securities and Exchange Commission. [***] indicates that text has been omitted and is the subject of a confidential treatment request.
The names of the Registrant’s subsidiaries are omitted. Such subsidiaries would not, if considered in the aggregate as a single subsidiary, constitute a significant subsidiary within the meaning of Item 601(b)(21)(ii) of Regulation S-K.
Consent of Independent Registered Public Accounting Firm

The Board of Directors
Square, Inc.:

We consent to the use of our report included herein and to the reference to our firm under the heading “Experts” in the prospectus.

/s/ KPMG LLP
San Francisco, California
October 14, 2015