

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**AMENDMENT NO. 2  
TO  
FORM S-1  
REGISTRATION STATEMENT**

*Under  
The Securities Act of 1933*

**SQUARE, INC.**

(Exact name of Registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**7372**  
(Primary Standard Industrial  
Classification Code Number)

**80-0429876**  
(I.R.S. Employer  
Identification Number)

**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**

Title of Each Class of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price Per Share (2)	Proposed Maximum Aggregate Offering Price (1)(2)	Amount of Registration Fee (3)
Class A common stock, \$0.0000001 par value per share	31,050,000	\$13.00	\$403,650,000.00	\$40,647.56

(1) Includes the additional shares that the underwriters have the right to purchase from the Registrant.

(2) Estimated solely for the purpose of computing the amount of the registration fee pursuant to Rule 457(a) under the Securities Act of 1933, as amended.

(3) The Registrant previously paid \$27,693 of the registration fee in connection with the initial filing of this Registration Statement.

**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.**

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

Subject to Completion, dated November 6 , 2015

PROSPECTUS

27,000,000 Shares



This is an initial public offering of shares of Class A common stock of Square, Inc. We are selling 25,650,000 shares of our Class A common stock and the selling stockholder named in this prospectus is selling 1,350,000 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 \$11.00 and \$13.00. Our Class A common stock has been approved for listing 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 99.1% 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 the initial public offering price, up to 5.0% of the Class A common stock offered hereby to our existing sellers and Square Cash customers. 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 donor-advised fund held and administered by the Silicon Valley Community Foundation, the selling stockholder. The Start Small Foundation is a charitable fund created by our CEO and founder, Jack Dorsey.

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.**

	Per Share	Total
Initial public offering price	\$	\$
Underwriting discount (1)	\$	\$
Proceeds, before expenses, to us	\$	\$
Proceeds, before expenses, to the selling stockholder	\$	\$

(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 27,000,000 shares of Class A common stock, the underwriters have the option to purchase up to an additional 4,050,000 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**

**SMBC Nikko**

Prospectus dated \_\_\_\_\_, 2015



TOD WILSON  
MR. TOD'S PIE FACTORY, ENGLEWOOD, NJ



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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, which includes the impact of revenue generated from Starbucks, 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 the 12 months ended September 30, 2015, sellers using Square processed \$32.4 billion of GPV, which was generated by 638 million card payments from approximately 180 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 September 30, 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, to date, nearly half of our sellers have found us and signed up, rather than us having found 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 18 quarterly seller cohorts (dating back to the second quarter of 2010) has grown year over year in every quarter since the first quarter of 2012. 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 \$300 million across over 50,000 advances 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 1.6 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. <sup>1</sup> 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 nine months ended September 30, 2015, our total net revenue grew to \$892.8 million, up 49% from the nine months ended September 30, 2014. In 2014, our total net revenue grew to \$850.2 million, up 54% from the prior year. For the nine months ended September 30, 2015, our Adjusted Revenue grew to \$317.6 million, up 63% from the nine months ended September 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. Starbucks has announced that it will transition to another payment processor and will cease using our payment processing services altogether prior to the scheduled expiration of the agreement in the third quarter of 2016. For more information on Adjusted Revenue, see the section titled "—Key Operating Metrics and Non-GAAP Financial Measures." We intend to

<sup>1</sup> 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.

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 nine months ended September 30, 2015 and September 30, 2014, we generated a net loss of \$131.5 million and \$117.0 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 12% (\$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* . We estimate that, to date, nearly half of our sellers have found us and signed up, rather than us having found 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 September 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, nearly 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 the 12 months ended September 30, 2015, our sellers accepted payments from approximately 180 million payment cards, which we estimate represents approximately one in four 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**

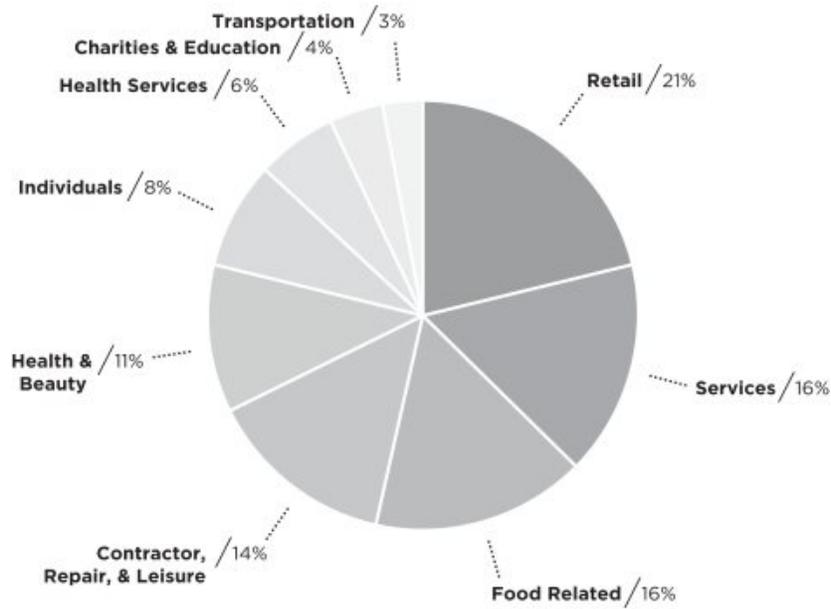
- *Expand our payments services into additional countries.* We evaluate many factors when choosing to enter a new country, including market opportunity, technology adoption, and the regulatory environment. We plan to expand into additional countries to broaden payment card acceptance worldwide and to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

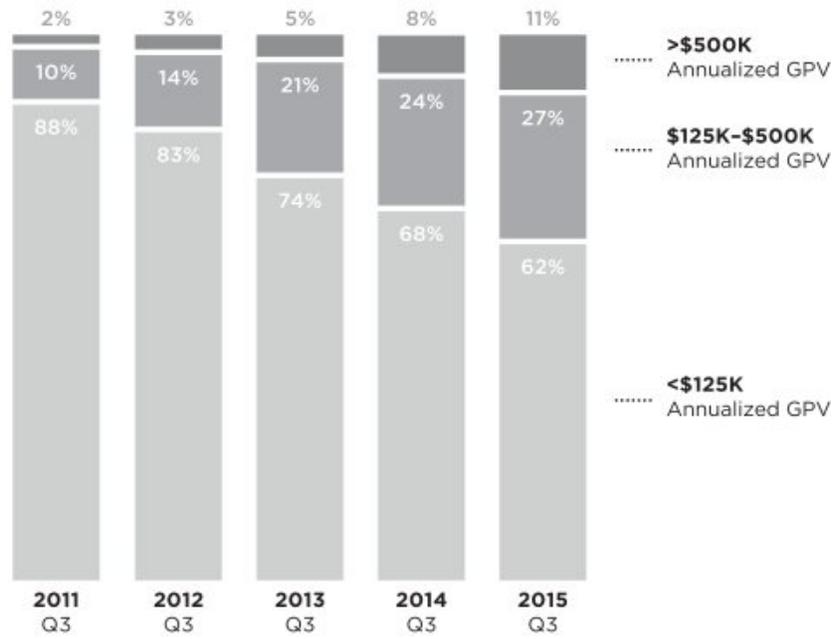
Our sellers represent businesses in a diverse set of industries, including retail, services, food, and leisure. We serve sellers of all sizes, ranging from a single vendor at a farmers' market to multinational businesses. We believe the diversity of our sellers underscores the accessibility of our offerings. 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 Industry

*(For 12 months ended September 30, 2015)*



## GPV Mix by Seller Size *(Excluding Starbucks)*



**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 99.1% 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](http://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**

Class A common stock offered by us	25,650,000 shares
Class A common stock offered by the selling stockholder	1,350,000 shares
Class A common stock to be outstanding after this offering	27,000,000 shares
Class B common stock to be outstanding after this offering	295,944,713 shares

Total Class A common stock and Class B common stock to be outstanding after this offering 322,944,713 shares

Option to purchase additional shares of Class A common stock offered by us 4,050,000 shares

**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" for additional information.

**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.

Holder 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 99.1% 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 5.0% of the Class A common stock offered hereby (excluding any additional shares of Class A common stock to be offered by us) to our existing sellers and Square Cash customers. The sales will be made under a directed share program through the LOYAL3 Platform. The shares being made available for this program are being sold by the Start Small Foundation, a donor-advised fund held and administered by the Silicon Valley Community Foundation, the selling stockholder. The Start Small Foundation is a charitable fund created by our CEO and founder, Jack Dorsey.
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 the section titled "Underwriting (Conflicts of Interest)" for additional information.
NYSE trading symbol	"SQ"
<p>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 297,294,713 shares of our Class B common stock (including preferred stock on an as-converted basis) outstanding as of September 30, 2015 and excludes the following:</p> <ul style="list-style-type: none"><li>• 106,133,176 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 September 30, 2015, with a weighted-average exercise price of \$6.95 per share;</li><li>• 100,900 shares of our Class B common stock issuable upon the vesting of restricted stock units (RSUs) outstanding as of September 30, 2015;</li><li>• 9,543,640 shares of our Class B common stock issuable upon the exercise of warrants outstanding as of September 30, 2015, with a weighted-average exercise price of \$10.92 per share;</li></ul>	

- 2,816,100 shares of our Class A common stock issuable upon the exercise of options to purchase shares of our Class A common stock granted after September 30, 2015, with an exercise price per share equal to the public offering price set forth on the cover page of the final prospectus for this offering;
- 924,100 shares of our Class B common stock issuable upon the vesting of RSUs granted after September 30, 2015;
- 1,940,058 shares of our Series E convertible preferred stock issued after September 30, 2015; and
- 34,200,000 shares of our Class A common stock reserved for future issuance under our equity compensation plans, consisting of:
  - 30,000,000 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
  - 4,200,000 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 (other than shares of our Series E convertible preferred stock) into an aggregate of 125,552,520 shares of our Class B common stock, which will occur immediately prior to the completion of this offering;
- the automatic conversion and reclassification of 9,700,289 outstanding shares of our Series E convertible preferred stock into an aggregate of 14,999,987 shares of our Class B common stock immediately prior to the completion of this offering, based on the assumed initial public offering price of \$12.00 per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus. These 5,299,698 additional shares represent approximately 1.6% of the total number of shares of our Class A common stock and Class B common stock to be outstanding after this offering. A \$1.00 decrease in the initial public offering price would increase the number of shares of our Class B common stock issuable upon conversion and reclassification of our Series E convertible preferred stock by 1,363,637, and a \$1.00 increase in the initial public offering price would decrease the number of shares of our Class B common stock issuable upon conversion and reclassification of our Series E convertible preferred stock by 1,153,845; 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 nine months ended September 30, 2014 and 2015, and the consolidated balance sheet data as of September 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 nine months ended September 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. Starbucks has announced that it will transition to another payment processor and will cease using our payment processing services altogether prior to the scheduled expiration of the agreement in the third quarter of 2016. As a result, Starbucks payment processing volumes will decrease meaningfully in the future. 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.

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(in thousands)			(unaudited)	
<b>Consolidated Statement of Operations Data:</b>					
Revenue:					
Transaction revenue	\$ 193,978	\$ 433,737	\$ 707,799	\$ 501,468	\$ 751,929
Starbucks transaction revenue	9,471	114,456	123,024	86,508	95,199
Software and data product revenue	—	—	12,046	6,022	35,628
Hardware revenue	—	4,240	7,323	5,300	10,002
Total net revenue	<u>203,449</u>	<u>552,433</u>	<u>850,192</u>	<u>599,298</u>	<u>892,758</u>
Cost of revenue:					
Transaction costs	126,351	277,833	450,858	318,501	479,937
Starbucks transaction costs	12,547	139,803	150,955	107,889	118,542
Software and data product costs	—	—	2,973	1,032	13,820
Hardware costs	—	6,012	18,330	13,527	16,636
Amortization of acquired technology	—	—	1,002	602	2,886
Total cost of revenue	<u>138,898</u>	<u>423,648</u>	<u>624,118</u>	<u>441,551</u>	<u>631,821</u>
Gross profit	<u>64,551</u>	<u>128,785</u>	<u>226,074</u>	<u>157,747</u>	<u>260,937</u>
Operating expenses:					
Product development	46,568	82,864	144,637	104,967	140,452
Sales and marketing	56,648	64,162	112,577	81,704	107,170
General and administrative	36,184	68,942	94,220	68,585	97,743
Transaction and advance losses	10,512	15,329	24,081	17,826	40,840
Amortization of acquired customer assets	—	—	1,050	591	1,373
Impairment of intangible assets	—	2,430	—	—	—
Total operating expenses	<u>149,912</u>	<u>233,727</u>	<u>376,565</u>	<u>273,673</u>	<u>387,578</u>
Operating loss	<u>(85,361)</u>	<u>(104,942)</u>	<u>(150,491)</u>	<u>(115,926)</u>	<u>(126,641)</u>
Interest (income) and expense	5	(12)	1,058	615	995
Other (income) and expense	(167)	(950)	1,104	737	1,390
Loss before income tax	<u>(85,199)</u>	<u>(103,980)</u>	<u>(152,653)</u>	<u>(117,278)</u>	<u>(129,026)</u>
Provision (benefit) for income taxes	—	513	1,440	(257)	2,502
Net loss	<u>\$ (85,199)</u>	<u>\$ (104,493)</u>	<u>\$ (154,093)</u>	<u>\$ (117,021)</u>	<u>\$ (131,528)</u>

Operating expenses include share-based compensation expense as follows:

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(in thousands)			(unaudited)	
Product development	\$ 3,984	\$ 8,820	\$ 24,758	\$ 16,907	\$ 33,287
Sales and marketing	668	1,235	3,738	2,553	4,524
General and administrative	3,462	4,603	7,604	5,193	11,675
Total share-based compensation	<u>\$ 8,114</u>	<u>\$ 14,658</u>	<u>\$ 36,100</u>	<u>\$ 24,653</u>	<u>\$ 49,486</u>

	Year Ended December 31,		As of
	2013	2014	September 30, 2015
	(in thousands)		(unaudited)
<b>Consolidated Balance Sheet Data:</b>			
Cash and cash equivalents	\$ 166,176	\$ 225,300	\$ 174,083
Settlements receivable	64,968	115,481	156,188
Working capital	124,061	218,761	107,247
Total assets	318,341	541,888	597,946
Customers payable	95,794	148,648	238,085
Total stockholders' equity	162,294	273,672	236,462

**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. Starbucks has announced that it will transition to another payment processor and will cease using our payment processing services altogether 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 termination of the Starbucks agreement on our revenues going forward, 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 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.

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(in thousands, except GPV)				
	(unaudited)				
Gross Payment Volume (GPV) (in millions)	\$ 6,518	\$ 14,822	\$ 23,780	\$ 16,824	\$ 25,450
Adjusted Revenue	\$ 67,627	\$ 160,144	\$ 276,310	\$ 194,289	\$ 317,622
Adjusted EBITDA	\$(70,579)	\$(51,530)	\$(67,741)	\$(57,049)	\$(35,046)

**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, Starbucks has announced that it will transition to another payment processor and will cease using our payment processing services altogether, 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:

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(in thousands)			(unaudited)	
Total net revenue	\$203,449	\$552,433	\$850,192	\$599,298	\$892,758
Less: Starbucks transaction revenue	9,471	114,456	123,024	86,508	95,199
Less: transaction costs	126,351	277,833	450,858	318,501	479,937
Adjusted Revenue	<u>\$ 67,627</u>	<u>\$160,144</u>	<u>\$276,310</u>	<u>\$194,289</u>	<u>\$317,622</u>

### **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 Starbucks has announced that it will transition to another payment processor. We 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 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:

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(in thousands)			(unaudited)	
Net loss	\$ (85,199)	\$ (104,493)	\$ (154,093)	\$ (117,021)	\$ (131,528)
Starbucks transaction revenue	(9,471)	(114,456)	(123,024)	(86,508)	(95,199)
Starbucks transaction costs	12,547	139,803	150,955	107,889	118,542
Share-based compensation expense	8,114	14,658	36,100	24,653	49,486
Depreciation and amortization	3,579	8,272	18,586	12,843	18,526
Interest (income) and expense	5	(12)	1,058	615	995
Other (income) and expense	(167)	(950)	1,104	737	1,390
Provision (benefit) for income taxes	—	513	1,440	(257)	2,502
Loss on sale of property and equipment	13	2,705	133	—	240
Impairment of intangible assets	—	2,430	—	—	—
Adjusted EBITDA	<u>\$ (70,579)</u>	<u>\$ (51,530)</u>	<u>\$ (67,741)</u>	<u>\$ (57,049)</u>	<u>\$ (35,046)</u>

## 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.

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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 \$892.8 million for the nine months ended September 30, 2015, from \$599.3 million for the nine months ended September 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. Starbucks has announced that it will transition to another payment processor and will cease using our payment processing services altogether 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 going forward. 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 nine months ended September 30, 2015, we generated a net loss of \$131.5 million. As of September 30, 2015, we had an accumulated deficit of \$527.2 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.***

Our quarterly results of operations may vary significantly and are not necessarily an indication of future performance. These fluctuations may be due to a variety of factors, some of which are outside of our control and may not fully reflect the underlying performance of our business. Our limited operating history combined with the rapidly evolving markets in which also contributes to these fluctuations. Fluctuations in quarterly results may materially and adversely affect the predictability of our business and the price of our Class A common stock.

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 continue introducing 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 relating 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. In addition, as our business continues to develop and expand, we may become subject to additional rules and regulations. 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.

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 once 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.

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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 September 30, 2015, we had 113 patents issued in the United States and abroad and 460 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 of 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 99.1% 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 the 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 to entities, including certain charities and foundations, to the extent the transferor retains sole dispositive power and exclusive voting control with respect to the shares of Class B common stock. 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 the section titled "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, 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.***

Our Class A common stock has been approved for listing on the New York Stock Exchange 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;

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- 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 295,944,713, or 91.6%, 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 September 30, 2015, we will have 322,944,713 shares of our capital stock outstanding after this offering. Our executive officers, directors,

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and the holders of substantially all of our capital stock, options, and warrants have entered into market standoff agreements with us or lock-up agreements with the underwriters under which they have agreed, subject to specific exceptions, not to sell any of our capital stock for at least 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 27,000,000 shares of our Class A common stock sold in this offering will be immediately available for sale in the public market; and
- beginning 181 days after the date of this prospectus, 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, our insider trading policy, and certain of our market standoff agreements.

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. In addition, we may extend the restricted period under certain of our market standoff agreements, covering 30,271,874 shares of our capital stock, to 270 days.

Following the expiration of the lock-up agreements referred to above, stockholders owning an aggregate of up to 248,396,599 shares of our Class B common stock (including shares issuable pursuant to the exercise of warrants to purchase shares of our capital stock that were outstanding as of September 30, 2015) can require us to register shares of our capital stock owned by them for public sale in the United States. Future transfers by holders of our Class B common stock will generally result in those shares converting into shares of our Class A common stock, subject to limited exceptions. In addition, we intend to file a registration statement to register approximately 144,174,276 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 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

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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 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 \$12.00 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 \$10.64 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 29.8% of the total consideration paid to us by all stockholders who purchased shares of our common stock, in exchange for acquiring approximately 8.4% of the outstanding shares of our Class A common stock as of September 30, 2015, after giving effect to this offering. The exercise of outstanding options to purchase shares of our 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.

***Affiliates of one of the underwriters in this offering collectively beneficially own more than 10% of our outstanding convertible preferred stock and have an interest in this offering beyond customary underwriting discounts and commissions.***

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. In its role as qualified independent underwriter, Morgan Stanley & Co. LLC has participated in due diligence and the preparation of this prospectus and the registration statement of which this prospectus forms a part. Although Morgan Stanley & Co. LLC has, in its capacity as qualified independent underwriter, participated in due diligence and the preparation of this prospectus and the registration statement of which this prospectus forms a part, we cannot assure you that this will adequately address all potential conflicts of interest. 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. In accordance with Rule 5121, J.P. Morgan Securities LLC will not sell shares of our Class A common stock to a discretionary account without the prior written approval from the account holder. See the section titled "Underwriting (Conflicts of Interest)" for additional information.

***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

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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.

## INDUSTRY AND MARKET DATA AND CUSTOMER TESTIMONIALS

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
- (2) Congressional Research Service, The EMV Chip Card Transition: Background, Status, and Issues for Congress, September 2015
- (3) FDIC, Loans to Small Businesses and Farms, FDIC-Insured Institutions, 1995-2015, Q4 2014
- (4) Federal Reserve Bank of New York, Key Findings: Small Business Credit Survey, Spring 2014
- (5) Oliver Wyman, Financing Small Businesses: How "New-Form Lending" Will Reshape Banks' Small Business Strategies, 2013
- (6) The Kauffman Index, Startup Activity National Trends, 2015
- (7) The Nilson Report, Issue 985, December 2011
- (8) The Nilson Report, Issue 1054, December 2014
- (9) The Nilson Report, Issue 1056, January 2015
- (10) The Nilson Report, Issue 1057, February 2015
- (11) United States Census Bureau, 2013 Nonemployer Statistics, 2013
- (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
- (13) United States Small Business Administration, Office of Advocacy, Frequently Asked Questions, March 2014

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 to us from the sale of shares of our Class A common stock in this offering will be approximately \$284.6 million, based on an assumed initial public offering price of \$12.00 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 \$46.0 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 \$24.3 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 September 30, 2015, as follows:

- on an actual basis;
- on a pro forma 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, the automatic conversion and reclassification of all outstanding shares of our convertible preferred stock into an aggregate of 140,552,507 shares of our Class B common stock (including those additional shares issuable upon conversion and reclassification of our Series E convertible preferred stock), and the effectiveness of our amended and restated certificate of incorporation, as if such conversion, reclassification, and effectiveness had occurred on September 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 25,650,000 shares of our Class A common stock by us in this offering, based upon the assumed initial public offering price of \$12.00 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 initial public offering price is equal to the midpoint of the estimated offering price range set forth on the cover page of this prospectus, the 9,700,289 outstanding shares of our Series E convertible preferred stock would convert and be reclassified into 14,999,987 shares of our Class B common stock. These 5,299,698 additional shares represent approximately 1.6% of the total number of shares of our Class A common stock and Class B common stock to be outstanding after this offering. A \$1.00 decrease in the initial public offering price would increase the number of shares of our Class B common stock issuable upon conversion and reclassification of our Series E convertible preferred stock by 1,363,637, and a \$1.00 increase in the initial public offering price would decrease the number of shares of our Class B common stock issuable upon conversion and reclassification of our Series E convertible preferred stock by 1,153,845.

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.

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	As of September 30, 2015		
	Actual	Pro Forma	Pro Forma As Adjusted
	(in thousands except share data)		
Cash and cash equivalents	\$ 174,083	\$ 174,083	\$ 458,724
Debt	—	—	—
Convertible preferred stock, \$0.0000001 par value per share; 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	514,945	—	—
Shareholders' equity:			
Preferred stock, par value \$0.0000001 per share; no shares authorized, issued and outstanding, actual; 100,000,000 shares authorized, no shares issued and outstanding, pro forma and pro forma as adjusted	—	—	—
Existing common stock, par value \$0.0000001 per share; 445,000,000 shares authorized, 156,742,206 shares issued and outstanding, actual; no shares authorized, issued and outstanding pro forma and pro forma as adjusted	—	—	—
Class A common stock, par value \$0.0000001 per share; no shares authorized, issued and outstanding, actual; 1,000,000,000 shares authorized, no shares issued and outstanding, pro forma; 1,000,000,000 shares authorized, 27,000,000 issued and outstanding, pro forma as adjusted	—	—	—
Class B common stock, par value \$0.0000001 per share; no shares authorized, issued and outstanding, actual; 500,000,000 shares authorized, 297,294,713 issued and outstanding, pro forma; 500,000,000 shares authorized, 295,944,713 issued and outstanding, pro forma as adjusted	—	—	—
Additional paid-in capital	249,954	764,899	1,049,540
Accumulated other comprehensive loss	(1,277)	(1,277)	(1,277)
Accumulated deficit	(527,160)	(527,160)	(527,160)
Total stockholders' equity	236,462	236,462	521,103
Total capitalization	<u>\$ 236,462</u>	<u>\$ 236,462</u>	<u>\$ 521,103</u>

A \$1.00 increase (decrease) in the assumed initial public offering price of \$12.00 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 as adjusted cash and cash equivalents, additional paid-in capital, total stockholders' equity, and total capitalization by approximately \$24.3 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 297,294,713 shares of our Class B common stock (including preferred stock on an as-converted basis) outstanding as of September 30, 2015, and excludes the following:

- 106,133,176 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 September 30, 2015, with a weighted-average exercise price of \$6.95 per share;

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- 100,900 shares of our Class B common stock issuable upon the vesting of RSUs outstanding as of September 30, 2015;
- 9,543,640 shares of our Class B common stock issuable upon the exercise of warrants outstanding as of September 30, 2015, with a weighted-average exercise price of \$10.92 per share;
- 2,816,100 shares of our Class A common stock issuable upon the exercise of options to purchase shares of our Class A common stock granted after September 30, 2015, with an exercise price per share equal to the public offering price set forth on the cover page of the final prospectus for this offering;
- 924,100 shares of our Class B common stock issuable upon the vesting of RSUs granted after September 30, 2015;
- 1,940,058 shares of our Series E convertible preferred stock issued after September 30, 2015; and
- 34,200,000 shares of our Class A common stock reserved for future issuance under our equity compensation plans, consisting of:
  - 30,000,000 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
  - 4,200,000 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.

## DILUTION

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 September 30, 2015, was \$154.4 million, or \$0.52 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 September 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 140,552,507 shares of our Class B common stock (including those additional shares issuable upon conversion and reclassification of our Series E convertible preferred stock). Such conversion will occur immediately prior to the completion of this offering.

After giving effect to the sale by us of 25,650,000 shares of our Class A common stock in this offering at the assumed initial public offering price of \$12.00 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 September 30, 2015, would have been \$439.0 million, or \$1.36 per share. This represents an immediate increase in pro forma net tangible book value of \$0.84 per share to our existing stockholders and an immediate dilution in pro forma net tangible book value of \$10.64 per share to investors purchasing shares of our Class A common stock in this offering. The following table illustrates this dilution:

Assumed initial public offering price per share of Class A common stock	\$ 12.00
Pro forma net tangible book value per share as of September 30, 2015	\$0.52
Increase in pro forma net tangible book value per share attributable to investors purchasing shares of our Class A common stock in this offering	<u>0.84</u>
Pro forma as adjusted net tangible book value per share of our Class A common stock immediately after the completion of this offering	<u>1.36</u>
Dilution in pro forma net tangible book value per share to investors purchasing shares of our Class A common stock in this offering	<u>\$ 10.64</u>

Each \$1.00 increase or decrease in the assumed initial public offering price of \$12.00 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 \$0.08, 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 \$0.92, assuming the number of shares of our Class A common stock offered by us, as set forth on the cover

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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 initial public offering price is equal to the midpoint of the estimated offering price range set forth on the cover page of this prospectus, the 9,700,289 outstanding shares of our Series E convertible preferred stock would convert and be reclassified into 14,999,987 shares of our Class B common stock. These 5,299,698 additional shares represent approximately 1.6% of the total number of shares of our Class A common stock and Class B common stock to be outstanding after this offering. A \$1.00 decrease in the initial public offering price would increase the number of shares of our Class B common stock issuable upon conversion and reclassification of our Series E convertible preferred stock by 1,363,637, and a \$1.00 increase in the initial public offering price would decrease the number of shares of our Class B common stock issuable upon conversion and reclassification of our Series E convertible preferred stock by 1,153,845.

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 \$1.48 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 \$10.52 per share.

The following table presents, on a pro forma basis as of September 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 140,552,507 shares of our Class B common stock (including those additional shares issuable upon conversion and reclassification of our Series E convertible preferred 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 \$12.00 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:

	Shares Purchased		Total Consideration		Average Price Per Share
	Number	Percent	Amount	Percent	
Existing stockholders	295,944,713	91.6%	\$ 764,899,000	70.2%	\$ 2.58
Investors purchasing shares of our Class A common stock in this offering	27,000,000	8.4	324,000,000	29.8	12.00
<b>Totals</b>	<b>322,944,713</b>	<b>100%</b>	<b>\$ 1,088,899,000</b>	<b>100%</b>	

Each \$1.00 increase or decrease in the assumed initial public offering price of \$12.00 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 \$24.3 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.

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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 90.5% and the investors purchasing shares of our Class A common stock in this offering would own 9.5% 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 297,294,713 shares of our Class B common stock (including preferred stock on an as-converted basis) outstanding as of September 30, 2015, and excludes the following:

- 106,133,176 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 September 30, 2015, with a weighted-average exercise price of \$6.95 per share;
- 100,900 shares of our Class B common stock issuable upon the vesting of RSUs outstanding as of September 30, 2015;
- 9,543,640 shares of our Class B common stock issuable upon the exercise of warrants outstanding as of September 30, 2015, with a weighted-average exercise price of \$10.92 per share;
- 2,816,100 shares of our Class A common stock issuable upon the exercise of options to purchase shares of our Class A common stock granted after September 30, 2015, with an exercise price per share equal to the public offering price set forth on the cover page of the final prospectus for this offering;
- 924,100 shares of our Class B common stock issuable upon the vesting of RSUs granted after September 30, 2015;
- 1,940,058 shares of our Series E convertible preferred stock issued after September 30, 2015; and
- 34,200,000 shares of our Class A common stock reserved for future issuance under our equity compensation plans, consisting of:
  - 30,000,000 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
  - 4,200,000 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.

## 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 nine months ended September 30, 2014 and 2015, and the consolidated balance sheet data as of September 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 nine months ended September 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. Starbucks has announced that it will transition to another payment processor and will cease using our payment processing services altogether prior to the scheduled expiration of the agreement in the third quarter of 2016. As a result, Starbucks payment processing volumes will decrease meaningfully going forward. 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.

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	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(in thousands)			(unaudited)	
<b>Consolidated Statement of Operations Data:</b>					
Revenue:					
Transaction revenue	\$ 193,978	\$ 433,737	\$ 707,799	\$ 501,468	\$ 751,929
Starbucks transaction revenue	9,471	114,456	123,024	86,508	95,199
Software and data product revenue	—	—	12,046	6,022	35,628
Hardware revenue	—	4,240	7,323	5,300	10,002
Total net revenue	<u>203,449</u>	<u>552,433</u>	<u>850,192</u>	<u>599,298</u>	<u>892,758</u>
Cost of revenue:					
Transaction costs	126,351	277,833	450,858	318,501	479,937
Starbucks transaction costs	12,547	139,803	150,955	107,889	118,542
Software and data product costs	—	—	2,973	1,032	13,820
Hardware costs	—	6,012	18,330	13,527	16,636
Amortization of acquired technology	—	—	1,002	602	2,886
Total cost of revenue	<u>138,898</u>	<u>423,648</u>	<u>624,118</u>	<u>441,551</u>	<u>631,821</u>
Gross profit	<u>64,551</u>	<u>128,785</u>	<u>226,074</u>	<u>157,747</u>	<u>260,937</u>
Operating expenses:					
Product development	46,568	82,864	144,637	104,967	140,452
Sales and marketing	56,648	64,162	112,577	81,704	107,170
General and administrative	36,184	68,942	94,220	68,585	97,743
Transaction and advance losses	10,512	15,329	24,081	17,826	40,840
Amortization of acquired customer assets	—	—	1,050	591	1,373
Impairment of intangible assets	—	2,430	—	—	—
Total operating expenses	<u>149,912</u>	<u>233,727</u>	<u>376,565</u>	<u>273,673</u>	<u>387,578</u>
Operating loss	<u>(85,361)</u>	<u>(104,942)</u>	<u>(150,491)</u>	<u>(115,926)</u>	<u>(126,641)</u>
Interest (income) and expense	5	(12)	1,058	615	995
Other (income) and expense	(167)	(950)	1,104	737	1,390
Loss before income tax	<u>(85,199)</u>	<u>(103,980)</u>	<u>(152,653)</u>	<u>(117,278)</u>	<u>(129,026)</u>
Provision (benefit) for income taxes	—	513	1,440	(257)	2,502
Net loss	<u>\$ (85,199)</u>	<u>\$ (104,493)</u>	<u>\$ (154,093)</u>	<u>\$ (117,021)</u>	<u>\$ (131,528)</u>

Operating expenses include share-based compensation expense as follows:

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(in thousands)			(unaudited)	
Product development	\$ 3,984	\$ 8,820	\$ 24,758	\$ 16,907	\$ 33,287
Sales and marketing	668	1,235	3,738	2,553	4,524
General and administrative	<u>3,462</u>	<u>4,603</u>	<u>7,604</u>	<u>5,193</u>	<u>11,675</u>
Total share-based compensation	<u>\$ 8,114</u>	<u>\$ 14,658</u>	<u>\$ 36,100</u>	<u>\$ 24,653</u>	<u>\$ 49,486</u>

	Year Ended December 31,		As of
	2013	2014	September 30,
	(in thousands)		2015
			(unaudited)
<b>Consolidated Balance Sheet Data:</b>			
Cash and cash equivalents	\$ 166,176	\$ 225,300	\$ 174,083
Settlements receivable	64,968	115,481	156,188
Working capital	124,061	218,761	107,247
Total assets	318,341	541,888	597,946
Customers payable	95,794	148,648	238,085
Total stockholders' equity	162,294	273,672	236,462

### 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. Starbucks has announced that it will transition to another payment processor and will cease using our payment processing services altogether 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 termination of the Starbucks agreement on our revenues going forward, 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 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.

	Year Ended December 31,			Nine Months Ended	
	2012	2013	2014	September 30,	2015
	(in thousands, except GPV)			(unaudited)	
Gross Payment Volume (GPV) (in millions)	\$ 6,518	\$ 14,822	\$ 23,780	\$ 16,824	\$ 25,450
Adjusted Revenue	\$ 67,627	\$ 160,144	\$ 276,310	\$ 194,289	\$ 317,622
Adjusted EBITDA	\$ (70,579)	\$ (51,530)	\$ (67,741)	\$ (57,049)	\$ (35,046)

#### 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, Starbucks has announced that it will transition to another payment processor and will cease using our payment processing services altogether, 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:

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(in thousands)			(unaudited)	
Total net revenue	\$203,449	\$552,433	\$850,192	\$599,298	\$892,758
Less: Starbucks transaction revenue	9,471	114,456	123,024	86,508	95,199
Less: transaction costs	<u>126,351</u>	<u>277,833</u>	<u>450,858</u>	<u>318,501</u>	<u>479,937</u>
Adjusted Revenue	<u>\$ 67,627</u>	<u>\$ 160,144</u>	<u>\$276,310</u>	<u>\$194,289</u>	<u>\$317,622</u>

**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

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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 Starbucks has announced it will transition to another payment processor. We 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:

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(in thousands)			(unaudited)	
Net loss	\$ (85,199)	\$ (104,493)	\$ (154,093)	\$ (117,021)	\$ (131,528)
Starbucks transaction revenue	(9,471)	(114,456)	(123,024)	(86,508)	(95,199)
Starbucks transaction costs	12,547	139,803	150,955	107,889	118,542
Share-based compensation expense	8,114	14,658	36,100	24,653	49,486
Depreciation and amortization	3,579	8,272	18,586	12,843	18,526
Interest (income) and expense	5	(12)	1,058	615	995
Other (income) and expense	(167)	(950)	1,104	737	1,390
Provision (benefit) for income taxes	—	513	1,440	(257)	2,502
Loss on sale of property and equipment	13	2,705	133	—	240
Impairment of intangible assets	—	2,430	—	—	—
Adjusted EBITDA	<u>\$ (70,579)</u>	<u>\$ (51,530)</u>	<u>\$ (67,741)</u>	<u>\$ (57,049)</u>	<u>\$ (35,046)</u>

## 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, which includes the impact of revenue generated from Starbucks, 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 the 12 months ended September 30, 2015, sellers using Square processed \$32.4 billion of GPV, which was generated by 638 million card payments from approximately 180 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 September 30, 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, to date, nearly half of our sellers have found us and signed up, rather than us having found 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 18 quarterly seller cohorts (dating back to the second quarter of 2010) has grown year over year in every quarter since the first quarter of 2012. 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 nine months ended September 30, 2015, transaction revenue and Starbucks transaction revenue together represented 95% of total net revenue. For the nine months ended September 30, 2015, our total net revenue grew to \$892.8 million, up 49% from the nine months ended September 30, 2014. In 2014, our total net revenue grew to \$850.2 million, up 54% from the prior year. For the nine months ended September 30, 2015, our Adjusted Revenue grew to \$317.6 million, up 63% from the nine months ended September 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 nine months ended September 30, 2015 and September 30, 2014, we generated a net loss of \$131.5 million and \$117.0 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. Historically, card-issuing banks were generally responsible for fraudulent card-present transactions. Beginning in October 2015, sellers in the United States who accept card-present payments with EMV chip cards and who are not using EMV-compliant hardware are 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 announced a Square Reader for both EMV chip cards and NFC, which will begin shipping in the fourth quarter 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.

*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 nine months ended September 30, 2015, we sent nearly 170 million digital receipts, representing 64% growth over the same period last year. We currently see more than 1.6 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 nine months ended September 30, 2015, and the year ended December 31, 2014, the gross loss related to our payment processing agreement with Starbucks was \$23.3 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. Starbucks has announced that it will transition to another payment processor and will cease using our payment processing services altogether prior to the scheduled expiration of the agreement in the third quarter of 2016. As a result, Starbucks payment processing volumes will decrease meaningfully in the future. This transition will result in decreased Starbucks transaction revenue and Starbucks transaction costs, positively affecting our overall gross profit. Because we will cease to provide payment processing services to Starbucks in the future, and because the payment processing 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 termination of the Starbucks agreement on our revenues going forward, 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, 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 is no longer obligated to use us as their exclusive payment processor. Starbucks has announced that it will transition to another payment processor and will cease using our payment processing services altogether prior to the scheduled expiration of the agreement in the third quarter of 2016, positively affecting our overall gross profit. Starbucks transaction revenue in 2012 includes the initial recognition of the fair value of a warrant issued in our payment processing agreement with Starbucks.

As part of the amendment of our payment processing agreement with Starbucks in August 2015, certain warrants held by Starbucks to purchase shares of our common stock contingent upon achievement of certain performance thresholds were canceled. Additionally, as part of this amendment, we agreed to facilitate the sale of 2,269,830 shares of our Series D preferred stock held by Starbucks to a third party. If the aggregate purchase price in a sale to a third party of the Series D preferred stock is less than \$37 million, then we will pay Starbucks the difference. This obligation terminates upon the expiration of any applicable lock-up period following an initial public offering. In the event that such obligation has not terminated, and the shares have not been sold, by October 30, 2016, we are obligated to repurchase the shares for an aggregate purchase price of \$37 million. This obligation is being accounted for as a derivative instrument initially valued at \$1.5 million and recorded as a reduction to Starbucks transaction revenue. To the extent this obligation remains outstanding, we will measure the fair value of this derivative instrument on a quarterly basis with incremental increases or decreases in its value, if any, recorded as changes to Starbucks transaction revenue in the applicable quarter.

*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.

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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, risk operations, 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 period from January 1, 2012 through September 30, 2015, 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 losses 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 September 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:

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(in thousands)			(unaudited)	
<b>Consolidated Statement of Operations Data:</b>					
Revenue:					
Transaction revenue	\$ 193,978	\$ 433,737	\$ 707,799	\$ 501,468	\$ 751,929
Starbucks transaction revenue	9,471	114,456	123,024	86,508	95,199
Software and data product revenue	—	—	12,046	6,022	35,628
Hardware revenue	—	4,240	7,323	5,300	10,002
Total net revenue	<u>203,449</u>	<u>552,433</u>	<u>850,192</u>	<u>599,298</u>	<u>892,758</u>
Cost of revenue:					
Transaction costs	126,351	277,833	450,858	318,501	479,937
Starbucks transaction costs	12,547	139,803	150,955	107,889	118,542
Software and data product costs	—	—	2,973	1,032	13,820
Hardware costs	—	6,012	18,330	13,527	16,636
Amortization of acquired technology	—	—	1,002	602	2,886
Total cost of revenue	<u>138,898</u>	<u>423,648</u>	<u>624,118</u>	<u>441,551</u>	<u>631,821</u>
Gross profit	<u>64,551</u>	<u>128,785</u>	<u>226,074</u>	<u>157,747</u>	<u>260,937</u>
Operating expenses:					
Product development	46,568	82,864	144,637	104,967	140,452
Sales and marketing	56,648	64,162	112,577	81,704	107,170
General and administrative	36,184	68,942	94,220	68,585	97,743
Transaction and advance losses	10,512	15,329	24,081	17,826	40,840
Amortization of acquired customer assets	—	—	1,050	591	1,373
Impairment of intangible assets	—	2,430	—	—	—
Total operating expenses	<u>149,912</u>	<u>233,727</u>	<u>376,565</u>	<u>273,673</u>	<u>387,578</u>
Operating loss	<u>(85,361)</u>	<u>(104,942)</u>	<u>(150,491)</u>	<u>(115,926)</u>	<u>(126,641)</u>
Interest (income) and expense	5	(12)	1,058	615	995
Other (income) and expense	(167)	(950)	1,104	737	1,390
Loss before income tax	<u>(85,199)</u>	<u>(103,980)</u>	<u>(152,653)</u>	<u>(117,278)</u>	<u>(129,026)</u>
Provision (benefit) for income taxes	—	513	1,440	(257)	2,502
Net loss	<u>\$ (85,199)</u>	<u>\$ (104,493)</u>	<u>\$ (154,093)</u>	<u>\$ (117,021)</u>	<u>\$ (131,528)</u>

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

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(in thousands)			(unaudited)	
Product development	\$3,984	\$ 8,820	\$24,758	\$16,907	\$33,287
Sales and marketing	668	1,235	3,738	2,553	4,524
General and administrative	3,462	4,603	7,604	5,193	11,675
Total share-based compensation	<u>\$8,114</u>	<u>\$14,658</u>	<u>\$36,100</u>	<u>\$24,653</u>	<u>\$49,486</u>

**Comparison of Nine Months Ended September 30, 2014 and 2015**

**Total Net Revenue**

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

	Nine Months Ended September 30,		\$ Change	% Change
	2014	2015		
	(in thousands) (unaudited)			
Transaction revenue	\$ 501,468	\$ 751,929	\$250,461	50%
Starbucks transaction revenue	86,508	95,199	8,691	10%
Software and data product revenue	6,022	35,628	29,606	NM
Hardware revenue	5,300	10,002	4,702	89%
Total net revenue	<u>\$ 599,298</u>	<u>\$ 892,758</u>	<u>\$293,460</u>	<u>49%</u>

Total net revenue for the nine months ended September 30, 2015, increased by \$293.5 million, or 49%, compared to the nine months ended September 30, 2014.

Transaction revenue for the nine months ended September 30, 2015, increased by \$250.5 million, or 50%, compared to the nine months ended September 30, 2014. This increase was attributable to growth in GPV processed of \$8.6 billion, or 51%, to \$25.5 billion from \$16.8 billion. The majority of growth in GPV was derived from new sellers added within the 12-month period ended September 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 September 30, 2014. Transaction revenue as a percentage of GPV remained constant period to period and contributed 84% of total net revenue in both the nine months ended September 30, 2015, and 2014.

Starbucks transaction revenue for the nine months ended September 30, 2015, increased by \$8.7 million, or 10%, compared to the nine months ended September 30, 2014. Starbucks transaction revenue contributed 11% of total net revenue in the nine months ended September 30, 2015, down from 14% in the nine months ended September 30, 2014.

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Software and data product revenue for the nine months ended September 30, 2015, increased by \$29.6 million compared to the nine months ended September 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 nine months ended September 30, 2015, up from 1% in the nine months ended September 30, 2014.

Hardware revenue for the nine months ended September 30, 2015, increased by \$4.7 million, or 89%, compared to the nine months ended September 30, 2014. The increase reflects growth in our sales of Square Stand and third-party peripherals, as well as the launch of our Square Reader for EMV chip cards in the second quarter of 2015. Hardware revenue represented 1% of total net revenue in both the nine months ended September 30, 2015 and 2014.

### **Total Cost of Revenue**

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

	Nine Months Ended September 30,		\$ Change	% Change
	2014	2015		
	(in thousands) (unaudited)			
Transaction costs	\$318,501	\$479,937	\$161,436	51%
Starbucks transaction costs	107,889	118,542	10,653	10%
Software and data product costs	1,032	13,820	12,788	NM
Hardware costs	13,527	16,636	3,109	23%
Amortization of acquired technology	602	2,886	2,284	NM
Total cost of revenue	<u>\$441,551</u>	<u>\$631,821</u>	<u>\$190,270</u>	<u>43%</u>

Total cost of revenue for the nine months ended September 30, 2015, increased by \$190.3 million, or 43%, compared to the nine months ended September 30, 2014.

Transaction costs for the nine months ended September 30, 2015, increased by \$161.4 million, or 51%, compared to the nine months ended September 30, 2014. This increase was attributable to growth in GPV processed of \$8.6 billion, or 51%, to \$25.5 billion from \$16.8 billion. Transaction costs as a percentage of GPV remained constant period to period.

Starbucks transaction costs for the nine months ended September 30, 2015, increased by \$10.7 million, or 10%, compared to the nine months ended September 30, 2014.

Software and data product costs for the nine months ended September 30, 2015, increased by \$12.8 million compared to the nine months ended September 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 nine months ended September 30, 2015, increased by \$3.1 million, or 23%, compared to the nine months ended September 30, 2014. The increase was attributable to increased sales of Square Stand and third-party

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peripherals, as well as the launch of our Square Reader for EMV chip cards in the second quarter of 2015. 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. For the nine months ended September 30, 2015, hardware costs grew more slowly than hardware revenue as a result of increased sales of third-party peripherals and Square Readers for EMV chip cards, both of which are sold at higher relative gross margins than our Square Stand product.

Amortization of acquired technology for the nine months ended September 30, 2015, increased by \$2.3 million compared to the nine months ended September 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:

	Nine Months Ended September 30,		<u>\$ Change</u>	<u>% Change</u>
	2014	2015		
	(in thousands) (unaudited)			
Product development	\$ 104,967	\$ 140,452	\$ 35,485	34%
Percentage of total net revenue	18%	16%		

Product development expenses for the nine months ended September 30, 2015, increased by \$35.5 million, or 34%, compared to the nine months ended September 30, 2014. Product development personnel increased by 8% from September 30, 2014, to September 30, 2015, primarily due to the addition of engineering, design, and product personnel, including those who joined as a result of acquisitions. For the nine months ended September 30, 2015, product development expenses included \$33.3 million of share-based compensation expense, a \$16.4 million increase compared to the nine months ended September 30, 2014. For the nine months ended September 30, 2015, product development expenses also included \$9.1 million of depreciation expense, a \$1.7 million increase compared to the nine months ended September 30, 2014.

### Sales and Marketing

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

	Nine Months Ended September 30,		<u>\$ Change</u>	<u>% Change</u>
	2014	2015		
	(in thousands) (unaudited)			
Sales and marketing	\$ 81,704	\$ 107,170	\$ 25,466	31%
Percentage of total net revenue	14%	12%		

Sales and marketing expenses for the nine months ended September 30, 2015, increased by \$25.5 million, or 31%, compared to the nine months ended September 30, 2014, reflecting an increase of \$8.9 million in paid marketing expenses

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primarily from direct mail, online, and mobile marketing campaigns that occurred during the period. The balance of the increase was primarily due to an increase in costs associated with our Square Cash peer-to-peer payments service. For the nine months ended September 30, 2015, sales and marketing expenses included \$4.5 million of share-based compensation expense, a \$2.0 million increase compared to the nine months ended September 30, 2014.

**General and Administrative**

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

	Nine Months Ended September 30,		<u>\$ Change</u>	<u>% Change</u>
	2014	2015		
	(in thousands) (unaudited)			
General and administrative	\$ 68,585	\$ 97,743	\$ 29,158	43%
Percentage of total net revenue	11%	11%		

General and administrative expenses for the nine months ended September 30, 2015, increased by \$29.2 million, or 43%, compared to the nine months ended September 30, 2014. General and administrative personnel increased by 49% in the period from September 30, 2014, to September 30, 2015, primarily reflecting additions to our customer support, risk operations, 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 nine months ended September 30, 2015, general and administrative expenses included \$11.7 million of share-based compensation expense, a \$6.5 million increase compared to the nine months ended September 30, 2014.

**Transaction and Advance Losses**

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

	Nine Months Ended September 30,		<u>\$ Change</u>	<u>% Change</u>
	2014	2015		
	(in thousands) (unaudited)			
Transaction and advance losses	\$ 17,826	\$ 40,840	\$ 23,014	129%

Transaction and advance losses for the nine months ended September 30, 2015, increased by \$23.0 million compared to the nine months ended September 30, 2014. We realized a net charge of approximately \$5.7 million related to a fraud loss from a single seller first recognized in March 2015, and recorded a separate increase in our transaction loss provision of \$4.1 million in September 2015 to reflect updates to our risk model. The remaining increase in expense is due to growth in GPV for the nine months ended September 30, 2015, relative to the nine months ended September 30, 2014.

**Amortization of Acquired Customer Assets**

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

	Nine Months Ended September 30,		<b>\$ Change</b>	<b>% Change</b>
	2014	2015		
	(in thousands) (unaudited)			
Amortization of acquired customer assets	\$ 591	\$ 1,373	\$ 782	132%

Amortization of acquired customer assets for the nine months ended September 30, 2015, increased by \$0.8 million compared to the nine months ended September 30, 2014, primarily as a result of the amortization of customer assets from 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:

	Nine Months Ended September 30,		<b>\$ Change</b>	<b>% Change</b>
	2014	2015		
	(in thousands) (unaudited)			
Interest (income) and expense	\$ 615	\$ 995	\$ 380	62%
Other (income) and expense	737	1,390	653	89%

Interest income and expense for the nine months ended September 30, 2015, increased by \$0.4 million compared to the nine months ended September 30, 2014, driven primarily by the interest expense related to the draw on our revolving credit facility in June 2014, which was repaid in July 2015. As of September 30, 2015, no amounts were outstanding under our revolving credit facility.

Other income and expense for the nine months ended September 30, 2015, increased by \$0.7 million compared to the nine months ended September 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:

	Nine Months Ended September 30,		<b>\$ Change</b>	<b>% Change</b>
	2014	2015		
	(in thousands) (unaudited)			
Provision (benefit) for income taxes	\$ (257)	\$ 2,502	\$ 2,759	NM
Effective tax rate	—%	(2)%		

Provision for income taxes for the nine months ended September 30, 2015, increased by \$2.8 million compared to the nine months ended September 30, 2014, primarily due to the decrease in income tax benefit arising from acquisitions.

**Comparison of Years Ended December 31, 2012, 2013, and 2014****Total Net Revenue**

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

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

**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. A relatively greater proportion 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. A relatively greater proportion 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:

	Year Ended December 31,			2012 to 2013 % Change	2013 to 2014 % Change
	2012	2013	2014		
	(in thousands)				
Transaction costs	\$126,351	\$277,833	\$450,858	120%	62%
Starbucks transaction costs	12,547	139,803	150,955	NM	8%
Software and data product costs	—	—	2,973	NM	NM
Hardware costs	—	6,012	18,330	NM	205%
Amortization of acquired technology	—	—	1,002	NM	NM
Total cost of revenue	<u>\$138,898</u>	<u>\$423,648</u>	<u>\$624,118</u>	<u>205%</u>	<u>47%</u>

**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.

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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:

	Year Ended December 31,			2012 to 2013 % Change	2013 to 2014 % Change
	2012	2013	2014		
	(in thousands)				
Product development	\$46,568	\$82,864	\$144,637	78%	75%
Percentage of total net revenue	23%	15%	17%		

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:

	Year Ended December 31,			2012 to 2013 % Change	2013 to 2014 % Change
	2012	2013	2014		
	(in thousands)				
Sales and marketing	\$56,648	\$64,162	\$112,577	13%	75%
Percentage of total net revenue	28%	12%	13%		

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:

	Year Ended December 31,			2012 to 2013 % Change	2013 to 2014 % Change
	2012	2013	2014		
	(in thousands)				
General and administrative	\$36,184	\$68,942	\$94,220	91%	37%
Percentage of total net revenue	18%	12%	11%		

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:

	Year Ended December 31,			2012 to 2013 % Change	2013 to 2014 % Change
	2012	2013	2014		
	(in thousands)				
Transaction and advance losses	\$10,512	\$15,329	\$24,081	46%	57%

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:

	<u>Year Ended December 31,</u>			<u>2012 to 2013</u> <u>% Change</u>	<u>2013 to 2014</u> <u>% Change</u>
	<u>2012</u>	<u>2013</u>	<u>2014</u>		
	(in thousands)				
Amortization of acquired customer assets	\$ —	\$ —	\$ 1,050	NM	NM

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:

	<u>Year Ended December 31,</u>			<u>2012 to 2013</u> <u>% Change</u>	<u>2013 to 2014</u> <u>% Change</u>
	<u>2012</u>	<u>2013</u>	<u>2014</u>		
	(in thousands)				
Interest (income) and expense	\$ 5	\$ (12)	\$ 1,058	NM	NM
Other (income) and expense	\$(167)	\$(950)	\$ 1,104	NM	NM

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.

**Provision for Income Taxes**

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

	<u>Year Ended December 31,</u>			<u>2012 to 2013</u> <u>% Change</u>	<u>2013 to 2014</u> <u>% Change</u>
	<u>2012</u>	<u>2013</u>	<u>2014</u>		
	(in thousands)				
Provision for income taxes	\$ —	\$ 513	\$ 1,440	NM	181%

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 eight 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.

	Three Months Ended,							
	Dec. 31, 2013	Mar. 31, 2014	Jun. 30, 2014	Sep. 30, 2014	Dec. 31, 2014	Mar. 31, 2015	June 30, 2015	Sep. 30, 2015
	(in thousands) (unaudited)							
Revenue:								
Transaction revenue	\$ 130,978	\$ 137,014	\$ 172,894	\$ 191,560	\$ 206,331	\$ 211,110	\$ 259,864	\$ 280,955
Starbucks transaction revenue	33,754	26,466	30,147	29,895	36,516	29,237	33,630	32,332
Software and data product revenue	—	523	1,766	3,733	6,024	8,006	12,928	14,694
Hardware revenue	1,244	1,079	1,989	2,232	2,023	2,204	3,591	4,207
Total net revenue	<u>165,976</u>	<u>165,082</u>	<u>206,796</u>	<u>227,420</u>	<u>250,894</u>	<u>250,557</u>	<u>310,013</u>	<u>332,188</u>
Cost of revenue:								
Transaction costs	84,833	86,275	109,801	122,425	132,357	132,107	165,823	182,007
Starbucks transaction costs	39,819	33,016	37,496	37,377	43,066	36,211	40,921	41,410
Software and data product costs	—	14	31	987	1,941	3,155	5,072	5,593
Hardware costs	2,877	3,441	4,924	5,162	4,803	4,197	6,713	5,726
Amortization of acquired technology	—	80	192	330	400	602	1,142	1,142
Total cost of revenue	<u>127,529</u>	<u>122,826</u>	<u>152,444</u>	<u>166,281</u>	<u>182,567</u>	<u>176,272</u>	<u>219,671</u>	<u>235,878</u>
Gross profit	<u>38,447</u>	<u>42,256</u>	<u>54,352</u>	<u>61,139</u>	<u>68,327</u>	<u>74,285</u>	<u>90,342</u>	<u>96,310</u>
Operating expenses:								
Product development	26,261	30,933	34,551	39,483	39,670	39,545	45,887	55,020
Sales and marketing	16,377	26,070	29,720	25,914	30,873	36,181	31,730	39,259
General and administrative	19,828	23,402	20,669	24,514	25,635	28,119	31,804	37,820
Transaction and advance losses	3,946	6,128	4,840	6,858	6,255	16,322	8,513	16,005
Amortization of acquired customer assets	—	68	162	361	459	468	482	423
Impairment of intangible assets	2,430	—	—	—	—	—	—	—
Total operating expenses	<u>68,842</u>	<u>86,601</u>	<u>89,942</u>	<u>97,130</u>	<u>102,892</u>	<u>120,635</u>	<u>118,416</u>	<u>148,527</u>
Operating loss	<u>(30,395)</u>	<u>(44,345)</u>	<u>(35,590)</u>	<u>(35,991)</u>	<u>(34,565)</u>	<u>(46,350)</u>	<u>(28,074)</u>	<u>(52,217)</u>
Interest (income) and expense	(4)	2	180	433	443	414	444	137
Other (income) and expense	(114)	454	(674)	957	367	796	(50)	644
Loss before income tax	<u>(30,277)</u>	<u>(44,801)</u>	<u>(35,096)</u>	<u>(37,381)</u>	<u>(35,375)</u>	<u>(47,560)</u>	<u>(28,468)</u>	<u>(52,998)</u>
Provision (benefit) for income taxes	513	(810)	268	285	1,697	418	1,152	932
Net loss	<u>\$ (30,790)</u>	<u>\$ (43,991)</u>	<u>\$ (35,364)</u>	<u>\$ (37,666)</u>	<u>\$ (37,072)</u>	<u>\$ (47,978)</u>	<u>\$ (29,620)</u>	<u>\$ (53,930)</u>

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Costs and expenses include share-based compensation expense as follows:

	Three Months Ended							
	Dec. 31, 2013	Mar. 31, 2014	Jun. 30, 2014	Sep. 30, 2014	Dec. 31, 2014	Mar. 31, 2015	Jun. 30, 2015	Sep. 30, 2015
	(in thousands) (unaudited)							
<b>Share-Based Compensation</b>								
Product development	\$ 2,938	\$ 4,265	\$ 5,556	\$ 7,086	\$ 7,851	\$ 8,958	\$10,391	\$ 13,938
Sales and marketing	411	644	839	1,070	1,185	1,429	1,345	1,750
General and administrative	1,533	1,310	1,707	2,176	2,411	3,074	3,496	5,105
Total share-based compensation	<u>\$ 4,882</u>	<u>\$ 6,219</u>	<u>\$ 8,102</u>	<u>\$ 10,332</u>	<u>\$ 11,447</u>	<u>\$ 13,461</u>	<u>\$ 15,232</u>	<u>\$ 20,793</u>

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:

	Three Months Ended							
	Dec. 31, 2013	Mar. 31, 2014	Jun. 30, 2014	Sep. 30, 2014	Dec. 31, 2014	Mar. 31, 2015	Jun. 30, 2015	Sep. 30, 2015
	(in thousands except GPV) (unaudited)							
<b>Key Operating Metrics and non-GAAP Financial Measures</b>								
GPV (in millions)	\$ 4,486	\$ 4,605	\$ 5,789	\$ 6,430	\$ 6,955	\$ 7,117	\$ 8,793	\$ 9,540
Adjusted Revenue	\$ 47,389	\$ 52,341	\$ 66,848	\$ 75,100	\$ 82,021	\$ 89,213	\$ 110,560	\$ 117,849
Adjusted EBITDA	\$(11,553)	\$(27,782)	\$(16,220)	\$(13,047)	\$(10,692)	\$(20,129)	\$ 859	\$(15,776)

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

	Three Months Ended							
	Dec. 31, 2013	Mar. 31, 2014	Jun. 30, 2014	Sep. 30, 2014	Dec. 31, 2014	Mar. 31, 2015	Jun. 30, 2015	Sep. 30, 2015
	(in thousands) (unaudited)							
<b>Adjusted Revenue Reconciliation</b>								
Total net revenue	\$165,976	\$165,082	\$206,796	\$227,420	\$250,894	\$250,557	\$310,013	\$332,188
Less: Starbucks transaction revenue	33,754	26,466	30,147	29,895	36,516	29,237	33,630	32,332
Less: Transaction costs	84,833	86,275	109,801	122,425	132,357	132,107	165,823	182,007
Adjusted Revenue	<u>\$ 47,389</u>	<u>\$ 52,341</u>	<u>\$ 66,848</u>	<u>\$ 75,100</u>	<u>\$ 82,021</u>	<u>\$ 89,213</u>	<u>\$ 110,560</u>	<u>\$ 117,849</u>

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

	Three Months Ended							
	Dec. 31, 2013	Mar. 31, 2014	Jun. 30, 2014	Sep. 30, 2014	Dec. 31, 2014	Mar. 31, 2015	Jun. 30, 2015	Sep. 30, 2015
	(in thousands) (unaudited)							
<b>Adjusted EBITDA Reconciliation</b>								
Net loss	\$(30,790)	\$(43,991)	\$(35,364)	\$(37,666)	\$(37,072)	\$(47,978)	\$(29,620)	\$(53,930)
Starbucks transaction revenue	(33,754)	(26,466)	(30,147)	(29,895)	(36,516)	(29,237)	(33,630)	(32,332)
Starbucks transaction costs	39,819	33,016	37,496	37,377	43,066	36,211	40,921	41,410
Share-based compensation expense	4,882	6,219	8,102	10,332	11,447	13,461	15,232	20,793
Depreciation and amortization	2,852	3,794	3,919	5,130	5,743	5,546	6,410	6,570
Interest (income) and expense	(4)	2	180	433	443	414	444	137
Other (income) and expense	(114)	454	(674)	957	367	796	(50)	644
Provision (benefit) for income taxes	513	(810)	268	285	1,697	418	1,152	932
Loss on sale of property and equipment	2,613	—	—	—	133	240	—	—
Impairment of intangible assets	2,430	—	—	—	—	—	—	—
Adjusted EBITDA	<u>\$(11,553)</u>	<u>\$(27,782)</u>	<u>\$(16,220)</u>	<u>\$(13,047)</u>	<u>\$(10,692)</u>	<u>\$(20,129)</u>	<u>\$ 859</u>	<u>\$(15,776)</u>

**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, risk operations, 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 September 30, 2015, we have financed our operations primarily through private sales of equity securities for net proceeds of \$514.9 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.

	As of and for the Year Ended December 31,			As of and for the Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(in thousands)			(unaudited)	
<b>Liquidity and Capital Resources</b>					
Cash and cash equivalents	\$219,409	\$ 166,176	\$ 225,300	\$ 206,324	\$ 174,083
Short-term restricted cash	50,000	10,000	11,950	11,450	12,017
Long-term restricted cash	9,270	9,270	14,394	11,221	14,579
Net loss	(85,199)	(104,493)	(154,093)	(117,021)	(131,528)
Net cash (used in) / provided by operating activities	(42,925)	(60,577)	(109,394)	(87,548)	2,890
Net cash used in investing activities	(47,791)	(10,803)	(24,554)	(13,348)	(35,346)
Net cash provided by / (used in) financing activities	227,180	18,907	194,152	141,448	(17,791)

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 nine months ended September 30, 2015, cash provided by operating activities was \$2.9 million. We realized a net loss of \$131.5 million, offset by non-cash items consisting of share-based compensation of \$49.5 million, provision for transaction losses of \$33.0 million, and depreciation and amortization of intangible assets of \$18.5 million. Additional cash provided from changes in operating assets and liabilities, including increases in customers payable of \$89.4 million, accrued expenses of \$14.0 million, and other noncurrent liabilities of \$8.8 million, was offset by increases in settlements receivable of \$40.7 million, charge-offs and recoveries to accrued transaction losses of \$25.4 million, and merchant cash advance receivable of \$18.7 million.

For the nine months ended September 30, 2014, cash used by operating activities was \$87.5 million, as a result of a net loss of \$117.0 million, offset by non-cash items consisting of share-based compensation expense of \$24.7 million, provision for transaction losses of \$13.5 million, and depreciation and amortization of intangible assets of \$12.8 million. Additional uses of cash from changes in our operating assets and liabilities, including an increase in settlements receivable of \$57.8 million, merchant cash advance receivable of \$28.4 million, and other current assets of \$12.8 million, were offset by an increase in customers payable of \$59.5 million, and other liabilities of \$21.8 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.

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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 nine months ended September 30, 2015, cash used in investing activities was \$35.3 million primarily as a result of capital expenditures of \$30.5 million and business acquisitions of \$4.5 million.

For the nine months ended September 30, 2014, cash used in investing activities was \$13.3 million as a result of capital expenditures of \$21.3 million and an increase in restricted cash of \$3.4 million, partially offset by \$11.7 million of net cash acquired through business acquisitions. 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, 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 from 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 nine months ended September 30, 2015, cash used in financing activities was \$17.8 million as a result of principal payments on long-term debt under our revolving credit facility of \$30.0 million, offset in part by proceeds from the exercise of stock options of \$12.2 million.

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For the nine months ended September 30, 2014, cash provided by financing activities was \$141.4 million as a result of proceeds from the issuance of convertible preferred stock of \$98.8 million, proceeds from long-term debt under our revolving credit facility of \$30.0 million, and proceeds from the exercise of stock options of \$12.6 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 the 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 nine months ended September 30, 2015.

We had two third-party processors that represented approximately 69% and 28% of settlements receivable as of December 31, 2013. We had three third-party processors that represented approximately 50%, 33%, and 12% of settlements receivable as of December 31, 2014. We had three third-party processors that represented approximately 58%, 21%, and 18% of settlements receivable as of September 30, 2015.

### **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.

	Payments due by period				
	Total	Less than 1 year	1 - 3 years	3 - 5 years	More than 5 years
			(in thousands)		
Long-term debt	\$ 30,000	\$ —	\$ —	\$ 30,000	\$ —
Capital leases	159	57	99	3	—
Operating leases	142,049	14,541	30,395	30,512	66,601
Total	<u>\$172,208</u>	<u>\$ 14,598</u>	<u>\$ 30,494</u>	<u>\$ 60,515</u>	<u>\$ 66,601</u>

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 \$30.0 million was drawn under the credit facility, with \$195.0 million remaining as available. On July 1, 2015, we repaid the outstanding loan balance of \$30 million, which was previously drawn under the credit facility. As of September 30, 2015, no amounts were outstanding under the credit facility, with \$225.0 million remaining available.

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 \$0.4 million in fees related to unused commitments during the nine months ended September 30, 2015.

The 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.

On November 2, 2015, we entered into a new revolving credit agreement with certain lenders, which extinguished the prior revolving credit agreement, and provided for a \$350.0 million revolving secured credit facility maturing on November 2020. This new revolving credit agreement is secured by certain tangible and intangible assets. The new credit facility contains operating covenants, including customary limitations on the incurrence of certain indebtedness and liens, restrictions on certain inter-company transactions, restrictions on the sale or other disposition of collateral and limitations on the amount of dividends and stock repurchases.

Loans under the new 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 in each case plus a margin ranging from 0.00% to 1.00%, or (ii) an adjusted LIBOR rate plus a margin ranging from 1.00% to 2.00%. This margin is determined based on our total leverage ratio for the preceding four fiscal quarters and our status as a public or non-public company. 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 of 0.15%. To date no funds were drawn under the new credit facility, with \$350.0 million remaining available.

Additionally, we have entered into an agreement for an incremental \$25.0 million of capacity under our revolving secured credit facility from an existing investor, which becomes effective following our initial public offering.

### **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 nine months ended September 30, 2015, or for the 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.

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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.

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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 September 30, 2015, the weighted average assumptions used are as follows:

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
				(unaudited)	
Dividend yield	—%	—%	—%	—%	—%
Risk-free interest rate	0.96%	1.55%	1.85%	1.87%	1.73%
Expected volatility	44.34%	46.47%	46.95%	45.68%	47.91%
Expected term (years)	6.05	6.09	6.06	6.08	6.06

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 September 30, 2015:

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(in thousands)			(unaudited)	
<b>Share-based compensation</b>					
Product development	\$3,984	\$ 8,820	\$24,758	\$16,907	\$33,287
Sales and marketing	668	1,235	3,738	2,553	4,524
General and administrative	3,462	4,603	7,604	5,193	11,675
Total	<u>\$8,114</u>	<u>\$14,658</u>	<u>\$36,100</u>	<u>\$24,653</u>	<u>\$49,486</u>

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 September 30, 2015, there was \$228.5 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 3.18 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.

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The following table summarizes by grant date the number of shares of stock awards 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:

	<u>Number of Options Granted</u>	<u>Number of RSUs Granted</u>	<u>Exercise Price Per Share for Options Granted</u>	<u>Estimated Fair Value Per Share</u>
<b>Options Granted:</b>				
June 20, 2014	9,040,250	—	\$ 8.23	\$ 8.23
July 18, 2014	1,328,250	—	\$ 8.23	\$ 8.23
August 16, 2014	1,835,298	—	\$ 9.11	\$ 9.11
September 25, 2014	645,904	—	\$ 9.11	\$ 9.11
November 6, 2014	2,207,926	—	\$ 9.11	\$ 9.11
December 17, 2014	3,425,249	—	\$ 10.06	\$ 10.06
January 22, 2015	4,452,600	—	\$ 10.06	\$ 10.06
February 24, 2015	2,147,573	—	\$ 10.06	\$ 10.06
March 10, 2015	46,000	—	\$ 10.06	\$ 10.06
March 11, 2015	2,201,431	—	\$ 10.06	\$ 10.06
March 20, 2015	594,000	—	\$ 11.28	\$ 11.28
April 21, 2015	2,063,981	—	\$ 11.28	\$ 11.28
May 14, 2015	797,100	—	\$ 13.09	\$ 13.09
June 17, 2015	14,483,050	—	\$ 13.94	\$ 13.94
July 9, 2015	980,900	—	\$ 14.81	\$ 14.81
August 11, 2015	2,474,900	—	\$ 15.25	\$ 15.25
September 16, 2015	2,344,400	100,900	\$ 15.39	\$ 15.39
October 21, 2015	—	924,100	—	\$ 15.39

Based on the initial public offering price of \$12.00 per share of Class A common stock, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, the intrinsic value of stock awards outstanding as of the date of this prospectus was \$532.9 million, of which \$401.9 million and \$131.0 million related to stock awards 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.

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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 2015, the FASB issued an accounting standards update, which amended the current standard to provide a one-year deferral of the effective date, as well as providing the option to early adopt the standard on the original effective date. Accordingly, we may adopt the standard in either our fiscal year ending December 31, 2017 or 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.

In September 2015, the FASB issued an accounting standards update, which simplifies the accounting for measurement period adjustments in connection with business combinations by requiring that an acquirer recognize adjustments to provisional amounts that are identified during the measurement period in the reporting period in which the adjustment amounts are determined. This guidance 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 early adopted this new guidance and it did not have a material impact on our 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 September 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, which includes the impact of revenue generated from Starbucks, 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 the 12 months ended September 30, 2015, sellers using Square processed \$32.4 billion of GPV, which was generated by 638 million card payments from approximately 180 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 September 30, 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, to date, nearly half of our sellers have found us and signed up, rather than us having found 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 18 quarterly seller cohorts (dating back to the second quarter of 2010) has grown year over year in every quarter since the first quarter of 2012. 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 \$300 million across

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over 50,000 advances 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 1.6 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.<sup>2</sup> 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 nine months ended September 30, 2015, our total net revenue grew to \$892.8 million, up 49% from the nine months ended September 30, 2014. In 2014, our total net revenue grew to \$850.2 million, up 54% from the prior year. For the nine months ended September 30, 2015, our Adjusted Revenue grew to \$317.6 million, up 63% from the nine months ended September 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. The amendment permits Starbucks to terminate the agreement ahead of the original expiration date in the third quarter of 2016. Starbucks has announced that it will transition to another payment processor and will cease using our payment processing services altogether prior to the scheduled expiration of the agreement. 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 nine months ended September 30, 2015 and September 30, 2014, we generated a net loss of \$131.5 million and \$117.0 million, respectively. In 2014 and 2013, we generated a net loss of \$154.1 million and \$104.5 million, respectively.

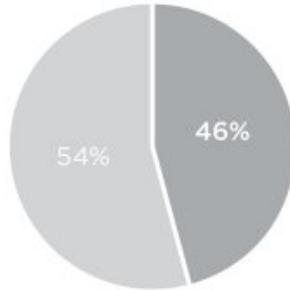
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<sup>2</sup> Europay, MasterCard, and Visa (EMV) technology is a global payments standard that places microprocessor chips into credit and debit cards that store and protect cardholder data. Near Field Communication (NFC) is a technology that allows 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.

## 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.



**Local businesses generate almost half of private sector output**

Source:  
U.S. Small Business Administration

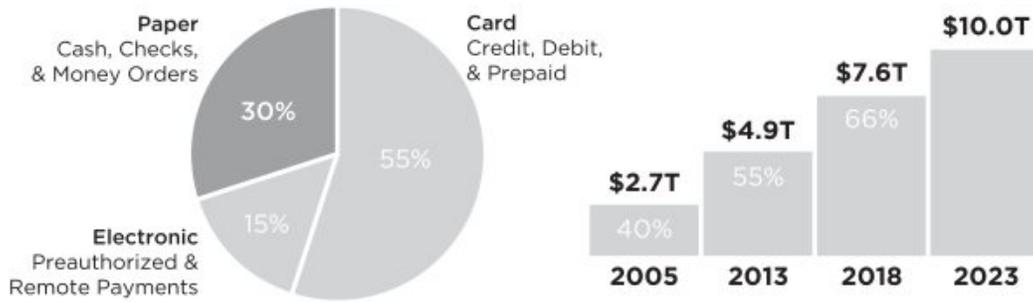


**Over 20M businesses in the U.S. do not accept credit cards**

Derived from:  
The Nilson Report, U.S. Census Bureau

### **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 12% (\$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).



**30% of U.S. purchases are made with paper payments**

(Percentage of U.S. Consumer Purchase Volume, 2013)

Source: The Nilson Report

**The transition to card payments is occurring rapidly**

(U.S. Card Payment Volume & Percentage of Consumer Purchase Volume)

Source: The Nilson Report

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***

We estimate that, to date, nearly half of our sellers have found us and signed up, rather than us having found them. This is the result of building services that deliver value and that sellers eagerly recommend. We have earned a net promoter score <sup>3</sup> of nearly 70, which is 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

<sup>3</sup> 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 September 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, nearly 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 the 12 months ended September 30, 2015, our sellers accepted payments from approximately 180 million payment cards, which we estimate represents approximately one in four 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, to date, nearly half of our sellers have found us and signed up, rather than us having found 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 nearly 70, 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.

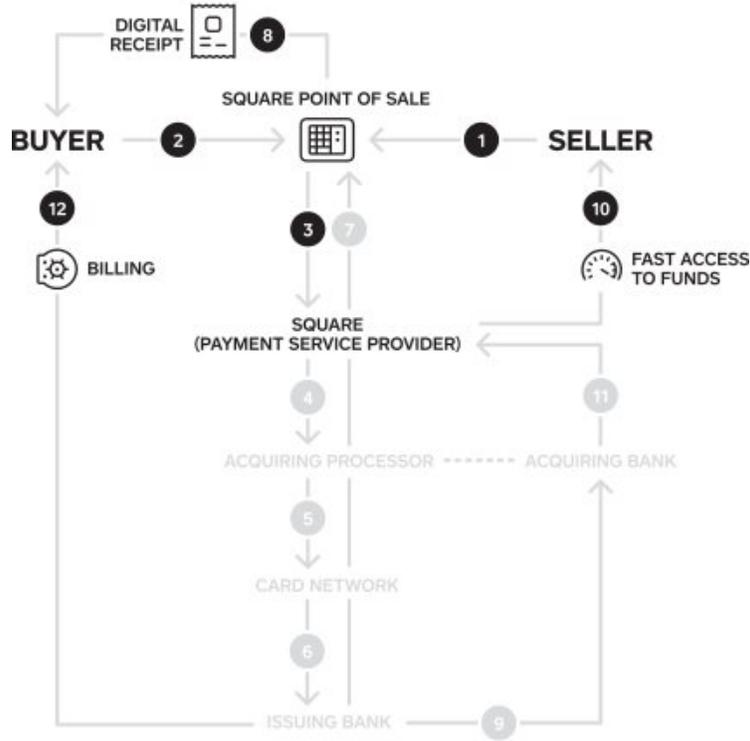
**Acquiring Processor** : Provider of the back-end technology that facilitates the flow of payment information through the Card Networks to the Issuing Bank. Our agreements with acquiring processors typically have terms of two to four years.

**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.

# Payment Processing Overview



● BUYER OR SELLER INTERACTION WITH SQUARE

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.

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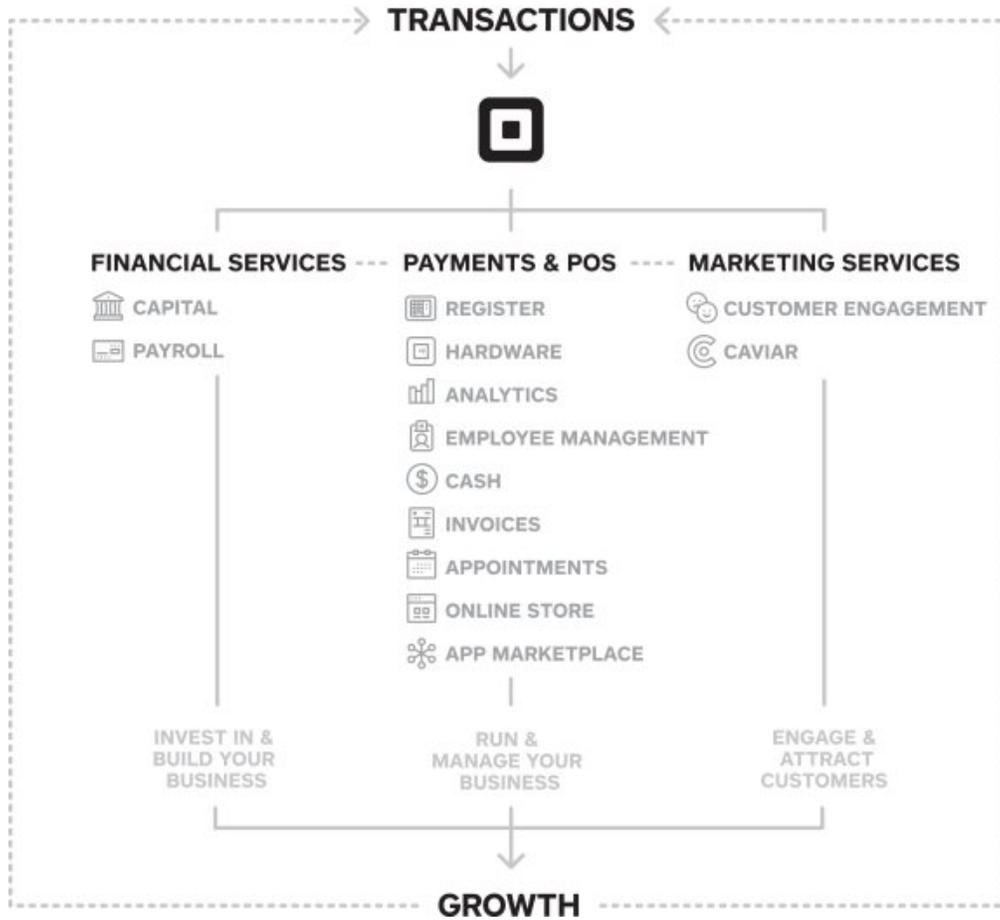
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5. The Acquiring Processor routes the payment transaction to the appropriate Card Network affiliated with the Buyer's card such as Visa, Mastercard, Discover, or American Express. Square pays a variety of fees to the Card Network, the most significant 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. As of October 31, 2015, we have received more than 350,000 pre-orders for our Square Reader for EMV chip cards and NFC since our June 2015 announcement and initial promotional offer.

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.

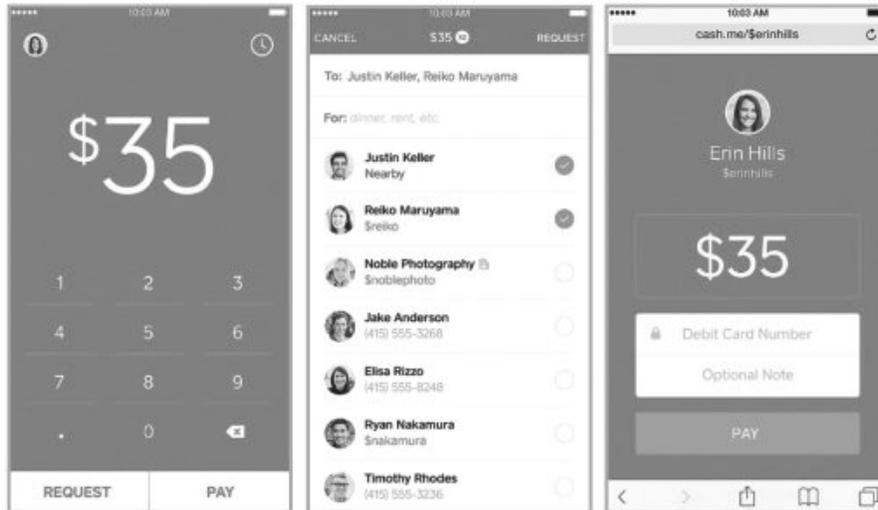
Sellers can manually enter card information in Square Register when, for example, accepting payments over the phone. We charge 3.5% plus \$0.15 per transaction for manually-entered card-not-present transactions.

### ***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.

### **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.

## Welcome to Square Capital

Click on one of the personalized options below to request capital.

Request Amount	Owed to Square	Percentage of Card Sales
\$7,000	\$7,910	9%
\$8,500	\$9,605	11%
\$10,000	\$11,300	13%

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

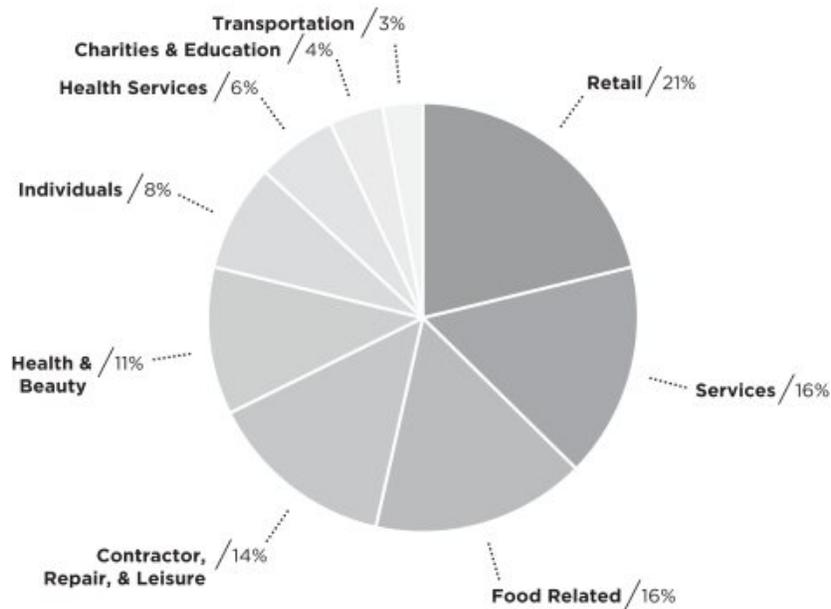
Caviar offers a food delivery service to help restaurants reach new customers and increase sales. By managing the logistics of delivery, Caviar makes it easy for restaurants to expand their reach and grow revenue without additional overhead. Caviar enables buyers to order delivery from their favorite 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 nearly 1,500 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

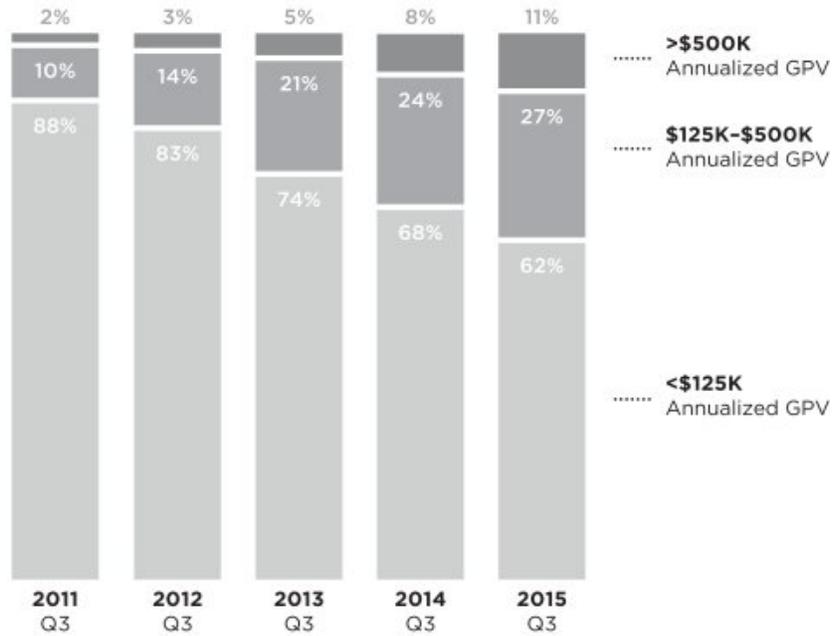
Our sellers represent businesses in a diverse set of industries, including retail, services, food, and leisure. We serve sellers of all sizes, ranging from a single vendor at a farmers' market to multinational businesses. We believe the diversity of our sellers underscores the accessibility of our offerings. 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 Industry

*(For 12 months ended September 30, 2015)*



## GPV Mix by Seller Size *(Excluding Starbucks)*



*"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



PAYMENTS



CAPITAL



POINT OF SALE



CAVIAR



ANALYTICS



*“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



PAYMENTS



INVOICES



POINT OF SALE



EMPLOYEE MANAGEMENT



GIFT CARDS



CAPITAL



ANALYTICS



*“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



PAYMENTS



INVOICES



POINT OF SALE

「Square導入により、オペレーション効率が上がり、設備交換の売上に占めるカード決済の割合が3割になりました」

YASUYOSHI ICHIJO  
ANSEI  
TOKYO, OGOYA, & OSAKA, JAPAN

*"Square has improved operational efficiency and increased our card payments to 30% of all transactions!"*



*“Square es tan sencillo  
que se explica por sí mismo,  
por eso nos encanta”.*

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.”*



PAYMENTS



CUSTOMER ENGAGEMENT



POINT OF SALE



CAPITAL



ANALYTICS



*“Square has been a big part of helping The Barbershop Club go to the next level.”*

WOODY LOVELL  
THE BARBERSHOP CLUB  
LOS ANGELES, CA



PAYMENTS



POINT OF SALE



ANALYTICS



INVOICES



APPOINTMENTS



CUSTOMER ENGAGEMENT



CAPITAL



*"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



PAYMENTS



POINT OF SALE



ANALYTICS



CUSTOMER ENGAGEMENT



*“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



PAYMENTS



INVOICES



POINT OF SALE



CUSTOMER ENGAGEMENT



GIFT CARDS



ANALYTICS

*“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



PAYMENTS



INVOICES



POINT OF SALE



ANALYTICS

## **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 September 30, 2015, approximately 44% 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. We estimate that, to date, nearly half of our sellers have found us and signed up, rather than us having found 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 over 35,000 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;

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- 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.

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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 September 30, 2015, we had 113 issued patents and 460 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.

### ***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 additional information, see the section titled "Risk Factors—Risk Related to Our Business and Our Industry."

## **Our Employees**

As of September 30, 2015, we had 1,282 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

ruling, REM filed a response on the '248 Patent, substantially amending (i.e., adding new limitations to) five of the seven claims the PTAB had found to be unpatentable. On June 5, 2015, the PTO reexamination examiner, having considered the newly amended claims on remand, issued a preliminary determination that the new limitations allowed those five dependent claims to overcome the grounds for the PTAB's rejection ruling. The PTO reexamination examiner noted, however, that at least four of the five new claims were still unpatentable as claiming structure not supported in the specification, indefinite, or impermissibly broad. Additionally, on September 8, 2015, REM filed a notice of appeal at the Court of Appeals for the Federal Circuit challenging the PTAB's decision regarding the '729 Patent. Our arguments with respect to the remaining claims of the '248 Patent and the appeal by REM with respect to the '729 Patent are still pending, and we intend to pursue them vigorously. With the exception of these five more recently amended claims, which have not yet progressed beyond preliminary reexamination examiner review, all of the claims from all three patents asserted in the 2010 Complaint have either been canceled or otherwise found unpatentable by the PTAB.

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. On July 7, 2015, the PTAB issued a decision on the IPR, rejecting 12 of the 17 claims of the '946 patent, including all independent claims, to be invalid based on prior art. Our request for rehearing on the invalidity of the remaining five claims is currently pending at the PTAB. 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, Jeffrey 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

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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 October 31, 2015:

<u>Name</u>	<u>Age</u>	<u>Position</u>
<i>Executive Officers:</i>		
Jack Dorsey	38	President, Chief Executive Officer, and Chairman
Sarah Friar	42	Chief Financial Officer
Dana Wagner	40	General Counsel and Corporate Secretary
Françoise Brougher	50	Business Lead
Alyssa Henry	45	Seller Lead
<i>Non-Employee Directors:</i>		
Roelof Botha (1)(2)	42	Director
Earvin "Magic" Johnson, Jr. (3)	56	Director
Vinod Khosla	60	Director
Jim McKelvey	50	Director
Mary Meeker (2)	56	Director
Ruth Simmons (3)	70	Director
Lawrence Summers (1)	60	Director
David Viniar (1)(3)	60	Director

(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 while he does not have minimum time commitments at either company, he will be devoting significant time, attention, and efforts to both 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.

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*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 with a Specialization in Computing 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.

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*Vinod Khosla* . 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.

Mr. Khosla has previously expressed his desire to step down from our board of directors immediately prior to our initial public offering, consistent with his stated preference not to serve on the boards of directors of public companies, and has tendered his resignation from our board of directors to take effect immediately prior to the effectiveness of the registration statement relating to this offering. He will remain an advisor to the board.

*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 Weil 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 has adopted 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

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 provides 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 Messrs. Dorsey, Johnson, and Viniar, and their terms will expire at the annual meeting of stockholders to be held in 2016;
- the Class II directors will be Messrs. Botha and McKelvey and Dr. Simmons, and their terms will expire at the annual meeting of stockholders to be held in 2017; and
- the Class III directors will be Ms. Meeker and Dr. Summers, 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 Ms. Meeker, Messrs. Botha, Johnson, and Viniar, and Drs. Simmons and Summers, 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 has adopted corporate governance guidelines that 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 Messrs. Botha and Viniar and Dr. Summers, 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. Mr. Viniar 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 Ms. Meeker and Mr. Botha, 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. Ms. Meeker 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 governance committee is comprised of Messrs. Johnson and Viniar and Dr. Simmons, 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. Dr. Simmons 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. Ms. Meeker, a General Partner of Kleiner Perkins Caufield & Byers, and Mr. Botha, a Managing Member of Sequoia Capital, comprise our compensation committee. Entities affiliated with Kleiner Perkins Caufield & Byers and entities affiliated with Sequoia Capital are each parties to our amended and restated investors' rights agreement, our amended and restated right of first refusal and co-sale agreement, and our amended and restated voting agreement. See the section titled "Certain Relationships, Related Party and Other Transactions" for additional information regarding these agreements.

### **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.

On July 9, 2015, Mr. Johnson was granted an option to purchase 38,000 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. All of the shares vest on January 1, 2016, subject to Mr. Johnson's continued service with us.

On August 11, 2015, Dr. Simmons was granted an option to purchase 38,000 shares of our common stock. This option is early exercisable. All of the shares subject to the option vest on February 4, 2016, subject to Dr. Simmons' continued service with us.

On October 21, 2015, Mr. Viniar was granted 35,000 RSUs to be settled in shares of our common stock. One-fourth of the RSUs vest on the date of our next annual meeting of our stockholders, and one-fourth of the RSUs vest annually thereafter on the earlier of the date of the following annual meeting of our stockholders or the anniversary of the prior annual meeting of our stockholders, subject to Mr. Viniar's continued service with us.

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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.

Our compensation committee, after reviewing data provided by our independent compensation consulting firm, Compensia, Inc., regarding practices at comparable companies, approved a new compensation policy for our non-employee directors, effective January 1, 2016, subject to the effectiveness of the registration statement of which this prospectus forms a part. This non-employee director policy provides for the following cash compensation to our non-employee directors:

- each non-employee director will receive an annual base retainer of \$40,000;
- the chairman of our audit and risk committee will receive an annual fee of \$20,000, and other members of our audit and risk committee will receive an annual fee of \$10,000;
- the chairman of our compensation committee will receive an annual fee of \$15,000, and other members of our compensation committee will receive an annual fee of \$5,000; and
- the chairman of our nominating and corporate governance committee will receive an annual fee of \$10,000, and other members of our nominating and corporate governance committee will receive an annual fee of \$2,500.

Non-employee directors will not receive per meeting attendance fees for attending meetings of our board of directors or its committees. The chairperson of a committee will not be paid the additional annual cash retainer for service as a member of that committee.

Subject to any limits under our 2015 Plan, each non-employee director may elect to convert his or her cash compensation under the non-employee director policy into an award of RSUs under our 2015 Plan. If the non-employee director makes this election in a timely manner in accordance with the policy, each such award of RSUs will be granted on the same date as the corresponding cash compensation otherwise would be paid under the policy, will have a grant-date fair value (determined under GAAP) equal to the aggregate amount of such cash compensation, and will be fully vested on the grant date.

Subject to any limits in our 2015 Plan, each person who first becomes a non-employee director will receive an initial grant of RSUs on the date of his or her appointment having a grant-date fair value (determined under GAAP) equal to \$250,000 multiplied by a fraction (i) the numerator of which is (x) 12 minus (y) the number of months between the date of the last annual meeting and the date the non-employee director becomes a member of our board of directors and (ii) the denominator of which is 12 (unless his or her appointment to our board of directors occurs on the date of an annual meeting of our stockholders), each continuing non-employee director will receive an annual grant of RSUs on the date of each annual meeting having a grant-date fair value (determined under GAAP) of \$250,000, and each lead independent director will receive an annual grant of RSUs on the date of each annual meeting having a grant-date fair value (determined under GAAP) of \$70,000. Each initial grant, annual grant, and lead independent director grant will be granted under our 2015 Plan and vest upon the earlier of the next annual meeting of our stockholders following the grant date or the one-year anniversary of the grant date, subject to the non-employee director’s continued service with us through such date.

The awards granted to a non-employee director under the policy will become fully vested upon a “change in control” as defined in our 2015 Plan.

**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:

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

(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**

We have entered into a confirmatory employment letter with Jack Dorsey, our President and Chief Executive Officer. The confirmatory employment letter has no specific term and provides for at-will employment. Mr. Dorsey's current annual base salary is \$6,000.

**Sarah Friar**

We have entered into a confirmatory employment letter with Sarah Friar, our Chief Financial Officer. The confirmatory employment letter has no specific term and provides for at-will employment. Ms. Friar's current annual base salary is \$250,000.

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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**

We have entered into a confirmatory employment letter with Alyssa Henry, our Seller Lead. The confirmatory employment letter has no specific term and provides for at-will employment. Alyssa Henry's current annual base salary is \$250,000.

**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:

Name	Option Awards					Stock Awards	
	Grant Date (1)	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Option Exercise Price (\$) (2)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested (\$)
Jack Dorsey	—	—	—	—	—	—	—
Sarah Friar	7/25/2012(3)	590,140(4)	—	2.73	7/25/2022	—	—
	5/31/2013(3)	72,500(5)	—	2.90	5/31/2023	—	—
	8/27/2013(3)	878,340(6)	—	3.33	8/27/2023	—	—
	2/27/2014(7)	368,890(8)	—	7.25	2/27/2024	—	—
Alyssa Henry	5/14/2014(3)	2,000,000(8)	—	7.25	5/14/2024	—	—

- (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, 28,690 of the shares were vested as of December 31, 2014.

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- (6) 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.
- (7) 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.
- (8) 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***

We have entered 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 supersedes 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);

- 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***

In November 2015 our board of directors adopted, and we expect our stockholders will approve prior to the completion of this offering, 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 provides 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, performance shares, and performance awards to our employees, directors, and consultants and our parent and subsidiary corporations’ employees and consultants.

**Authorized Shares.** A total of 30,000,000 shares of our Class A common stock has been reserved for issuance pursuant to our 2015 Plan. In addition, the shares reserved for issuance under our 2015 Plan also 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 due to the failure to vest or tendered to or withheld by us for the payment of an award’s exercise price or for tax withholding (provided that the maximum number of shares that may be added to our 2015 Plan pursuant to this provision is 106,234,076 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:

- 40,000,000 shares;
- 5% of the outstanding shares of all classes of our 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 of stock options or stock appreciation rights expires or becomes unexercisable without having been exercised in full or is surrendered pursuant to an exchange program or shares issued through awards of restricted stock, restricted stock units, performance units, performance shares, or stock-settled performance awards are forfeited to us or

repurchased by us due to failure to vest, the unissued 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. With respect to stock appreciation rights, the net shares issued will cease to be available under the 2015 Plan and all remaining shares will remain 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 will 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). 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 also has the authority to amend existing awards, to allow participants the opportunity to transfer outstanding awards to a financial institution or other person or entity selected by the administrator, and to institute an exchange program by which outstanding awards may be surrendered 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, to the extent permitted by applicable law, cash, shares, or other property acceptable to the administrator, as well as other types of consideration, 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. However, if the exercise of an option is prevented by applicable laws, the exercise period may be extended under certain circumstances.

*Stock Appreciation Rights* . Stock appreciation rights may be granted under our 2015 Plan. Stock appreciation rights allow the recipient to receive a payment equal to 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, his or her stock appreciation right will be subject to the same exercise limitations that apply to stock options described above. 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 amount of 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 rights but not dividend rights with respect to unvested shares of restricted stock, 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 payment 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, Performance Shares, and Performance Awards* . Performance units, performance shares, and performance awards may be granted under our 2015 Plan. Performance units, performance shares, and performance awards 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, performance shares, and performance awards to be paid out to participants. After the grant of a performance unit, performance share, or performance award, the administrator, in its sole discretion, may reduce or waive any performance criteria or other vesting provisions for such performance unit, performance share, or performance award. Performance units will have an initial dollar value established by the administrator on or prior to the grant date. Performance shares will have an initial value equal to the fair market value of our Class A common stock on the grant date. Performance awards will have threshold, target, and maximum payout values established by the administrator on or prior to the grant date. The administrator, in its sole discretion, may pay earned performance units, performance shares, or performance awards in the form of cash, shares, or some combination thereof.

*Outside Directors* . Our 2015 Plan provides that all outside (non-employee) directors will be eligible to receive all types of awards (except for incentive stock options) under our 2015 Plan. In connection with this offering, we have implemented a formal policy pursuant to which our outside directors are 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 provides that in any given fiscal year, an outside director will not be granted awards under our 2015 Plan having a grant-date fair value greater than \$1,000,000, but that in the fiscal year that an outside director first joins our board of directors, he or she may be granted awards under our 2015 Plan with a grant date fair value of up to \$2,000,000. 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 does not allow for the transfer of awards, and only the recipient of an award may exercise an award during his or her lifetime.

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*Certain Adjustments* . In the event of certain changes in our capitalization as set forth in our 2015 Plan, 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 in such a manner as it deems equitable.

*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 provides 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 continue any outstanding award in accordance with the terms of our 2015 Plan, 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. With respect to awards granted to an outside director that are continued under the terms of our 2015 Plan, if the service of that 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 will 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 materially impair the existing rights of any participant, subject to certain exceptions in accordance with the terms of our 2015 Plan. Our 2015 Plan will automatically terminate in 2025, unless we terminate it sooner.

### **2015 Employee Stock Purchase Plan**

In November 2015 our board of directors adopted, and we expect our stockholders will approve prior to the completion of this offering, 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 4,200,000 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:

- 8,400,000 shares;

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- 1% of the outstanding shares of all classes of our common stock as of the last day of the immediately preceding fiscal year; or
- such other amount as our board of directors may determine.

*Plan Administration* . The compensation committee of our board of directors will 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 employees of ours or any of our participating subsidiaries will be eligible to participate in our ESPP if they meet the eligibility requirements. 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 includes a component that allows us to make offerings intended to qualify under Section 423 of the Code and a component that allows us to make offerings not intended to qualify under Section 423 of the Code to participants of designated companies, as described in our ESPP. Our ESPP provides for 12-month offering periods. The offering periods will be scheduled to start on the first trading day on or after May 15 and November 15 of each year, except for the first offering period, which will commence on the effectiveness of this Registration Statement and will end on the last trading day on or before November 15, 2016. Each offering period will include purchase periods, which will be the approximately 6-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 15% of their eligible compensation.

*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 purchase period. The purchase price of the shares will be 85% of the lower of the fair market value of our Class A common stock on the first trading day of each offering period or on the exercise date. A participant will be able to purchase a maximum of 4,000 shares of our Class A common stock during a purchase period. 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 other than by will, the laws of descent and distribution, or as otherwise provided under our ESPP.

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

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*Dissolution or Liquidation* . In the event of our proposed liquidation or dissolution, the offering period then in progress will be shortened, and a new exercise date occurring before the date of the proposed dissolution or liquidation, unless otherwise provided by the administrator. 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.

*Merger or Change in Control* . Our ESPP provides that in the event of a merger or change in control, as defined under our ESPP, a successor corporation may assume or substitute each outstanding purchase right. If the successor corporation refuses to assume or substitute for the outstanding purchase right, the offering period then in progress will be shortened, and a new exercise date occurring before the date of the merger or change in control 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, subject to certain exceptions described in 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 September 30, 2015, options to purchase 106,133,176 shares of our Class B common stock remained outstanding under our 2009 Plan at a weighted-average exercise price of approximately \$6.95 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

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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:

<b>Stockholder</b>	<b>Shares of Series D Convertible Preferred Stock</b>	<b>Total Purchase Price</b>
Entities affiliated with Rizvi Traverse (1)	13,618,980	\$ 149,999,445.72
JPMC Strategic Investments I Corporation (2)	1,015,980	\$ 11,190,003.72

- (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 Equity 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.

**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:

<b>Stockholder</b>	<b>Shares of Series E Convertible Preferred Stock</b>	<b>Total Purchase Price</b>
Entities affiliated with Rizvi Traverse (1)	485,014	\$ 7,499,989.74
JPMC Strategic Investments I Corporation (2)	646,686	\$ 9,999,996.63

- (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

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Opportunistic Equity 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.

In addition, in October 2015, we sold an aggregate of 1,940,058 shares of our Series E convertible preferred stock at a purchase price of approximately \$15.46345 per share, for an aggregate purchase price of \$30.0 million, to one existing investor and one new investor. The investors who purchased shares of our Series E convertible preferred stock in October 2015 waived any right with respect to these shares to receive additional shares of our capital stock as a result of any conversion price adjustment arising from 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.

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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 provides 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.

## PRINCIPAL AND SELLING STOCKHOLDERS

The following table sets forth certain information with respect to the beneficial ownership of our capital stock as of October 31, 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 299,483,292 shares of our Class B common stock outstanding as of October 31, 2015, which includes 142,492,565 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 October 31, 2015. For more information about the conversion of our Series E convertible preferred stock, see the section titled "Capitalization." We have based our calculation of the percentage of beneficial ownership after this offering on 27,000,000 shares of our Class A common stock and 298,133,292 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 October 31, 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.

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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.

Name of Beneficial Owner	Shares Beneficially Owned Before the Offering <sup>+</sup>		Number of Shares Being Offered	Shares Beneficially Owned After the Offering				% of Total Voting Power After the Offering
	Class B			Class A		Class B		
	Shares	%		Shares	%	Shares	%	
<b>5% Stockholders:</b>								
Khosla Ventures III, LP (1)	50,522,780	16.9%	—	—	—	50,522,780	15.5%	16.8%
Entities affiliated with JPMC Strategic Investments (2)	16,371,689	5.5%	—	—	—	16,371,689	5.0%	5.4%
Entities affiliated with Sequoia Capital (3)	15,728,310	5.3%	—	—	—	15,728,310	4.8%	5.2%
Entities affiliated with Rizvi Traverse (4)	15,900,088	5.3%	—	—	—	15,900,088	4.9%	5.3%
<b>Named Executive Officers and Directors:</b>								
Jack Dorsey (5)	71,124,082	23.7%	—	—	—	71,124,082	21.9%	23.6%
Sarah Friar (6)	3,900,000	1.3%	—	—	—	3,900,000	1.2%	1.3%
Alyssa Henry (7)	2,000,000	*	—	—	—	2,000,000	*	*
Roelof Botha (8)	15,728,310	5.3%	—	—	—	15,728,310	4.8%	5.2%
Earvin Johnson (9)	38,000	*	—	—	—	38,000	*	*
Vinod Khosla (10)	50,522,780	16.9%	—	—	—	50,522,780	15.5%	16.8%
James McKelvey (11)	27,345,120	9.1%	—	—	—	27,345,120	8.4%	9.1%
Mary Meeker (12)	8,623,410	2.9%	—	—	—	8,623,410	2.7%	2.9%
Ruth Simmons (13)	38,000	*	—	—	—	38,000	*	*
Lawrence H. Summers (14)	1,092,110	*	—	—	—	1,092,110	*	*
David Viniar (15)	326,950	*	—	—	—	326,950	*	*
All executive officers and directors as a group (13 persons) (16)	185,361,632	60.0%	—	—	—	185,361,632	55.4%	59.8%
<b>Selling Stockholders:</b>								
Start Small Foundation, a donor-advised fund held and administered by the Silicon Valley Community Foundation (17)	1,350,000	*	1,350,000	—	—	—	—	—

+ 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) 15,909,309 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 U.S. Venture 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.

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- (4) Consists of (i) 11,349,190 shares held of record by RT Spartan IV, LLC, (ii) 1,221,170 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 Equity Fund II, L.P., (vi) 749,998 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. After October 31, 2015, The Jack Dorsey Revocable Trust u/a/d 12/8/10 transferred 1,350,000 shares to the Silicon Valley Community Foundation. See footnote (17) below for additional information.
- (6) Consists of (i) 1,348,769 shares held of record by The Sarah Friar 2015 GRAT, dated August 6, 2015, for which Ms. Friar serves as a trustee, and (ii) 2,551,231 shares subject to options exercisable within 60 days of October 31, 2015, of which 353,826 shares are vested as of such date.
- (7) Consists of 2,000,000 shares subject to options exercisable within 60 days of October 31, 2015, of which 791,667 shares are vested as of such date.
- (8) Consists of the shares listed in footnote (3) above. Mr. Botha is a director and stockholder of SC US (TTGP) Ltd., who shares voting and dispositive power over the shares held by the SC 2010 Funds.
- (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 DGF 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 over 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 October 31, 2015, none of which 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 March 26, 2015, for which Dr. Summers serves as trustee.
- (15) Consists of 326,950 shares subject to options exercisable within 60 days of October 31, 2015, of which 170,286 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 purchase price within 60 days of October 31, 2015, and (ii) 9,229,931 shares subject to options exercisable within 60 days of October 31, 2015, of which 4,371,951 are vested as of such date.
- (17) Consists of 1,350,000 shares held of record by Silicon Valley Community Foundation (SVCF), which shares were transferred from The Jack Dorsey Revocable Trust u/a/d 12/8/10 after October 31, 2015. Paul Velaski, Mari Ellen Loijens, David Lopez, Emmett Carson, Samuel Johnson, Jr., and C.S. Park are officers of SVCF and may be deemed to share voting and dispositive power with respect to the shares held by SVCF. The address for SVCF is 2440 W. El Camino Real, Suite 300, Mountain View, CA 94040.

## 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 1,600,000,000 shares of capital stock, \$0.0000001 par value per share, of which:

- 1,000,000,000 shares are designated to Class A common stock;
- 500,000,000 shares are designated as Class B common stock; and
- 100,000,000 shares are designated as preferred stock.

As of September 30, 2015, there were no shares of our Class A common stock and 297,294,713 shares of our Class B common stock outstanding, held by 665 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 provides 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 certain transfers to entities, including certain charities and foundations, to the extent the transferor retains sole dispositive power and exclusive voting control with respect to the shares 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, 100,000,000 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 September 30, 2015, we had outstanding options to purchase an aggregate of 106,133,176 shares of our Class B common stock, with a weighted-average exercise price of approximately \$6.95 per share, under our equity compensation plans.

## RSUs

As of September 30, 2015, there were 100,900 shares of our Class B common stock issuable upon the vesting of RSUs under our equity compensation plans.

## Warrants

As of September 30, 2015, we had outstanding warrants to purchase an aggregate of 9,543,640 shares of our capital stock, with a weighted-average exercise price of approximately \$10.92 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 150,009,457 shares of our Class B common stock (including shares issuable pursuant to the exercise of warrants to purchase shares of our capital stock that were outstanding as of September 30, 2015) 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 248,396,599 shares of our Class B common stock (including shares issuable pursuant to the exercise of warrants to purchase shares of our capital stock that were outstanding as of September 30, 2015) 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 150,009,457 shares of our Class B common stock (including shares issuable pursuant to the exercise of warrants to purchase shares of our capital stock that were outstanding as of September 30, 2015) 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 and Class B Common Stock—Voting Rights,” our amended and restated certificate of incorporation provides for a dual class common stock structure, which provides 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 contains 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 provides 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 provides that stockholders may only remove a director for cause by a vote of no less than a majority of the voting power of the shares present in person or by proxy at a meeting for the election of directors and entitled to vote.

***Director Vacancies***

Our amended and restated certificate of incorporation authorizes only our board of directors to fill vacant directorships.

***No Cumulative Voting***

Our amended and restated certificate of incorporation provides 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 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 (or President in the absence of a Chief Executive Officer).

***Advance Notice Procedures for Director Nominations***

Our amended and restated bylaws establish advance notice procedures for stockholders seeking to nominate candidates for election as directors at an annual or special meeting of stockholders. Although our amended and restated bylaws do 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 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), provided that the amendment of certain provisions (including those described above) will require the approval of at least two-thirds of the voting power of all the then outstanding shares of stock entitled to vote generally in the election of directors. Our amended and restated bylaws may be adopted, amended, altered, or repealed by stockholders upon the approval of at least a majority of the voting power of all the then outstanding shares of stock entitled to vote generally in the election of directors, provided that the amendment of certain provisions (including those described above) will require the approval of at least two-thirds of the voting power of all the then outstanding shares of stock entitled to vote generally in the election of directors. Additionally, our amended and restated certificate of incorporation provides that our bylaws may be adopted, 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 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

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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 <sup>2</sup>/<sub>3</sub> % of the outstanding voting stock of such corporation not owned by the interested stockholder.

### **Listing and Trading**

Our Class A common stock is currently not listed on any securities exchange. Our Class A common stock has been 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 American Stock Transfer & Trust Company, LLC. The transfer agent and registrar's address is 6201 15<sup>th</sup> Avenue, Brooklyn, New York 11219.

## 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 September 30, 2015, a total of 27,000,000 shares of our Class A common stock, and a total of 295,944,713 shares of our Class B common stock will be outstanding. Of these shares, all 27,000,000 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 into lock-up agreements with the underwriters under which they have agreed, 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 27,000,000 shares of our Class A common stock sold in this offering will be immediately available for sale in the public market; and
- beginning 181 days after the date of this prospectus, 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, our insider trading policy, and certain of our market standoff agreements, as described below.

In addition, we may extend the restricted period under certain of our market standoff agreements, covering 30,271,874 shares of our capital stock, to 270 days.

### 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 3,229,447 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 248,396,599 shares of our common stock (including shares issuable pursuant to the exercise of warrants to purchase shares of our capital stock that were outstanding as of September 30, 2015) 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 limitations applicable to affiliates. See the section titled “Description of Capital Stock—Registration Rights” for a description of these registration rights.

### **Registration Statement**

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.

<b>Underwriters</b>	<b>Number of Shares</b>
Goldman, Sachs & Co.	
Morgan Stanley & Co. LLC	
J.P. Morgan Securities LLC	
Barclays Capital Inc.	
Deutsche Bank Securities Inc.	
Jefferies LLC	
RBC Capital Markets, LLC	
Stifel, Nicolaus & Company	
LOYAL3 Securities, Inc.	
SMBC Nikko Securities America, Inc.	
<b>Total</b>	<b>27,000,000</b>

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 4,050,000 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 4,050,000 additional shares.

<b>Paid by the Company</b>	<b>No Exercise</b>	<b>Full Exercise</b>
Per Share	\$	\$
Total	\$	\$

<b>Paid by the Selling Stockholder</b>	<b>No Exercise</b>
Per Share	\$
Total	\$

Shares sold by the underwriters to the public will initially be offered at the initial public offering price set forth on the cover of this prospectus. Any shares sold by the underwriters to securities dealers may be sold at a discount of up to \$ \_\_\_\_\_ per share from the initial public offering price. After the initial offering of the shares, the representatives may change the offering price and the other selling terms. The offering of the shares by the underwriters is subject to receipt and acceptance, and subject to the underwriters' right to reject any order in whole or in part.

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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 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., subject to certain exceptions, including without limitation, the following:

- the sale of shares of Class A common stock pursuant to the underwriting agreement;
- transfers of shares of common stock or certain other securities as a bona fide gift or gifts, by will or intestacy, pursuant to a domestic order or divorce settlement or other agreement or to an immediate family member, a trust for the direct or indirect benefit of such holder or an immediate family member or, if the holder is a trust, any beneficiary of such trust, provided that no filing under the Exchange Act or other public disclosure by or on behalf of the holder shall be required or voluntarily made and the applicable transferee agrees to be bound by the same restrictions described herein;
- transfers of shares of common stock or other securities acquired in open market transactions after the completion of this offering, provided that no filing under the Exchange Act or other public disclosure by or on behalf of the holder shall be required or voluntarily made;
- if the holder is an entity, distributions of shares of Class A Common Stock to its partners, limited liability company members or stockholders or to another entity that controls, is controlled by or is under common control with such entity, provided that no filing under the Exchange Act or other public disclosure by or on behalf of the holder shall be required or voluntarily made; the applicable transferee agrees that the transferee is receiving and holding such shares subject to the provisions of the applicable lock-up agreement; and any such transfer shall not involve a disposition for value;
- transfers to us pursuant to a net exercise of options held by the holder as of the date of this prospectus to the extent such options would expire during the restricted period described above or as forfeitures to meet tax withholding obligations in connection with the vesting of restricted stock held by the holder as of the date of this prospectus during the restricted period described above; provided that no filing under the Exchange Act or other public disclosure by or on behalf of the holder shall be required or voluntarily made within the first 45 business days after the date of this prospectus;
- receipt of shares of Class A common stock upon exercise of options or vesting of restricted stock units, provided that such shares of Class A common stock are subject to the same restrictions described herein;
- the establishment or amendment of a trading plan pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of Class A common stock, provided that such plan does not provide for the transfer of shares of Class A common stock during the restricted period described above and that to the extent a public announcement or filing under the Exchange Act regarding such establishment or amendment is required to be made by or on behalf of the holder or us, such announcement or filing shall include a statement that no transfer of shares of Class A common stock may be made under such plan during the restricted period described above, provided further, that no such trading plan shall require any such public announcement or filing within the first 45 business days after the date of this prospectus;
- transfers of shares of common stock or other securities to us pursuant to agreements under which we or any of our stockholders have the option to repurchase such securities, provided that no filing under the Exchange Act or other

public disclosure by or on behalf of the holder shall be required or voluntarily made (except in connection with an individual whose employment with us is being terminated);

- transfers of shares of Class A common stock pursuant to a bona fide third party tender offer, merger or other similar transaction made to all holders of shares of our capital stock involving a change of control of us;
- our issuance of shares of Class A common stock upon the exercise of an option or warrant, the settlement of restricted stock or the conversion or exchange of convertible or exchangeable securities outstanding as of the date of the underwriting agreement and described in this prospectus; provided that each recipient executes and delivers a lock-up agreement with substantially the same restrictions described above;
- our issuance of shares of common stock or certain other securities, in each case pursuant to our stock plans that are described in this prospectus and provided that each recipient executes and delivers a lock-up agreement with substantially the same restrictions described above;
- our issuance of shares of common stock or certain other securities in connection with our acquisition of the securities, business, technology, property or other assets of another person or entity or pursuant to an employee benefit plan that we assumed in connection with such acquisition, or our joint ventures, commercial relationships and other strategic transactions, provided that the aggregate number of shares of Class A common stock (including with respect to securities to be granted pursuant to any assumed employee benefit plans covered by a registration statement on Form S-8) will not exceed 5% of the total number of shares of Class A common stock outstanding immediately following the closing of this offering, and provided that each recipient executes and delivers a lock-up agreement with substantially the same restrictions described above; and
- the filing of any registration statement on Form S-8 relating to securities granted or to be granted pursuant to our stock plans that are described in this prospectus or any employee benefit plan assumed in connection with any acquisition described in the bullet above, provided that each recipient executes and delivers a lock-up agreement with substantially the same restrictions described above.

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.

Our Class A common stock has been approved for listing 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

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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 5.0% of the Class A common stock offered hereby (excluding any additional shares of Class A common stock to be offered by us) to our existing sellers and Square Cash customers. 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 donor-advised fund held and administered by the Silicon Valley Community Foundation, the selling stockholder. We do not know if our sellers and Square Cash customers 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

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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.

### **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.

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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 \$7.0 million. We have agreed to reimburse the underwriters for certain expenses in an amount up to \$55,000.

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 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, is also a member of the board of directors of The Goldman Sachs Group, Inc., an affiliate of Goldman, Sachs & Co. In his capacity as a member of our board of directors, he has received equity grants from us. See the section titled "Management—Director Compensation" for additional information.

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. During the years ended December 31, 2012, 2013, and 2014 and the nine months ended September 30, 2015, our payments to this affiliate constituted approximately 5%, 3%, 2% and 2%, respectively, of our total transaction costs.

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. In accordance with Rule 5121, J.P. Morgan Securities LLC will not sell shares of our Class A common stock to discretionary accounts without the prior written approval from the account holder.

## 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](http://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](http://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.

**SQUARE, INC.**

**INDEX TO THE CONSOLIDATED FINANCIAL STATEMENTS**

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**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

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

	<u>December 31,</u>		<u>September 30,</u>	<u>Pro Forma</u>
	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>September 30,</u>
				<u>2015</u>
	<b>(Unaudited)</b>			
<b>Assets</b>				
Current assets:				
Cash and cash equivalents	\$ 166,176	\$ 225,300	\$ 174,083	\$ 174,083
Restricted cash	10,000	11,950	12,017	12,017
Settlements receivable	64,968	115,481	156,188	156,188
Merchant cash advance receivable, net	—	29,302	43,638	43,638
Other current assets	12,658	27,834	32,561	32,561
Total current assets	<u>253,802</u>	<u>409,867</u>	<u>418,487</u>	<u>418,487</u>
Property and equipment, net	51,656	63,733	85,012	85,012
Goodwill	602	40,267	56,899	56,899
Acquired intangible assets, net	612	10,279	20,726	20,726
Restricted cash	9,270	14,394	14,579	14,579
Other assets	2,399	3,348	2,243	2,243
Total assets	<u>\$ 318,341</u>	<u>\$ 541,888</u>	<u>\$ 597,946</u>	<u>\$ 597,946</u>
<b>Liabilities and Stockholders' Equity</b>				
Current liabilities:				
Accounts payable	\$ 4,541	\$ 5,436	\$ 7,528	\$ 7,528
Customers payable	95,794	148,648	238,085	238,085
Accrued transaction losses	7,488	8,452	16,004	16,004
Accrued expenses	9,272	17,368	35,669	35,669
Other current liabilities	12,646	11,202	13,954	13,954
Total current liabilities	<u>129,741</u>	<u>191,106</u>	<u>311,240</u>	<u>311,240</u>
Debt	—	30,000	—	—
Other liabilities	26,306	47,110	50,244	50,244
Total liabilities	<u>156,047</u>	<u>268,216</u>	<u>361,484</u>	<u>361,484</u>
Commitments and contingencies (Note 16)				
Stockholders' equity:				
Convertible preferred stock, \$0.0000001 par value. 135,333,510, 135,339,499 and 135,339,499 shares authorized at December 31, 2013, December 31, 2014, and September 30, 2015, respectively; 134,528,520, 135,252,809, and 135,252,809 issued and outstanding at December 31, 2013, December 31, 2014, and September 30, 2015, respectively. Liquidation preference of \$370,967, \$520,967, and \$520,967 at December 31, 2013, December 31, 2014, and September 30, 2015, respectively. No shares authorized, issued and outstanding, pro forma September 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 September 30, 2015, respectively; 138,017,900, 154,603,683, 156,742,206, and 291,995,015 issued and outstanding at December 31, 2013, December 31, 2014, September 30, 2015, and pro forma September 30, 2015, respectively	—	—	—	—
Additional paid-in capital	38,329	155,166	249,954	764,899
Accumulated other comprehensive loss	(693)	(807)	(1,277)	(1,277)
Accumulated deficit	(241,539)	(395,632)	(527,160)	(527,160)
Total stockholders' equity	<u>162,294</u>	<u>273,672</u>	<u>236,462</u>	<u>236,462</u>
Total liabilities and stockholders' equity	<u>\$ 318,341</u>	<u>\$ 541,888</u>	<u>\$ 597,946</u>	<u>\$ 597,946</u>

See accompanying notes to consolidated financial statements.

**SQUARE, INC.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
*(In thousands, except per share data)*

	<u>Year Ended December 31,</u>			<u>Nine Months Ended</u>	
	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>September 30,</u>	
				<u>2014</u>	<u>2015</u>
				<u>(Unaudited)</u>	
<b>Revenue:</b>					
Transaction revenue	\$ 193,978	\$ 433,737	\$ 707,799	\$ 501,468	\$ 751,929
Starbucks transaction revenue	9,471	114,456	123,024	86,508	95,199
Software and data product revenue	—	—	12,046	6,022	35,628
Hardware revenue	—	4,240	7,323	5,300	10,002
Total net revenue	<u>203,449</u>	<u>552,433</u>	<u>850,192</u>	<u>599,298</u>	<u>892,758</u>
<b>Cost of revenue:</b>					
Transaction costs	126,351	277,833	450,858	318,501	479,937
Starbucks transaction costs	12,547	139,803	150,955	107,889	118,542
Software and data product costs	—	—	2,973	1,032	13,820
Hardware costs	—	6,012	18,330	13,527	16,636
Amortization of acquired technology	—	—	1,002	602	2,886
Total cost of revenue	<u>138,898</u>	<u>423,648</u>	<u>624,118</u>	<u>441,551</u>	<u>631,821</u>
Gross profit	<u>64,551</u>	<u>128,785</u>	<u>226,074</u>	<u>157,747</u>	<u>260,937</u>
<b>Operating expenses:</b>					
Product development	46,568	82,864	144,637	104,967	140,452
Sales and marketing	56,648	64,162	112,577	81,704	107,170
General and administrative	36,184	68,942	94,220	68,585	97,743
Transaction and advance losses	10,512	15,329	24,081	17,826	40,840
Amortization of acquired customer assets	—	—	1,050	591	1,373
Impairment of intangible assets	—	2,430	—	—	—
Total operating expenses	<u>149,912</u>	<u>233,727</u>	<u>376,565</u>	<u>273,673</u>	<u>387,578</u>
Operating loss	<u>(85,361)</u>	<u>(104,942)</u>	<u>(150,491)</u>	<u>(115,926)</u>	<u>(126,641)</u>
Interest (income) and expense	5	(12)	1,058	615	995
Other (income) and expense	(167)	(950)	1,104	737	1,390
Loss before income tax	<u>(85,199)</u>	<u>(103,980)</u>	<u>(152,653)</u>	<u>(117,278)</u>	<u>(129,026)</u>
Provision (benefit) for income taxes	—	513	1,440	(257)	2,502
Net loss	<u>\$ (85,199)</u>	<u>\$ (104,493)</u>	<u>\$ (154,093)</u>	<u>\$ (117,021)</u>	<u>\$ (131,528)</u>
<b>Net loss per share:</b>					
Basic	<u>\$ (0.71)</u>	<u>\$ (0.82)</u>	<u>\$ (1.08)</u>	<u>\$ (0.84)</u>	<u>\$ (0.88)</u>
Diluted	<u>\$ (0.71)</u>	<u>\$ (0.82)</u>	<u>\$ (1.08)</u>	<u>\$ (0.84)</u>	<u>\$ (0.88)</u>
<b>Weighted-average shares used to compute net loss per share:</b>					
Basic	<u>119,220</u>	<u>127,845</u>	<u>142,042</u>	<u>140,024</u>	<u>149,058</u>
Diluted	<u>119,220</u>	<u>127,845</u>	<u>142,042</u>	<u>140,024</u>	<u>149,058</u>
<b>Pro forma net loss per share attributable to common stockholders (unaudited):</b>					
Basic			<u>\$ (0.56)</u>		<u>\$ (0.46)</u>
Diluted			<u>\$ (0.56)</u>		<u>\$ (0.46)</u>

See accompanying notes to consolidated financial statements.

**SQUARE, INC.**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS**  
*(In thousands)*

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
				(Unaudited)	
Net loss	\$(85,199)	\$(104,493)	\$(154,093)	\$(117,021)	\$(131,528)
Net foreign currency translation adjustments	(4)	(689)	(114)	389	(470)
Total comprehensive loss	<u>\$(85,203)</u>	<u>\$(105,182)</u>	<u>\$(154,207)</u>	<u>\$(116,632)</u>	<u>\$(131,998)</u>

See accompanying notes to consolidated financial statements.

**SQUARE, INC.**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**  
*(In thousands, except for number of shares)*

	Convertible preferred stock		Common stock		Additional paid-in capital	Accumulated other comprehensive loss	Accumulated deficit	Total stockholders' equity
	Shares	Amount	Shares	Amount				
Balance at December 31, 2011	114,364,310	\$144,442	128,616,360	\$ —	\$ 3,941	\$ —	\$ (51,847)	\$ 96,536
Net loss	—	—	—	—	—	—	(85,199)	(85,199)
Shares issued in connection with:								
Exercise of stock options	—	—	4,574,860	—	629	—	—	629
Vesting of early exercised stock options	—	—	—	—	2,035	—	—	2,035
Issuance of common stock	—	—	531,990	—	—	—	—	—
Series D preferred stock financing	20,164,210	221,754	—	—	—	—	—	221,754
Repurchase of common stock	—	—	(753,240)	—	—	—	—	—
Change in foreign currency translation	—	—	—	—	—	(4)	—	(4)
Share-based compensation	—	—	—	—	8,114	—	—	8,114
Balance at December 31, 2012	<u>134,528,520</u>	<u>\$366,196</u>	<u>132,969,970</u>	<u>\$ —</u>	<u>\$ 14,719</u>	<u>\$ (4)</u>	<u>\$ (137,046)</u>	<u>\$ 243,865</u>
Net loss	—	—	—	—	—	—	(104,493)	(104,493)
Shares issued in connection with:								
Exercise of stock options	—	—	7,900,670	—	4,858	—	—	4,858
Vesting of early exercised stock options	—	—	—	—	3,052	—	—	3,052
Issuance of common stock	—	—	50,400	—	—	—	—	—
Issuance of common stock in connection with business combination	—	—	242,700	—	278	—	—	278
Starbucks common stock warrant	—	—	—	—	764	—	—	764
Series D preferred stock financing	—	1	—	—	—	—	—	1
Repurchase of common stock	—	—	(3,145,840)	—	—	—	—	—
Change in foreign currency translation	—	—	—	—	—	(689)	—	(689)
Share-based compensation	—	—	—	—	14,658	—	—	14,658
Balance at December 31, 2013	<u>134,528,520</u>	<u>\$366,197</u>	<u>138,017,900</u>	<u>\$ —</u>	<u>\$ 38,329</u>	<u>\$ (693)</u>	<u>\$ (241,539)</u>	<u>\$ 162,294</u>
Net loss	—	—	—	—	—	—	(154,093)	(154,093)
Shares issued in connection with:								
Exercise of stock options	—	—	9,403,147	—	8,685	—	—	8,685
Vesting of early exercised stock options	—	—	—	—	11,128	—	—	11,128
Issuance of common stock in connection with business combinations	—	—	8,384,156	—	59,576	—	—	59,576
Issuance of common stock	—	—	24,220	—	—	—	—	—
Series E preferred stock financing	9,700,289	148,748	—	—	—	—	—	148,748
Contribution of preferred stock	(8,976,000)	—	—	—	—	—	—	—
Repurchase of common stock	—	—	(1,225,740)	—	—	—	—	—
Change in foreign currency translation	—	—	—	—	—	(114)	—	(114)
Share-based compensation	—	—	—	—	36,100	—	—	36,100
Tax benefit from share-based award activity	—	—	—	—	1,348	—	—	1,348
Balance at December 31, 2014	<u>135,252,809</u>	<u>\$514,945</u>	<u>154,603,683</u>	<u>\$ —</u>	<u>\$ 155,166</u>	<u>\$ (807)</u>	<u>\$ (395,632)</u>	<u>\$ 273,672</u>

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	Convertible preferred stock		Common stock		Additional paid-in capital	Accumulated other comprehensive loss	Accumulated deficit	Total stockholders' equity
	Shares	Amount	Shares	Amount				
Net loss (unaudited)	—	—	—	—	—	—	(131,528)	(131,528)
Shares issued in connection with:								
Exercise of stock options (unaudited)	—	—	5,197,234	—	13,409	—	—	13,409
Vesting of early exercised stock options (unaudited)	—	—	—	—	4,437	—	—	4,437
Issuance of common stock in connection with business combinations (unaudited)	—	—	2,923,881	—	27,456	—	—	27,456
Issuance of common stock (unaudited)	—	—	3,777	—	—	—	—	—
Contribution of common stock (unaudited)	—	—	(5,127,728)	—	—	—	—	—
Repurchase of common stock (unaudited)	—	—	(858,641)	—	—	—	—	—
Change in foreign currency translation (unaudited)	—	—	—	—	—	(470)	—	(470)
Share-based compensation (unaudited)	—	—	—	—	49,486	—	—	49,486
Balance at September 30, 2015 (unaudited)	<u>135,252,809</u>	<u>\$514,945</u>	<u>156,742,206</u>	<u>\$ —</u>	<u>\$ 249,954</u>	<u>\$ (1,277)</u>	<u>\$ (527,160)</u>	<u>\$ 236,462</u>

See accompanying notes to consolidated financial statements.

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

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	<b>(Unaudited)</b>				
<b>Cash flows from operating activities:</b>					
Net loss	\$ (85,199)	\$ (104,493)	\$ (154,093)	\$ (117,021)	\$ (131,528)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities:					
Depreciation and amortization	3,579	8,272	18,586	12,843	18,526
Share-based compensation	8,114	14,658	36,100	24,653	49,486
Starbucks share-based instruments	1,999	—	—	—	1,485
Excess tax benefit from share-based payment activity	—	—	(1,348)	—	—
Provision for transaction losses	10,512	15,080	18,478	13,520	32,967
Provision for uncollectible receivables related to merchant cash advances	—	—	2,431	1,844	4,616
Deferred tax assets	—	—	(2,664)	(2,664)	(207)
Impairment of intangible assets	—	2,430	—	—	—
Changes in operating assets and liabilities:					
Settlements receivable	(19,854)	(27,704)	(50,361)	(57,781)	(40,729)
Merchant cash advance receivable	—	—	(31,733)	(28,438)	(18,725)
Other current assets	(7,605)	(2,384)	(14,190)	(12,760)	(4,457)
Other assets	(1,615)	2,668	(636)	(3,043)	1,102
Accounts payable	2,028	(942)	179	(1,916)	2,048
Customers payable	47,101	21,148	52,956	59,482	89,446
Charge-offs and recoveries to accrued transaction losses	(7,335)	(13,613)	(17,514)	(11,361)	(25,415)
Accrued expenses	3,909	9,912	8,113	11,047	13,950
Other current liabilities	1,433	103	3,007	2,265	1,524
Other liabilities	8	14,288	23,295	21,782	8,801
Net cash (used in) provided by operating activities	<u>(42,925)</u>	<u>(60,577)</u>	<u>(109,394)</u>	<u>(87,548)</u>	<u>2,890</u>
<b>Cash flows from investing activities:</b>					
Purchase of property and equipment	(13,033)	(47,931)	(28,794)	(21,261)	(30,484)
Payment for acquisition of intangible assets	—	—	(400)	(400)	(110)
(Increases) decreases in restricted cash	(34,758)	40,000	(7,075)	(3,402)	(252)
Business acquisitions (net of cash acquired)	—	(2,872)	11,715	11,715	(4,500)
Net cash used in investing activities:	<u>(47,791)</u>	<u>(10,803)</u>	<u>(24,554)</u>	<u>(13,348)</u>	<u>(35,346)</u>
<b>Cash flows from financing activities:</b>					
Proceeds from issuance of preferred stock, net	221,754	1	148,748	98,822	—
Principal payments on capital lease obligation	(190)	—	—	—	—
Proceeds from debt	—	—	30,000	30,000	—
Principal payments on debt	—	—	—	—	(30,000)
Proceeds from the exercise of stock options	5,616	18,906	14,056	12,626	12,209
Excess tax benefit from share-based payment award	—	—	1,348	—	—
Net cash provided by (used in) financing activities	<u>227,180</u>	<u>18,907</u>	<u>194,152</u>	<u>141,448</u>	<u>(17,791)</u>
Effect of foreign exchange rate on cash and cash equivalents	(4)	(760)	(1,080)	(404)	(970)
Net increase (decrease) in cash and cash equivalents	<u>136,460</u>	<u>(53,233)</u>	<u>59,124</u>	<u>40,148</u>	<u>(51,217)</u>
Cash and cash equivalents, beginning of period	<u>82,949</u>	<u>219,409</u>	<u>166,176</u>	<u>166,176</u>	<u>225,300</u>
Cash and cash equivalents, end of period	<u>\$ 219,409</u>	<u>\$ 166,176</u>	<u>\$ 225,300</u>	<u>\$ 206,324</u>	<u>\$ 174,083</u>

See accompanying notes to consolidated financial statements.

**SQUARE, INC.**  
**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 September 30, 2015, the consolidated statements of operations, comprehensive loss and cash flows for the nine months ended September 30, 2014 and 2015, and the consolidated statement of stockholders’ equity for the nine months ended September 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 September 30, 2015, and the results of operations, comprehensive loss and cash flows for the nine months ended September 30, 2014 and 2015. The financial data and the other information disclosed in these notes to the consolidated financial statements related to these nine-month periods are unaudited. The results of the nine months ended September 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 Class B common stock. The September 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 the 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 nine months ended September 30, 2014 and 2015 were \$17.5 million and \$23.5 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 nine months ended September 30, 2014 and 2015 totaled \$27.7 million and \$31.0 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

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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 September 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 September 30, 2015, the remaining restricted cash of \$14.4 million and \$14.6 million, respectively, is primarily 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 nine months ended September 30, 2014 and 2015, the Company had no customer other than Starbucks who accounted for greater than 10% of total net revenue.

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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 58%, 21%, and 18% of settlements receivable as of September 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 receivables retained by the Company, it 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 (see Note 3).

***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

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amortized over the estimated useful life of the software on a straight-line basis and included in product development costs on the consolidated statements of operations. 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 \$5.0 million and \$3.4 million of internally developed software during the nine months ended September 30, 2014 and 2015, respectively, and recognized \$1.4 million and \$1.9 million of amortization expense during the nine months ended September 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:

<u>Property and Equipment</u>	<u>Useful Life</u>
Computer and data center equipment	Three years
Furniture and fixtures	Seven years
Leasehold improvements	Lesser of estimated useful life or remaining lease term

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.

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

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beginning after December 15, 2018. In August 2015, the FASB issued ASU No. 2015-14, which amended the standard to provide a one-year deferral of the effective date, as well as providing the option to early adopt the standard on the original effective date. Accordingly, the Company may adopt the standard in either the Company's fiscal year ending December 31, 2017 or 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.

In September 2015, the FASB issued ASU No. 2015-16, *Simplifying the Accounting for Measurement-Period Adjustments*. The new guidance simplifies the accounting for measurement period adjustments in connection with business combinations by requiring that an acquirer recognize adjustments to provisional amounts that are identified during the measurement period in the reporting period in which the adjustment amounts are determined. This guidance 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 a material impact on its 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.

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.

On 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' prior notice, and any payment processing volumes will be subject to increased rates beginning on October 1, 2015. As part of this amendment, the previously unvested warrants related to processing targets in the United Kingdom and Japan have been canceled. Additionally, the Company agreed to facilitate the sale of 2,269,830 shares of Series D preferred stock held by Starbucks to a third party. If the aggregate purchase price in a sale to a third party of the Series D preferred stock is less than \$37 million, then the Company will pay Starbucks the difference. This obligation terminates upon the expiration of any applicable lock-up period following an initial public offering. In the event that such obligation has not terminated, and the shares have not been sold, by October 30, 2016, the Company is obligated to repurchase the shares for an aggregate purchase price of \$37 million.

The Company has designated this obligation as a derivative instrument initially valued at \$1.5 million to be measured at fair value on a recurring basis, categorized as a Level 3 measurement. The Company used a Monte Carlo pricing model to determine the fair value of this derivative instrument as of September 30, 2015. The Monte Carlo pricing model considers various inputs such as the fair value of the preferred shares, the probability of completing an initial public offering, and the probability of identifying a third party investor. Adjusting significant inputs would not have a material impact to the fair value of this instrument. To the extent this obligation remains outstanding, the Company will measure the fair value of this derivative instrument on a quarterly basis with incremental increases or decreases in its value, if any, recorded as changes to Starbucks transaction revenue in the applicable quarter.

**Financial Assets and Liabilities Measured at Fair Value on a Recurring Basis:**

The Company's financial assets and liabilities that are measured at fair value on a recurring basis are classified as follows (in thousands):

	December 31, 2013			December 31, 2014			September 30, 2015 (Unaudited)		
	Level 1	Level 2	Level 3	Level 1	Level 2	Level 3	Level 1	Level 2	Level 3
<b>Cash and Cash Equivalents:</b>									
Money market funds	\$94,810	\$ —	\$ —	\$132,217	\$ —	\$ —	\$67,221	\$ —	\$ —
Derivative instrument	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$1,485
<b>Total</b>	<b>\$94,810</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$132,217</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$67,221</b>	<b>\$ —</b>	<b>\$1,485</b>

The carrying amounts of certain financial instruments, including 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.

A summary of the changes in Level 3 assets and liabilities measured at fair value on a recurring basis is as follows:

	Balance at January 1, 2015	Additions	Total unrealized gains (losses)	Balance at September 30, 2015
Derivative instrument	\$ —	1,485	—	\$ 1,485
<b>Total</b>	<b>\$ —</b>	<b>1,485</b>	<b>—</b>	<b>\$ 1,485</b>

**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 nine months ended September 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 nine months ended September 30, 2014 and 2015, the Company did not have any transfers between 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

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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 uncollectible 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):

	Year Ended December 31, 2014	Nine Months Ended September 30, 2015 (Unaudited)
Allowance for uncollectible receivables, beginning of the period	\$ —	\$ 2,431
Provision for uncollectible receivables	2,431	4,616
Receivables charged off	—	(1,111)
Allowance for uncollectible receivables, end of the period	<u>\$ 2,431</u>	<u>\$ 5,936</u>

**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):

	December 31, 2013	December 31, 2014	September 30, 2015 (Unaudited)
Computer equipment	\$ 21,339	\$ 31,596	\$ 42,666
Office furniture and equipment	5,182	6,488	8,103
Leasehold improvements	31,815	40,771	44,599
Internally-developed software	3,597	10,034	13,476
Construction in process	—	1,391	16,633
Total	<u>61,933</u>	<u>90,280</u>	<u>125,477</u>
Less: Accumulated depreciation and amortization	<u>(10,277)</u>	<u>(26,547)</u>	<u>(40,465)</u>
Property and equipment, net	<u>\$ 51,656</u>	<u>\$ 63,733</u>	<u>\$ 85,012</u>

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 \$11.6 million and \$14.2 million, for the nine months ended September 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 September 30, 2015. Upon completion of construction, the assets will be depreciated over their useful lives.

## **NOTE 5—ACQUISITIONS**

### **Fiscal 2015 (unaudited)**

During the nine months ended September 30, 2015, the Company completed acquisitions for a total consideration of \$32.0 million, consisting of 2,923,881 shares of common stock, options to purchase 26,173 shares of common stock, and \$4.5 million in cash. Acquisition-related costs of \$0.6 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. The Company's most recent acquisition, completed on September 21, 2015, has a preliminary allocation of the purchase price which is based upon a preliminary valuation and estimates and assumptions are subject to change within the measurement period. Our preliminary purchase price allocation allocates the total consideration of \$5.4 million to intangible assets of \$2.7 million and goodwill of \$2.6 million. The finalization of the above purchase price allocation is pending a final valuation report. The Company expects to finalize this determination on or before December 31, 2015.

As of September 30, 2015, 677,769 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 nine months ended September 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.

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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):

Consideration:	
Stock (4,926,701 shares of common stock)	\$44,143
Options (49,425 common stock options)	173
	<u>\$44,316</u>
Recognized amounts of identifiable assets acquired and liabilities assumed:	
Current assets (inclusive of cash acquired of \$11,644)	\$11,823
Non-current assets	667
Intangible customer assets	5,300
Intangible technology assets	2,500
Total liabilities assumed	<u>(3,026)</u>
Total identifiable net assets acquired	17,264
Goodwill	<u>27,052</u>
Total	<u>\$44,316</u>

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 nine months ended September 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.

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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):

Consideration:	
Stock (2,103,560 shares of common stock)	\$ 15,259
Recognized amounts of identifiable assets acquired and liabilities assumed:	
Current assets (inclusive of cash acquired of \$71)	\$ 128
Non-current assets	9
Intangible customer assets	1,300
Intangible technology assets	2,300
Total liabilities assumed	(1,091)
Total identifiable net assets assumed	2,646
Goodwill	12,613
Total	\$ 15,259

As of December 31, 2014, 540,170 shares of the total share consideration remain withheld for indemnification purposes.

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 nine months ended September 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

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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):

Consideration:	
Cash	\$2,872
Stock (63,680 shares of common stock)	278
Fair value of total consideration transferred	\$3,150
Recognized amounts of identifiable assets acquired and liabilities assumed:	
Current assets	\$ 91
Property and equipment	27
Intangible assets	2,430
Total identifiable net assets assumed	2,548
Goodwill	602
Total	<u>\$3,150</u>

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.

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The following table summarizes activities related to the carrying value of goodwill (in thousands):

Balance at December 31, 2012	\$ —
Acquisition of Minetta, LLC	602
Balance at December 31, 2013	\$ 602
Acquisition of BookFresh, LLC	12,613
Acquisition of Caviar, Inc.	27,052
Balance at December 31, 2014	\$40,267
Acquisitions completed during the nine months ended September 30, 2015 (unaudited)	16,632
Balance at September 30, 2015 (unaudited)	<u>\$56,899</u>

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):

	<u>Balance at September 30, 2015</u>		
	<u>Cost</u>	<u>Accumulated Amortization (Unaudited)</u>	<u>Net</u>
Patents	\$ 1,285	\$ (322)	\$ 963
Technology Assets	19,430	(3,889)	15,541
Customer Assets	6,645	(2,423)	4,222
Total	<u>\$27,360</u>	<u>\$ (6,634)</u>	<u>\$20,726</u>

	<u>Balance at December 31, 2014</u>		
	<u>Cost</u>	<u>Accumulated Amortization</u>	<u>Net</u>
Patents	\$ 1,175	\$ (244)	\$ 931
Technology Assets	4,800	(1,002)	3,798
Customer Assets	6,600	(1,050)	5,550
Total	<u>\$12,575</u>	<u>\$ (2,296)</u>	<u>\$10,279</u>

	<u>Balance at December 31, 2013</u>		
	<u>Cost</u>	<u>Accumulated Amortization</u>	<u>Net</u>
Patents	\$775	\$ (163)	\$612
Total	<u>\$775</u>	<u>\$ (163)</u>	<u>\$612</u>

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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 \$1.2 million and \$4.3 million for the nine months ended September 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):

2015	\$ 3,409
2016	2,533
2017	1,232
2018	634
2019	634
Thereafter	1,837
Total	<u>\$10,279</u>

The total estimated annual future amortization expense of these intangible assets as of September 30, 2015, are as follows (unaudited, in thousands):

2015 (remaining 3 months)	\$ 3,054
2016	6,095
2017	3,481
2018	2,883
2019	2,883
Thereafter	2,330
Total	<u>\$20,726</u>

**NOTE 8—OTHER CONSOLIDATED BALANCE SHEET COMPONENTS (CURRENT)**

***Other Current Assets***

The following table presents the detail of other current assets (in thousands):

	<u>December 31, 2013</u>	<u>December 31, 2014</u>	<u>September 30, 2015 (Unaudited)</u>
Accounts receivable	\$ 2,269	\$ 1,784	\$ 2,696
Prepaid expenses	3,120	5,108	4,037
Deferred reader costs	855	2,488	3,387
Inventory	1,050	2,991	5,039
Tenant improvement reimbursement receivable	2,092	10,139	2,004
Deferred hardware costs	1,585	2,265	2,839
Other	1,687	3,059	12,559
Total	<u>\$ 12,658</u>	<u>\$ 27,834</u>	<u>\$ 32,561</u>

**Other Current Liabilities**

The following table presents the detail of other current liabilities (in thousands):

	<u>December 31, 2013</u>	<u>December 31, 2014</u>	<u>September 30, 2015</u> (Unaudited)
Employee early exercised stock options	\$ 9,446	\$ 5,827	\$ 2,392
Accrued redemptions	1,900	2,020	955
Current portion of deferred rent	699	1,567	1,988
Deferred tax liabilities	—	454	447
Other	601	1,334	8,172
Total	<u>\$ 12,646</u>	<u>\$ 11,202</u>	<u>\$ 13,954</u>

**NOTE 9—OTHER CONSOLIDATED BALANCE SHEET COMPONENTS (NON-CURRENT)**

**Other Non-Current Assets**

The following table presents the detail of other non-current assets (in thousands):

	<u>December 31, 2013</u>	<u>December 31, 2014</u>	<u>September 30, 2015</u> (Unaudited)
Deposits	\$ 1,784	\$ 2,663	\$ 679
Deferred tax assets	—	454	459
Other	615	231	1,105
Total	<u>\$ 2,399</u>	<u>\$ 3,348</u>	<u>\$ 2,243</u>

**Other Non-Current Liabilities**

The following table presents the detail of other non-current liabilities (in thousands):

	<u>December 31, 2013</u>	<u>December 31, 2014</u>	<u>September 30, 2015</u> (Unaudited)
Deferred rent	\$ 14,671	\$ 26,625	\$ 25,819
Employee early exercised stock options	5,501	3,363	1,120
Statutory liabilities	6,023	16,023	21,780
Other	111	1,099	1,525
Total	<u>\$ 26,306</u>	<u>\$ 47,110</u>	<u>\$ 50,244</u>

**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

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drawn under the credit facility, with \$195.0 million remaining available. On July 1, 2015, the Company paid the outstanding loan balance of \$30.0 million, which was previously drawn under a revolving unsecured credit facility with certain lenders. As of September 30, 2015, no amounts were outstanding under the credit facility, with \$225.0 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%. The Company paid \$0.4 million in fees related to unused commitments during the nine months ended September 30, 2015.

**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 payment processing transaction losses (in thousands):

	Year Ended December 31,			Nine Months Ended September 30, 2015 (Unaudited)
	2012	2013	2014	
Accrued transaction losses, beginning of the period	\$ 2,844	\$ 6,021	\$ 7,488	\$ 8,452
Provision for transaction losses	10,512	15,080	18,478	32,967
Charge-offs and recoveries to accrued transaction losses	(7,335)	(13,613)	(17,514)	(25,415)
Accrued transaction losses, end of the period	<u>\$ 6,021</u>	<u>\$ 7,488</u>	<u>\$ 8,452</u>	<u>\$ 16,004</u>

**NOTE 12—INCOME TAXES**

The domestic and foreign components of loss before income taxes are as follows (in thousands):

	Year Ended December 31,		
	2012	2013	2014
Domestic	\$(83,081)	\$(69,980)	\$(139,675)
Foreign	(2,118)	(34,000)	(12,978)
Loss before income taxes	<u>\$(85,199)</u>	<u>\$(103,980)</u>	<u>\$(152,653)</u>

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The components of the provision for income taxes are as follows (in thousands):

	Year Ended December 31,		
	2012	2013	2014
Current:			
Federal	\$ —	\$ —	\$ 2,746
State	—	263	531
Foreign	—	250	827
Total current provision for income taxes	—	513	4,104
Deferred:			
Federal	—	—	(2,503)
State	—	—	(161)
Foreign	—	—	—
Total deferred provision for income taxes	—	—	(2,664)
Total provision for income taxes	\$ —	\$ 513	\$ 1,440

The following is a reconciliation of the statutory federal income tax rate to the Company's effective tax rate:

	Balance at December 31,		
	2012	2013	2014
Tax at federal statutory rate	34.0%	34.0%	34.0%
State taxes, net of federal benefit	—	—	(0.1)
Foreign rate differential	—	(9.0)	(1.5)
Nondeductible expenses	—	(1.0)	(1.8)
Credits	—	3.0	2.7
Other items	—	—	0.7
Change in valuation allowance	(34.0)	(27.0)	(35.0)
Total	—%	—%	(1.0)%

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The tax effects of temporary differences and related deferred tax assets and liabilities are as follows (in thousands):

	Balance at December 31,		
	2012	2013	2014
Deferred tax assets:			
Capitalized costs	\$ 416	\$ 468	\$ 28,102
Accrued expenses	2,498	5,746	19,714
Net operating loss carryforwards	47,565	53,505	54,528
Tax credit carryforwards	1,493	7,699	11,662
Depreciation and amortization	—	2,381	—
Share-based compensation	2,981	5,085	13,153
Other	—	—	542
Total deferred tax assets	<u>54,953</u>	<u>74,884</u>	<u>127,701</u>
Valuation allowance	<u>(54,943)</u>	<u>(74,884)</u>	<u>(125,368)</u>
Total deferred tax assets, net of valuation allowance	<u>10</u>	<u>—</u>	<u>2,333</u>
Deferred tax liabilities:			
Property, equipment and intangible assets	<u>(10)</u>	<u>—</u>	<u>(2,333)</u>
Total deferred tax liabilities	<u>(10)</u>	<u>—</u>	<u>(2,333)</u>
Net deferred tax assets	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>

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.

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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 September 30, 2015, the Company had an unrecognized tax benefit of \$86.2 million, of which \$1.4 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):

	Year Ended December 31,		
	2012	2013	2014
Balance at the beginning of the year	\$ 45	\$ 105	\$14,152
Additions related to prior year tax positions	—	513	27,080
Reductions related to prior year tax positions	—	—	(390)
Additions related to current year tax positions	60	13,534	37,189
Balance at the end of the year	<u>\$ 105</u>	<u>\$14,152</u>	<u>\$78,031</u>

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 September 30, 2015, convertible preferred stock consisted of the following (in thousands, except share data):

	Shares		Liquidation amount	Proceeds, net of issuance costs
	Authorized	Outstanding		
Series A	46,787,400	46,700,710	\$ 10,100	\$ 9,970
Series B-1	13,893,330	13,893,330	10,000	9,949
Series B-2	27,030,040	27,030,040	25,778	21,637
Series C	17,764,230	17,764,230	103,000	102,886
Series D	20,164,210	20,164,210	222,089	221,755
Series E	9,700,289	9,700,289	150,000	148,748
Total convertible preferred stock	<u>135,339,499</u>	<u>135,252,809</u>	<u>\$ 520,967</u>	<u>\$ 514,945</u>

**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 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

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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.). Holders of a majority of outstanding shares of Series D convertible preferred stock have consented to the automatic conversion of all outstanding shares of Series D convertible preferred stock into common stock immediately prior to the completion of the Company's initial public offering. 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 and 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

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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 September 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 or shares 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

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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 September 30, 2015 there were 445,000,000 shares of common stock authorized and 156,742,206 shares issued and outstanding.

### ***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

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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 \$3.5 million as of September 30, 2015 for the 17,114,444 shares that were early exercised by employees in 2011 through September 30, 2015 and initially subject to repurchase by the Company. Unvested shares of 606,151 at September 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.

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.

On 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' prior notice, and any payment processing volumes will be subject to increased rates beginning on October 1, 2015. As part of this amendment, the previously unvested warrants related to processing targets in the United Kingdom and Japan have been canceled. Additionally, the Company agreed to facilitate the sale of 2,269,830 shares of Series D preferred stock owned by Starbucks to a third party. If the aggregate purchase price in a sale to a third party of the Series D preferred stock is less than \$37 million, then the Company will pay Starbucks the difference. This obligation terminates upon the expiration of any applicable lock-up period following an initial public offering. In the event that such obligation has not terminated, and the shares have not been sold, by October 30, 2016, the Company is obligated to repurchase the shares for \$37 million. The Company has designated this obligation as a derivative instrument initially valued at \$1.5 million to be measured at fair value on a recurring basis (see Note 2). The liability has been included in other current liabilities on the consolidated balance sheets.

### ***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 September 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 10,402,882 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.

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A summary of stock option activity for the year ended December 31, 2014 is as follows (in thousands, except share and per share data):

	Number of stock options outstanding	Weighted average exercise price	Weighted average remaining contractual term (in years)	Aggregate intrinsic value
Balance at December 31, 2013	71,463,130	\$ 2.40	7.67	\$479,434
Granted	32,697,751	8.09		
Exercised	(9,403,147)	1.57		
Forfeited	(7,286,321)	4.39		
Balance at December 31, 2014	<u>87,471,413</u>	\$ 4.46	8.36	\$490,227
Options vested and expected to vest at December 31, 2014	<u>77,857,421</u>	\$ 4.46	8.36	\$490,227
Options exercisable at December 31, 2014	<u>86,431,063</u>	\$ 4.46	8.36	\$490,227

A summary of stock option activity for the nine months ended September 30, 2015 is as follows (unaudited, in thousands, except share and per share data):

	Number of stock options outstanding	Weighted average exercise price	Weighted average remaining contractual term (in years)	Aggregate intrinsic value
Balance at December 31, 2014	87,471,413	\$ 4.46	8.36	\$490,227
Granted	32,585,935	12.88		
Exercised	(5,197,234)	3.04		
Forfeited	(8,726,938)	6.46		
Balance at September 30, 2015	<u>106,133,176</u>	\$ 6.95	8.21	\$896,164
Options vested and expected to vest at September 30, 2015	<u>89,108,401</u>	\$ 6.25	7.90	\$814,499
Options exercisable at September 30, 2015	<u>106,133,176</u>	\$ 6.95	8.21	\$896,164

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 September 30, 2015 was \$46.2 million.

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The total weighted average grant-date fair value of options granted was \$1.05, \$1.61, \$3.84, \$3.62, and \$6.04 per share for the years ended December 31, 2012, 2013, 2014, and the nine months ended September 30, 2014 and September 30, 2015, respectively.

**Restricted Stock Activity**

The Company issued restricted stock awards (RSAs) to certain employees in fiscal year 2011 and prior. These awards typically vest over a term of two to four years. No restricted stock awards have been issued under the Plan since 2011.

Activity related to RSAs for the year ended December 31, 2014 is set forth below:

	<u>Number of RSAs</u>	<u>Weighted average grant date fair value</u>
Unvested at December 31, 2013	152,580	\$ 0.12
Vested	(152,580)	0.12
Unvested at December 31, 2014	<u>—</u>	\$ —

The Company issued restricted stock units (RSUs) to certain employees in fiscal year 2015. These units typically vest over a term of four years.

Activity related to RSUs during the nine months ended September 30, 2015 is set forth below:

	<u>Number of RSUs</u>	<u>Weighted average grant date fair value</u>
Unvested at December 31, 2014	—	\$ —
Granted	100,900	15.39
Unvested at September 30, 2015	<u>100,900</u>	\$ 15.39

**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

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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.

Effective August 31, 2015, the Company modified all of its nonstatutory stock option grants to extend the exercise term for terminated employees who have completed two years of service. In the event of a termination, the modified expiration date 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. During the nine months ended September 30, 2015, share-based compensation expense includes a one time charge of \$2.6 million related to the vested portion of the impacted options, as a result of the modification. The Company will incur an additional \$9.7 million of share-based compensation expense over the remaining vesting periods of the impacted options.

The fair value of stock options was estimated using the following weighted-average assumptions:

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
				(Unaudited)	
Fair value of common stock	\$ 1.60-\$2.80	\$ 2.80-\$5.26	\$ 7.25-\$10.06	\$ 7.25-\$9.11	\$ 10.06-\$15.39
Dividend yield	—%	—%	—%	—%	—%
Risk-free interest rate	0.96%	1.55%	1.85%	1.87%	1.73%
Expected volatility	44.34%	46.47%	46.95%	45.68%	47.91%
Expected term (years)	6.05	6.09	6.06	6.08	6.06

The following table summarizes the effects of share-based compensation on the Company's consolidated statements of operations (in thousands):

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
				(Unaudited)	
Product development	\$3,984	\$ 8,820	\$24,758	\$ 16,907	\$33,287
Sales and marketing	668	1,235	3,738	2,553	4,524
General and administrative	3,462	4,603	7,604	5,193	11,675
Total	<u>\$8,114</u>	<u>\$14,658</u>	<u>\$36,100</u>	<u>\$24,653</u>	<u>\$49,486</u>

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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 September 30, 2015, there was \$228.5 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 3.18 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):

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
				(Unaudited)	
Net loss	\$ (85,199)	\$ (104,493)	\$ (154,093)	\$ (117,021)	\$ (131,528)
Basic shares:					
Weighted-average common shares outstanding	131,261	132,562	148,876	146,997	153,965
Weighted-average unvested shares	(12,041)	(4,717)	(6,834)	(6,973)	(4,907)
Weighted-average shares used to compute basic net loss per share	<u>119,220</u>	<u>127,845</u>	<u>142,042</u>	<u>140,024</u>	<u>149,058</u>
Diluted shares:					
Weighted-average shares used to compute diluted net loss per share	<u>119,220</u>	<u>127,845</u>	<u>142,042</u>	<u>140,024</u>	<u>149,058</u>
Loss per share:					
Basic	\$ (0.71)	\$ (0.82)	\$ (1.08)	\$ (0.84)	\$ (0.88)
Diluted	\$ (0.71)	\$ (0.82)	\$ (1.08)	\$ (0.84)	\$ (0.88)

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):

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
				(Unaudited)	
Stock options	51,687	71,463	87,471	85,529	106,234
Common stock warrants	15,762	15,762	15,762	15,762	9,457
Preferred stock warrants	87	87	87	87	87
Convertible preferred stock	134,529	134,529	135,253	132,019	135,253
Total anti-dilutive securities	<u>202,065</u>	<u>221,841</u>	<u>238,573</u>	<u>233,397</u>	<u>251,031</u>

**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):

	Year Ended December 31, 2014	Nine Months Ended September 30, 2015
	(Unaudited)	
Net loss	\$ (154,093)	\$ (131,528)
Basic shares:		
Weighted-average shares used to compute basic net loss per share	142,042	149,058
Pro forma adjustment to reflect assumed conversion of preferred stock to occur upon completion of the Company's initial public offering	135,253	135,253
Weighted-average shares used to compute basic pro forma net loss per share	<u>277,295</u>	<u>284,311</u>
Diluted shares:		
Weighted-average shares used to compute diluted pro forma net loss per share	<u>277,295</u>	<u>284,311</u>
Loss per share:		
Basic	\$ (0.56)	\$ (0.46)
Diluted	\$ (0.56)	\$ (0.46)

**NOTE 15—OTHER INCOME AND EXPENSE**

Other income and expense, net, is comprised of the following (in thousands):

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
	(Unaudited)				
Net (gain) loss on foreign exchange	\$ 18	\$ 283	\$ 1,116	\$ 722	\$ 1,324
Starbucks warrant liability remeasurement	(185)	(1,235)	—	—	—
Other	—	2	(12)	15	66
Total other (income) and expense	<u>\$(167)</u>	<u>\$ (950)</u>	<u>\$ 1,104</u>	<u>\$ 737</u>	<u>\$ 1,390</u>

**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

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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 \$8.1 million and \$9.8 million during the nine months ended September 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):

	<u>Capital</u>	<u>Operating</u>
Year:		
2015	\$ 57	\$ 14,541
2016	57	15,163
2017	42	15,232
2018	3	15,306
2019	—	15,206
Thereafter	—	66,601
Total	<u>\$ 159</u>	<u>\$142,049</u>
Less amount representing interest	(13)	
Present value of capital lease obligations	146	
Less current portion of capital lease obligation	(50)	
Non-current portion of capital lease obligation	<u>\$ 96</u>	

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 September 30, 2015 are as follows (unaudited, in thousands):

	<u>Capital</u>	<u>Operating</u>
Year:		
2015 (remaining 3 months)	\$ 16	\$ 3,749
2016	62	14,616
2017	47	14,729
2018	5	14,897
2019	—	15,149
Thereafter	—	67,219
Total	<u>\$ 130</u>	<u>\$130,359</u>
Less amount representing interest	(8)	
Present value of capital lease obligations	122	
Less current portion of capital lease obligation	(57)	
Non-current portion of capital lease obligation	<u>\$ 65</u>	

### **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, Jeffrey 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):

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
				(Unaudited)	
<b>Revenue</b>					
United States	\$203,449	\$546,553	\$825,578	\$583,149	\$863,148
International	—	5,880	24,614	16,149	29,610
Total net revenue	<u>\$203,449</u>	<u>\$552,433</u>	<u>\$850,192</u>	<u>\$599,298</u>	<u>\$892,758</u>

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 nine months ended September 30, 2014 and 2015.

**Long-Lived Assets**

The following table sets forth long-lived assets by geographic area (in thousands):

	December 31,		September 30,
	2013	2014	2015
			(Unaudited)
<b>Long-lived assets</b>			
United States	\$52,149	\$112,988	\$ 160,314
International	721	1,291	2,323
Total long-lived assets	<u>\$52,870</u>	<u>\$114,279</u>	<u>\$ 162,637</u>

**NOTE 18—SUPPLEMENTAL CASH FLOW INFORMATION**

The supplemental disclosures of cash flow information consists of the following (in thousands):

	Year Ended December 31,			Nine Months Ended September 30,	
	2012	2013	2014	2014	2015
				(Unaudited)	
Cash paid for interest	\$ 9	\$ 3	\$ 940	\$ 513	\$ 888
Cash paid for income taxes	—	25	2,442	1,832	1,798
Purchases of property and equipment in accounts payable and accrued expenses	1,054	215	—	—	4,366
Fair value of shares issued related to acquisitions of businesses	—	278	59,576	59,576	27,456
Reclassification of customer common stock warrants to permanent equity	—	764	—	—	—

**NOTE 19—SUBSEQUENT EVENTS**

The Company has evaluated subsequent events from the consolidated balance sheet date through March 27, 2015, and October 23, 2015, the date at which the respective audit and unaudited consolidated financial statements were available to be issued, respectively.

On October 23, 2015, the Company issued 1,940,058 additional shares of Series E preferred stock to two investors for proceeds of \$30 million. The terms are equivalent to the previous issuance of Series E preferred stock, except that these investors waived any right with respect to these shares to receive additional shares of the Company's capital stock as a result of any conversion price adjustment arising from an initial public offering.

On November 2, 2015, the Company entered into a new revolving credit agreement with certain lenders, which extinguished the prior revolving credit agreement, and provided for a \$350.0 million revolving secured credit facility maturing on November 2020. This new revolving credit agreement is secured by certain tangible and intangible assets. The Company's new credit facility contains operating covenants, including customary limitations on the incurrence of certain indebtedness and liens, restrictions on certain inter-company transactions, restrictions on the sale or other disposition of collateral and limitations on the amount of dividends and stock repurchases.

Loans under the new 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 in each case plus a margin ranging from 0.00% to 1.00%, or (ii) an adjusted LIBOR rate plus a margin ranging from 1.00% to 2.00%. 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 of 0.15%. To date no funds were drawn under the new credit facility, with \$350.0 million remaining available.

Additionally, the Company entered into an agreement for an incremental \$25.0 million of capacity under our revolving secured credit facility from an existing investor, which becomes effective following the Company's initial public offering.



I JUST POP IT IN, OPEN  
IT UP AND EVERYBODY  
SAYS, 'WOW YOU'RE SO  
CUTTING EDGE.'

*JBK*

JAMES BROCK  
BOSTON HOME INSPECTORS, BOSTON, MA



CHELSEA BRYAN  
MIETTE, SAN FRANCISCO, CA



**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.

	<b>Amount to be Paid</b>
SEC registration fee	\$ 40,648
FINRA filing fee	61,048
NYSE listing fee	250,000
Printing and engraving expenses	450,000
Legal fees and expenses	4,000,000
Accounting fees and expenses	1,400,000
Transfer agent and registrar fees	14,400
Miscellaneous expenses	783,904
<b>Total</b>	<b>\$ 7,000,000</b>

**Item 14. Indemnification of Directors and Officers.**

Section 145 of the Delaware General Corporation Law authorizes a corporation's board of directors to grant, and authorizes a court to award, indemnity to officers, directors, and other corporate agents.

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.

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- The Registrant is not 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 filed as Exhibit 1.1 to this registration statement provides 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 2015; the Registrant sold an aggregate of 11,640,347 shares of its Series E convertible preferred stock to 12 accredited investors at a purchase price of approximately \$15.46345 per share, for an aggregate purchase price of approximately \$180.0 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 119,745,206 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 1,025,000 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.

**Item 16. Exhibits and Financial Statement Schedules.**

**(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

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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.

**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 6<sup>th</sup> day of November, 2015.

**SQUARE, INC.**

By: /s/ Jack Dorsey  
*Jack Dorsey*  
*President, Chief Executive Officer, and Chairman*

Pursuant to the requirements of the Securities Act of 1933, this registration statement on Form S-1 has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Jack Dorsey</u> Jack Dorsey	President, Chief Executive Officer, and Chairman (Principal Executive Officer)	November 6, 2015
<u>/s/ Sarah Friar</u> Sarah Friar	Chief Financial Officer (Principal Accounting and Financial Officer)	November 6, 2015
<u>*</u>		
<u>Roelof Botha</u>	Director	November 6, 2015
<u>*</u>		
<u>Earvin Johnson</u>	Director	November 6, 2015
<u>*</u>		
<u>Vinod Khosla</u>	Director	November 6, 2015
<u>*</u>		
<u>Jim McKelvey</u>	Director	November 6, 2015
<u>*</u>		
<u>Mary Meeker</u>	Director	November 6, 2015
<u>*</u>		
<u>Ruth Simmons</u>	Director	November 6, 2015
<u>*</u>		
<u>Lawrence Summers</u>	Director	November 6, 2015
<u>*</u>		
<u>David Viniar</u>	Director	November 6, 2015

\* By: /s/ Jack Dorsey  
Jack Dorsey  
Attorney-in-Fact

**EXHIBIT INDEX**

<b>Exhibit Number</b>	<b>Description</b>
1.1*	Form of Underwriting Agreement.
3.1**	Restated Certificate of Incorporation of the Registrant, as amended, as currently in effect.
3.2	Form of Amended and Restated Certificate of Incorporation of the Registrant, to be in effect upon the completion of this offering.
3.3**	Bylaws of the Registrant, as currently in effect.
3.4	Form of Amended and Restated Bylaws of the Registrant, to be in effect upon the completion of this offering.
4.1	Form of Class A common stock certificate of the Registrant.
4.2**	Fifth Amended and Restated Investors' Rights Agreement among the Registrant and certain holders of its capital stock, dated as of September 9, 2014.
4.3**	Warrant to purchase shares of convertible preferred stock issued to TriplePoint Capital LLC, dated as of March 17, 2010.
4.4**	Warrant to purchase shares of common stock issued to Starbucks Corporation, dated as of August 7, 2012, as amended on September 30, 2013.
5.1	Opinion of Wilson Sonsini Goodrich & Rosati, P.C.
10.1+	Form of Indemnification Agreement between the Registrant and each of its directors and executive officers.
10.2+	Square, Inc. 2015 Equity Incentive Plan and related form agreements.
10.3+	Square, Inc. 2015 Employee Stock Purchase Plan and related form agreements.
10.4+**	Square, Inc. 2009 Stock Plan and related form agreements.
10.5+**	Square, Inc. Executive Incentive Compensation Plan.
10.6+**	Square, Inc. Outside Director Compensation Policy.
10.7+**	Form of Change of Control and Severance Agreement between the Registrant and certain of its executive officers.
10.8+	Offer Letter between the Registrant and Jack Dorsey, dated as of October 1, 2015.
10.9+	Offer Letter between the Registrant and Sarah Friar, dated as of October 1, 2015.
10.10+	Offer Letter between the Registrant and Dana Wagner, dated as of October 1, 2015.
10.11+	Offer Letter between the Registrant and Françoise Brougher, dated as of October 1, 2015.
10.12+	Offer Letter between the Registrant and Alyssa Henry, dated as of October 1, 2015.
10.13**	Office Lease by and between the Registrant and Hudson 1455 Market, LLC, dated as of October 17, 2012, as amended on March 22, 2013, January 22, 2014, and June 6, 2014.
10.14	Revolving Credit Agreement dated as of November 2, 2015 among the Registrant, the Lenders Party Thereto, and JPMorgan Chase Bank, N.A., as Administrative Agent.
10.15#**	Master Development and Supply Agreement by and between the Registrant and TDK Corporation, dated as of October 1, 2013.
10.16#**	Master Manufacturing Agreement by and between the Registrant and Cheng Uei Precision Industry Co., Ltd., dated as of June 27, 2012.
10.17#**	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.
21.1**	List of subsidiaries of the Registrant.

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<b>Exhibit Number</b>	<b>Description</b>
23.1	Consent of KPMG LLP, Independent Registered Public Accounting Firm.
23.2	Consent of Wilson Sonsini Goodrich & Rosati, P.C. (included in Exhibit 5.1).
24.1**	Power of Attorney (see the signature page of the original filing of this Registration Statement on Form S-1).
*	To be filed by amendment.
**	Previously filed.
+	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.

**AMENDED AND RESTATED**  
**CERTIFICATE OF INCORPORATION**  
**OF**  
**SQUARE, INC.**

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Square, Inc. (the “Corporation”), a corporation organized and existing under the General Corporation Law of the State of Delaware (the “DGCL”), does hereby certify as follows:

(1) The name of the Corporation is Square, Inc. The original Certificate of Incorporation of the Corporation was filed with the office of the Secretary of State of Delaware on June 17, 2009 under the name Seashell, Inc.

(2) This Amended and Restated Certificate of Incorporation (this “Certificate of Incorporation”) was duly adopted by the Board of Directors of the Corporation (the “Board of Directors”) and by the stockholders of the Corporation in accordance with Sections 228, 242 and 245 of the DGCL.

(3) The text of the Certificate of Incorporation of the Corporation is hereby amended and restated in its entirety to read as follows:

**ARTICLE I**

The name of the Corporation is Square, Inc.

**ARTICLE II**

The name and 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 the Corporation’s 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 DGCL.

**ARTICLE IV**

A. Authorized Capital Stock. The Corporation shall be authorized to issue 1,600,000,000 shares of capital stock, of which (i) 1,000,000,000 shares shall be shares of Class A Common Stock, \$0.0000001 par value (the “Class A Common Stock”), (ii) 500,000,000 shares shall be shares of Class B Common Stock, \$0.0000001 par value (the “Class B Common Stock”) and, together with the Class A Common Stock, the “Common Stock”), and (iii) 100,000,000 shares shall be shares of Preferred Stock, \$0.0000001 par value (the “Preferred Stock”).

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Immediately upon the acceptance of this Certificate of Incorporation for filing by the Secretary of State of the State of Delaware (the “Effective Time”), each share of the Corporation’s capital stock issued and outstanding or held as treasury stock immediately prior to the Effective Time, shall, automatically and without further action by any stockholder, be reclassified as, and shall become, one share of Class B Common Stock.

B. Preferred Stock. The Board of Directors is hereby expressly authorized to provide for the issuance of all or any shares of the Preferred Stock in one or more classes or series, and to fix for each such class or series the number of shares thereof, such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights and such qualifications, limitations or restrictions thereof, as shall be stated and expressed in the resolution or resolutions adopted by the Board of Directors providing for the issuance of such class or series, including, without limitation, the authority to provide that any such class or series may be (i) subject to redemption at such time or times and at such price or prices; (ii) entitled to receive dividends (which may be cumulative or non-cumulative) at such rates, on such conditions, and at such times, and payable in preference to, or in such relation to, the dividends payable on any other class or classes or any other series; (iii) entitled to such rights upon the dissolution of, or upon any distribution of the assets of, the Corporation; or (iv) convertible into, or exchangeable for, shares of any other class or classes of stock, or of any other series of the same or any other class or classes of stock, of the Corporation at such price or prices or at such rates of exchange and with such adjustments; all as may be stated in such resolution or resolutions. The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of all of the outstanding shares of capital stock of the Corporation entitled to vote thereon, without a separate class vote of the holders of Preferred Stock, or any separate series votes of any series thereof, unless a vote of any such holders is required pursuant to the terms of the Preferred Stock.

C. Rights of Class A Common Stock and Class B Common Stock. The relative powers, rights, qualifications, limitations and restrictions granted to or imposed on each share of Class A Common Stock and Class B Common Stock are as follows:

(1) Identical Rights. Except as expressly provided herein, or required under applicable law, shares of the Class A Common Stock and Class B Common Stock shall have the same rights and privileges and rank equally, share ratably and be identical in all respects as to all matters. The number of authorized shares of Class A Common Stock or Class B Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of all of the outstanding shares of capital stock of the Corporation entitled to vote thereon, irrespective of the provisions of Section 242(b)(2) of the DGCL.

(2) Voting Rights.

A. General Voting Rights. Except as otherwise expressly provided herein, or required by applicable law, the holders of Class A Common Stock and Class B Common Stock shall vote together as one class on all matters submitted to a vote of the stockholders.

B. Votes Per Share. Except as otherwise expressly provided herein, or required by applicable law, on any matter that is submitted to a vote of the stockholders, each holder of Class A Common Stock shall be entitled to one (1) vote for each such share, and each holder of Class B Common Stock shall be entitled to ten (10) votes for each such share.

(3) Dividends and Distributions. The holders of the Class A Common Stock and Class B Common Stock shall be entitled to receive an equal amount of dividends of distributions per share if, as and when declared from time to time by the Board of Directors, unless different treatment of shares of each such class is approved by the affirmative vote of the holders of a majority of the outstanding shares of Class A Common Stock and by the affirmative vote of the holders of a majority of the outstanding shares of Class B Common Stock, each voting separately as a class, *provided* that, in the event of a dividend or distribution of Common Stock, shares of Class B Common Stock shall only be entitled to receive shares of Class B Common Stock and shares of Class A Common Stock shall only be entitled to receive shares of Class A Common Stock.

(4) Treatment in a Change of Control or any Merger Transaction. In connection with any Change of Control Transaction, shares of Class A Common Stock and Class B Common Stock shall be treated equally, identically and ratably, on a per share basis, with respect to any consideration into which such shares are converted or any consideration paid or otherwise distributed to stockholders of the Corporation, unless different treatment of the shares of each such class is approved by the affirmative vote of the holders of a majority of the outstanding shares of Class A Common Stock and by the affirmative vote of the holders of a majority of the outstanding shares of Class B Common Stock, each voting separately as a class. Any merger or consolidation of the Corporation with or into any other entity, which is not a Change of Control Transaction, shall require approval by the affirmative vote of the holders of a majority of the outstanding shares of Class A Common Stock and by the affirmative vote of the holders of a majority of the outstanding shares of Class B Common Stock, each voting separately as a class, unless (i) the shares of Class A Common Stock and Class B Common Stock remain outstanding and no other consideration is received in respect thereof or (ii) such shares are converted on a pro rata basis into shares of the surviving or parent entity in such transaction having identical rights to the shares of Class A Common Stock and Class B Common Stock, respectively.

(5) Subdivision or Combination. If the Corporation in any manner subdivides or combines the outstanding shares of Class A Common Stock or Class B Common Stock, the outstanding shares of the other such class will concurrently therewith be proportionately subdivided or combined in a manner that maintains the same proportionate equity ownership between the holders of the outstanding Class A Common Stock and the holders of the outstanding Class B Common Stock on the record date for

such subdivision or combination, unless different treatment of the shares of each such class is approved by the affirmative vote of the holders of a majority of the outstanding shares of Class A Common Stock and by the affirmative vote of the holders of a majority of the outstanding shares of Class B Common Stock, each voting separately as a class.

(6) Liquidation, Dissolution or Distribution. In the event of the voluntary or involuntary liquidation, dissolution, distribution of assets or winding-up of the Corporation, holders of Class A Common Stock and Class B Common Stock shall be treated equally, identically and ratably, on a per share basis, and be entitled to receive an equal amount per share of all the assets of the Corporation of whatever kind available for distribution to holders of Common Stock, after the rights of the holders of the Preferred Stock have been satisfied.

(7) Redemption. Neither the Class A Common Stock nor the Class B Common Stock is redeemable.

D. Definitions. For purposes of this Article IV:

(1) “ Change of Control Transaction ” means (i) the sale, lease, exchange, or other disposition (other than liens and encumbrances created in the ordinary course of business, including liens or encumbrances to secure indebtedness for borrowed money that are approved by the Corporation’s Board of Directors, so long as no foreclosure occurs in respect of any such lien or encumbrance) of all or substantially all of the Corporation’s property and assets (which shall for such purpose include the property and assets of any direct or indirect subsidiary of the Corporation), *provided* that any sale, lease, exchange or other disposition of property or assets exclusively between or among the Corporation and any direct or indirect subsidiary or subsidiaries of the Corporation shall not be deemed a “Change of Control Transaction”; (ii) the merger, consolidation, business combination or other similar transaction of the Corporation with any other entity, other than a merger, consolidation, business combination or other similar transaction that would result in the voting securities of the Corporation outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or its parent) more than fifty percent (50%) of the total voting power represented by the voting securities of the Corporation and more than fifty percent (50%) of the total number of outstanding shares of the Corporation’s capital stock, in each case as outstanding immediately after such merger, consolidation, business combination or other similar transaction, and the stockholders of the Corporation immediately prior to the merger, consolidation, business combination, or other similar transaction owning voting securities of the Corporation, the surviving entity or its parent immediately following the merger, consolidation, business combination or other similar transaction in substantially the same proportions (*vis a vis* each other) as such stockholders owned the voting securities of the Corporation immediately prior to the transaction; and (iii) a recapitalization, liquidation, dissolution or other similar transaction involving the Corporation, other than a recapitalization, liquidation, dissolution, or other similar transaction that would result in the voting securities of the Corporation outstanding immediately prior thereto continuing to represent (either by remaining outstanding or being converted into voting securities of

the surviving entity or its parent) more than fifty percent (50%) of the total voting power represented by the voting securities of the Corporation and more than fifty percent (50%) of the total number of outstanding shares of the Corporation's capital stock, in each case as outstanding immediately after such recapitalization, liquidation, dissolution or other similar transaction, and the stockholders of the Corporation immediately prior to the recapitalization, liquidation, dissolution or other similar transaction owning voting securities of the Corporation, the surviving entity or its parent immediately following the recapitalization, liquidation, dissolution or other similar transaction in substantially the same proportions (vis a vis each other) as such stockholders owned the voting securities of the Corporation immediately prior to the transaction.

## ARTICLE V

A. Voluntary Conversion of Class B Common Stock. Each one (1) share of Class B Common Stock shall be convertible into one (1) fully paid and nonassessable share of Class A Common Stock at the option of the holder thereof at any time upon written notice to the transfer agent of the Corporation.

B. Automatic Conversion of Class B Common Stock. Each share of Class B Common Stock shall automatically, without any further action by the Corporation or the holder thereof, be converted into one (1) fully paid and nonassessable share of Class A Common Stock upon the occurrence of (i) a Transfer other than a Permitted Transfer, of such share of Class B Common Stock, or (ii) the affirmative vote of the holders of Class B Common Stock representing not less than a majority of the voting power of the outstanding shares of Class B Common Stock, voting separately as a single class.

C. Conversion Upon Death or Disability. Each share of Class B Common Stock held of record by a holder of Class B Common Stock who is a natural person, or by such holder of Class B Common Stock's Permitted Transferees, shall automatically, without any further action, convert into one (1) fully paid and nonassessable share of Class A Common Stock upon the death or Disability of such holder of Class B Common Stock.

D. Final Conversion of Class B Common Stock. Each share of Class B Common Stock shall automatically, without any further action by the Corporation or the holder thereof, convert into one (1) fully paid and nonassessable share of Class A Common Stock on the date on which the outstanding shares of Class B Common Stock represent less than five percent (5%) of the voting power of the outstanding shares of stock of the Corporation entitled to vote generally in the election of directors, taken together as a single class.

E. Policies and Procedures. The Corporation may, from time to time, establish such policies and procedures, not in violation of applicable law or this Certificate of Incorporation or the Amended and Restated Bylaws of the Corporation (the "Bylaws"), relating to the conversion of shares of the Class B Common Stock into shares of Class A Common Stock as it may deem necessary or advisable. If the Corporation has reason to believe that a Transfer that is not a Permitted Transfer has occurred, the Corporation may request that the purported transferor furnish affidavits or other evidence to the Corporation as it reasonably deems necessary to determine whether a Transfer that is not a Permitted Transfer has occurred, and if

such transferor does not within ten (10) days after the date of such request furnish sufficient (as determined by the Board of Directors, which determination shall be conclusive and binding) evidence to the Corporation (in the manner provided in the request) to enable the Corporation to determine that no such Transfer has occurred, any such shares of Class B Common Stock, to the extent not previously converted, shall be automatically converted into shares of Class A Common Stock and such conversion shall thereupon be registered on the books and records of the Corporation.

F. Definitions. For purposes of this Article V:

(1) “Disability” means permanent and total disability such that the natural person holder of Class B Common Stock is unable to engage in any substantial gainful activity by reason of any medically determinable mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months as determined by a licensed medical practitioner. In the event of a dispute whether the natural person holder of Class B Common Stock has suffered a Disability, no Disability of the natural person holder of Class B Common Stock shall be deemed to have occurred unless and until an affirmative ruling regarding such Disability has been made by a court of competent jurisdiction, and such ruling has become final and nonappealable.

(2) “Rights” means any option, warrant, conversion right or contractual right of any kind to acquire shares of the Corporation’s authorized but unissued capital stock.

(3) “Transfer” of a share of Class B Common Stock shall mean any sale, assignment, transfer, conveyance, hypothecation or other transfer or disposition of such share or any legal or beneficial interest in such share, whether or not for value and whether voluntary or involuntary or by operation of law, including, without limitation, a transfer of a share of Class B Common Stock to a broker or other nominee (regardless of whether there is a corresponding change in beneficial ownership), or the transfer of, or entering into a binding agreement with respect to, Voting Control over such share by proxy or otherwise, *provided, however*, that the following shall not be considered a “Transfer”:

(a) the grant of a proxy to officers or directors of the Corporation at the request of the Board of Directors of the Corporation in connection with actions to be taken at an annual or special meeting of stockholders;

(b) the pledge of shares of Class B Common Stock by a stockholder that creates a mere security interest in such shares pursuant to a bona fide loan or indebtedness transaction for so long as such stockholder continues to exercise Voting Control over such pledged shares; *provided, however*, that a foreclosure on such shares or other similar action by the pledgee shall constitute a Transfer unless such foreclosure or similar action qualifies as a Permitted Transfer;

(c) entering into a voting trust, agreement or arrangement (with or without granting a proxy) solely with stockholders who are holders of Class B Common Stock that (A) is disclosed either in a Schedule 13D filed with the Securities and Exchange Commission or in writing to the Secretary of the Corporation, (B) either has a term not exceeding one (1) year or is terminable by the holder of the shares subject thereto at any time and (C) does not involve any payment of cash, securities, property or other consideration to the holder of the shares subject thereto other than the mutual promise to vote shares in a designated manner;

(d) the issuance by the Corporation of any shares of Class B Common Stock pursuant to the exercise of options, warrants, securities or rights that are exercisable or exchangeable for, or convertible into, Class B Common Stock; or

(e) the fact that the spouse of any holder of Class B Common Stock possesses or obtains an interest in such holder's shares of Class B Common Stock arising solely by reason of the application of the community property laws of any jurisdiction, so long as no other event or circumstance shall exist or have occurred that constitutes a "Transfer" of such shares of Class B Common Stock; *provided* that any transfer of shares by any holder of Class B Common Stock to such holder's spouse for any reason, including a transfer in connection with a divorce proceeding, domestic relations order or similar legal requirement, shall constitute a "Transfer" of such shares of Class B Common Stock.

(4) "Permitted Transfer" means a Transfer by a holder of Class B Common Stock to any of the persons or entities listed in clauses (a) through (e) below (each, a "Permitted Transferee") and from any such Permitted Transferee back to such holder of Class B Common Stock and/or any other Permitted Transferee established by or for such holder of Class B Common Stock:

(a) any Qualified Charity, foundation or similar entity established by a holder of Class B Common Stock so long as the holder of Class B Common Stock has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such entity; *provided* such Transfer does not involve any payment of cash, securities, property or other consideration (other than an interest in such entity) to the holder of Class B Common Stock; *provided, further*, that in the event such holder of Class B Common Stock no longer has sole dispositive power and exclusive Voting Control with respect to the shares of

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Class B Common Stock held by such entity, each share of Class B Common Stock then held by such entity shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock;

(b) a trust for the benefit of such holder of Class B Common Stock or persons other than the holder of Class B Common Stock so long as the holder of Class B Common Stock has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such trust; *provided* such Transfer does not involve any payment of cash, securities, property or other consideration (other than an interest in such trust) to the holder of Class B Common Stock; *provided, further*, that in the event such holder of Class B Common Stock no longer has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such trust, each share of Class B Common Stock then held by such trust shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock;

(c) a trust under the terms of which such holder of Class B Common Stock has retained a “qualified interest” within the meaning of §2702(b)(1) of the Internal Revenue Code and/or a reversionary interest so long as the holder of Class B Common Stock has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such trust; *provided*, that in the event such holder of Class B Common Stock no longer has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such trust, each share of Class B Common Stock then held by such trust shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock;

(d) an Individual Retirement Account, as defined in Section 408(a) of the Internal Revenue Code, or a pension, profit sharing, stock bonus or other type of plan or trust of which such holder of Class B Common Stock is a participant or beneficiary and which satisfies the requirements for qualification under Section 401 of the Internal Revenue Code so long as the holder of Class B Common Stock has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held in such account, plan or trust; *provided*, that in the event such holder of Class B Common Stock no longer has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such account, plan or trust, each share of Class B Common Stock then held by such account, plan or trust shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock; or

(e) a corporation, partnership or limited liability company in which such holder of Class B Common Stock directly, or indirectly through one or more Permitted Transferees, owns shares, partnership interests or membership interests, as applicable, with sufficient Voting Control in the corporation, partnership or limited liability company, as applicable, or otherwise has legally enforceable rights, such that the holder of Class B Common Stock retains sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such corporation, partnership or limited liability company; *provided* that in the event the holder of Class B Common Stock no longer owns sufficient shares, partnership interests or membership interests, as applicable, or no longer has sufficient legally enforceable rights to ensure the holder of Class B Common Stock retains sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such corporation, partnership or limited liability company, as applicable, each share of Class B Common Stock then held by such corporation, partnership or limited liability company, as applicable, shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock.

(5) “Qualified Charity” means a domestic U.S. charitable organization, contributions to which are deductible for federal income, estate, gift and generation skipping transfer tax purposes.

(6) “Voting Control” means with respect to a share of Class B Common Stock the exclusive power (whether directly or indirectly) to vote or direct the voting of such share of Class B Common Stock by proxy, voting agreement, or otherwise.

G. Reservation of Stock. The Corporation will at all times reserve and keep available out of its authorized but unissued shares of Class A Common Stock, solely for the purpose of effecting the conversion of the shares of Class B Common Stock, such number of shares of Class A Common Stock as will from time to time be sufficient to effect the conversion of all outstanding shares of Class B Common Stock into shares of Class A Common Stock.

H. No Further Issuances. Except for the issuance of Class B Common Stock issuable upon exercise of Rights outstanding at the Effective Time or a dividend payable in accordance with Article IV, Section C(3), the Corporation shall not at any time after the Effective Time issue any additional shares of Class B Common Stock, unless such issuance is approved by the affirmative vote of the holders of a majority of the outstanding shares of Class B Common Stock, voting separately as a single class. After the Final Conversion of Class B Common Stock in Article V, Section D, the Corporation shall not issue any additional shares of Class B Common Stock.

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## ARTICLE VI

Subject to the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

## ARTICLE VII

A. General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

B. Number of Directors. The Board of Directors shall consist of that number of members as shall be fixed from time to time by resolution of the Board of Directors.

C. Classified Board Structure; Election of Directors. The Board of Directors shall be and is divided into three (3) classes, as nearly equal in number as possible, designated: Class I, Class II and Class III. In case of any increase or decrease, from time to time, in the number of directors, the number of directors in each class shall be apportioned as nearly equal as possible. No decrease in the number of directors shall shorten the term of any incumbent director. Each director shall serve for a term ending on the date of the third annual meeting following the annual meeting at which such director was elected; *provided* that each director initially appointed to Class I shall serve for a term initially expiring at the Corporation's annual meeting of stockholders held in 2016; each director initially appointed to Class II shall serve for a term initially expiring at the Corporation's annual meeting of stockholders held in 2017; and each director initially appointed to Class III shall serve for a term initially expiring at the Corporation's annual meeting of stockholders held in 2018; *provided, further*, that the term of each director shall continue until the election and qualification of his or her successor and be subject to his or her earlier death, resignation or removal.

D. Vacancies. Subject to applicable law and the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, and unless the Board of Directors otherwise determines, vacancies resulting from death, resignation, retirement, disqualification, removal from office or other cause, and newly created directorships resulting from any increase in the authorized number of directors, may be filled only by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors. Directors so chosen shall hold office until the next election of the class for which such director shall have been chosen and until such director's successor shall have been duly elected and qualified.

E. Removal. Subject to the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, any director, or the entire Board of Directors, may be removed from office at any time, but only for cause, and only by the affirmative vote of the holders of a majority of the voting power of the shares of the Corporation entitled to vote in the election of directors, represented in person or by proxy at a meeting for the election of directors duly called pursuant to the Bylaws.

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F. Corporate Powers. In addition to the powers and authority herein or by statute expressly conferred upon them, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation, subject to the provisions of the DGCL, this Certificate of Incorporation and the Bylaws; *provided, however*, that no Bylaws hereafter adopted shall invalidate any prior act of the directors that would have been valid if such Bylaws had not been adopted.

#### ARTICLE VIII

A. Special Meetings of Stockholders. Except as otherwise required by law, special meetings of the stockholders may be called only by (i) an officer of the corporation pursuant to a resolution adopted by a majority of the Board of Directors; (ii) the Chairperson of the Board of Directors; (iii) the chief executive officer of the Corporation; or (iv) the president of the Corporation (in the absence of a chief executive officer).

B. Cumulative Voting. No stockholder of the Corporation shall be entitled to exercise any right of cumulative voting.

#### ARTICLE IX

To the fullest extent authorized by the DGCL, as it presently exists or may hereafter be amended or modified from time to time, no director shall be personally liable to the Corporation or any of its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under the DGCL as the same exists or may hereafter be amended. If the DGCL is amended hereafter to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent authorized by the DGCL, as so amended. Any repeal or modification of this Article IX shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification with respect to acts or omissions occurring prior to such repeal or modification.

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

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**ARTICLE X**

In furtherance and not in limitation of the powers conferred upon it by the laws of the State of Delaware, the Board of Directors shall have the power to adopt, amend, alter or repeal the Bylaws, except as provided in the Bylaws. The affirmative vote of at least a majority of the Board of Directors shall be required to adopt, amend, alter or repeal the Bylaws.

**ARTICLE XI**

Except as provided in Article IX above, the Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation; *provided*, *however*, that, notwithstanding any other provision of this Certificate of Incorporation or any provision of law that might otherwise permit a lesser vote or no vote, but in addition to any vote of the holders of any class or series of the stock of the Corporation required by law or by this Certificate of Incorporation, the affirmative vote of the holders of at least sixty-six and two-thirds percent (66-2/3%) of the voting power of the outstanding shares of stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to amend or repeal, or adopt any provision of this Certificate of Incorporation inconsistent with, Articles IV, V, VI, VII, VIII, IX, X and XI.

**ARTICLE XII**

If any provision of this Certificate of Incorporation becomes or is declared on any ground by a court of competent jurisdiction to be illegal, unenforceable or void, portions of such provision, or such provision in its entirety, to the extent necessary, shall be severed from this Certificate of Incorporation, and the court will replace such illegal, void or unenforceable provision of this Certificate of Incorporation with a valid and enforceable provision that most accurately reflects the Corporation's intent, in order to achieve, to the maximum extent possible, the same economic, business and other purposes of the illegal, void or unenforceable provision. The balance of this Certificate of Incorporation shall be enforceable in accordance with its terms.

*[REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK]*

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IN WITNESS WHEREOF, the Corporation has caused this Certificate of Incorporation to be executed on its behalf this            day of            , 2015.

SQUARE, INC.

By: \_\_\_\_\_

Name: Jack Dorsey

Title: President and Chief Executive Officer

**BYLAWS**  
**OF**  
**SQUARE, INC.**

Incorporated under the Laws of the State of Delaware

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**ARTICLE I**  
**OFFICES AND RECORDS**

SECTION 1.1. Delaware Office. The registered office of the Corporation shall be located in the City of Dover, County of Kent, State of Delaware. The name and address of its registered agent is National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, Delaware 19904.

SECTION 1.2. Other Offices. The Corporation may have such other offices, either inside or outside the State of Delaware, as the Board of Directors may from time to time designate or as the business of the Corporation may require.

SECTION 1.3. Books and Records. The books and records of the Corporation may be kept inside or outside the State of Delaware at such place or places as may from time to time be designated by the Board of Directors.

**ARTICLE II**  
**STOCKHOLDERS**

SECTION 2.1. Annual Meeting. The annual meeting of the stockholders of the Corporation shall be held on such date and at such place and time as may be fixed by resolution of the Board of Directors.

SECTION 2.2. Special Meeting.

(A) Subject to the rights of the holders of any series of stock having a preference over the Common Stock of the Corporation as to dividends, voting or upon liquidation (the "Preferred Stock") with respect to such series of Preferred Stock, special meetings of the stockholders may be called only by or at the direction of (i) an officer of the corporation pursuant to a resolution adopted by the Board of Directors, (ii) the Chairman of the Board of Directors ("Chairman of the Board"), (iii) the Chief Executive Officer, or (iv) the President of the Corporation (in the absence of a Chief Executive Officer). The record date for determining the record stockholders entitled to notice of the special meeting and entitled to vote at a special meeting shall be fixed in accordance with Section 213 (or its successor provision) of the General Corporation Law of the State of Delaware.

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SECTION 2.3. Place of Meeting. The Board of Directors or the Chairman of the Board, as the case may be, may designate the place of meeting for any annual or special meeting of the stockholders or may designate that the meeting be held by means of remote communication. If no designation is so made, the place of meeting shall be the principal office of the Corporation.

SECTION 2.4. Notice of Meeting. Written or printed notice, stating the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given by the Corporation not less than ten (10) days nor more than sixty (60) days before the date of the meeting, either personally, by electronic transmission in the manner provided in Section 232 of the General Corporation Law of the State of Delaware (except to the extent prohibited by Section 232(e) of the General Corporation Law of the State of Delaware) or by mail, to each stockholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail with postage thereon prepaid, addressed to the stockholder at such stockholder's address as it appears on the records of the Corporation. If notice is given by electronic transmission, such notice shall be deemed to be given at the times provided in the General Corporation Law of the State of Delaware. Such further notice shall be given as may be required by applicable law. Meetings may be held without notice if all stockholders entitled to vote are present, or if notice is waived by those not present in accordance with Section 7.4 of these Bylaws. Any previously scheduled meeting of the stockholders may be postponed, and (unless the Certificate of Incorporation otherwise provides) any special meeting of the stockholders may be cancelled, by resolution of the Board of Directors upon public notice given prior to the date previously scheduled for such meeting of stockholders.

SECTION 2.5. Quorum and Adjournment. Except as otherwise provided by law or by the Certificate of Incorporation, the holders of a majority of the voting power of the shares of the Corporation entitled to vote generally in the election of directors, represented in person or by proxy, shall constitute a quorum at a meeting of stockholders, except that when specified business is to be voted on by a class or series of stock voting as a class, the holders of a majority of the shares of such class or series shall constitute a quorum of such class or series for the transaction of such business. The Chairman of the Board or the Chief Executive Officer may adjourn the meeting from time to time, whether or not there is a quorum. No notice of the time and place, if any, of adjourned meetings need be given except as required by applicable law. The stockholders present at a duly called meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

SECTION 2.6. Organization. Meetings of stockholders shall be presided over by such person as the Board of Directors may designate as chairman of the meeting, or in the absence of such a person, the Chairman of the Board, or if none or in the Chairman of the Board's absence or inability to act, the Chief Executive Officer, or if none or in the Chief Executive Officer's absence or inability to act, the Lead Independent Director, or if none or in the Lead Independent Director's absence or in ability to act, the President, or if none or in the President's absence or

inability to act, a Vice President, or, if none of the foregoing is present or able to act, by a chairman to be chosen by the holders of a majority of the voting power of the shares of the Corporation entitled to vote generally in the election of directors, represented in person or by proxy at the meeting of stockholders. The Secretary, or in the Secretary's absence, an Assistant Secretary, shall act as secretary of every meeting, but if neither the Secretary nor an Assistant Secretary is present, the presiding officer of the meeting shall appoint any person present to act as secretary of the meeting. The Board of Directors shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as it shall deem necessary, appropriate or convenient. Subject to such rules and regulations of the Board of Directors, if any, the presiding officer of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such presiding officer, are necessary, appropriate or convenient for the proper conduct of the meeting, including, without limitation, establishing an agenda or order of business for the meeting, rules and procedures for maintaining order at the meeting and the safety of those present, limitations on participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies and such other persons as the presiding officer shall permit, restrictions on entry to the meeting after the time fixed for the commencement thereof, limitations on the time allotted to questions or comments by participants and regulation of the opening and closing of the polls for balloting and matters that are to be voted on by ballot.

SECTION 2.7. Proxies. At all meetings of stockholders, a stockholder may vote by proxy executed in writing (or in such manner prescribed by the General Corporation Law of the State of Delaware) by the stockholder, or by such stockholder's duly authorized attorney-in-fact.

SECTION 2.8. Order of Business.

(A) Annual Meetings of Stockholders. At any annual meeting of the stockholders, only such nominations of individuals for election to the Board of Directors shall be made, and only such other business shall be conducted or considered, as shall have been properly brought before the meeting. For nominations to be properly made at an annual meeting, and proposals of other business to be properly brought before an annual meeting, nominations and proposals of other business must be: (a) specified in the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (b) otherwise properly made at the annual meeting, by or at the direction of the Board of Directors or (c) otherwise properly requested to be brought before the annual meeting by a stockholder of the Corporation in accordance with these Bylaws. For nominations of individuals for election to the Board of Directors or proposals of other business to be properly requested by a stockholder to be made at an annual meeting, a stockholder must (i) be a stockholder of record at the time of giving of notice of such annual meeting by or at the direction of the Board of Directors and at the time of the annual meeting, (ii) be entitled to vote at such annual meeting and (iii) comply with the procedures set forth in these Bylaws as to such business or nomination. The immediately preceding sentence shall be the exclusive means for a stockholder to make nominations or other business proposals (other than matters properly brought under Rule 14a-8 under the Securities Exchange Act of 1934 ("Exchange Act") and included in the Corporation's notice of meeting) before an annual meeting of stockholders.

(B) Special Meetings of Stockholders. At any special meeting of the stockholders, only such business shall be conducted or considered as shall have been properly brought before the meeting pursuant to the Corporation's notice of meeting. To be properly brought before a special meeting, proposals of business must be (a) specified in the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors and (b) otherwise properly brought before the special meeting, by or at the direction of the Board of Directors, provided, however, that nothing herein shall prohibit the Board of Directors from submitting additional matters to stockholders at any such special meeting.

Nominations of individuals for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (a) by or at the direction of the Board of Directors or (b) *provided* that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who (i) is a stockholder of record at the time of giving of notice of such special meeting and at the time of the special meeting, (ii) is entitled to vote at the meeting and (iii) complies with the procedures set forth in these Bylaws as to such nomination. This Section 2.8(B) shall be the exclusive means for a stockholder to make nominations before a special meeting of stockholders.

(C) General. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, the presiding officer of any annual or special meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with these Bylaws and, if any proposed nomination or other business is not in compliance with these Bylaws, to declare that no action shall be taken on such nomination or other proposal and such nomination or other proposal shall be disregarded.

#### SECTION 2.9. Advance Notice of Stockholder Business and Nominations.

(A) Annual Meeting of Stockholders. Without qualification or limitation, subject to Section 2.9(C)(4) of these Bylaws, for any nominations or any other business to be properly brought before an annual meeting by a stockholder pursuant to Section 2.8(A) of these Bylaws, the stockholder must have given timely notice thereof (including, in the case of nominations, the completed and signed questionnaire, representation and agreement required by Section 2.10 of these Bylaws), and timely updates and supplements thereof, in each case in proper form, in writing to the Secretary, and such other business must otherwise be a proper matter for stockholder action.

To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day and not later than the close of business on the 90th day prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the 120th day prior to the date of such annual meeting and not later than the close of business on the later of the 90th day prior to the date of such annual meeting or, if the first public announcement of the date of

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such annual meeting is less than 100 days prior to the date of such annual meeting, the 10th day following the day on which public announcement of the date of such meeting is first made by the Corporation. In no event shall any adjournment or postponement of an annual meeting, or the public announcement thereof, commence a new time period for the giving of a stockholder's notice as described above.

Notwithstanding anything in the immediately preceding paragraph to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased by the Board of Directors, and there is no public announcement by the Corporation naming all of the nominees for director or specifying the size of the increased Board of Directors at least 100 days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 2.9(A) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

In addition, to be considered timely, a stockholder's notice shall further be updated and supplemented, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting in the case of the update and supplement required to be made as of the record date, and not later than eight (8) business days prior to the date for the meeting or any adjournment or postponement thereof in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof. For the avoidance of doubt, the obligation to update and supplement as set forth in this paragraph or any other Section of these Bylaws shall not limit the Corporation's rights with respect to any deficiencies in any notice provided by a stockholder, extend any applicable deadlines hereunder or enable or be deemed to permit a stockholder who has previously submitted notice hereunder or under any other provision of the Bylaws to amend or update any proposal or to submit any new proposal, including by changing or adding nominees, matters, business and or resolutions proposed to be brought before a meeting of the stockholders.

(B) Special Meetings of Stockholders.

Subject to Section 2.9(C)(4) of these Bylaws, in the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any stockholder may nominate an individual or individuals (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, provided that the stockholder gives timely notice thereof (including the completed and signed questionnaire, representation and agreement required by Section 2.10 of these Bylaws), and timely updates and supplements thereof in each case in proper form, in writing, to the Secretary.

To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day prior to the date of such special meeting and not later than the close of business on the later

of the 90th day prior to the date of such special meeting or, if the first public announcement of the date of such special meeting is less than 100 days prior to the date of such special meeting, the 10th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall any adjournment or postponement of a special meeting of stockholders, or the public announcement thereof, commence a new time period for the giving of a stockholder's notice as described above.

In addition, to be considered timely, a stockholder's notice shall further be updated and supplemented, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting in the case of the update and supplement required to be made as of the record date, and not later than eight (8) business days prior to the date for the meeting, any adjournment or postponement thereof in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof.

(C) Disclosure Requirements.

(1) To be in proper form, a stockholder's notice to the Secretary must include the following, as applicable.

(a) As to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal, as applicable, is made, a stockholder's notice must set forth: (i) the name and address of such stockholder, as they appear on the Corporation's books, of such beneficial owner, if any, and of their respective affiliates or associates or others acting in concert therewith, (ii) (A) the class or series and number of shares of the Corporation which are, directly or indirectly, owned beneficially and of record by such stockholder, such beneficial owner and their respective affiliates or associates or others acting in concert therewith, (B) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, or any derivative or synthetic arrangement having the characteristics of a long position in any class or series of shares of the Corporation, or any contract, derivative, swap or other transaction or series of transactions designed to produce economic benefits and risks that correspond substantially to the ownership of any class or series of shares of the Corporation, including due to the fact that the value of such contract, derivative, swap or other transaction or series of transactions is determined by reference to the price, value or volatility of any class or series of shares of the Corporation, whether or not such instrument, contract or right shall be subject to settlement in the underlying class or series of shares of the Corporation, through the delivery of cash or other property, or otherwise, and without regard to whether the stockholder of record, the beneficial owner, if any, or any affiliates or associates or others acting in concert therewith, may have entered into transactions that hedge or mitigate the economic effect of such instrument, contract or right, or any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the

value of shares of the Corporation (any of the foregoing, a “Derivative Instrument”) directly or indirectly owned beneficially by such stockholder, the beneficial owner, if any, or any affiliates or associates or others acting in concert therewith, (C) any proxy, contract, arrangement, understanding, or relationship pursuant to which such stockholder, such beneficial owner and their respective affiliates or associates or others acting in concert therewith have any right to vote any class or series of shares of the Corporation, (D) any agreement, arrangement, understanding, relationship or otherwise, including any repurchase or similar so-called “stock borrowing” agreement or arrangement, involving such stockholder, such beneficial owner and their respective affiliates or associates or others acting in concert therewith, directly or indirectly, the purpose or effect of which is to mitigate loss to, reduce the economic risk (of ownership or otherwise) of any class or series of the shares of the Corporation by, manage the risk of share price changes for, or increase or decrease the voting power of, such stockholder, such beneficial owner and their respective affiliates or associates or others acting in concert therewith with respect to any class or series of the shares of the Corporation, or which provides, directly or indirectly, the opportunity to profit or share in any profit derived from any decrease in the price or value of any class or series of the shares of the Corporation (any of the foregoing, a “Short Interest”), (E) any rights to dividends on the shares of the Corporation owned beneficially by such stockholder, such beneficial owner and their respective affiliates or associates or others acting in concert therewith that are separated or separable from the underlying shares of the Corporation, (F) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder, such beneficial owner and their respective affiliates or associates or others acting in concert therewith is a general partner or, directly or indirectly, beneficially owns an interest in a general partner of such general or limited partnership, (G) any performance-related fees (other than an asset-based fee) that such stockholder, such beneficial owner and their respective affiliates or associates or others acting in concert therewith are entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, including without limitation any such interests held by members of the immediate family sharing the same household of such stockholder, such beneficial owner and their respective affiliates or associates or others acting in concert therewith, (H) any significant equity interests or any Derivative Instruments or Short Interests in any principal competitor of the Corporation held by such stockholder, such beneficial owner and their respective affiliates or associates or others acting in concert therewith and (I) any direct or indirect interest of such stockholder, such beneficial owner and their respective affiliates or associates or others acting in concert therewith in any contract with the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement), (iii) all information that would be required to be set forth in a Schedule 13D filed pursuant to Rule 13d-1(a) or an amendment pursuant to Rule 13d-2(a) if such a statement were required to be filed under the Exchange Act and the rules and regulations promulgated thereunder by such stockholder, such beneficial owner and their respective affiliates or associates or others acting in concert therewith, if any, and (iv) any other information relating to such stockholder, such beneficial owner and their respective affiliates or associates or others acting in concert therewith, if any, that would be required to be disclosed in a proxy statement and form or proxy or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder;

(b) If the notice relates to any business other than a nomination of a director or directors that the stockholder proposes to bring before the meeting, a stockholder's notice must, in addition to the matters set forth in paragraph (a) above, also set forth: (i) a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest of such stockholder, such beneficial owner and each of their respective affiliates or associates or others acting in concert therewith, if any, in such business, (ii) the text of the proposal or business (including the text of any resolutions proposed for consideration and, in the event that such proposal or business includes a proposal to amend the bylaws of the Corporation, the text of the proposed amendment), and (iii) a description of all agreements, arrangements and understandings between such stockholder, such beneficial owner and any of their respective affiliates or associates or others acting in concert therewith, if any, and any other person or persons (including their names) in connection with the proposal of such business by such stockholder;

(c) As to each individual, if any, whom the stockholder proposes to nominate for election or reelection to the Board of Directors, a stockholder's notice must, in addition to the matters set forth in paragraph (a) above, also set forth: (i) all information relating to such individual that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder (including such individual's written consent to being named in the proxy statement as a nominee and to serving as a director if elected) and (ii) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among such stockholder and beneficial owner, if any, and their respective affiliates and associates, or others acting in concert therewith, on the one hand, and each proposed nominee, and his or her respective affiliates and associates, or others acting in concert therewith, on the other hand, including, without limitation all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K if the stockholder making the nomination and any beneficial owner on whose behalf the nomination is made, if any, or any affiliate or associate thereof or person acting in concert therewith, were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant; and

(d) With respect to each individual, if any, whom the stockholder proposes to nominate for election or reelection to the Board of Directors, a stockholder's notice must, in addition to the matters set forth in paragraphs (a) and (c) above, also include a completed and signed questionnaire, representation and agreement required by Section 2.10 of these Bylaws. The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee. Notwithstanding anything to the contrary, only persons who are nominated in accordance with the procedures set forth in these Bylaws, including without limitation Sections 2.8, 2.9 and 2.10 hereof, shall be eligible for election as directors.

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(2) For purposes of these Bylaws, “public announcement” shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder.

(3) Notwithstanding the provisions of these Bylaws, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Bylaw; provided, however, that any references in these Bylaws to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the separate and additional requirements set forth in these Bylaws with respect to nominations or proposals as to any other business to be considered.

(4) Nothing in these Bylaws shall be deemed to affect any rights (i) of stockholders to request inclusion of proposals in the Corporation’s proxy statement pursuant to Rule 14a-8 under the Exchange Act or (ii) of the holders of any series of Preferred Stock if and to the extent provided for under law, the Certificate of Incorporation or these Bylaws. Subject to Rule 14a-8 under the Exchange Act, nothing in these Bylaws shall be construed to permit any stockholder, or give any stockholder the right, to include or have disseminated or described in the Corporation’s proxy statement any nomination of director or directors or any other business proposal.

SECTION 2.10. Submission of Questionnaire, Representation and Agreement. To be eligible to be a nominee of any stockholder for election or reelection as a director of the Corporation, a person must deliver (in accordance with the time periods prescribed for delivery of notice under Section 2.9 of these Bylaws) to the Secretary at the principal executive offices of the Corporation a written questionnaire with respect to the background and qualification of such individual and the background of any other person or entity on whose behalf, directly or indirectly, the nomination is being made (which questionnaire shall be provided by the Secretary upon written request), and a written representation and agreement (in the form provided by the Secretary upon written request) that such individual (A) is not and will not become a party to (i) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a “Voting Commitment”) that has not been disclosed to the Corporation, and (ii) any Voting Commitment that could limit or interfere with such individual’s ability to comply, if elected as a director of the corporation, with such individual’s fiduciary duties under applicable law, (B) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed therein, (C) in such individual’s personal capacity and on behalf of any person or entity on whose behalf, directly or indirectly, the nomination is being made, would be in compliance, if elected as a director of the Corporation, and will comply, with all applicable corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Corporation publicly disclosed from time to time and (D) consents to being named as a nominee in the Corporation’s proxy statement pursuant to Rule 14a-4(d) under the Exchange Act and any associated proxy card of the Corporation and agrees to serve if elected as a director.

SECTION 2.11. Procedure for Election of Directors; Required Vote.

(A) Election of directors at all meetings of the stockholders at which directors are to be elected shall be by ballot, and, subject to the rights of the holders of any series of Preferred Stock to elect directors under specified circumstances, a plurality of the voting power, represented in person or by proxy, and entitled to vote at any meeting for the election of directors at which a quorum is present, shall elect directors. Except as otherwise provided by law, the Certificate of Incorporation, or these Bylaws, in all matters other than the election of directors, the affirmative vote of a majority of the voting power of the shares of the Corporation, represented in person or by proxy at the meeting, and entitled to vote on the matter shall be the act of the stockholders.

(B) Any individual who is nominated for election to the Board of Directors and included in the Corporation's proxy materials for an annual meeting shall tender an irrevocable resignation in advance of the annual meeting. Such resignation shall become effective upon a determination by the Board of Directors or any committee thereof that (i) the information provided to the Corporation by such individual pursuant to these Bylaws was untrue in any material respect or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading or (ii) such individual shall have breached any representations or obligations owed to the Corporation under these Bylaws.

SECTION 2.12. Inspectors of Elections; Opening and Closing the Polls. The Board of Directors by resolution shall appoint one or more inspectors, which inspector or inspectors may, but does not need to, include individuals who serve the Corporation in other capacities, including, without limitation, as officers, employees, agents or representatives, to act at the meetings of stockholders and make a written report thereof. One or more persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate has been appointed to act or is able to act at a meeting of stockholders, the presiding officer of the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall have the duties prescribed by law.

The presiding officer of the meeting shall be appointed by the inspector or inspectors to fix and announce at the meeting the date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting.

SECTION 2.13. No Stockholder Action by Written Consent. Subject to the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, any action required or permitted to be taken by the stockholders of the Corporation must be effected at an annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

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## ARTICLE III

### BOARD OF DIRECTORS

SECTION 3.1. General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authorities by these Bylaws expressly conferred upon them, the Board of Directors may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these Bylaws required to be exercised or done by the stockholders.

SECTION 3.2. Number, Tenure and Qualifications. Subject to the rights of the holders of any series of Preferred Stock to elect directors under specified circumstances, the number of directors shall be fixed from time to time exclusively pursuant to a resolution adopted by a majority of the Board of Directors. No decrease in the number of authorized directors shall shorten the term of any incumbent director.

Commencing with the initial public offering of the Corporation, the directors shall be and are divided into three classes, as nearly equal in number as is reasonably possible, designated : Class I, Class II and Class III. Each director shall serve for a term ending on the date of the third annual meeting following the annual meeting at which such director was elected, *provided* that each director initially appointed to Class I shall serve for a term initially expiring at the Corporation's annual meeting of stockholders held in 2016, each director initially appointed to Class II shall serve for a term initially expiring at the Corporation's annual meeting of stockholders held in 2017, and each director initially appointed to Class III shall serve for a term initially expiring at the Corporation's annual meeting of stockholders held in 2018, *provided, further*, that the term of each director shall continue until the election and qualification of his or her successor and be subject to his or her earlier death, resignation or removal. At each annual meeting of stockholders, if authorized by a resolution of the Board of Directors, directors may be elected to fill any vacancy on the Board of Directors, regardless of how such vacancy shall have been created.

SECTION 3.3. Regular Meetings. A regular meeting of the Board of Directors shall be held without other notice than this Bylaw immediately after, and at the same place as, the Annual Meeting of Stockholders. The Board of Directors may, by resolution, provide the time and place, if any, for the holding of additional regular meetings without other notice than such resolution.

SECTION 3.4. Special Meetings. Special meetings of the Board of Directors shall be called at the request of the Chairman of the Board, the President or a majority of the Board of Directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix the place, if any, and time of the meetings.

SECTION 3.5. Notice. Notice of any special meeting of directors shall be given to each director at such person's business or residence in writing by hand delivery, first-class or overnight mail or courier service, email or facsimile transmission, or orally by telephone. If mailed by first-class mail, such notice shall be deemed adequately delivered when deposited in

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the United States mails so addressed, with postage thereon prepaid, at least five (5) days before such meeting. If by overnight mail or courier service, such notice shall be deemed adequately delivered when delivered to the overnight mail or courier service company at least twenty-four (24) hours before such meeting. If by email, facsimile transmission, telephone or by hand, such notice shall be deemed adequately delivered when the notice is transmitted at least twelve (12) hours before such meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice of such meeting, except for amendments to these Bylaws, as provided under Section 9.1 of these Bylaws. A meeting may be held at any time without notice if all the directors are present or if those not present waive notice of the meeting in accordance with Section 7.4 of these Bylaws.

SECTION 3.6. Action by Consent of Board of Directors. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in writing, or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board, 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.

SECTION 3.7. Conference Telephone Meetings. Members of the Board of Directors, or any committee thereof, may participate in a meeting of the Board of Directors or such 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 such meeting.

SECTION 3.8. Quorum. Subject to Section 3.9 of these Bylaws, a whole number of directors equal to at least a majority of the Board of Directors shall constitute a quorum for the transaction of business, but if at any meeting of the Board of Directors there shall be less than a quorum present, a majority of the directors present may adjourn the meeting from time to time without further notice. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. The directors present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum.

SECTION 3.9. Vacancies. Subject to applicable law and the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, and unless the Board of Directors otherwise determines, vacancies resulting from death, resignation, retirement, disqualification, removal from office or other cause, and newly created directorships resulting from any increase in the authorized number of directors, may be filled only by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors, or by a sole remaining director and directors so chosen shall hold office for a term expiring at the annual meeting of stockholders at which the term of office of the class to which they have been appointed expires and until such director's successor shall have been duly elected and qualified.

SECTION 3.10. Committees. The Board may designate any such committee as the Board considers appropriate, which shall consist of one or more directors of the Corporation. The

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Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Any such committee may to the extent permitted by law exercise such powers and shall have such responsibilities as shall be specified in the designating resolution. Each committee shall keep written minutes of its proceedings and shall report such proceedings to the Board when required.

A majority of any committee may determine its action and fix the time and place of its meetings, unless the Board shall otherwise provide. Notice of such meetings shall be given to each member of the committee in the manner provided for in Section 3.5 of these Bylaws. The Board shall have power at any time to fill vacancies in, to change the membership of, or to dissolve, any such committee. Nothing herein shall be deemed to prevent the Board from appointing one or more committees consisting in whole or in part of persons who are not directors of the Corporation; provided, however, that no such committee shall have or may exercise any authority of the Board.

SECTION 3.11. Removal. Subject to the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, any director, or the entire Board of Directors, may be removed from office at any time, but only for cause, and only by the affirmative vote of the holders of at least a majority of the voting power of the shares of the Corporation entitled to vote in the election of directors, represented in person or by proxy at a meeting for the election of directors duly called.

## ARTICLE IV

### OFFICERS

SECTION 4.1. Elected Officers. The elected officers of the Corporation shall be a Chief Executive Officer, a President, a Secretary, a Treasurer, and such other officers (including, without limitation, a Chief Financial Officer) as the Board of Directors from time to time may deem proper. Any number of offices may be held by the same person. All officers elected by the Board of Directors shall each have such powers and duties as generally pertain to their respective offices, subject to the specific provisions of this Article IV. Such officers shall also have such powers and duties as from time to time may be conferred by the Board of Directors or by any committee thereof. The Board of Directors or any committee thereof may from time to time elect, or the Chief Executive Officer or the President may appoint, such other officers (including one or more Vice Presidents, Assistant Vice Presidents, Assistant Secretaries, and Assistant Treasurers) and such agents, as may be necessary or desirable for the conduct of the business of the Corporation. Such other officers and agents shall have such duties and shall hold their offices for such terms as shall be provided in these Bylaws or as may be prescribed by the Board of Directors or such committee or by the Chief Executive Officer or President, as the case may be.

SECTION 4.2. Election and Term of Office. The elected officers of the Corporation shall be elected by the Board of Directors. Each officer shall hold office until such officer's successor shall have been duly elected and shall have qualified or until such officer's earlier resignation or removal.

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SECTION 4.3. Chairman of the Board. The Chairman of the Board shall preside at all meetings of the stockholders and of the Board of Directors.

SECTION 4.4. Chief Executive Officer. The Chief Executive Officer shall be responsible for the general management of the affairs of the Corporation and shall perform all duties incidental to the office which may be required by applicable law and all such other duties as are properly required of him or her by the Board of Directors. The Chief Executive Officer shall make reports to the Board of Directors and the stockholders, and shall see that all orders and resolutions of the Board of Directors and of any committee thereof are carried into effect. The Chief Executive Officer of the Corporation may also serve as President, if so elected by the Board of Directors.

SECTION 4.5. President. The President shall act in a general executive capacity and shall assist the Chief Executive Officer in the administration and operation of the Corporation's business and general supervision of its policies and affairs.

SECTION 4.6. Vice Presidents. Each Vice President shall have such powers and shall perform such duties as shall be assigned to such Vice President by the Board of Directors or the Chief Executive Officer and/or the President.

SECTION 4.7. Chief Financial Officer. The Chief Financial Officer shall act in an executive financial capacity. The Chief Financial Officer shall assist the Chief Executive Officer and/or the President in the general supervision of the Corporation's financial policies and affairs.

SECTION 4.8. Treasurer. The Treasurer shall exercise general supervision over the receipt, custody and disbursement of corporate funds. The Treasurer shall cause the funds of the Corporation to be deposited in such banks as may be authorized by the Board of Directors, or in such banks as may be designated as depositories in the manner provided by resolution of the Board of Directors. The Treasurer shall have such further powers and duties and shall be subject to such directions as may be granted or imposed upon him or her from time to time by the Board of Directors, the Chief Executive Officer and/or the President.

SECTION 4.9. Secretary. The Secretary shall keep or cause to be kept in one or more books provided for that purpose, the minutes of all meetings of the Board of Directors, the committees of the Board of Directors and the stockholders; the Secretary shall see that all notices are duly given in accordance with the provisions of these Bylaws and as required by applicable law; the Secretary shall be custodian of the records and the seal of the Corporation and affix and attest the seal to all stock certificates of the Corporation (unless the seal of the Corporation on such certificates shall be a facsimile, as hereinafter provided) and affix and attest the seal to all other documents to be executed on behalf of the Corporation under its seal; and the Secretary shall see that the books, reports, statements, certificates and other documents and records required by applicable law to be kept and filed are properly kept and filed; and in general, the Secretary shall perform all the duties incident to the office of Secretary and such other duties as from time to time may be assigned to such Secretary by the Board of Directors, the Chief Executive Officer or the President.

SECTION 4.10. Removal. Any officer elected, or agent appointed, by the Board of Directors may be removed from office with or without cause by the affirmative vote of a majority of the Board of Directors. Any officer or agent appointed by the Chief Executive Officer or the President may be removed by any officer upon whom such power of removal may be conferred by the Board of Directors with or without cause. No elected officer shall have any contractual rights against the Corporation for compensation by virtue of such election beyond the date of the election of his or her successor, his or her death, or his or her resignation or removal, whichever event shall first occur, except as otherwise provided in an employment contract or under an employee deferred compensation plan.

SECTION 4.11. Vacancies. A newly created elected office and a vacancy in any elected office because of death, resignation, or removal may be filled by the Board of Directors. Any vacancy in an office appointed by the Chief Executive Officer or the President because of death, resignation, or removal may be filled by the Chief Executive Officer or the President.

## ARTICLE V

### STOCK CERTIFICATES AND TRANSFERS

SECTION 5.1. Certificated and Uncertificated Stock; Transfers. The interest of each stockholder of the Corporation may be evidenced by certificates for shares of stock in such form as the appropriate officers of the Corporation may from time to time prescribe or be uncertificated.

The shares of the stock of the Corporation shall be transferred on the books of the Corporation, in the case of certificated shares of stock, by the holder thereof in person or by such person's attorney duly authorized in writing, upon surrender for cancellation of certificates for at least the same number of shares, with an assignment and power of transfer endorsed thereon or attached thereto, duly executed, with such proof of the authenticity of the signature as the Corporation or its agents may reasonably require; and, in the case of uncertificated shares of stock, upon receipt of proper transfer instructions from the registered holder of the shares or by such person's attorney duly authorized in writing, and upon compliance with appropriate procedures for transferring shares in uncertificated form. No transfer of stock shall be valid as against the Corporation for any purpose until it shall have been entered in the stock records of the Corporation by an entry showing from and to whom transferred.

The certificates of stock shall be signed, countersigned and registered in such manner as the Board of Directors may by resolution prescribe, which resolution may permit all or any of the signatures on such certificates to be in facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

Notwithstanding anything to the contrary in these Bylaws, at all times that the Corporation's stock is listed on a stock exchange, the shares of the stock of the Corporation shall comply with all direct registration system eligibility requirements established by such exchange,

including any requirement that shares of the Corporation's stock be eligible for issue in book-entry form. All issuances and transfers of shares of the Corporation's stock shall be entered on the books of the Corporation with all information necessary to comply with such direct registration system eligibility requirements, including the name and address of the person to whom the shares of stock are issued, the number of shares of stock issued and the date of issue. The Board of Directors shall have the power and authority to make such rules and regulations as it may deem necessary or proper concerning the issue, transfer and registration of shares of stock of the Corporation in both the certificated and uncertificated form.

SECTION 5.2. Lost, Stolen or Destroyed Certificates. No certificate for shares of stock in the Corporation shall be issued in place of any certificate alleged to have been lost, destroyed or stolen, except on production of such evidence of such loss, destruction or theft and on delivery to the Corporation of a bond of indemnity in such amount, upon such terms and secured by such surety, as the Board of Directors or any officer may in its or such person's discretion require.

SECTION 5.3. Record Owners. 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, and to hold liable for calls and assessments a 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 any other person, whether or not it shall have express or other notice thereof, except as otherwise required by applicable law.

SECTION 5.4. Transfer and Registry Agents. The Corporation may from time to time maintain one or more transfer offices or agencies and registry offices or agencies at such place or places as may be determined from time to time by the Board of Directors or by the Chief Executive Officer or President.

## ARTICLE VI

### INDEMNIFICATION

SECTION 6.1. Indemnification.

(A) Each person who was or is a party or is otherwise threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including any appeal therefrom (hereinafter a "Proceeding"), in which such person was, is or will be involved as a party, a potential party, a non-party witness or otherwise, by reason of the fact that such person is or was a director or executive officer of the Corporation, or any action taken by such person or any action or inaction on such person's part while serving as a director or executive officer of the Corporation, or the fact that he or she is or was serving at the request of the Corporation as a director, officer, trustee, general partner, managing member, employee, agent or fiduciary of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans maintained or sponsored by the Corporation (hereinafter, each a "Covered Person"), shall be (and shall be deemed to have a contractual right to be) indemnified by the Corporation (and any successor of the Corporation by merger or otherwise) to the fullest extent authorized by the General Corporation Law of the State of Delaware as the same exists or may hereafter be

amended or modified from time to time (but, in the case of any such amendment or modification, only to the extent that such amendment or modification permits the Corporation to provide greater indemnification rights than said law permitted the Corporation to provide prior to such amendment or modification), against all expense, liability and loss (including attorneys' fees, judgments, fines, excise taxes or penalties and amounts paid or to be paid in settlement) actually and reasonably incurred by such person in connection with such Proceeding if the person acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal Proceeding, had reasonable cause to believe that the person's conduct was unlawful. Such indemnification shall continue until the earlier of (a) ten years after the date that such person has ceased to be a director or executive officer of the Corporation or ceased serving as a director, officer, trustee, general partner, managing member, employee, agent or fiduciary of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans maintained or sponsored by the Corporation, and shall inure to the benefit of his or her heirs, executors and administrators or (b) one year after the final termination of any Proceedings, including any appeal, then pending in respect of which to such person is granted rights of indemnification or advances of expenses; provided, that except as provided in paragraph (A) of Section 6.3, the Corporation shall indemnify any such person seeking indemnification in connection with a Proceeding (or part thereof) initiated by such person only if such Proceeding (or part thereof) was authorized by the Board of Directors. For purposes of this Article VI, the "executive officers" of the Corporation shall be the persons identified in resolutions of the Board of Directors as executive officers of the Corporation, whether for purposes of Section 16 of the Exchange Act or otherwise.

(B) To obtain indemnification under this Bylaw, a claimant shall submit to the Corporation a written request, including therein or therewith such documentation and information as is reasonably available to the claimant and is reasonably necessary to determine whether and to what extent the claimant is entitled to indemnification. Upon written request by a claimant for indemnification, a determination, if required by applicable law, with respect to the claimant's entitlement thereto shall be made as follows: (a) by a majority of Disinterested Directors (as hereinafter defined), even though less than a quorum, (b) by a committee of Disinterested Directors designated by majority vote of the Disinterested Directors, even though less than a quorum, (c) if there are no Disinterested Directors, or if the Disinterested Directors so direct, by Independent Counsel (as hereinafter defined), in a written opinion to the Board of Directors, a copy of which shall be delivered to the claimant, or (d) if so directed by the Board of Directors, by the affirmative vote by the majority of the voting power of the shares of the Corporation entitled to vote in the election of directors, represented in person or by proxy. In the event the determination of entitlement to indemnification is to be made by Independent Counsel, the Independent Counsel shall be selected as follows. If a "Change in Control" as defined in the Corporation's Form of Indemnification Agreement, as filed with the Securities and Exchange Commission, shall not have occurred, the Independent Counsel shall be selected by the Board of Directors, and the Corporation shall give written notice to the claimant advising him or her of the

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identity of the Independent Counsel so selected. If a Change in Control shall have occurred, the Independent Counsel shall be selected by the claimant (unless the claimant shall request that such selection be made by the Board of Directors, in which event the preceding sentence shall apply), and the claimant shall give written notice to the Corporation advising it of the identity of the Independent Counsel so selected. If it is so determined that the claimant is entitled to indemnification, payment to the claimant shall be made within ten (10) days after such determination.

SECTION 6.2. Mandatory Advancement of Expenses. To the fullest extent authorized by the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended or modified from time to time (but, in the case of any such amendment or modification, only to the extent that such amendment or modification permits the Corporation to provide greater rights to advancement of expenses than said law permitted the Corporation to provide prior to such amendment or modification), each Covered Person shall have (and shall be deemed to have a contractual right to have) the right, without the need for any action by the Board of Directors, to be paid by the Corporation (and any successor of the Corporation by merger or otherwise) the expenses incurred in connection with any Proceeding in advance of its final disposition, such advances to be paid by the Corporation within sixty (60) days after the receipt by the Corporation of a statement or statements from the claimant requesting such advance or advances from time to time; provided, that if the General Corporation Law of the State of Delaware requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not, except to the extent specifically required by applicable law, in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter, the "Undertaking") by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right of appeal (a "final disposition") that such director or officer is not entitled to be indemnified for such expenses under this Bylaw or otherwise.

SECTION 6.3. Claims.

(A) (a) If a claim for indemnification under this Article VI is not paid in full by the Corporation within thirty (30) days after a written claim pursuant to Section 6.1(B) of these Bylaws has been received by the Corporation, or (b) if a request for advancement of expenses under this Article VI is not paid in full by the Corporation within sixty (60) days after a statement pursuant to Section 6.2 of these Bylaws and the required Undertaking, if any, have been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim for indemnification or request for advancement of expenses and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action that, under the General Corporation Law of the State of Delaware, the claimant has not met the standard of conduct which makes it permissible for the Corporation to indemnify the claimant for the amount claimed or that the claimant is not entitled to the requested advancement of expenses, but (except where the required Undertaking, if any, has not been tendered to the Corporation) the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Disinterested Directors, Independent Counsel or stockholders) to have

made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the General Corporation Law of the State of Delaware, nor an actual determination by the Corporation (including its Disinterested Directors, Independent Counsel or stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(B) If a determination shall have been made pursuant to Section 6.1(B) of these Bylaws that the claimant is entitled to indemnification, the Corporation shall be bound by such determination in any judicial proceeding commenced pursuant to paragraph (A) of this Section 6.3.

(C) The Corporation shall be precluded from asserting in any judicial proceeding commenced pursuant to paragraph (A) of this Section 6.3 that the procedures and presumptions of this Bylaw are not valid, binding and enforceable and shall stipulate in such proceeding that the Corporation is bound by all the provisions of this Bylaw.

#### SECTION 6.4. Contract Rights; Amendment and Repeal; Non-exclusivity of Rights.

(A) All of the rights conferred in this Article VI, as to indemnification, advancement of expenses and otherwise, shall be contract rights between the Corporation and each Covered Person to whom such rights are extended that vest at the commencement of such Covered Person's service to or at the request of the Corporation and (a) any amendment or modification of this Article VI that in any way diminishes or adversely affects any such rights shall be prospective only and shall not in any way diminish or adversely affect any such rights with respect to such person and (b) all of such rights shall continue as to any such Covered Person who has ceased to be a director or officer of the Corporation or ceased to serve at the Corporation's request as a director, officer, trustee, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, as described herein, and shall inure to the benefit of such Covered Person's heirs, executors and administrators, for the duration described in Section 6.1(A).

(B) All of the rights conferred in this Article VI, as to indemnification, advancement of expenses and otherwise, (a) shall not be exclusive of any other rights to which any person seeking indemnification or advancement of expenses may be entitled or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote of stockholders or Disinterested Directors or otherwise both as to action in such person's official capacity and as to action in another capacity while holding such office and (b) cannot be terminated or impaired by the Corporation, the Board of Directors or the stockholders of the Corporation with respect to a person's service prior to the date of such termination.

#### SECTION 6.5. Insurance, Other Indemnification and Advancement of Expenses

(A) The Corporation may maintain insurance, at its expense, to protect itself and any current or former director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the General Corporation Law of the State of Delaware.

(B) The Corporation may, to the extent authorized from time to time by the Board of Directors or the Chief Executive Officer, grant rights to indemnification and rights to advancement of expenses incurred in connection with any Proceeding in advance of its final disposition, to any current or former officer, employee or agent of the Corporation to the fullest extent permitted by applicable law.

SECTION 6.6. Definitions. For purposes of this Bylaw:

(1) “Disinterested Director” means a director of the Corporation who is not and was not a party to the matter in respect of which indemnification is sought by the claimant.

(2) “Independent Counsel” means a law firm, or a partner or member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent (i) the Corporation or the claimant in any matter material to either such party (other than as Independent Counsel with respect to matters concerning the claimant, or other indemnitees, under similar indemnification arrangements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder.

(3) “Lead Independent Director,” if appointed, means the director of the Corporation, who is responsible for calling separate meetings of the independent directors, determining the agenda and serving as chairperson of meetings of independent directors, reporting to the Chairman of the Board regarding feedback from executive sessions, serving as spokesperson for the Corporation as requested, and performing such other responsibilities as may be designated by a majority of the independent directors from time to time.

SECTION 6.7. Notice. Any notice, request or other communication required or permitted to be given to the Corporation under this Bylaw shall be in writing and either delivered in person or sent by telecopy, telex, telegram, overnight mail or courier service, or certified or registered mail, postage prepaid, return receipt requested, to the Secretary of the Corporation and shall be effective only upon receipt by the Secretary.

SECTION 6.8. Severability. If any provision or provisions of this Bylaw shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (A) the validity, legality and enforceability of the remaining provisions of this Bylaw (including, without limitation, each portion of any paragraph of this Bylaw containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (B) to the fullest extent possible, the provisions of this Bylaw (including, without limitation, each such portion of any paragraph of this Bylaw containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

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**ARTICLE VII**

**MISCELLANEOUS PROVISIONS**

SECTION 7.1. Fiscal Year. The fiscal year of the Corporation shall begin on the first day of January and end on the thirty-first day of December of each year.

SECTION 7.2. Dividends. The Board of Directors may from time to time declare, and the Corporation may pay, dividends on its outstanding shares in the manner and upon the terms and conditions provided by law and the Certificate of Incorporation.

SECTION 7.3. Seal. The corporate seal shall have enscribed thereon the words “Corporate Seal”, the year of incorporation and around the margin thereof the words “Square, Inc. - Delaware.”

SECTION 7.4. Waiver of Notice. Whenever any notice is required to be given to any stockholder or director of the Corporation under the provisions of the General Corporation Law of the State of Delaware, the Certificate of Incorporation or these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to such notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of the stockholders or the Board of Directors or committee thereof need be specified in any waiver of notice of such meeting.

SECTION 7.5. Audits. The accounts, books and records of the Corporation shall be audited upon the conclusion of each fiscal year by an independent certified public accountant selected by the Board of Directors.

SECTION 7.6. Resignations. Any director or any officer, whether elected or appointed, may resign at any time by giving written notice of such resignation to the Chairman of the Board, the President, or the Secretary, and such resignation shall be deemed to be effective as of the close of business on the date said notice is received by the Chairman of the Board, the President, or the Secretary, or at such later time as is specified therein. Except to the extent specified in such notice, no formal action shall be required of the Board of Directors or the stockholders to make any such resignation effective.

SECTION 7.7. Exclusive Forum. Unless the Corporation consents in writing to the selection of an alternative forum, the sole and exclusive forum for (A) any derivative action or proceeding brought on behalf of the Corporation, (B) any action asserting a claim of breach of a fiduciary duty owed by any director or officer or other employee of the Corporation to the Corporation or the Corporation’s stockholders, (C) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation arising pursuant to any provision of the General Corporation Law of the State of Delaware, the Certificate of Incorporation or the Bylaws or (D) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation governed by the internal affairs doctrine shall be a state court located within the State of Delaware (or, if no state court located within the State of Delaware has jurisdiction, the federal district court for the District of Delaware).

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## ARTICLE VIII

### CONTRACTS, PROXIES, ETC .

SECTION 8.1. Contracts. Except as otherwise required by applicable law, the Certificate of Incorporation or these Bylaws, any contracts or other instruments may be executed and delivered in the name and on behalf of the Corporation by such officer or officers of the Corporation as the Board of Directors may from time to time direct. Such authority may be general or confined to specific instances as the Board of Directors may determine. The Chairman of the Board, the President or any Vice President may execute bonds, contracts, deeds, leases and other instruments to be made or executed by or on behalf of the Corporation. Subject to any restrictions imposed by the Board of Directors, the Chairman of the Board, the President or any Vice President of the Corporation may delegate contractual powers to others under his jurisdiction, it being understood, however, that any such delegation of power shall not relieve such officer of responsibility with respect to the exercise of such delegated power.

SECTION 8.2. Proxies. Unless otherwise provided by resolution adopted by the Board of Directors, the Chairman of the Board, the President or any Vice President may from time to time appoint an attorney or attorneys or agent or agents of the Corporation, in the name and on behalf of the Corporation, to cast the votes which the Corporation may be entitled to cast as the holder of stock or other securities in any other corporation, any of whose stock or other securities may be held by the Corporation, at meetings of the holders of the stock or other securities of such other corporation, or to consent in writing, in the name of the Corporation as such holder, to any action by such other corporation, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent, and may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal or otherwise, all such written proxies or other instruments as he or she may deem necessary or proper in the premises.

## ARTICLE IX

### AMENDMENTS

SECTION 9.1. By the Stockholders. Subject to the provisions of the Certificate of Incorporation, these Bylaws may be altered, amended or repealed, or new Bylaws enacted, at any special meeting of the stockholders if duly called for that purpose (provided that in the notice of such special meeting, notice of such purpose shall be given), or at any annual meeting, by the affirmative vote of a majority of the voting power of the shares of the Corporation generally entitled to vote in the election of directors, represented in person or by proxy; provided, however, that any amendment of, or adoption of any provision inconsistent with, any of Sections 2.2, 2.8, 2.9, 2.10, 2.13, 3.2, 3.9 or 3.11 by the stockholders pursuant to this Section 9.1 shall require the affirmative vote of two-thirds of the voting power of the shares of the Corporation entitled to vote generally in the election of directors, represented in person or by proxy.

SECTION 9.2. By the Board of Directors. Subject to the laws of the State of Delaware, the Certificate of Incorporation and these Bylaws, these Bylaws may also be altered, amended or repealed, or new Bylaws enacted, by the Board of Directors.



NUMBER
SQ

SHARES

INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE

CUSIP 852234 10 3  
SEE REVERSE FOR CERTAIN DEFINITIONS

This certifies that



is the record holder of

FULLY PAID AND NONASSESSABLE SHARES OF CLASS A COMMON STOCK, \$0.0000001 PAR VALUE PER SHARE, OF  
SQUARE, INC.

transferable on the books of the corporation in person or by duly authorized attorney upon surrender of this Certificate properly endorsed. This Certificate is not valid until countersigned by the Transfer Agent and registered by the Registrar.

WITNESS the facsimile seal of the Corporation and the facsimile signatures of its duly authorized officers.

Dated:

President



Secretary

COUNTERSIGNED AND REGISTERED  
AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC  
(BROOKLYN, NY)  
TRANSFER AGENT  
AND REGISTRAR

AUTHORIZED SIGNATURE

HEROIC CAPITAL

The Corporation shall furnish without charge to each stockholder who so requests a statement of the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock of the Corporation or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Such requests shall be made to the Corporation's Secretary at the principal office of the Corporation.

KEEP THIS CERTIFICATE IN A SAFE PLACE. IF IT IS LOST, STOLEN, OR DESTROYED THE CORPORATION WILL REQUIRE A BOND INDEMNITY AS A CONDITION TO THE ISSUANCE OF A REPLACEMENT CERTIFICATE.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common  
TEN ENT - as tenants by the entirety  
JT TEN - as joint tenants with right of survivorship and not as tenants in common  
COM PROP - as community property

UNIF GIFT MINACT - (State) Custodian (Minor) under Uniform Gifts to Minors Act (State)  
UNIF TRF MINACT - (State) Custodian (until age ...) (Minor) under Uniform Transfers to Minors Act (State)

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED, \_\_\_\_\_ hereby sell(s), assign(s) and transfer(s) unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE, OF ASSIGNEE)

\_\_\_\_\_ shares of the capital stock represented by within Certificate, and do hereby irrevocably constitute and appoint

\_\_\_\_\_ attorney-in-fact to transfer the said stock on the books of the within named Corporation with full power of the substitution in the premises.

Dated \_\_\_\_\_

Signature(s) Guaranteed:   
 X \_\_\_\_\_  
 X \_\_\_\_\_

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

By \_\_\_\_\_  
THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION, BANK, STOCKBROKER, MEMBER AND LOAN ASSOCIATIONS AND CREDIT UNIONS WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTOR REGULATION PROGRAM, PURSUANT TO 12 C.F.R. RULE 1014.15. GUARANTORS BY A NOTARY PUBLIC ARE NOT ACCEPTABLE. SIGNATURE GUARANTOR MUST NOT BE DATED.



650 Page Mill Road  
Palo Alto, CA 94304-1050

PHONE 650.493.9300  
FAX 650.493.6811  
www.wsgr.com

November 6, 2015

Square, Inc.  
1455 Market Street, Suite 600  
San Francisco, CA 94103

**Re: Registration Statement on Form S-1**

Ladies and Gentlemen:

This opinion is furnished to you in connection with the Registration Statement on Form S-1 (Registration No. 333-207411), as amended (the "Registration Statement"), filed by Square, Inc. (the "Company") with the Securities and Exchange Commission in connection with the registration under the Securities Act of 1933, as amended, of 31,050,000 shares of the Company's Class A common stock, \$0.0000001 par value per share (the "Shares"), of which up to 29,700,000 shares (including up to 4,050,000 shares issuable upon exercise of an option granted to the underwriters by the Company) will be issued and sold by the Company and up to 1,350,000 shares will be sold by a certain selling stockholder (the "Selling Stockholder"). We understand that the Shares are to be sold to the underwriters for resale to the public as described in the Registration Statement and pursuant to an underwriting agreement, substantially in the form filed as an exhibit to the Registration Statement, to be entered into by and among the Company, the Selling Stockholder and the underwriters (the "Underwriting Agreement").

We are acting as counsel for the Company in connection with the sale of the Shares by the Company and the Selling Stockholder. In such capacity, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records, certificates of public officials and other instruments as we have deemed necessary for the purposes of rendering this opinion. In our examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity with the originals of all documents submitted to us as copies, the authenticity of the originals of such documents and the legal competence of all signatories to such documents.

We express no opinion herein as to the laws of any state or jurisdiction other than the General Corporation Law of the State of Delaware (including the statutory provisions and all applicable judicial decisions interpreting those laws) and the federal laws of the United States of America.

On the basis of the foregoing, we are of the opinion that upon the effectiveness of the Company's Amended and Restated Certificate of Incorporation, a form of which has been filed as Exhibit 3.2 to the Registration Statement, (i) the Shares to be issued and sold by the Company have been duly authorized and, when such Shares are issued and paid for in accordance with the terms of the Underwriting Agreement, will be validly issued, fully paid and nonassessable, and (ii) the Shares to be sold by the Selling Stockholder have been duly authorized and are validly issued, fully paid and nonassessable.

We consent to the use of this opinion as an exhibit to the Registration Statement, and we consent to the reference of our name under the caption "Legal Matters" in the prospectus forming part of the Registration Statement.

AUSTIN BEIJING BRUSSELS GEORGETOWN , DE HONG KONG LOS ANGELES NEW YORK  
PALO ALTO SAN DIEGO SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON , DC

Square, Inc.  
November 6, 2015  
Page 2

Very truly yours,

/s/ Wilson Sonsini Goodrich & Rosati, P.C.

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

## SQUARE, INC.

## INDEMNIFICATION AGREEMENT

This Indemnification Agreement (this “*Agreement*”) is dated as of \_\_\_\_\_, 20\_\_\_\_ and is between Square, Inc., a Delaware corporation (the “*Company*”), and (“*Indemnitee*”).

## RECITALS

A. Indemnitee’s service to the Company substantially benefits the Company.

B. Individuals are reluctant to serve as directors or officers of corporations or in certain other capacities unless they are provided with adequate protection through insurance or indemnification against the risks of claims and actions against them arising out of such service to and activities on behalf of the Company.

C. Indemnitee does not regard the protection currently provided by applicable law, the Company’s governing documents and any insurance as adequate under the present circumstances, and Indemnitee may not be willing to serve as a director or officer without additional protection.

D. In order to induce Indemnitee to continue to provide services to the Company, it is reasonable, prudent and necessary for the Company to contractually obligate itself to indemnify, and to advance expenses on behalf of, Indemnitee as permitted by applicable law.

E. This Agreement shall supersede any prior indemnification agreement between the Company and the Indemnitee, which is hereby terminated.

F. This Agreement is a supplement to and in furtherance of the indemnification provided in the Company’s certificate of incorporation and bylaws, and any resolutions adopted pursuant thereto, and this Agreement shall not be deemed a substitute therefor, nor shall this Agreement be deemed to limit, diminish or abrogate any rights of Indemnitee thereunder.

G. In light of the considerations referred to in the preceding recitals, it is the Company’s intention and desire that the provisions of this Agreement be construed liberally, subject to their express terms, to maximize the protections to be provided to Indemnitee hereunder.

In consideration of Indemnitee’s agreement to serve as a director or officer of the Company after the date hereof, the parties hereto agree as follows:

**1. Definitions .**

(a) A “*Change in Control*” shall be deemed to occur upon the earliest to occur after the date of this Agreement of any of the following events:

(i) *Acquisition of Stock by Third Party* . Any Person (as defined below) is or becomes the Beneficial Owner (as defined below), directly or indirectly, of securities of the Company representing fifteen percent (15%) or more of the combined voting power of the

Company's then outstanding securities, *provided* that if Jack Dorsey or the Foundation is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing fifteen percent (15%) or more of the combined voting power of the Company's then outstanding securities such ownership shall not be deemed a Change in Control;

(ii) *Change in Board Composition* . During any period of two consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Company's board of directors, and any new directors (other than a director designated by a person who has entered into an agreement with the Company to effect a transaction described in Sections 1(a)(i), 1(a)(iii) or 1(a)(iv)) whose election by the board of directors or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the members of the Company's board of directors;

(iii) *Corporate Transactions* . The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 50% of the combined voting power of the voting securities of the surviving entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the board of directors or other governing body of such surviving entity;

(iv) *Liquidation* . The approval by the stockholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets; and

(v) *Other Events* . Any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or in response to any similar item on any similar schedule or form) promulgated under the Securities Exchange Act of 1934, as amended, whether or not the Company is then subject to such reporting requirement.

For purposes of this Section 1(a), the following terms shall have the following meanings:

(1) "**Person**" shall have the meaning as set forth in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended; *provided, however*, that "**Person**" shall exclude (i) the Company, (ii) any trustee or other fiduciary holding securities under an employee benefit plan of the Company, and (iii) any corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.

(2) "**Beneficial Owner**" shall have the meaning given to such term in Rule 13d-3 under the Securities Exchange Act of 1934, as amended; *provided, however*, that "**Beneficial Owner**" shall exclude any Person otherwise becoming a Beneficial Owner by reason of (i) the stockholders of the Company approving a merger of the Company with another entity or (ii) the Company's board of directors approving a sale of securities by the Company to such Person.

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(3) “ **Foundation** ” shall mean the Start Small Foundation, a Delaware corporation, or any successor thereto.

(b) “ **Corporate Status** ” describes the status of a person who is or was a director, trustee, general partner, managing member, officer, employee, agent or fiduciary of the Company or any other Enterprise.

(c) “ **DGCL** ” means the General Corporation Law of the State of Delaware.

(d) “ **Disinterested Director** ” means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(e) “ **Enterprise** ” means the Company and any other corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise of which Indemnitee is or was serving at the request of the Company as a director, trustee, general partner, managing member, officer, employee, agent or fiduciary.

(f) “ **Expenses** ” include all reasonable attorneys’ fees, retainers, court costs, transcript costs, fees and costs of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, a Proceeding. Expenses also include (i) Expenses incurred in connection with any appeal resulting from any Proceeding, including without limitation the premium, security for, and other costs relating to any cost bond, supersedeas bond or other appeal bond or their equivalent, and (ii) for purposes of Section 13(d), Expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee’s rights under this Agreement or under any directors’ and officers’ liability insurance policies maintained by the Company. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(g) “ **Independent Counsel** ” means a law firm, or a partner or member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent (i) the Company or Indemnitee in any matter material to either such party (other than as Independent Counsel with respect to matters concerning Indemnitee under this Agreement, or other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term “ **Independent Counsel** ” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee’s rights under this Agreement.

(h) “ **Proceeding** ” means any threatened, pending or completed action, suit, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or proceeding, whether brought in the right of the Company or otherwise and whether of a civil, criminal, administrative or investigative nature, including any appeal therefrom and including without limitation any such Proceeding pending as of the date of this Agreement, in which Indemnitee was, is or will be involved as a party, a potential party, a non-party witness or otherwise by reason of (i) the fact that Indemnitee is or was a director or officer of the Company, (ii) any action taken by Indemnitee or any action or inaction on Indemnitee’s part while acting as a director or officer of the Company, or (iii) the fact that he or she is or was serving at the request of the Company as a director, trustee, general partner, managing member, officer, employee, agent or fiduciary of the Company or any other Enterprise, in each case whether or not serving in such capacity at the time any liability or Expense is incurred for which indemnification or advancement of expenses can be provided under this Agreement.

(i) Reference to “ **other enterprises** ” shall include employee benefit plans; references to “ **finer** ” shall include any excise taxes assessed on a person with respect to any employee benefit plan; references to “ **servicing at the request of the Company** ” shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner he or she reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “ **not opposed to the best interests of the Company** ” as referred to in this Agreement.

**2. Indemnity in Third-Party Proceedings** . The Company shall indemnify Indemnitee in accordance with the provisions of this Section 2 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding, other than a Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 2, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by Indemnitee or on his or her behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he or she reasonably believed to be in or not *opposed to the best interests of the Company* and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was unlawful.

**3. Indemnity in Proceedings by or in the Right of the Company** . The Company shall indemnify Indemnitee in accordance with the provisions of this Section 3 if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 3, Indemnitee shall be indemnified to the fullest extent permitted by applicable law against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee’s behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company. No indemnification for Expenses shall be made under this Section 3 in respect of any claim, issue or matter as to which Indemnitee shall have been adjudged by a court of competent jurisdiction to be liable to the Company, unless and only to the extent that the Delaware Court of Chancery or any

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court in which the Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnification for such expenses as the Delaware Court of Chancery or such other court shall deem proper.

**4. Indemnification for Expenses of a Party Who is Wholly or Partly Successful** . To the extent that Indemnitee is a party to or a participant in and is successful (on the merits or otherwise) in defense of any Proceeding or any claim, issue or matter therein, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection therewith. To the extent permitted by applicable law, if Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, in defense of one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with (a) each successfully resolved claim, issue or matter, and (b) any claim, issue or matter related to any such successfully resolved claim, issue or matter. For purposes of this section, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

**5. Partial Indemnification** . If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of Expenses, but not, however, for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

**6. Indemnification for Expenses of a Witness** . To the extent that Indemnitee is, by reason of his or her Corporate Status, a witness in any Proceeding to which Indemnitee is not a party, Indemnitee shall be indemnified to the extent permitted by applicable law against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection therewith.

**7. Additional Indemnification** .

(a) Notwithstanding any limitation in Sections 2, 3 or 4, the Company shall indemnify Indemnitee to the fullest extent permitted by applicable law if Indemnitee is, or is threatened to be made, a party to or a participant in any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor) against all Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by Indemnitee or on his or her behalf in connection with the Proceeding or any claim, issue or matter therein.

(b) For purposes of Section 7(a), the meaning of the phrase “*to the fullest extent permitted by applicable law*” shall include, but not be limited to:

(i) the fullest extent permitted by the provision of the DGCL that authorizes or contemplates additional indemnification by agreement, or the corresponding provision of any amendment to or replacement of the DGCL; and

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(ii) the fullest extent authorized or permitted by any amendments to or replacements of the DGCL adopted after the date of this Agreement that increase the extent to which a corporation may indemnify its officers and directors.

8. **Exclusions** . Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnity in connection with any Proceeding (or any part of any Proceeding):

(a) for which payment has actually been made to or on behalf of Indemnitee under any statute, insurance policy, indemnity provision, vote or otherwise, except with respect to any excess beyond the amount paid;

(b) for an accounting or disgorgement of profits pursuant to Section 16(b) of the Securities Exchange Act of 1934, as amended, or similar provisions of federal, state or local statutory law or common law, if Indemnitee is held liable therefor;

(c) for any reimbursement of the Company by Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by Indemnitee from the sale of securities of the Company, as required in each case under the Securities Exchange Act of 1934, as amended (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the “*Sarbanes-Oxley Act*”), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act), if Indemnitee is held liable therefor;

(d) initiated by Indemnitee and not by way of defense, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees, agents or other indemnitees, unless (i) the Company’s board of directors authorized the Proceeding (or the relevant part of the Proceeding) prior to its initiation, (ii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law, (iii) otherwise authorized in Section 13(d) or (iv) otherwise required by applicable law; or

(e) if prohibited by applicable law.

9. **Advances of Expenses** .

(a) The Company shall advance the Expenses incurred by Indemnitee in connection with any Proceeding prior to its final resolution, and such advancement shall be made as soon as reasonably practicable, but in any event no later than 60 days, after the receipt by the Company of a written statement or statements requesting such advances from time to time (which shall include invoices received by Indemnitee in connection with such Expenses but, in the case of invoices in connection with legal services, any references to legal work performed or to expenditure made that would cause Indemnitee to waive any privilege accorded by applicable law shall not be included with the invoice). Advances shall be unsecured and interest free and made without regard to Indemnitee’s ability to repay such advances. Indemnitee hereby undertakes to repay any advance

to the extent that it is ultimately determined that Indemnitee is not entitled to be indemnified by the Company. This Section 9 shall not apply to the extent advancement is prohibited by law and shall not apply to any Proceeding for which indemnity is not permitted under this Agreement, but shall apply to any Proceeding referenced in Section 8(b) or 8(c) prior to a determination that Indemnitee is not entitled to be indemnified by the Company.

#### **10. Procedures for Notification and Defense of Claim .**

(a) Indemnitee shall notify the Company in writing of any matter with respect to which Indemnitee intends to seek indemnification or advancement of Expenses as soon as reasonably practicable following the receipt by Indemnitee of notice thereof. The written notification to the Company shall include, in reasonable detail, a description of the nature of the Proceeding and the facts underlying the Proceeding. The failure or delay by Indemnitee to notify the Company will not relieve the Company from any liability which it may have to Indemnitee hereunder or otherwise than under this Agreement, except to the extent that such failure or delay materially prejudices the Company.

(b) If, at the time of the receipt of a notice of a Proceeding pursuant to the terms hereof, the Company has directors' and officers' liability insurance in effect, the Company shall give prompt notice of the commencement of the Proceeding to the insurers in accordance with the procedures set forth in the applicable policies. The Company shall thereafter take all commercially-reasonable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(c) In the event the Company may be obligated to make any indemnity in connection with a Proceeding, the Company shall be entitled to assume the defense of such Proceeding with counsel approved by Indemnitee, which approval shall not be unreasonably withheld. After the retention of such counsel by the Company, the Company will not be liable to Indemnitee for any fees or expenses of counsel subsequently incurred by Indemnitee with respect to the same Proceeding. Notwithstanding the Company's assumption of the defense of any such Proceeding, the Company shall be obligated to pay the fees and expenses of Indemnitee's separate counsel to the extent (i) the employment of separate counsel by Indemnitee is authorized by the Company, (ii) counsel for the Company or Indemnitee shall have reasonably concluded that there is a conflict of interest between the Company and Indemnitee in the conduct of any such defense such that Indemnitee needs to be separately represented, (iii) the fees and expenses are non-duplicative and reasonably incurred in connection with Indemnitee's role in the Proceeding despite the Company's assumption of the defense; (iv) the Company is not financially or legally able to perform its indemnification obligations, or (v) the Company shall not have retained, or shall not continue to retain, such counsel to defend such Proceeding. The Company shall have the right to conduct such defense as it sees fit in its sole discretion. Regardless of any provision in this Agreement, Indemnitee shall have the right to employ counsel in any Proceeding at Indemnitee's personal expense. The Company shall not be entitled, without the consent of Indemnitee, to assume the defense of any claim brought by or in the right of the Company.

(d) Indemnitee shall give the Company such information and cooperation in connection with the Proceeding as may be reasonably appropriate.

(e) The Company shall not be liable to indemnify Indemnitee for any settlement of any Proceeding (or any part thereof) without the Company's prior written consent, which shall not be unreasonably withheld.

(f) The Company shall not settle any Proceeding (or any part thereof) in a manner that imposes any penalty or liability on Indemnitee without Indemnitee's prior written consent, which shall not be unreasonably withheld.

#### **11. Procedures upon Application for Indemnification .**

(a) To obtain indemnification, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee *and as is reasonably* necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of the Proceeding. Any delay in providing the request will not relieve the Company from its obligations under this Agreement, except to the extent such failure is prejudicial.

(b) Upon written request by Indemnitee for indemnification pursuant to Section 11(a), a determination with respect to Indemnitee's entitlement thereto shall be made in the specific case (i) if a Change in Control shall have occurred, by Independent Counsel in a written opinion to the Company's board of directors, a copy of which shall be delivered to Indemnitee or (ii) if a Change in Control shall not have occurred, if required by applicable law (A) by a majority vote of the Disinterested Directors, even though less than a quorum of the Company's board of directors, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum of the Company's board of directors, (C) if there are no such Disinterested Directors or, if such Disinterested Directors so direct, by Independent Counsel in a written opinion to the Company's board of directors, a copy of which shall be delivered to Indemnitee or (D) if so directed by the Company's board of directors, by the stockholders of the Company. If it is determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten days after such determination. Indemnitee shall cooperate with the person, persons or entity making the determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information that is not privileged or otherwise protected from disclosure and that is reasonably available to Indemnitee and reasonably necessary to such determination. Any costs or expenses (including attorneys' fees and disbursements) reasonably incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company, to the extent permitted by applicable law.

(c) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 11(b), the Independent Counsel shall be selected as provided in this Section 11(c). If a Change in Control shall not have occurred, the Independent Counsel shall be selected by the Company's board of directors, and the Company shall give written notice to Indemnitee advising him or her of the identity of the Independent Counsel so selected. If a Change in Control shall have occurred, the Independent Counsel shall be selected by Indemnitee (unless Indemnitee shall request that such selection be made by the Company's board of directors, in which event the preceding sentence shall apply), and Indemnitee shall give written notice to the

Company advising it of the identity of the Independent Counsel so selected. In either event, Indemnitee or the Company, as the case may be, may, within ten days after such written notice of selection shall have been given, deliver to the Company or to Indemnitee, as the case may be, a written objection to such selection; *provided*, *however*, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 1 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If such written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If, within 20 days after the later of (i) submission by Indemnitee of a written request for indemnification pursuant to Section 11(a) hereof and (ii) the final disposition of the Proceeding, the parties have not agreed upon an Independent Counsel, either the Company or Indemnitee may petition a court of competent jurisdiction for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 11(b) hereof. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 13(a) of this Agreement, the Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing). The Company shall pay the reasonable fees and expenses of any Independent Counsel.

## **12. Presumptions and Effect of Certain Proceedings .**

(a) In making a determination with respect to entitlement to indemnification hereunder, the person, persons or entity making such determination shall, to the fullest extent not prohibited by law, presume that Indemnitee is entitled to indemnification under this Agreement, and the Company shall, to the fullest extent not prohibited by law, have the burden of proof to overcome that presumption.

(b) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself create a presumption that Indemnitee did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that his or her conduct was unlawful.

(c) Neither the knowledge, actions nor failure to act of any other director, officer, agent or employee of the Enterprise shall be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement.

## **13. Remedies of Indemnitee .**

(a) Subject to Section 13(e), in the event that (i) a determination is made pursuant to Section 11 of this Agreement that Indemnitee is not entitled to indemnification under this

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Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 9 or 13(d) of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 11 of this Agreement within 90 days after the later of the receipt by the Company of the request for indemnification or the final disposition of the Proceeding, (iv) payment of indemnification pursuant to this Agreement is not made (A) within ten days after a determination has been made that Indemnitee is entitled to indemnification or (B) with respect to indemnification pursuant to Sections 4, 5 and 13(d) of this Agreement, within 30 days after receipt by the Company of a written request therefor, or (v) the Company or any other person or entity takes or threatens to take any action to declare this Agreement void or unenforceable, or institutes any litigation or other action or proceeding designed to deny, or to recover from, Indemnitee the benefits provided or intended to be provided to Indemnitee hereunder, Indemnitee shall be entitled to an adjudication by a court of competent jurisdiction of his or her entitlement to such indemnification or advancement of Expenses. Alternatively, Indemnitee, at his or her option, may seek an award in arbitration with respect to his or her entitlement to such indemnification or advancement of Expenses, to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Indemnitee shall commence such proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 13(a); *provided, however*, that the foregoing clause shall not apply in respect of a proceeding brought by Indemnitee to enforce his or her rights under Section 4 of this Agreement. The Company shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration in accordance with this Agreement.

(b) Neither (i) the failure of the Company, its board of directors, any committee or subgroup of the board of directors, Independent Counsel or stockholders to have made a determination that indemnification of Indemnitee is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor (ii) an actual determination by the Company, its board of directors, any committee or subgroup of the board of directors, Independent Counsel or stockholders that Indemnitee has not met the applicable standard of conduct, shall create a presumption that Indemnitee has or has not met the applicable standard of conduct. In the event that a determination shall have been made pursuant to Section 11 of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration *commenced pursuant* to this Section 13 shall be conducted in all respects as a *de novo* trial, or arbitration, on the merits, and Indemnitee shall not be prejudiced by reason of that adverse determination. In any judicial proceeding or arbitration commenced pursuant to this Section 12, the Company shall, to the fullest extent not prohibited by law, have the burden of proving Indemnitee is not entitled to indemnification or advancement of Expenses, as the case may be.

(c) To the fullest extent not prohibited by law, the Company shall be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 13 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement. If a determination shall have been made pursuant to Section 11 of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 13, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statements not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law.

(d) To the extent not prohibited by law, the Company shall indemnify Indemnitee against all Expenses that are incurred by Indemnitee in connection with any action for indemnification or advancement of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company, unless the court (or arbitrator) finds that each material argument or defense advanced by Indemnitee in such action or arbitration was either frivolous or not made in good faith. Further, if requested by Indemnitee, the Company shall (as soon as reasonably practicable, but in any event no later than 60 days, after receipt by the Company of a written request therefor) advance such Expenses to Indemnitee, subject to the provisions of Section 8, subject to Indemnitee's agreement to repay the sums advanced if the court (or arbitrator) finds that each material argument or defense advanced by Indemnitee in such action or arbitration was either frivolous or not made in good faith.

(e) Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement to indemnification shall be required to be made prior to the final disposition of the Proceeding.

14. **Contribution** . To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amounts incurred by Indemnitee, whether for Expenses, judgments, fines or amounts paid or to be paid in settlement, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the events and transactions giving rise to such Proceeding; and (ii) the relative fault of Indemnitee and the Company (and its other directors, officers, employees and agents) in connection with such events and transactions.

15. **Non-exclusivity** . The rights of indemnification and to receive advancement of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Company's certificate of incorporation or bylaws, any agreement, a vote of stockholders or a resolution of directors, or otherwise. To the extent that a change in Delaware law, whether by statute or judicial decision, permits greater indemnification or advancement of Expenses than would be afforded currently under the Company's certificate of incorporation and bylaws and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change, subject to the restrictions expressly set forth herein or therein. Except as expressly set forth herein, no right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. Except as expressly set forth herein, the *assertion* or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

16. **Primary Responsibility** . The Company acknowledges that to the extent Indemnitee is serving as a director on the Company's board of directors at the request or direction of a venture

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capital fund or other entity and/or certain of its affiliates (collectively, the “**Secondary Indemnitors**”), Indemnitee may have certain rights to indemnification and advancement of expenses provided by such Secondary Indemnitors. The Company agrees that, as between the Company and the Secondary Indemnitors, the Company is primarily responsible for amounts required to be indemnified or advanced under the Company’s certificate of incorporation or bylaws or this Agreement and any obligation of the Secondary Indemnitors to provide indemnification or advancement for the same amounts is secondary to those Company obligations. To the extent not in contravention of any insurance policy or policies providing liability or other insurance for the Company or any director, trustee, general partner, managing member, officer, employee, agent or fiduciary of the Company or any other Enterprise, the Company waives any right of contribution or subrogation against the Secondary Indemnitors with respect to the liabilities for which the Company is primarily responsible under this Section 16. In the event of any payment by the Secondary Indemnitors of amounts otherwise required to be indemnified or advanced by the Company under the Company’s certificate of incorporation or bylaws or this Agreement, the Secondary Indemnitors shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee for indemnification or advancement of expenses under the Company’s certificate of incorporation or bylaws or this Agreement or, to the extent such subrogation is unavailable and contribution is found to be the applicable remedy, shall have a right of contribution with respect to the amounts paid. The Secondary Indemnitors are express third-party beneficiaries of the terms of this Section 16.

**17. No Duplication of Payments** . The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder (or for which advancement is provided hereunder) if and to the extent that Indemnitee has otherwise actually received payment for such amounts under any insurance policy, contract, agreement or otherwise.

**18. Insurance** . To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, trustees, general partners, managing members, officers, employees, agents or fiduciaries of the Company or any other Enterprise, Indemnitee shall be covered by such policy or policies to the same extent as the most favorably-insured persons under such policy or policies in a comparable position.

**19. Subrogation** . In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

**20. Services to the Company** . Indemnitee agrees to serve as a director or officer of the Company or, at the request of the Company, as a director, trustee, general partner, managing member, officer, employee, agent or fiduciary of another Enterprise, for so long as Indemnitee is duly elected or appointed or until Indemnitee tenders his or her resignation or is removed from such position. Indemnitee may at any time and for any reason resign from such position (subject to any other contractual obligation or any obligation imposed by operation of law), in which event the Company shall have no obligation under this Agreement to continue Indemnitee in such position. This Agreement shall not be deemed an employment contract between the Company (or any of its subsidiaries or any Enterprise) and Indemnitee. Indemnitee specifically acknowledges that any employment with the Company (or any of its subsidiaries or any Enterprise) is at will, and

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Indemnitee may be discharged at any time for any reason, with or without cause, with or without notice, except as may be otherwise expressly provided in any executed, written employment contract between Indemnitee and the Company (or any of its subsidiaries or any Enterprise), any existing formal severance policies adopted by the Company's board of directors or, with respect to service as a director or officer of the Company, the Company's certificate of incorporation or bylaws or the DGCL. No such document shall be subject to any oral modification thereof.

21. **Duration** . This Agreement shall continue until and terminate upon the later of (a) ten years after the date that Indemnitee shall have ceased to serve as a director or officer of the Company or as a director, trustee, general partner, managing member, officer, employee, agent or fiduciary of any other Enterprise, as applicable; or (b) one year after the final termination of any Proceeding, including any appeal, then pending in respect of which Indemnitee is granted rights of indemnification or advancement of Expenses hereunder and of any proceeding commenced by Indemnitee pursuant to Section 13 of this Agreement relating thereto.

22. **Successors and Assigns** . This Agreement shall be binding upon the Company and its successors and assigns, including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company, and shall inure to the benefit of Indemnitee and Indemnitee's personal or legal representatives, heirs, executors, administrators, distributees, legatees and other successors. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of the Company, by written agreement, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

23. **Severability** . Nothing in this Agreement is intended to require or shall be construed as requiring the Company to do or fail to do any act in violation of applicable law. The Company's inability, pursuant to court order or other applicable law, to perform its obligations under this Agreement shall not constitute a breach of this Agreement. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (i) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (ii) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (iii) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

24. **Security** . To the extent requested by Indemnitee and approved by the Board of Directors or the Company, the Company may at any time and from time to time provide security to Indemnitee for the Company's obligations hereunder through an irrevocable bank line of credit, funded trust or other collateral. Any such security, once provided to Indemnitee, may not be revoked or released without the prior written consent of the Indemnitee.

25. **Enforcement** . The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as a director or officer of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving as a director or officer of the Company.

26. **Entire Agreement** . This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof; *provided , however ,* that this Agreement is a supplement to and in furtherance of the Company's certificate of incorporation and bylaws and applicable law.

27. **Modification and Waiver** . No supplement, modification or amendment to this Agreement shall be binding unless executed in writing by the parties hereto. No amendment, alteration or repeal of this Agreement shall adversely affect any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his or her Corporate Status prior to such amendment, alteration or repeal. No waiver of any of the provisions of this Agreement shall constitute or be deemed a waiver of any other provision of this Agreement nor shall any waiver constitute a continuing waiver.

28. **Notices** . All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by registered or certified mail, postage prepaid, or otherwise delivered by hand, messenger or courier service addressed:

(a) if to Indemnitee, to Indemnitee's address, as shown on the signature page of this Agreement or in the Company's records, as may be updated in accordance with the provisions hereof; or

(b) if to the Company, to the attention of the Chief Executive Officer or Chief Financial Officer of the Company at 1455 Market Street, Suite 600, San Francisco, CA 94103, or at such other current address as the Company shall have furnished to Indemnitee, with a copy (which shall not constitute notice) to Steven E. Bochner, David J. Segre, Tony Jeffries and Calise Y. Cheng at Wilson Sonsini Goodrich & Rosati, P.C., 650 Page Mill Road, Palo Alto, California 94304.

Each such notice or other communication shall for all purposes of this Agreement be treated as effective or having been given (i) if delivered by hand, messenger or courier service, when delivered (or if sent *via* a nationally-recognized overnight courier service, freight prepaid, specifying next-business-day delivery, one business day after deposit with the courier), or (ii) if sent *via* mail, at the earlier of its receipt or five days after the same has been deposited in a regularly-maintained receptacle for the deposit of the United States mail, addressed and mailed as aforesaid.

29. **Applicable Law and Consent to Jurisdiction** . This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 13(a) of this Agreement, or except as mutually agreed by the parties in writing, the Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this

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Agreement shall be brought only in the Delaware Court of Chancery, and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court of Chancery for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) appoint, to the extent such party is not otherwise subject to service of process in the State of Delaware, The Corporation Trust Company, Wilmington, Delaware as its agent in the State of Delaware as such party's agent for acceptance of legal process in connection with any such action or proceeding against such party with the same legal force and validity as if served upon such party personally within the State of Delaware, (iv) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court of Chancery, and (v) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court of Chancery has been brought in an improper or inconvenient forum.

30. **Counterparts** . This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. This Agreement may also be executed and delivered by facsimile signature and in counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

31. **Captions** . The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

( signature page follows )

The parties are signing this Indemnification Agreement as of the date stated in the introductory sentence.

**SQUARE, INC.**

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Print Name)*

\_\_\_\_\_  
*(Title)*

**INDEMNITEE**

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Print Name)*

\_\_\_\_\_  
*(Street address)*

\_\_\_\_\_  
*(City, State and ZIP)*

## SQUARE, INC.

## 2015 EQUITY INCENTIVE PLAN

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## 1. Purposes of the Plan.

The purposes of this Plan are to attract and retain personnel for positions with the Company, to provide additional incentive to Employees, Directors, and Consultants (collectively, "Service Providers"), and to promote the success of the Company's business.

The Plan permits the grant of Incentive Stock Options to Employees and the grant of Nonstatutory Stock Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, Performance Shares, Performance Stock Units, and Performance Awards to any Service Provider.

## 2. Shares Subject to the Plan.

(a) Allocation of Shares to Plan. The maximum aggregate number of Shares that may be issued under the Plan is:

(i) 30,000,000 Shares, plus

(ii) a number of Shares equal to the number of shares of Class B common stock of the Company subject to outstanding awards granted under the Square, Inc. 2009 Stock Plan that, after the Registration Date, expire or otherwise terminate without having been exercised in full and a number of Shares equal to the number of Shares of Class B common Stock of the Company issued under awards granted under the Existing Plan that, after the Registration Date, are forfeited to the Company, tendered to or withheld by the Company for payment of an exercise price or for tax withholding, or repurchased by the Company due to failure to vest, with the maximum number of Shares that may be added to the Plan under this Section 2(a)(i) being equal to 106,234,076 Shares, plus

(iii) any additional Shares that become available for issuance under the Plan under Sections 2(b) and 2(c).

The Shares may be authorized but unissued Common Stock or Common Stock issued and then reacquired by the Company.

(b) Automatic Share Reserve Increase. The number of Shares available for issuance under the Plan will be increased on the first day of each Fiscal Year beginning with the 2016 Fiscal Year, in an amount equal to the least of

(i) 40,000,000 Shares,

(ii) 5 % of the total number of shares of all classes of the Company's common stock outstanding on the last day of the immediately preceding Fiscal Year, and

(iii) a lower number of Shares determined by the Administrator.

(c) Lapsed Awards.

(i) *Options and Stock Appreciation Rights*. If an Option or Stock Appreciation Right expires or becomes unexercisable without having been exercised in full or is surrendered under an Exchange Program, the unissued Shares subject to the Option or Stock Appreciation Right will become available for future issuance under the Plan.

(ii) *Stock Appreciation Rights*. Only Shares actually issued pursuant to a Stock Appreciation Right (i.e., the net Shares issued) will cease to be available under the Plan; all remaining Shares originally subject to the Stock Appreciation Right will remain available for future issuance under the Plan.

(iii) *Full-Value Awards*. Shares issued pursuant to Awards of Restricted Stock, Restricted Stock Units, Performance Shares, Performance Stock Units or stock-settled Performance Awards that are reacquired by the Company due to failure to vest or are forfeited to the Company will become available for future issuance under the Plan.

(iv) *Withheld Shares* . Shares used to pay the Exercise Price of an Award or to satisfy tax withholding obligations related to an Award will become available for future issuance under the Plan.

(v) *Cash-Settled Awards* . If any portion of an Award under the Plan is paid to a Participant in cash rather than Shares, that cash payment will not reduce the number of Shares available for issuance under the Plan.

(d) *Incentive Stock Options* . The maximum number of Shares that may be issued upon the exercise of Incentive Stock Options will equal 200% of the aggregate Share number stated in Section 2(a) plus, to the extent allowable under Code Section 422, any Shares that become available for issuance under the Plan under Sections 2(b) and 2(c).

(e) *Adjustment* . The numbers provided in Sections 2(a), 2(b), and 2(d) will be adjusted as a result of changes in capitalization referred to in Section 13.

(f) *Substitute Awards* . If the Committee grants Awards in substitution for equity compensation awards outstanding under a plan maintained by an entity acquired by or consolidated with the Company, the grant of those substitute Awards will not decrease the number of Shares available for issuance under the Plan.

### 3. Administration of the Plan.

(a) *Procedure* .

(i) *General* . The Plan will be administered by the Board or a Committee (the “Administrator”). Different Administrators may administer the Plan with respect to different groups of Service Providers. The Board may retain the authority to concurrently administer the Plan with a Committee and may revoke the delegation of some or all authority previously delegated.

(ii) *Further Delegation* . To the extent permitted by Applicable Laws, the Board or a Committee may delegate to 1 or more Officers the authority to grant Awards to Employees of the Company or any of its Subsidiaries who are not Officers, provided that the delegation must specify any limitations on the authority required by Applicable Laws, including the total number of Shares that may be subject to the Awards granted by such Officer(s). Such delegation may be revoked at any time by the Board or Committee. Any such Awards will be granted on the form of Award Agreement most recently approved for use by the Board or a Committee made up solely of Directors, unless the resolutions delegating the authority permit the Officer(s) to use a different form of Award Agreement approved by the Board or a Committee made up solely of Directors.

(iii) *Section 162(m)* . Unless an Award is granted and administered solely by a Committee of 2 or more “outside directors” within the meaning of Code Section 162(m), it will not qualify as “performance-based compensation” within the meaning of Code Section 162(m).

(b) *Powers of the Administrator* . Subject to the terms of the Plan, any limitations on delegations specified by the Board, and any requirements imposed by Applicable Laws, the Administrator will have the authority, in its sole discretion, to make any determinations and perform any actions deemed necessary or advisable to administer the Plan including:

(i) to determine the Fair Market Value;

(ii) to approve forms of Award Agreements for use under the Plan (provided that all forms of Award Agreement must be approved by the Board or the Committee of Directors acting as the Administrator);

(iii) to select the Service Providers to whom Awards may be granted and grant Awards to such Service Providers;

(iv) to determine the number of Shares to be covered by each Award granted;

(v) to determine the terms and conditions, consistent with the Plan, of any Award granted. Such terms and conditions may include, but are not limited to, the Exercise Price, the time(s) when Awards may be exercised (which may be based on performance criteria), any vesting acceleration or waiver of forfeiture restrictions, and any restriction or limitation regarding any Award or the Shares relating to an Award;

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- (vi) to institute and determine the terms and conditions of an Exchange Program;
  - (vii) to interpret the Plan and make any decisions necessary to administer the Plan;
  - (viii) to establish, amend and rescind rules relating to the Plan, including rules relating to sub-plans established to satisfy laws of jurisdictions other than the United States or to qualify Awards for favorable tax treatment under laws of jurisdictions other than the United States;
  - (ix) to interpret, modify or amend each Award (subject to Section 18), including extending the Expiration Date and the post-termination exercisability period of such modified or amended Awards;
  - (x) to allow Participants to satisfy tax withholding obligations in any manner permitted by Section 15;
  - (xi) to delegate ministerial duties to any of the Company's employees;
  - (xii) to authorize any person to take any steps and execute, on behalf of the Company, any documents required for an Award previously granted by the Administrator to be effective; and
  - (xiii) to allow Participants to defer the receipt of the payment of cash or the delivery of Shares otherwise due to any such Participants under an Award.

(c) Termination of Status.

(i) Unless a Participant is on a leave of absence approved by the Company as set forth in Section 11, the Participant's status as a Service Provider will end at midnight at the end of the last day the Participant actively provides services for a member of the Company Group (the "Termination of Status Date"). The Administrator has the sole discretion to determine the date on which a Participant stops actively providing services and whether a Participant may still be considered to be providing services while on a leave of absence and the Administrator may delegate this decision, other than with respect to Officers, to the Company's senior human resources officer.

(ii) This termination of status as a Service Provider will occur regardless of the reason for such termination even if the termination is later found to be invalid, in breach of employment laws in the jurisdiction where Participant is providing services, or in violation of the terms of Participant's employment or service agreement, if any such agreement exists.

(iii) Unless otherwise expressly provided in an Award Agreement or otherwise determined by the Administrator, a Participant's right to vest in any Award under the Plan will cease as of the Termination of Status Date and will not be extended by any notice period, whether arising under contract, statute or common law, including any period of "garden leave" or similar period mandated under employment laws in the jurisdiction where the Participant is providing services.

(d) Grant Date. The grant date of an Award ("Grant Date") will be the date that the Administrator makes the determination granting such Award or may be a later date if such later date is designated by the Administrator on the date of the determination or under an automatic grant policy. Notice of the determination will be provided to each Participant within a reasonable time after the Grant Date.

(e) Waiver. The Administrator may waive any terms, conditions or restrictions.

(f) Fractional Shares. Except as otherwise provided by the Administrator, any fractional Shares that result from the adjustment of Awards will be canceled. Any fractional Shares that result from vesting percentages will be accumulated and vested on the date that an accumulated full Share is vested.

(g) Electronic Delivery. The Company may deliver by e-mail or other electronic means (including posting on a website maintained by the Company or by a third party under contract with the Company or another member of the Company Group) all documents relating to the Plan or any Award and all other documents that the Company is required to deliver to its security holders (including prospectuses, annual reports and proxy statements).

(h) Choice of Law; Choice of Forum. The Plan, all Awards and all determinations made and actions taken under the Plan, to the extent not otherwise governed by the laws of the United States, will be governed by the laws of the State of Delaware without giving effect to principles of conflicts of law. For purposes of litigating any dispute that arises under this Plan, a Participant's acceptance of an Award is his or her consent to the jurisdiction of the State of Delaware, and agreement that any such litigation will be conducted in Delaware Court of Chancery, or the federal courts for the United States for the District of Delaware, and no other courts, regardless of where a Participant's services are performed.

(i) Effect of Administrator's Decision. The Administrator's decisions, determinations and interpretations will be final and binding on all Participants and any other holders of Awards.

#### 4. Stock Options.

(a) Stock Option Award Agreement. Each Option will be evidenced by an Award Agreement that will specify the number of Shares subject to the Option, its per share exercise price ("Exercise Price"), its Expiration Date, and such other terms and conditions as the Administrator determines. Each Option will be designated in the Award Agreement as either an Incentive Stock Option or a Nonstatutory Stock Option. An Option not designated as an Incentive Stock Option is a Nonstatutory Stock Option.

(b) Exercise Price. The Exercise Price for the Shares to be issued upon exercise of an Option will be determined by the Administrator.

(c) Form of Consideration. The Administrator will determine the acceptable forms of consideration for exercising an Option and those forms of consideration will be described in the Award Agreement. The consideration may consist of any combination of the following, to the extent permitted by Applicable Laws:

(i) cash;

(ii) check or wire transfer;

(iii) promissory note;

(iv) other Shares that have a fair market value on the date of surrender equal to the aggregate Exercise Price of the Shares as to which such Option will be exercised. To the extent not prohibited by the Administrator, this shall include the ability to tender Shares to exercise the Option and then use the Shares received on exercise to exercise the Option with respect to additional Shares;

(v) consideration received by the Company under a cashless exercise arrangement (whether through a broker or otherwise) implemented by the Company for the exercise of Options that has been approved by the Board or a Committee of Directors;

(vi) consideration received by the Company under a net exercise program under which Shares are withheld from otherwise deliverable Shares that has been approved by the Board or a Committee of Directors; and

(vii) any other consideration or method of payment to issue Shares (provided that other forms of considerations may only be approved by the Board or a Committee of Directors).

(d) Incentive Stock Option Limitations.

(i) The Exercise Price of an Incentive Stock Option may not be less than 100% of the Fair Market Value on the Grant Date.

(ii) To the extent that the aggregate fair market value of the shares with respect to which incentive stock options under Code Section 422(b) are exercisable for the first time by a Participant during any calendar year (under all plans and agreements of the Company Group) exceeds \$100,000, the incentive stock options whose value exceeds \$100,000 will be treated as nonstatutory stock options. Incentive stock options will be considered in the order in which they were granted. For this purpose the fair market value of the shares subject to an option will be determined as of the grant date of each option.

(iii) The Expiration Date of an Incentive Stock Option will be the day prior to the 10<sup>th</sup> anniversary of the Grant Date or any earlier date provided in the Award Agreement, subject to clause (iv) below.

(iv) The following rules apply to Incentive Stock Options granted to Participants who own stock representing more than 10% of the total combined voting power of all classes of stock of the Company or any Parent or Subsidiary of the Company:

(1) the Expiration Date of the Incentive Stock Option may not be after the day prior to the 5<sup>th</sup> anniversary of the Grant Date; and

(2) the Exercise Price may not be less than 110% of the Fair Market Value on the Grant Date.

If an Option is designated in the Administrator action that granted it as an Incentive Stock Option but the terms of the Option do not comply with Sections 4(d)(iv)(1) and 4(d)(iv)(2), then the Option will not qualify as an Incentive Stock Option. All Options granted under the Plan are Nonstatutory Stock Options unless specifically designated as Incentive Stock Options in the Award Agreement pursuant to which such Options are granted.

(e) Exercise of Option. An Option is exercised when the Company receives: (i) a notice of exercise (in such form as the Administrator may specify from time to time) from the person entitled to exercise the Option and (ii) full payment for the Shares with respect to which the Option is exercised (together with applicable withholding taxes). Shares issued upon exercise of an Option will be issued in the name of the Participant. Until the Shares are issued (as evidenced by the 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 stockholder will exist with respect to the Shares subject to an Option, despite the exercise of the Option. The Company will issue (or cause to be issued) such Shares promptly after the Option is exercised. An Option may not be exercised for a fraction of a Share. Exercising an Option in any manner will decrease the number of Shares thereafter available, both for purposes of the Plan and for purchase under the Option, by the number of Shares as to which the Option is exercised.

(f) Expiration of Options. Subject to Section 4(d), an Option's Expiration Date will be set forth in the Award Agreement. An Option may expire before its expiration date under Sections 14 or 16(b) or under the Award Agreement.

(g) Tolling of Expiration. If exercising an Option prior to its expiration is not permitted because of Applicable Laws, other than the rules of any stock exchange or quotation system on which the Common Stock is listed or quoted, the Option will remain exercisable until 30 days after the first date on which exercise would no longer be prevented by such provisions. If this would result in the Option remaining exercisable past its Expiration Date, then it will remain exercisable only until the end of the later of (x) the first day on which its exercise would not be prevented by Section 19(a) and (y) its Expiration Date.

## **5. Restricted Stock.**

(a) Restricted Stock Award Agreement. Each Award of Restricted Stock will be evidenced by an Award Agreement that will specify the Period of Restriction (if any), the number of Shares granted, and such other terms and conditions as the Administrator determines. Unless the Administrator determines otherwise, Shares of Restricted Stock will be held in escrow until the end of the Period of Restriction applicable to such Shares. All grants of Restricted Stock and interpretative decisions about Restricted Stock may only be made by the Administrator.

### (b) Restrictions :

(i) Except as provided in this Section 5 or the Award Agreement, Shares of Restricted Stock may not be sold, transferred, pledged, assigned, or otherwise alienated until the end of the Period of Restriction applicable to such Shares.

(ii) During the Period of Restriction, Service Providers holding Shares of Restricted Stock may exercise full voting rights with respect to those Shares, unless the Administrator determines otherwise.

(iii) During the Period of Restriction, Service Providers holding Shares of Restricted Stock will not be entitled to receive dividends and other distributions paid with respect to such Shares, unless the Administrator provides otherwise. If the Administrator provides that dividends and distributions will be received and any such dividends or distributions are paid in cash they will be subject to the same provisions regarding forfeitability as the Shares of Restricted Stock with respect to which they were paid and if such dividend or distributions are paid in Shares, the Shares will be subject to the same restrictions on transferability and forfeitability as the Shares of Restricted Stock with respect to which they were paid and, unless the Administrator determines otherwise, the Company will hold such Shares until the restrictions on the Shares of Restricted Stock with respect to which they were paid have lapsed.

(iv) Except as otherwise provided in this Section 5 or an Award Agreement, Shares of Restricted Stock covered by each Restricted Stock Award made under the Plan will be released from escrow when practicable after the last day of the applicable Period of Restriction.

(v) The Administrator may impose, prior to grant, or remove any restrictions on Shares of Restricted Stock.

## **6. Restricted Stock Units.**

(a) Restricted Stock Unit Award Agreement. Each Award of Restricted Stock Units will be evidenced by an Award Agreement that will specify the terms, conditions, and restrictions related to the grant, including the number of Restricted Stock Units.

(b) Vesting Criteria and Other Terms. The Administrator will set vesting criteria that, depending on the extent to which the criteria are met, will determine the number of Restricted Stock Units paid out to the Participant. The Administrator may set vesting criteria based upon the achievement of Company-wide, divisional, business unit, or individual goals (that may include continued employment or service) or any other basis determined by the Administrator in its sole discretion.

(c) Earning Restricted Stock Units. Upon meeting the applicable vesting criteria, the Participant will have earned the Restricted Stock Units and will be paid as determined in Section 6(d). The Administrator may reduce or waive any criteria that must be met to earn the Restricted Stock Units.

(d) Form and Timing of Payment. Payment of earned Restricted Stock Units will be made when practicable after the date set forth in the Award Agreement and determined by the Administrator. The Administrator may settle earned Restricted Stock Units in cash, Shares, or a combination of both.

## **7. Stock Appreciation Rights.**

(a) Stock Appreciation Right Award Agreement. Each Stock Appreciation Right grant will be evidenced by an Award Agreement that will specify the Exercise Price (which may not be less than 100% of Fair Market Value on the Grant Date), its Expiration Date, the conditions of exercise, and such other terms and conditions as the Administrator determines.

(b) Payment of Stock Appreciation Right Amount. When a Participant exercises a Stock Appreciation Right, he or she will be entitled to receive a payment from the Company equal to:

(i) the difference between the Fair Market Value on the date of exercise and the Exercise Price multiplied by

(ii) the number of Shares with respect to which the Stock Appreciation Right is exercised.

Payment upon Stock Appreciation Right exercise may be made in cash, in Shares of equivalent value, or any combination of cash and Shares, with the determination of form of payment made by the Administrator. Shares issued upon exercise of a Stock Appreciation Right will be issued in the name of the Participant. Until Shares are issued (as evidenced by the 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 stockholder will exist with respect to the Shares subject to a Stock Appreciation Right, despite the exercise of the Stock Appreciation Right. The Company will issue (or cause to be issued) such Shares promptly after the Stock Appreciation Right is exercised. A Stock Appreciation Right may not be exercised for a fraction of a Share.

Exercising a Stock Appreciation Right in any manner will decrease (x) the number of Shares thereafter available under the Stock Appreciation Right by the number of Shares as to which the Stock Appreciation Right is exercised and (y) the number of Shares thereafter available under the Plan by the number of Shares issued upon such exercise.

(c) Expiration of Stock Appreciation Rights. A Stock Appreciation Right's Expiration Date will be set forth in the Award Agreement. A Stock Appreciation Right may expire before its expiration date under Sections 14 or 16(b) or under the Award Agreement

(d) Tolling of Expiration. If exercising an Stock Appreciation Right prior to its expiration is not permitted because of Applicable Laws, other than the rules of any stock exchange or quotation system on which the Common Stock is listed or quoted, the Stock Appreciation Right will remain exercisable until 30 days after the first date on which exercise would no longer be prevented by such provisions. If this would result in the Stock Appreciation Right remaining exercisable past its Expiration Date, then it will remain exercisable only until the end of the later of (x) the first day on which its exercise would not be prevented by Section 19(a) and (y) its Expiration Date.

## **8. Performance Stock Units and Performance Shares.**

(a) Award Agreement. Each Award of Performance Stock Units/Shares will be evidenced by an Award Agreement that will specify the time period during which the performance objectives or other vesting provisions will be measured ("Performance Period") and the material terms of the Award. The Administrator may set performance objectives based upon the achievement of Company-wide, divisional, business unit or individual goals (including, but not limited to, continued employment or service) or any other basis determined by the Administrator.

(b) Value of Performance Stock Units/Shares. Each Performance Stock Unit will have an initial value established by the Administrator on or before the Grant Date. Each Performance Share will have an initial value equal to the Fair Market Value on the Grant Date.

(c) Performance Objectives and Other Terms. The Administrator will set performance objectives or other vesting provisions (that may include continued employment or service). These objectives or vesting provisions may determine the number or value of Performance Stock Units/Shares paid out.

(d) Earning of Performance Stock Units/Shares. After an applicable Performance Period has ended, the holder of Performance Stock Units/Shares will be entitled to receive a payout of the number of Performance Stock Units/Shares earned by the Participant over the Performance Period. The Administrator may reduce or waive any performance objectives or other vesting provisions for such Performance Stock Unit/Share.

(e) Payment of Performance Stock Units/Shares. Payment of earned Performance Stock Units/Shares will be made when practicable after the end of the applicable Performance Period. Payment with respect to earned Performance Stock Units/Shares may be made in cash, in Shares of equivalent value, or any combination of cash and Shares, with the determination of form of payment made by the Administrator.

## **9. Performance Awards.**

(a) Award Agreement. Each Performance Award will be evidenced by an Award Agreement that will specify the Performance Period and the material terms of the Award. The Administrator may set performance objectives based upon the achievement of Company-wide, divisional, business unit or individual goals (including, but not limited to, continued employment or service) or any other basis determined by the Administrator.

(b) Value of Performance Awards. Each Performance Award's threshold, target, and maximum payout values will be established by the Administrator on or before the Grant Date.

(c) Performance Objectives and Other Terms. The Administrator will set performance objectives or other vesting provisions (that may include continued employment or service). These objectives or vesting provisions will determine the value of the payout for the Performance Awards.

(d) Earning of Performance Awards. After an applicable Performance Period has ended, the holder of a Performance Award will be entitled to receive a payout for the Performance Award earned by the Participant over the Performance Period. The Administrator may reduce or waive any performance objectives or other vesting provisions for such Performance Award.

(e) Payment of Performance Awards. Payment of earned Performance Awards will be made when practicable after the end of the applicable Performance Period. Payment with respect to earned Performance Awards will be made in cash, in Shares of equivalent value, or any combination of cash and Shares, with the determination of form of payment made by the Administrator at the time of payment.

**10. Outside Director Limitations.**

No Outside Director may be granted, in any Fiscal Year, Awards with a grant date fair value (determined under U.S. generally accepted accounting principles) of more than \$1,000,000, increased to \$2,000,000 in connection with his or her initial service as an Outside Director. Awards granted to an individual while he or she was an Employee, or while he or she was a Consultant but not an Outside Director, will not count for purpose of this limitation.

**11. Leaves of Absence/Transfer Between Locations/Change of Status.**

(a) General. Unless otherwise provided by the Administrator, a Participant will not cease to be an Employee in the case of (i) any leave of absence approved by the Company or other member of the Company Group employing such Employee or (ii) any transfer between locations of the Company or members of the Company Group.

(b) Vesting. Unless a leave policy approved by the Administrator provides otherwise or it is otherwise required by Applicable Law, vesting of Awards granted under the Plan will continue only for Participants on an approved leave of absence.

(c) Incentive Stock Option Status. If a Participant's leave of absence approved by the Company or other member of the Company Group employing such Employee exceeds 3 months and reemployment upon expiration of such leave is not guaranteed by statute or contract, then 3 months following the 1st day of such leave the Participant will no longer be an employee for incentive stock option purposes. If reemployment upon expiration of such leave of absence is not guaranteed by statute or contract, then 6 months following the 1st day of such leave any Incentive Stock Option held by the Participant will cease to be treated as an Incentive Stock Option and will be treated for tax purposes as a Nonstatutory Stock Option.

(d) Protected Leaves.

(i) Any leave of absence by a Participant will be subject to any Applicable Laws that apply to leaves of absence.

(ii) For a Participant on a military leave, if required by Applicable Laws, vesting will continue for the longest period that vesting continues under any other statutory or Company-approved leave of absence. When a Participant returns from military leave (under conditions that would entitle him or her to such protection under the Uniformed Services Employment and Reemployment Rights Act), the Participant will be given vesting credit to the same extent as if the Participant had continued to provide services to the Company or other member of the Company Group, as applicable, through the military leave.

(e) Changes in Status. If a Participant who is an Employee has a reduction in hours worked, the Administrator may unilaterally:

(i) make a corresponding reduction in the number of Shares or cash amount subject to any portion of an Award that is scheduled to vest or become payable after the date of such extend leave or reduction in hours; and

(ii) in lieu of or in combination with such a reduction, extend the vesting or payment schedule applicable to such Award.

If any such reduction occurs, the Participant will have no right to any portion of the Award that is reduced.

(f) Determinations. The effect of a Company-approved leave of absence, a transfer, or a Participant's reduction in hours of employment or service on the vesting of an Award shall be determined, under policies reviewed by the Administrator, by the Company's senior human resources officer or other person performing that function or, with respect to Directors or Officers by the Compensation Committee of the Board, and any such determination will be final.

## 12. Transferability of Awards.

(a) General Rule. Unless determined otherwise by the Administrator, or otherwise required by Applicable Laws, an Award 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 and may be exercised, during the lifetime of the Participant, only by the Participant. If the Administrator makes an Award transferable, the Award will be limited by any additional terms and conditions imposed by the Administrator. Any unauthorized transfer of an Award will be void.

(b) Domestic Relations Orders. If approved by the Administrator, an Award may be transferred under a domestic relations order, official marital settlement agreement or other divorce or separation instrument as permitted by Treasury Regulations Section 1.421-1(b)(2). An Incentive Stock Option may be converted into a Nonstatutory Stock Option as a result of such transfer.

(c) Limited Transfers for the Benefit of Family Members. The Administrator may permit an Award or Share issued under this Plan to be assigned or transferred subject to the applicable limitations, set forth in the General Instructions to Form S-8 Registration Statement under the Securities Act, if applicable, and any other Applicable Laws.

(d) Permitted Transferees. Any individual or entity to whom an Award is transferred will be subject to all of the terms and conditions applicable to the Participant who transferred the Award, including the terms and conditions in this Plan and the Award Agreement. If an Award is unvested then the service of the Participant will continue to determine whether the Award will vest and any Expiration Date.

## 13. Adjustments; Dissolution or Liquidation.

(a) Adjustments. If any extraordinary dividend or other extraordinary distribution (whether in cash, Shares, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Shares or other securities of the Company, issuance of warrants or other rights to acquire securities of the Company, other change in the corporate structure of the Company affecting the Shares, or any similar equity restructuring transaction, as that term is used in Statement of Financial Accounting Standards Board Accounting Standards Codification Topic 718 (or any of its successors) affecting the Shares occurs (including, without limitation, a Change in Control), the Administrator, to prevent diminution or enlargement of the benefits or potential benefits intended to be provided under the Plan, will adjust the number and class of shares that may be delivered under the Plan and/or the number, class, and price of shares covered by each outstanding Award, and the numerical Share limits in Section 2 in such a manner as it deems equitable. Notwithstanding the foregoing, the conversion of any convertible securities of the Company and ordinary course repurchases of shares or other securities of the Company will not be treated as an event that will require adjustment.

(b) Dissolution or Liquidation. In the event of the proposed dissolution or liquidation of the Company, the Administrator will notify each Participant when practicable prior to the effective date of such proposed transaction. To the extent it has not been previously exercised, an Award will terminate immediately prior to the consummation of such proposed action.

## 14. Change in Control.

(a) Administrator Discretion. If a Change in Control or a merger of the Company with or into another corporation or other entity occurs, each outstanding Award will be treated as the Administrator determines, including, without limitation, that such Award be continued by the successor corporation or a Parent or Subsidiary of the successor corporation.

(b) Identical Treatment Not Required. The Administrator need not take the same action or actions with respect to all Awards or portions thereof or with respect to all Participants. The Administrator may take different actions with respect to the vested and unvested portions of an Award. The Administrator will not be required to treat all Awards similarly in the transaction.

(c) Continuation. An Award will be considered continued if, following the Change in Control or merger:

(i) the Award confers the right to purchase or receive, for each Share subject to the Award immediately prior to the transaction, the consideration (whether stock, cash, or other securities or property) received in the transaction by holders of Shares for each Share held on the effective date of the transaction (and if holders were offered a choice of consideration, the type of consideration received by the holders of a majority of the outstanding Shares); provided that if the consideration received in the transaction is not solely common stock of the successor corporation or its Parent, the Administrator may, with the consent of the successor corporation, provide for the consideration to be received upon exercising an Option or Stock Appreciation Right or upon the payout of a Restricted Stock Unit, Performance Stock Unit, Performance Share or Performance Award, for each Share subject to such Award, to be solely common stock of the successor corporation or its Parent equal in fair market value to the per share consideration received by holders of Common Stock in the transaction; or

(ii) the Award is terminated in exchange for an amount of cash and/or property, if any, equal to the amount that would have been attained upon the exercise of such Award or realization of the Participant's rights as of the date of the occurrence of the transaction. Any such cash or property may be subjected to any escrow applicable to holders of Common Stock in the Change of Control. If as of the date of the occurrence of the transaction the Administrator determines that no amount would have been attained upon the exercise of such Award or realization of the Participant's rights, then such Award may be terminated by the Company without payment. The amount of cash or property can be subjected to vesting and paid to the Participant over the original vesting schedule of the Award.

(iii) Notwithstanding anything in this Section 14(c) to the contrary, an Award that vests, is earned or paid-out upon the satisfaction of one or more performance goals will not be considered assumed if the Company or its successor modifies any of such performance goals without the Participant's consent; provided, however, a modification to such performance goals only to reflect the successor corporation's post-transaction corporate structure will not invalidate an otherwise valid Award assumption.

(d) The Administrator will have authority to modify Awards in connection with a Change in Control or merger:

(i) in a manner that causes them to lose their tax-preferred status,

(ii) to terminate any right a Participant has to exercise an Option prior to vesting in the Shares subject to the Option (i.e., "early exercise"), so that following the closing of the transaction the Option may only be exercised to the extent it is vested;

(iii) to reduce the Exercise Price subject to the Award in a manner that is disproportionate to the increase in the number of Shares subject to the Award, as long as the amount that would be received upon exercise of the Award immediately before and immediately following the closing of the transaction is equivalent and the adjustment complies with Treasury Regulation Section 1.409A-1(b)(v)(D); and

(iv) to suspend a Participant's right to exercise an Option during a limited period of time preceding and or following the closing of the transaction without Participant consent if such suspension is administratively necessary or advisable to permit the closing of the transaction.

(e) Non-Continuation. If the successor corporation does not continue for an Award (or some portion such Award), the Participant will fully vest in (and have the right to exercise) 100% of the then-unvested Shares subject to his or her outstanding Options and Stock Appreciation Rights, all restrictions on 100% of the Participant's outstanding Restricted Stock and Restricted Stock Units will lapse, and, regarding 100% of Participant's outstanding Awards with performance-based vesting, all performance goals or other vesting criteria will be treated as achieved at 100% of target levels and all other terms and conditions met. In no event will vesting of an Award accelerate as to more than 100% of the Award. If Options or Stock Appreciation Rights are not continued when a Change in Control or a merger of the Company with or into another corporation or other entity occurs, the Administrator will notify the Participant in writing or electronically that the Participant's vested Options or Stock Appreciation Rights (after considering the foregoing vesting acceleration, if any) will be exercisable for a period of time determined by the Administrator in its sole discretion and all of the Participant's Options or Stock Appreciation Rights will terminate upon the expiration of such period (whether vested or unvested).

(f) Outside Director Awards. With respect to Awards granted to an Outside Director that are continued, if on the date of or following such continuation the Participant's status as a Director or a director of the successor corporation, as applicable, is terminated other than upon a voluntary resignation by the Participant that is not at the request of the acquirer, then the Participant will fully vest in and have the right to exercise Options and/or Stock Appreciation Rights as to all of the Shares underlying such Award, including those Shares not otherwise vested or exercisable, all restrictions on Restricted Stock and Restricted Stock Units will lapse, and, with respect to Awards with performance-based vesting, all performance goals or other vesting criteria will be treated as achieved at 100% of target levels and all other terms and conditions met.

## 15. Tax Matters.

(a) Withholding Requirements. Prior to the delivery of any Shares or cash under an Award (or exercise thereof) or such earlier time as any tax withholding obligations are due, the Company may deduct or withhold, or require a Participant to remit to the Company, an amount sufficient to satisfy any taxes (including the Participant's social tax obligations) required to be withheld with respect to such Award (or exercise thereof).

(b) Withholding Arrangements. The Administrator, in its sole discretion and under such procedures as it may specify from time to time, may permit or may require a Participant to satisfy such tax withholding obligations, in whole or in part by (without limitation) (i) paying cash, (ii) electing to have the Company withhold otherwise deliverable cash (including cash from the sale of Shares issued to Participant) or Shares having a fair market value equal to the minimum statutory amount required to be withheld or a greater amount if that would not result in unfavorable financial accounting treatment, (iii) delivering to the Company already-owned Shares having a fair market value equal to the minimum statutory amount required to be withheld, or (iv) requiring the Participant to engage in a cashless exercise transaction (whether through a broker or otherwise) implemented by the Company in connection with the Plan. The fair market value of the Shares to be withheld or delivered will be determined as of the date the taxes must be withheld.

(c) Compliance With Code Section 409A. Except as otherwise determined by the Administrator, it is intended that Awards will be designed and operated so that they are either exempt from the application of Code Section 409A or comply with any requirements necessary to avoid the imposition of additional tax under Code Section 409A(a)(1)(B) so that the grant, payment, settlement or deferral will not be subject to the additional tax or interest applicable under Code Section 409A and the Plan and each Award Agreement will be interpreted consistent with this intent. This Section 15(c) is not a guarantee to any Participant of the consequences of his or her Awards.

## 16. Other Terms.

(a) No Effect on Employment or Service. Neither the Plan nor any Award will confer upon a Participant any right regarding continuing the Participant's relationship as a Service Provider with the Company or member of the Company Group, nor will they interfere with the Participant's right, or the Participant's employer's right, to terminate such relationship with or without cause, to the extent permitted by Applicable Laws.

### (b) Forfeiture Events.

(i) All Awards granted under the Plan will be subject to recoupment under any clawback policy that the Company is required to adopt pursuant to the listing standards of any national securities exchange or association on which the Company's securities are listed or as is otherwise required by the Dodd-Frank Wall Street Reform and Consumer Protection Act or other Applicable Laws. In addition, the Administrator may impose such other clawback, recovery or recoupment provisions in an Award Agreement as the Administrator determines necessary or appropriate, including but not limited to a reacquisition right regarding previously acquired Shares or other cash or property. Unless this Section 16(b) is specifically mentioned and waived in an Award Agreement or other document, no recovery of compensation under a clawback policy or otherwise will give a Participant the right to resign for "good reason" or "constructive termination" (or similar term) under any agreement with the Company.

(ii) The Administrator may specify in an Award Agreement that the Participant's rights, payments, and benefits with respect to an Award will be subject to reduction, cancellation, forfeiture, or recoupment upon the occurrence of specified events, in addition to any otherwise applicable vesting or performance conditions of an Award. Such events may include, but will not be limited to, termination of such Participant's status as Service Provider for cause or any act by a Participant, whether before or after such Participant's Termination Status Date, that would constitute cause for termination of such Participant's status as a Service Provider.

(iii) If the Company is required to prepare an accounting restatement due to the material noncompliance of the Company, as a result of misconduct, with any financial reporting requirement under securities laws, any Participant who (i) knowingly or through gross negligence engaged in the misconduct or who knowingly or through gross negligence failed to prevent the misconduct or (ii) is one of the individuals subject to automatic forfeiture under Section 304 of the Sarbanes-Oxley Act of 2002, must reimburse the Company the amount of any payment in settlement of an Award earned or accrued during the 12-month period following the first public issuance or filing with the United States Securities and Exchange Commission (whichever first occurred) of the financial document embodying such financial reporting requirement.

**17. Term of Plan.**

Subject to Section 20, the Plan will become effective upon the business day immediately prior to the Registration Date. It will continue in effect until terminated under Section 18, but no Incentive Stock Options may be granted after 10 years from the date the Plan is adopted by the Board and Section 2(b) will operate only until the 10<sup>th</sup> anniversary of the date the Plan is adopted by the Board.

**18. Amendment and Termination of the Plan .**

(a) Amendment and Termination. The Board or Compensation Committee of the Board may amend, alter, suspend or terminate the Plan.

(b) Stockholder Approval. The Company will obtain stockholder approval of any Plan amendment to the extent necessary or desirable to comply with Applicable Laws.

(c) Consent of Participants Generally Required. Subject to Section 18(d) below, no amendment, alteration, suspension or termination of the Plan or an Award under it will materially impair the rights of any Participant without a signed, written agreement between the Participant and the Company. Termination of the Plan will not affect the Administrator's ability to exercise the powers granted to it regarding Awards granted under the Plan prior to such termination.

(d) Exceptions to Consent Requirement.

(i) A Participant's rights will not be deemed to have been impaired by any amendment, alteration, suspension or termination if the Administrator, in its sole discretion, determines that the amendment, alteration, suspension or termination taken as a whole, does not materially impair the Participant's rights; and

(ii) Subject to any limitations of Applicable Laws, the Administrator may amend the terms of any one or more Awards without the affected Participant's consent even if it does materially impair the Participant's right if such amendment is done

(1) in a manner permitted under the Plan,

(2) to maintain the qualified status of the Award as an Incentive Stock Option under Code Section 422,

(3) to change the terms of an Incentive Stock Option, if such change results in impairment of the Award only because it impairs the qualified status of the Award as an Incentive Stock Option under Code Section 422,

(4) to clarify the manner of exemption from Code Section 409A or compliance with any requirements necessary to avoid the imposition of additional tax under Code Section 409A(a)(1)(B), or

(5) to comply with other Applicable Laws.

**19. Conditions Upon Issuance of Shares.**

(a) Legal Compliance. Shares will not be issued pursuant to the exercise of an Award unless the exercise of such Award and the issuance and delivery of such Shares will comply with Applicable Laws. If required by the

Administrator, issuance will be further subject to the approval of counsel for the Company with respect to such compliance. The inability of the Company to obtain authority from any regulatory body having jurisdiction or to complete or comply with the requirements of any Applicable Laws will relieve the Company of any liability regarding the failure to issue or sell such Shares as to which such authority, registration, qualification or rule compliance was not obtained and the Administrator reserves the authority, without the consent of a Participant, to terminate or cancel Awards with or without consideration in such a situation.

(b) Investment Representations. As a condition to the exercise of an Award, the Company may require the person exercising such Award to represent and warrant during any such exercise that the Shares are being purchased only for investment and with no present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required.

(c) Failure to Accept Award. If a Participant has not accepted an Award or has not taken all administrative and other steps (e.g. setting up an account with a broker designated by the Company) necessary for the Company to issue Shares upon the vesting, exercise, or settlement of the Award prior to the first date the Shares subject such Award are scheduled to vest, then the Award will be cancelled on such date and the Shares subject to such Award immediately will revert to the Plan for no additional consideration unless otherwise provided by the Administrator.

## **20. Stockholder Approval.**

The Plan will be subject to approval by the stockholders of the Company within 12 months after the date the Plan is adopted by the Board. Such stockholder approval will be obtained in the manner and to the degree required under Applicable Laws.

## **21. Definitions.**

The following definitions are used in this Plan:

(a) "Applicable Laws" means the requirements relating to the administration of equity-based awards and the related issuance of Shares under U.S. state corporate laws, U.S. federal and state securities laws, the Code, any stock exchange or quotation system on which the Common Stock is listed or quoted and, only to the extent applicable with respect to an Award or Awards, the tax, securities or exchange control laws of any jurisdictions other than the United States where Awards are, or will be, granted under the Plan. Reference to a section of an Applicable Law or regulation related to that section shall include such section or regulation, any valid regulation issued under such section, and any comparable provision of any future legislation or regulation amending, supplementing or superseding such section or regulation.

(b) "Award" means, individually or collectively, a grant under the Plan of Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, Performance Stock Units, Performance Shares, or Performance Awards.

(c) "Award Agreement" means the written or electronic agreement setting forth the terms applicable to an Award granted under the Plan. The Award Agreement is subject to the terms of the Plan.

(d) "Board" means the Board of Directors of the Company.

(e) "Change in Control" means the occurrence of any of the following events:

(i) 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 in 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 in Control under this Section 21(e)(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) A change in the effective control of the Company which occurs on the date 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 appointment or election. For this Section 21(e)(ii), if any Person is in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Change in Control; or

(iii) 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, that for this Section 21(e)(iii), the following will not constitute a change in the ownership of a substantial portion of the Company's assets:

(1) a transfer to an entity controlled by the Company's stockholders immediately after the transfer, or

(2) a transfer of assets by the Company to:

(A) a stockholder of the Company (immediately before the asset transfer) in exchange for or with respect to the Company's stock,

(B) an entity, 50% or more of the total value or voting power of which is owned, directly or indirectly, by the Company,

(C) a Person, that owns, directly or indirectly, 50% or more of the total value or voting power of all the outstanding stock of the

Company, or

(D) an entity, at least 50% of the total value or voting power of which is owned, directly or indirectly, by a Person described in subsections 21(e)(iii)(2)(A) to 21(e)(iii)(2)(C).

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 in Control:

(iv) unless the transaction qualifies as a change in control event within the meaning of Code Section 409A; or

(v) if its sole purpose is to (1) change the state of the Company's incorporation, or (2) create a holding company owned in substantially the same proportions by the persons who held the Company's securities immediately before such transaction.

(f) "Code" means the Internal Revenue Code of 1986. Reference to a section of the Code or regulation related to that section shall include such section or regulation, any valid regulation issued under such section, and any comparable provision of any future legislation or regulation amending, supplementing or superseding such section or regulation.

(g) "Committee" means a committee of Directors or of other individuals satisfying Applicable Laws appointed by the Board.

(h) "Common Stock" means the Class A common stock of the Company.

(i) "Company" means Square, Inc., a Delaware corporation, or any of its successors.

(j) “Company Group” means the Company, any Parent or Subsidiary of the Company, and any entity that, from time to time and at the time of any determination, directly or indirectly, is in control of, is controlled by or is under common control with the Company.

(k) “Consultant” means any natural person engaged by a member of the Company Group to render bona fide services to such entity, provided the services (i) are not in connection with the offer or sale of securities in a capital raising transaction, and (ii) do not directly promote or maintain a market for the Company’s securities. A Consultant must be a person to whom the issuance of Shares registered on Form S-8 under the Securities Act is permitted.

(l) “Director” means a member of the Board.

(m) “Employee” means any person, including Officers and Directors, employed by the Company or any member of the Company Group. However, with respect to Incentive Stock Options, an Employee must be employed by the Company or any Parent or Subsidiary of the Company. Notwithstanding Stock Options granted to individuals not providing services to the Company or a subsidiary of the Company should be carefully structured to comply with the payment timing rule of Code Section 409A. Neither service as a Director nor payment of a director’s fee by the Company will constitute “employment” by the Company.

(n) “Exchange Act” means the U.S. Securities Exchange Act of 1934.

(o) “Exchange Program” means a program under which (i) outstanding Awards are surrendered or cancelled in exchange for awards of the same type (which may have higher or lower Exercise Prices and different terms), awards of a different type, and/or cash, (ii) Participants would have the opportunity to transfer any outstanding Awards to a financial institution or other person or entity selected by the Administrator, and/or (iii) the Exercise Price of an outstanding Award is increased or reduced. The Administrator will determine the terms and conditions of any Exchange Program in its sole discretion.

(p) “Expiration Date” means the last possible day on which an Option or Stock Appreciation Right may be exercised. Any exercise must be completed by midnight California Time between the Expiration Date and the following date.

(q) “Fair Market Value” means, as of any date, the value of a Share, determined as follows:

(i) If the Common Stock is listed on any established stock exchange or a national market system, including without limitation the New York Stock Exchange, the NASDAQ Global Select Market, the NASDAQ Global Market or the NASDAQ Capital Market of The NASDAQ Stock Market, the Fair Market Value will be the closing sales price for a Share (or the closing bid, if no sales were reported) as quoted on such exchange or system on the day of determination, as reported by such source as the Administrator determines to be reliable;

(ii) If the Common Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, the Fair Market Value of a Share will be the mean between the high bid and low asked prices for the Common Stock on the day of determination (or, if no bids and asks were reported on that date on the last Trading Day such bids and asks were reported), as reported by such source as the Administrator determines to be reliable;

(iii) For any Awards granted on the Registration Date, the Fair Market Value will be the initial price to the public set forth in the final prospectus included within the registration statement in Form S-1 filed with the Securities and Exchange Commission for the initial public offering of the Company’s Common Stock; or

(iv) Absent an established market for the Common Stock, the Fair Market Value will be determined in good faith by the Administrator.

Notwithstanding the foregoing, if the determination date for the Fair Market Value occurs on a weekend, holiday or other non-Trading Day, the Fair Market Value will be the price as determined under subsections (i) or (ii) above on the immediately preceding Trading Day, unless otherwise determined by the Administrator. In addition, for purposes of determining the fair market value of shares for any reason other than the determination of the Exercise Price of Options or Stock Appreciation Rights, fair market value will be determined by the Administrator in a manner compliant with Applicable Laws and applied consistently for such purpose. Note that the determination of fair market value for purposes of tax withholding may be made in the Administrator’s sole discretion subject to Applicable Laws and is not required to be consistent with the determination of Fair Market Value for other purposes.

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- (r) "Fiscal Year" means a fiscal year of the Company.
- (s) "Incentive Stock Option" means an Option that is intended to qualify and does qualify as an incentive stock option within the meaning of Code Section 422.
- (t) "Nonstatutory Stock Option" means an Option that by its terms does not qualify or is not intended to qualify as an Incentive Stock Option.
- (u) "Officer" means a person who is an officer of the Company within the meaning of Section 16 of the Exchange Act.
- (v) "Option" means a stock option to acquire Shares granted under Section 4.
- (w) "Outside Director" means a Director who is not an Employee.
- (x) "Parent" means a "parent corporation," whether now or hereafter existing, as defined in Code Section 424(e).
- (y) "Participant" means the holder of an outstanding Award.
- (z) "Performance Awards" means an Award which may be earned in whole or in part upon attainment of performance goals or other vesting criteria as the Administrator may determine and which will be settled for cash, Shares or other securities or a combination of the foregoing under Section 9.
- (aa) "Performance Share" means an Award denominated in Shares which may be earned in whole or in part upon attainment of performance goals or other vesting criteria as the Administrator may determine under Section 8.
- (bb) "Performance Stock Units" means an Award which may be earned in whole or in part upon attainment of performance goals or other vesting criteria as the Administrator may determine and which may be settled for cash, Shares or other securities or a combination of the foregoing under Section 8.
- (cc) "Period of Restriction" means the period during which the transfer of Shares of Restricted Stock is subject to restrictions and therefore, the Shares are subject to a substantial risk of forfeiture. Such restrictions may be based on the passage of time, the achievement of target levels of performance, or the occurrence of other events as determined by the Administrator.
- (dd) "Plan" means this 2015 Equity Incentive Plan.
- (ee) "Registration Date" means the effective date of the first registration statement filed by the Company and declared effective under Section 12(b) of the Exchange Act, with respect to any class of the Company's securities.
- (ff) "Restricted Stock" means Shares issued under an Award granted under Section 5 or issued as a result of the early exercise of an Option.
- (gg) "Restricted Stock Unit" means a bookkeeping entry representing an amount equal to the Fair Market Value, granted under Section 6. Each Restricted Stock Unit represents an unfunded and unsecured obligation of the Company.
- (hh) "Securities Act" means Securities Act of 1933, as amended.
- (ii) "Service Provider" means an Employee, Director or Consultant.
- (jj) "Share" means a share of Common Stock.

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(kk) "Stock Appreciation Right" means an Award granted (alone or in connection with an Option) under Section 7.

(ll) "Subsidiary" means a "subsidiary corporation" as defined in Code Section 424(f).

(mm) "Trading Day" means a day on which the applicable stock exchange or national market system is open for trading.

SQUARE, INC.  
2015 EQUITY INCENTIVE PLAN

NOTICE OF STOCK OPTION GRANT AND STOCK OPTION AGREEMENT

Capitalized terms that are not defined in this Notice of Stock Option Grant and Stock Option Agreement (the “**Notice of Grant**”), the Terms and Conditions of Stock Option Grant, or any of the exhibits to these documents (all together, the “**Agreement**”) have the meanings given to them in the Square, Inc. 2015 Equity Incentive Plan (the “**Plan**”).

The Participant has been granted an Option according to the terms below and subject to the terms and conditions of the Plan and this Agreement:

Participant	_____
Grant Number	_____
Grant Date	_____
Vesting Start Date	_____
Number of Shares Granted	_____
Exercise Price per Share	_____
Total Exercise Price	_____
Type of Option	_____ Incentive Stock Option _____ Nonstatutory Stock Option
Expiration Date	_____

Vesting Schedule :

Unless the vesting is accelerated, this Option will be exercisable to the extent vested on the following schedule:

If the Participant continues to be a Service Provider through each such date, 25% of this Option will vest on the 1-year anniversary of the Vesting Start Date, and 1/48<sup>th</sup> of this Option will vest each month after that anniversary on the same day of the month as the Vesting Start Date (or if there is no corresponding day in a given month, then on the last day of that month). All vesting will be rounded in accordance with Section 3(f) of the Plan.

If the Participant ceases to be a Service Provider for any or no reason before he or she fully vests in this Option, the unvested portion of this Option will terminate according to the terms of Section 4 of this Agreement.

Exercise of Option :

- (a) If the Participant dies or his or her status as a Service Provider is terminated due to his or her

Disability, the vested portion of this Option will remain exercisable for 12 months after the Termination of Status Date. For any other termination of status as a Service Provider, the vested portion of this Option will remain exercisable for 3 months after the Termination of Status Date.

- (b) If there is a Change in Control or merger of the Company, Section 14 of the Plan may further limit this Option's exercisability.
- (c) This Option will not be exercisable after the Expiration Date, unless Section 4(g) of the Plan (which tolls expiration in very limited cases when there are legal restrictions on exercise) permits later exercise.

The Participant's signature below indicates that:

- (i) He or she agrees that this Option is granted under and governed by the terms and conditions of the Plan and this Agreement, including their exhibits and appendices.
- (ii) He or she understands that the Company is not providing any tax, legal, or financial advice and is not making any recommendations regarding his or her participation in the Plan or his or her acquisition or sale of Shares.
- (iii) He or she has reviewed the Plan and this Agreement, has had an opportunity to obtain the advice of personal tax, legal, and financial advisors prior to signing this Agreement, and fully understands all provisions of the Plan and Agreement. He or she will consult with his or her own personal tax, legal, and financial advisors before taking any action related to the Plan.
- (iv) He or she has read and agrees to each provision of Section 11 of this Agreement.
- (v) He or she will notify the Company of any change to the contact address below.

PARTICIPANT

\_\_\_\_\_  
Signature

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT A**

**TERMS AND CONDITIONS OF STOCK OPTION GRANT**

1. Grant. The Company grants the Participant an Option to purchase Shares of Common Stock as described in the Notice of Grant. If there is a conflict between the Plan, this Agreement, or any other agreement with the Participant governing this Option, those documents will take precedence and prevail in the following order: (a) the Plan, (b) the Agreement, and (c) any other agreement between the Company and the Participant governing this Option.

If the Notice of Grant designates this Option as an Incentive Stock Option (“**ISO**”), this Option is intended to qualify as an ISO under Code Section 422. Even if this Option is designated an ISO, to the extent it first become exercisable as to more than \$100,000 in any calendar year, the portion in excess of \$100,000 is not an ISO under Code Section 422(d) and that portion will be a Nonstatutory Stock Option (“**NSO**”). In addition, if the Participant exercises the Option after 3 months have passed since he or she ceased to be an employee of the Company or a Parent or Subsidiary of the Company, it will no longer be an ISO. If there is any other reason this Option (or a portion of it) will not qualify as an ISO, to the extent of such nonqualification, the Option will be an NSO. The Participant understands that he or she will have no recourse against the Administrator, any member of the Company Group, or any officer or director of a member of the Company Group if any portion of this Option is not an ISO.

2. Vesting. This Option will only be exercisable (also referred to as vested) under the Vesting Schedule in the Notice of Grant, Section 3 of this Agreement, or Section 14 of the Plan. Shares scheduled to vest on a certain date or upon the occurrence of a certain condition will not vest unless the Participant continues to be a Service Provider until the time such vesting is scheduled to occur. The Administrator may modify the Vesting Schedule according to its authority under the Plan if the Participant takes a leave of absence or has a reduction in hours worked.

3. Administrator Discretion. The Administrator may accelerate the vesting of any portion of this Option. In that case, this Option will be vested as of the date and to the extent specified by the Administrator.

4. Forfeiture upon Termination of Status as a Service Provider. Upon the Participant’s termination as a Service Provider for any reason, this Option will immediately stop vesting, and on the 30<sup>th</sup> day following the Termination of Status Date (or any earlier date on or following the Termination of Status Date determined by the Administrator), any portion of this Option that has not yet vested will be immediately forfeited for no consideration, subject to Applicable Laws. The date of the Participant’s termination as a Service Provider is detailed in Section 3(c) of the Plan.

5. Death of Participant. Any distribution or delivery to be made to the Participant under this Agreement will, if he or she is then deceased, be made to the administrator or executor of his or her estate or, if the Administrator permits, his or her designated beneficiary. Any such transferee must furnish the Company with (a) written notice of his or her status as transferee, and (b) evidence satisfactory to the Company to establish the validity of the transfer and compliance with any laws or regulations that apply to the transfer.

6. Exercise of Option.

(a) **Right to Exercise**. This Option may be exercised only before its Expiration Date and only under the Plan and this Agreement.

(b) **Method of Exercise** . To exercise this Option, the Participant must deliver and the Administrator must receive an exercise notice according to procedures determined by the Administrator. The exercise notice must:

- (i) state the number of Shares as to which this Option is being exercised (“ **Exercised Shares** ”),
- (ii) make any representations or agreements required by the Company,
- (iii) be accompanied by a payment of the total exercise price for all Exercised Shares, and
- (iv) be accompanied by a payment of all required Tax-Related Items (defined in Section 8(a) of this Agreement) for all Exercised Shares.

The Option is exercised when both the exercise notice and payments due under Sections 6(b)(iii) and 6(b)(iv) have been received by the Company for all Exercised Shares. The Administrator may designate a particular exercise notice to be used, but until a designation is made, the exercise notice attached to this Agreement as Exhibit C may be used.

7. Method of Payment . The Participant may pay the exercise price for Exercised Shares by any of the following methods or a combination of methods:

- (a) cash;
- (b) check;
- (c) wire transfer;
- (d) consideration received by the Company under a formal cashless exercise program adopted by the Company; or

(e) surrender of other Shares, as long as the Company determines that accepting such Shares does not result in any adverse accounting consequences to the Company. If Shares are surrendered, the value of those Shares will be the Fair Market Value for those Shares on the date they are surrendered.

A non-U.S. resident’s methods of exercise may be restricted by the terms and condition of any appendix to this Agreement for the Participant’s country (the “ **Appendix** ”).

8. Tax Obligations .

(a) **Tax Withholding** .

(i) No Shares will be issued to the Participant until he or she makes satisfactory arrangements (as determined by the Administrator) for the payment of income, employment, social insurance, National Insurance Contributions, payroll tax, fringe benefit tax, payment on account, or other tax-related items related to his or her participation in the Plan and legally applicable to him or her that the Administrator determines must be withheld (“ **Tax-Related Items** ”), including those that result from the grant, vesting, or exercise of this Option, the subsequent sale of Shares acquired under this Option or the receipt of any dividends. If the Participant is a non-U.S. employee, the method of payment of Tax-Related Items may be restricted by any Appendix. If the Participant fails to make satisfactory arrangements for the payment of any Tax-Related Items under this Agreement at the time of an attempted Option exercise, the Company may refuse to honor the exercise and refuse to deliver the Shares.

(ii) The Company has the right (but not the obligation) to satisfy any Tax-Related Items by withholding from proceeds of a sale of Shares acquired upon the exercise of this Option arranged by the Company (on the Participant's behalf pursuant to this authorization without further consent), and this will be the method by which such tax withholding obligations are satisfied until the Company determines otherwise, subject to Applicable Laws.

(iii) The Company has the right (but not the obligation) to satisfy any Tax-Related Items by reducing the number of Shares otherwise deliverable to the Participant.

(iv) The Participant authorizes the Company and/or any member(s) of the Company Group for whom he or she is performing services (each, an “**Employer**”) to withhold any Tax-Related Items legally payable by the Participant from his or her wages or other cash compensation paid to the Participant by the Company and/or the Employer(s) or from proceeds of the sale of Shares.

(v) Further, if the Participant is subject to taxation in more than one jurisdiction between the Grant Date and the date of any relevant taxable or tax withholding event, the Company and/or the Employer(s) or former Employer(s) may withhold or account for tax in greater than one jurisdiction.

(vi) Regardless of any action of the Company or the Employer(s), the Participant acknowledges that the ultimate liability for all Tax-Related Items is and remains his or her responsibility and may exceed the amount actually withheld by the Company or the Employer(s). The Participant further acknowledges that the Company and the Employer(s) (1) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the Option; and (2) do not commit to and are under no obligation to structure the terms of the grant or any aspect of this Option to reduce or eliminate his or her liability for Tax-Related Items or achieve any particular tax result.

(b) **Tax Reporting**. This Section 8(b) applies if the Participant is a U.S. taxpayer. If this Option is partially or wholly an ISO, and if the Participant sells or otherwise disposes of any the Shares acquired by exercising the ISO portion on or before the later of (i) the date 2 years after the Grant Date, or (ii) the date 1 year after the date of exercise, he or she may be subject to withholding of Tax-Related Items by the Company on the compensation income recognized by him or her and must immediately notify the Company in writing of the disposition.

9. **Forfeiture or Clawback**. This Option (including any proceeds, gains or other economic benefit received by the Participant from any subsequent sale of Shares resulting from the exercise) will be subject to any compensation recovery or clawback policy implemented by the Company before or after the date of this Agreement. This includes any clawback policy adopted to comply with the requirements of Applicable Laws.

10. **Rights as Stockholder**. The Participant's rights as a stockholder of the Company (including the right to vote and to receive dividends and distributions) will not begin until Shares have been issued and recorded on the records of the Company or its transfer agents or registrars.

11. **Acknowledgements and Agreements**. The Participant's signature on the Notice of Grant accepting this Option indicates that:

(a) HE OR SHE ACKNOWLEDGES AND AGREES THAT THE VESTING OF THIS OPTION IS EARNED ONLY BY CONTINUING AS A SERVICE PROVIDER AND THAT BEING HIRED, GRANTED THIS OPTION, AND EXERCISING THE OPTION WILL NOT RESULT IN VESTING.

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(b) HE OR SHE FURTHER ACKNOWLEDGES AND AGREES THAT THIS OPTION AND AGREEMENT DO NOT CREATE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS A SERVICE PROVIDER FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND DOES NOT INTERFERE IN ANY WAY WITH HIS OR HER RIGHT OR THE RIGHT OF THE EMPLOYER(S) TO TERMINATE HIS OR HER RELATIONSHIP AS A SERVICE PROVIDER AT ANY TIME, WITH OR WITHOUT CAUSE, SUBJECT TO APPLICABLE LAWS.

(c) The Participant agrees that this Agreement and its incorporated documents reflect all agreements on its subject matters and that he or she is not accepting this Agreement based on any promises, representations, or inducements other than those reflected in the Agreement.

(d) The Participant understands that exercise of this Option is governed strictly by Sections 6, 7, and 8 of this Agreement and that failure to comply with those Sections could result in the expiration of this Option, even if an attempt was made to exercise.

(e) The Participant agrees that the Company's delivery of any documents related to the Plan or this Option (including the Plan, the Agreement, the Plan's prospectus and any reports of the Company provided generally to the Company's stockholders) to him or her may be made by electronic delivery, which may include the delivery of a link to a Company intranet or the Internet site of a third party involved in administering the Plan, the delivery of the document via e-mail, or any other means of electronic delivery specified by the Company. If the attempted electronic delivery of such documents fails, the Participant will be provided with a paper copy of the documents. The Participant acknowledges that he or she may receive from the Company a paper copy of any documents that were delivered electronically at no cost to him or her by contacting the Company by telephone or in writing. The Participant may revoke his or her consent to the electronic delivery of documents or may change the electronic mail address to which such documents are to be delivered (if the Participant has provided an electronic mail address) at any time by notifying the Company of such revoked consent or revised e-mail address by telephone, postal service or electronic mail. Finally, the Participant understands that he or she is not required to consent to electronic delivery of documents.

(f) The Participant may deliver any documents related to the Plan or this Option to the Company by e-mail or any other means of electronic delivery approved by the Administrator, but he or she must provide the Company or any designated third party administrator with a paper copy of any documents if his or her attempted electronic delivery of such documents fails.

(g) The Participant accepts that all good faith decisions or interpretations of the Administrator regarding the Plan and Awards under the Plan are binding, conclusive, and final. No member of the Administrator will be personally liable for any such decisions or interpretations.

(h) The Participant agrees that the Plan is established voluntarily by the Company, is discretionary in nature, and may be amended, suspended, or terminated by the Company at any time, to the extent permitted by the Plan.

(i) The Participant agrees that the grant of this Option is voluntary and occasional and does not create any contractual or other right to receive future grants of options, or benefits in lieu of options, even if options have been granted in the past.

(j) The Participant agrees that any decisions regarding future Awards will be in the Company's sole discretion.

(k) The Participant agrees that he or she is voluntarily participating in the Plan.

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- (l) The Participant agrees that this Option and any Shares acquired under the Plan are not intended to replace any pension rights or compensation.
- (m) The Participant agrees that this Option, any Shares acquired under the Plan, and their income and value of same are not part of normal or expected compensation for any purpose, including for purposes of calculating any severance, resignation, termination, redundancy, dismissal, end-of-service payments, bonuses, holiday pay, long-service awards, pension or retirement or welfare benefits, or similar payments.
- (n) The Participant agrees that the future value of the Shares underlying this Option is unknown, indeterminable, and cannot be predicted with certainty.
- (o) The Participant understands that if the underlying Shares do not increase in value, this Option will have no intrinsic monetary value.
- (p) The Participant understands that if this Option is exercised, the value of each Share received on exercise may increase or decrease in value, even below the Exercise Price per Share.
- (q) The Participant agrees that, for purposes of this Option, his or her engagement as a Service Provider is terminated as of the Termination of Status Date (regardless of the reason for such termination and whether or not the termination is later found to be invalid or in breach of employment laws in the jurisdiction where he or she is a Service Provider or the terms of his or her service agreement, if any), unless otherwise expressly provided in this Agreement or determined by the Administrator.
- (r) The Participant agrees that any right to vest in this Option terminates as of the Termination of Status Date and will not be extended by any notice period (e.g., the period that he or she is a Service Provider would not include any contractual notice period or any period of “garden leave” or similar period mandated under employment laws (including common law, if applicable) in the jurisdiction where he or she is a Service Provider or by his or her service agreement or employment agreement, if any, unless he or she is providing bona fide services during such time).
- (s) The Participant agrees that the period during which the Participant may exercise the vested portion of this Option after a termination of his or her status as a Service Provider (if any) will start as of the Termination of Status Date (regardless of the reason for such termination and whether or not the termination is later found to be invalid or in breach of employment laws in the jurisdiction where he or she is a Service Provider or the terms of his or her service agreement, if any), unless otherwise expressly provided in this Agreement or determined by the Administrator.
- (t) The Participant agrees that the Administrator has the exclusive discretion to determine when he or she is no longer actively providing services for purposes of this Option (including whether he or she is still considered to be providing services while on a leave of absence).
- (u) The Participant agrees that no member of the Company Group is liable for any foreign exchange rate fluctuation between the Participant’s local currency and the United States Dollar that may affect the value of this Option or of any amounts due to him or her from the exercise of this Option or the subsequent sale of any Shares acquired upon exercise.
- (v) The Participant has read and agrees to the Data Privacy Provisions of Section 12 of this Agreement.
- (w) The Participant agrees that he or she has no claim or entitlement to compensation or damages from any forfeiture of this Option resulting from the termination of his or her status as a Service

Provider (for any reason whatsoever, whether or not later found to be invalid or in breach of employment laws in the jurisdiction where he or she is a Service Provider or the terms of his or her service agreement, if any), and in consideration of the grant of this Option to which he or she is otherwise not entitled, he or she irrevocably agrees never to institute any claim against the Company or any member of the Company Group, waives his or her ability (if any) to bring any such claim, and releases the Company and all members of the Company Group from any such claim. If any such claim is nevertheless allowed by a court of competent jurisdiction, then the Participant's participation in the Plan constitutes his or her irrevocable agreement to not pursue such claim and to execute any and all documents necessary to request dismissal or withdrawal of such claim.

## 12. Data Privacy.

*(a) The Participant voluntarily consents to the collection, use and transfer, in electronic or other form, of his or her personal data as described in this Agreement and any other Award materials (" Data ") by and among, as applicable, the Employer(s), the Company and any member of the Company Group for the exclusive purpose of implementing, administering, and managing his or her participation in the Plan.*

*(b) The Participant understands that the Company and the Employer(s) may hold certain personal information about him or her, including, but not limited to, his or her name, home address and telephone number, date of birth, social insurance number or other identification number, salary, nationality, job title, any shares of stock or directorships held in the Company, details of all equity awards or any other entitlement to stock awarded, canceled, exercised, vested, unvested or outstanding in his or her favor, for the exclusive purpose of implementing, administering, and managing the Plan.*

*(c) The Participant understands that Data will be transferred to one or more a stock plan service provider(s) selected by the Company, which may assist the Company with the implementation, administration, and management of the Plan. The Participant understands that the recipients of the Data may be located in the United States or elsewhere, and that the recipient's country (e.g., the United States) may have different data privacy laws and protections than his or her country. The Participant understands that if he or she resides outside the United States, he or she may request a list with the names and addresses of any potential recipients of the Data by contacting his or her local human resources representative. The Participant authorizes the Company and any other possible recipients that may assist the Company (presently or in the future) with implementing, administering and managing the Plan to receive, possess, use, retain and transfer the Data, in electronic or other form, for the sole purposes of implementing, administering and managing his or her participation in the Plan.*

*(d) The Participant understands that Data will be held only as long as is necessary to implement, administer and manage his or her participation in the Plan. The Participant understands that if he or she resides in certain jurisdictions outside the United States, to the extent required by Applicable Laws, he or she may, at any time, request access to Data, request additional information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents given by accepting this Option, in any case without cost, by contacting in writing his or her local human resources representative. Further, the Participant understands that he or she is providing these consents on a purely voluntary basis. If the Participant does not consent or if he or she later seeks to revoke his or her consent, his or her engagement as a Service Provider with the Employer(s) will not be adversely affected; the only consequence of refusing or withdrawing his or her consent is that the Company will not be able to grant him or her awards under the Plan or administer or maintain awards. Therefore, the Participant understands that refusing or withdrawing his or her consent may affect his or her ability to participate in the Plan (including the right to retain this Option). The Participant understands that he or she may contact his or her local human resources representative for more information on the consequences of his or her refusal to consent or withdrawal of consent.*

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13. Miscellaneous

(a) **Address for Notices** . Any notice to be given to the Company under the terms of this Agreement must be addressed to the Company at Square, Inc., 1455 Market Street, Suite 600, San Francisco, CA 94103 until the Company designates another address in writing.

(b) **Non-Transferability of Option** . This Option may not be transferred other than by will or the laws of descent or distribution and may be exercised during the lifetime of the Participant only by him or her or his or her representative following a Disability.

(c) **Binding Agreement** . If this Option is transferred, this Agreement will be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors, and assigns of the parties to this Agreement.

(d) **Additional Conditions to Issuance of Stock** . If the Company determines that the listing, registration, qualification, or rule compliance of the Common Stock on any securities exchange or under any state, federal, or foreign law or the tax code and related regulations or the consent or approval of any governmental regulatory authority is necessary or desirable as a condition to the issuance of Shares to the Participant (or his or her estate), the Company will try to meet the requirements of any such state, federal, or foreign law or securities exchange and to obtain any such consent or approval of any such governmental authority or securities exchange, but the Shares will not be issued until such conditions have been met in a manner acceptable to the Company.

(e) **Captions** . Captions provided in this Agreement are for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

(f) **Agreement Severable** . If any provision of this Agreement is held invalid or unenforceable, that provision will be severed from the remaining provisions of this Agreement and the invalidity or unenforceability will have no effect on the remainder of the Agreement.

(g) **Non-U.S. Appendix** . This Option is subject to any special terms and conditions set forth in any Appendix. If the Participant relocates to a country included in the Appendix, the special terms and conditions for that country will apply to him or her to the extent the Company determines that applying such terms and conditions is necessary or advisable for legal or administrative reasons.

(h) **Choice of Law; Choice of Forum** . The Plan, this Agreement, this Option, and all determinations made and actions taken under the Plan, to the extent not otherwise governed by the laws of the United States, will be governed by the laws of the State of Delaware without giving effect to principles of conflicts of law. For purposes of litigating any dispute that arises under the Plan, the Participant's acceptance of this Option is his or her consent to the jurisdiction of the State of Delaware and his or her agreement that any such litigation will be conducted in the Delaware Court of Chancery or the federal courts for the United States for the District of Delaware and no other courts, regardless of where he or she is performing services.

(i) **Modifications to the Agreement** . The Plan and this Agreement constitute the entire understanding of the parties on the subjects covered. The 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. The Company reserves the right to revise the Agreement as it deems necessary or advisable, in its sole discretion and without the consent of the Participant, to comply with Code Section 409A, to otherwise avoid imposition of any additional tax or income recognition under Code Section 409A in connection with this Option, or to comply with other Applicable Laws.

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(j) **Waiver** . The Participant acknowledges that a waiver by the Company of a breach of any provision of this Agreement will not operate or be construed as a waiver of any other provision of this Agreement or of any subsequent breach of this Agreement by him or her.

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**EXHIBIT B**

**APPENDIX TO STOCK OPTION AGREEMENT**

***Terms and Conditions***

This Appendix to Stock Option Agreement (the “ **Appendix** ”) includes additional terms and conditions that govern this Option granted to the Participant under the Plan if he or she resides in one of the countries listed below on the Grant Date or he or she moves to one of the listed countries.

***Notifications***

This Appendix may also include information regarding exchange controls and certain other issues of which the Participant should be aware with respect to participation in the Plan. The information is based on the securities, exchange control, and other Applicable Laws in effect in the respective countries as of \_\_\_\_\_, 20\_\_\_\_. Such Applicable Laws are often complex and change frequently. As a result, the Company strongly recommends that the Participant not rely on the information in this Appendix as the only source of information relating to the consequences of participation in the Plan because the information may be out of date at the time the Participant sells Shares acquired under the Plan.

In addition, the information contained in this Appendix is general in nature and may not apply to the Participant’s particular situation, and the Company is not in a position to assure him or her of a particular result. The Participant is advised to seek appropriate professional advice as to how the Applicable Laws in his or her country may apply to his or her situation.

Finally, if the Participant is a citizen or resident of a country other than the one in which he or she is currently working, transfers employment after this Option is granted, or is considered a resident of another country for local law purposes, the information in this Appendix may not apply to him or her, and the Administrator will determine to what extent the terms and conditions in this Appendix apply.

**EXHIBIT C**

**SQUARE, INC.  
2015 EQUITY INCENTIVE PLAN**

**EXERCISE NOTICE**

Square, Inc.  
1455 Market Street, Suite 600  
San Francisco, CA 94103

Attention: Stock Administration

Purchaser Name:

Grant Date of Stock Option (the “ **Option** ”):

Exercise Date:

Number of Shares Exercised:

Per Share Exercise Price:

Total Exercise Price:

Exercise Price Payment Method:

Tax-Related Items Payment Method:

The information in the table above is incorporated in this Exercise Notice.

1. **Exercise of Option** . Effective as the Exercise Date, I elect to purchase the Number of Shares Exercised (“ **Exercised Shares** ”) under the Stock Option Agreement for the Option (the “ **Agreement** ”) for the Total Exercise Price. Capitalized terms used but not defined in this Exercise Notice have the meanings given to them in the 2015 Equity Incentive Plan (the “ **Plan** ”) and/or the Agreement.

2. **Delivery of Payment** . With this Exercise Notice, I am delivering the Total Exercise Price and any required Tax-Related Items to be paid in connection with purchase of the Exercised Shares. I am paying my total purchase price by the Exercise Price Payment Method and the Tax-Related Items by the Tax-Related Items Payment Method.

3. **Representations of Purchaser** . I acknowledge that:

(a) I have received, read, and understood the Plan and the Agreement and agree to be bound by their terms and conditions.

(b) The exercise will not be completed until this Exercise Notice, Total Exercise Price, and all Tax-Related Payments are received by the Company.

(c) I have no rights as a stockholder of the Company (including the right to vote and receive dividends and distributions) on the Exercised Shares until the Exercised Shares have been issued and recorded on the records of the Company or its transfer agents or registrars.

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(d) No adjustment will be made for a dividend or other right for which the record date is before the date of issuance, except for adjustments under Section 13 of the Plan.

(e) There may be adverse tax consequences to exercising the Option, and I am not relying on the Company for tax advice and have had an opportunity to obtain the advice of personal tax, legal, and financial advisors prior to exercising.

(f) The modification and choice of law provisions of the Agreement also govern this Exercise Notice.

4. **Entire Agreement; Governing Law** . The Plan and the Agreement are incorporated by reference. This Exercise Notice, the Plan, and the Agreement are the entire agreement of the parties with respect to the Options and this exercise and supersede in their entirety all prior undertakings and agreements of the Company and Purchaser with respect to their subject matter.

Submitted by:

PURCHASER

\_\_\_\_\_  
Signature

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SQUARE, INC.  
2015 EQUITY INCENTIVE PLAN

**NOTICE OF RESTRICTED STOCK AWARD AND RESTRICTED STOCK AGREEMENT**

Capitalized terms that are not defined in this Notice of Restricted Stock Award and Restricted Stock Agreement (the “**Notice of Grant**”), the Terms and Conditions of Restricted Stock Award, or any of the exhibits to these documents (all together, the “**Agreement**”) have the meanings given to them in the Square, Inc. 2015 Equity Incentive Plan (the “**Plan**”).

The Participant has been granted this Restricted Stock award according to the terms below and subject to the terms and conditions of the Plan and this Agreement, as follows:

Participant	_____
Grant Number	_____
Grant Date	_____
Vesting Start Date	_____
Number of Shares Granted	_____

Vesting Schedule:

Unless the vesting is accelerated, these Shares of Restricted Stock will vest on the following schedule:

If the Participant continues to be a Service Provider through each such date, 25% of these Shares of Restricted Stock will vest on the 1-year anniversary of the Vesting Start Date, and 1/16th of these Shares of Restricted Stock will vest each quarter thereafter on the same day of the month as the Vesting Start Date (or if there is no corresponding day in a given month, then on the last day of that month). All vesting will be rounded in accordance with Section 3(f) of the Plan.

If the Participant ceases to be a Service Provider for any or no reason before he or she fully vests in these Shares of Restricted Stock, the unvested Shares of Restricted Stock will terminate according to the terms of Section 5 of this Agreement.

The Participant’s signature below indicates that:

- (i) He or she agrees that this Restricted Stock award is granted under and governed by the terms and conditions of the Plan and this Agreement, including their exhibits and appendices.
- (ii) He or she understands that the Company is not providing any tax, legal, or financial advice and is not making any recommendations regarding his or her participation in the Plan or his or her acquisition or sale of Shares.
- (iii) He or she has reviewed the Plan and this Agreement, has had an opportunity to obtain the advice of

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personal tax, legal, and financial advisors prior to signing this Agreement, and fully understands all provisions of the Plan and Agreement. He or she will consult with his or her own personal tax, legal, and financial advisors before taking any action related to the Plan.

- (iv) He or she has read and agrees to each provision of Section 10 of this Agreement.
- (v) He or she will notify the Company of any change to the contact address below.

PARTICIPANT

\_\_\_\_\_  
Signature

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT A**

**TERMS AND CONDITIONS OF RESTRICTED STOCK AWARD**

1. Grant. The Company grants the Participant an award of Restricted Stock as described in the Notice of Grant. If there is a conflict between the Plan, this Agreement, or any other agreement with the Participant governing these Shares of Restricted Stock, those documents will take precedence and prevail in the following order: (a) the Plan, (b) the Agreement, and (c) any other agreement between the Company and the Participant governing these Shares of Restricted Stock.

2. Escrow of Shares.

(a) Once the Participant signs this Agreement, all of these Shares of Restricted Stock will be delivered to an escrow holder designated by the Company (the "Escrow Holder") and will be held by the Escrow Holder until these Shares of Restricted Stock vest or the Participant ceases to be a Service Provider.

(b) The Escrow Holder is not liable for any act it does or does not do for purposes of holding these Shares of Restricted Stock in escrow.

(c) The Escrow Holder will transfer any vested Shares of Restricted Stock to the Participant at his or her request.

(d) The Participant has no right to receive cash dividends on any of these Shares of Restricted Stock that are held in escrow but has all other rights of a stockholder for such Shares, including the right to vote.

(e) These Shares of Restricted Stock will be subject to any adjustments made according to Section 13(a) of the Plan.

(f) The Company may instruct the transfer agent for the Common Stock to record the restrictions on transfer in this Agreement by placing a legend on the certificates representing the Restricted Stock or otherwise noting its records.

3. Vesting. These Shares of Restricted Stock will vest only under the Vesting Schedule in the Notice of Grant, Section 4 of this Agreement, or Section 14 of the Plan. Shares of Restricted Stock scheduled to vest on a certain date or upon the occurrence of a certain condition will not vest unless the Participant continues to be a Service Provider until the time such vesting is scheduled to occur. The Administrator may modify the Vesting Schedule according to its authority under the Plan if the Participant takes a leave of absence or has a reduction in hours worked.

4. Administrator Discretion. The Administrator has the discretion to accelerate the vesting of any number of unvested Shares of Restricted Stock at any time, subject to the terms of the Plan. In that case, those Shares of Restricted Stock will be vested as of the date specified by the Administrator.

5. Forfeiture upon Termination of Status as a Service Provider. Upon the Participant's termination as a Service Provider for any reason, these Shares of Restricted Stock will immediately stop vesting, and on the 30<sup>th</sup> day following the Termination of Status Date (or any earlier date on or following the Termination of Status Date determined by the Administrator), any of these Shares of Restricted Stock that have not yet vested will be forfeited by the Participant and automatically transferred by the Escrow Holder to the Company at no cost to the Company, subject to Applicable Laws. The Participant will not be refunded any price paid for such Shares and will have no further rights under this Agreement. The Participant appoints the Escrow Holder with

full power of substitution (as the Participant's true and lawful attorney-in-fact with irrevocable power and authority in the name and on behalf of the Participant) to take any action and execute all documents and instruments, including stock powers necessary to transfer the certificate(s) evidencing such unvested Shares of Restricted Stock to the Company upon such termination. The date of the Participant's termination as a Service Provider is detailed in Section 3(c) of the Plan.

6. Death of Participant. Any distribution or delivery to be made to the Participant under this Agreement will, if he or she is then deceased, be made to the administrator or executor of his or her estate or, if the Administrator permits, his or her designated beneficiary. Any such transferee must furnish the Company with (a) written notice of his or her status as transferee, and (b) evidence satisfactory to the Company to establish the validity of the transfer and compliance with any laws or regulations that apply to the transfer.

7. Tax Withholding.

(a) No Shares of Restricted Stock may be released from escrow until the Participant makes satisfactory arrangements (as determined by the Administrator) for the payment of income, employment, social insurance, National Insurance Contributions, payroll tax, fringe benefit tax, payment on account, or other tax-related items related to his or her participation in the Plan and legally applicable to him or her that the Administrator determines must be withheld (" **Tax-Related Items** "), including those that result from the grant, vesting, or subsequent sale of Shares of Restricted Stock or the receipt of any dividends . If the Participant is a non-U.S. employee, the method of payment of Tax-Related Items may be restricted by any Appendix. If the Participant fails to make satisfactory arrangements for the payment of any Tax-Related Items under this Agreement when any of these Shares of Restricted Stock otherwise are supposed to vest or Tax-Related Items related to these Shares of Restricted Stock otherwise are due, he or she will permanently forfeit the applicable Shares of Restricted Stock and such Shares of Restricted Stock will be returned to the Company at no cost to the Company.

(b) The Company has the right (but not the obligation) to satisfy any Tax-Related Items by withholding from proceeds of a sale of any of these Shares of Restricted Stock that have vested arranged by the Company (on the Participant's behalf pursuant to this authorization without further consent), and this will be the method by which such tax withholding obligations are satisfied until the Company determines otherwise, subject to Applicable Laws.

(c) The Company also has the right (but not the obligation) to satisfy any Tax-Related Items by reducing the number of Shares otherwise deliverable to the Participant.

(d) Further, if the Participant is subject to taxation in more than one jurisdiction between the Grant Date and the date of any relevant taxable or tax withholding event, the Company and/or any member of the Company Group for whom he or she is performing services (each, an " **Employer** ") or former Employer(s) may withhold or account for tax in more than one jurisdiction.

(e) Regardless of any action of the Company or the Employer(s), the Participant acknowledges that the ultimate liability for all Tax-Related Items is and remains his or her responsibility and may exceed the amount actually withheld by the Company or the Employer(s). The Participant further acknowledges that the Company and the Employer(s) (i) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of these Shares of Restricted Stock and (ii) do not commit to and are under no obligation to structure the terms of the grant or any aspect of these Shares of Restricted Stock to reduce or eliminate his or her liability for Tax-Related Items or achieve any particular tax result.

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8. Forfeiture or Clawback. These Shares of Restricted Stock (including any proceeds, gains or other economic benefit received by the Participant from their subsequent sale) will be subject to any compensation recovery or clawback policy implemented by the Company before or after the date of this Agreement. This includes any clawback policy adopted to comply with the requirements of Applicable Laws.

9. Rights as Stockholder. The Participant's rights as a stockholder of the Company (including the right to vote and to receive dividends and distributions) will not begin until these Shares of Restricted Stock have been issued and recorded on the records of the Company or its transfer agents or registrars.

10. Acknowledgements and Agreements. The Participant's signature on the Notice of Grant accepting these Shares of Restricted Stock indicates that:

(a) HE OR SHE ACKNOWLEDGES AND AGREES THAT THE VESTING OF THE SHARES OF RESTRICTED STOCK IS EARNED ONLY BY CONTINUING AS A SERVICE PROVIDER AND THAT BEING HIRED OR BEING GRANTED THESE SHARES OF RESTRICTED STOCK DO NOT RESULT IN VESTING.

(b) HE OR SHE FURTHER ACKNOWLEDGES AND AGREES THAT THESE SHARES OF RESTRICTED STOCK AND THIS AGREEMENT DO NOT CREATE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS A SERVICE PROVIDER FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL AND DOES NOT INTERFERE IN ANY WAY WITH HIS OR HER RIGHT OR THE RIGHT OF THE EMPLOYER(S) TO TERMINATE HIS OR HER RELATIONSHIP AS A SERVICE PROVIDER AT ANY TIME, WITH OR WITHOUT CAUSE, SUBJECT TO APPLICABLE LAWS.

(c) The Participant agrees that this Agreement and its incorporated documents reflect all agreements on its subject matters and that he or she is not accepting this Agreement based on any promises, representations, or inducements other than those reflected in the Agreement.

(d) The Participant agrees that the Company's delivery of any documents related to the Plan or these Shares of Restricted Stock (including the Plan, the Agreement, the Plan's prospectus, and any reports of the Company provided generally to the Company's stockholders) to him or her may be made by electronic delivery, which may include the delivery of a link to a Company intranet or to the Internet site of a third party involved in administering the Plan, the delivery of the document via e-mail, or any other means of electronic delivery specified by the Company. If the attempted electronic delivery of such documents fails, the Participant will be provided with a paper copy of the documents. The Participant acknowledges that he or she may receive from the Company a paper copy of any documents that were delivered electronically at no cost to him or her by contacting the Company by telephone or in writing. The Participant may revoke his or her consent to the electronic delivery of documents or may change the electronic mail address to which such documents are to be delivered (if the Participant has provided an electronic mail address) at any time by notifying the Company of such revoked consent or revised e-mail address by telephone, postal service or electronic mail. Finally, the Participant understands that he or she is not required to consent to electronic delivery of documents.

(e) The Participant may deliver any documents related to the Plan or these Shares of Restricted Stock to the Company by e-mail or any other means of electronic delivery approved by the Administrator, but he or she must provide the Company or any designated third party administrator with a paper copy of any documents if his or her attempted electronic delivery of such documents fails.

(f) The Participant accepts that all good faith decisions or interpretations of the Administrator regarding the Plan and Awards under the Plan are binding, conclusive, and final. No member of the Administrator will be personally liable for any such decisions or interpretations.

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(g) The Participant agrees that the Plan is established voluntarily by the Company, is discretionary in nature, and may be amended, suspended, or terminated by the Company at any time, to the extent permitted by the Plan.

(h) The Participant agrees that the grant of these Shares of Restricted Stock is voluntary and occasional and does not create any contractual or other right to receive future grants of restricted stock or benefits in lieu of restricted stock, even if restricted stock has been granted in the past.

(i) The Participant agrees that any decisions regarding future Awards will be in the Company's sole discretion.

(j) The Participant agrees that he or she is voluntarily participating in the Plan.

(k) The Participant agrees that these Shares of Restricted Stock are not intended to replace any pension rights or compensation.

(l) The Participant agrees that these Shares of Restricted Stock and their income and value are not part of normal or expected compensation for any purpose, including for calculating any severance, resignation, termination, redundancy, dismissal, end-of-service payments, bonuses, holiday pay, long-service awards, pension or retirement or welfare benefits, or similar payments.

(m) The Participant agrees that the future value of these Shares of Restricted Stock is unknown, indeterminable, and cannot be predicted with certainty.

(n) The Participant agrees that, for purposes of these Shares of Restricted Stock, his or her engagement as a Service Provider is terminated as of the Termination of Status Date (regardless of the reason for such termination and whether or not the termination is later found to be invalid or in breach of employment laws in the jurisdiction where he or she is a Service Provider or the terms of his or her service agreement, if any), unless otherwise expressly provided in this Agreement or determined by the Administrator.

(o) The Participant agrees that any right to vest in these Shares of Restricted Stock terminates as of the Termination of Status Date and will not be extended by any notice period (e.g., the period that he or she is a Service Provider would not include any contractual notice period or any period of "garden leave" or similar period mandated under employment laws (including common law, if applicable) in the jurisdiction where he or she is a Service Provider or by his or her service agreement or employment agreement, if any, unless he or she is providing bona fide services during such time).

(p) The Participant agrees that the Administrator has the exclusive discretion to determine when he or she is no longer actively providing services for purposes of these Shares of Restricted Stock (including whether he or she is still considered to be providing services while on a leave of absence).

(q) The Participant agrees that no member of the Company Group is liable for any foreign exchange rate fluctuation between the Participant's local currency and the United States Dollar that may affect the value of these Shares of Restricted Stock or of any amounts due to him or her upon the sale of any of these Shares of Restricted Stock.

(r) The Participant has read and agrees to the Data Privacy Provisions of Section 11 of this Agreement.

(s) The Participant agrees that he or she has no claim or entitlement to compensation or damages from any forfeiture of these Shares of Restricted Stock resulting from the termination of his or her status as a Service Provider (for any reason whatsoever, whether or not later found to be invalid or in breach of employment laws in the jurisdiction where he or she is a Service Provider or the terms of his or her service agreement, if any), and in consideration of the grant of these Shares of Restricted Stock to which he or she is otherwise not entitled, he or she irrevocably agrees never to institute any claim against the Company or any member of the Company Group, waives his or her ability (if any) to bring any such claim, and releases the Company and all members of the Company Group from any such claim. If any such claim is nevertheless allowed by a court of competent jurisdiction, then the Participant's participation in the Plan constitutes his or her irrevocable agreement to not pursue such claim and to execute any and all documents necessary to request dismissal or withdrawal of such claim.

#### 11. Data Privacy.

(a) *The Participant voluntarily consents to the collection, use and transfer, in electronic or other form, of his or her personal data as described in this Agreement and any other Award materials (“ Data ”) by and among, as applicable, the Employer(s), the Company and any member of the Company Group for the exclusive purpose of implementing, administering, and managing his or her participation in the Plan.*

(b) *The Participant understands that the Company and the Employer(s) may hold certain personal information about him or her, including, but not limited to, his or her name, home address and telephone number, date of birth, social insurance number or other identification number, salary, nationality, job title, any shares of stock or directorships held in the Company, details of all equity awards or any other entitlement to stock awarded, canceled, exercised, vested, unvested or outstanding in his or her favor, for the exclusive purpose of implementing, administering, and managing the Plan.*

(c) *The Participant understands that Data will be transferred to one or more a stock plan service provider(s) selected by the Company, which may assist the Company with the implementation, administration, and management of the Plan. The Participant understands that the recipients of the Data may be located in the United States or elsewhere, and that the recipient's country (e.g., the United States) may have different data privacy laws and protections than his or her country. The Participant understands that if he or she resides outside the United States, he or she may request a list with the names and addresses of any potential recipients of the Data by contacting his or her local human resources representative. The Participant authorizes the Company and any other possible recipients that may assist the Company (presently or in the future) with implementing, administering and managing the Plan to receive, possess, use, retain and transfer the Data, in electronic or other form, for the sole purposes of implementing, administering and managing his or her participation in the Plan.*

(d) *The Participant understands that Data will be held only as long as is necessary to implement, administer and manage his or her participation in the Plan. The Participant understands that if he or she resides in certain jurisdictions outside the United States, to the extent required by Applicable Laws, he or she may, at any time, request access to Data, request additional information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents given by accepting these Shares of Restricted Stock, in any case without cost, by contacting in writing his or her local human resources representative. Further, the Participant understands that he or she is providing these consents on a purely voluntary basis. If the Participant does not consent or if he or she later seeks to revoke his or her consent, his or her engagement as a Service Provider with the Employer(s) will not be adversely affected; the only consequence of refusing or withdrawing his or her consent is that the Company will not be able to grant him or her awards under the Plan or administer or maintain awards. Therefore, the Participant understands that refusing or withdrawing his or her consent may affect his or her ability to participate in the Plan (including the right to retain*

*these Shares of Restricted Stock). The Participant understands that he or she may contact his or her local human resources representative for more information on the consequences of his or her refusal to consent or withdrawal of consent.*

12. Miscellaneous.

(a) **Address for Notices** . Any notice to be given to the Company under the terms of this Agreement must be addressed to the Company at Square, Inc., 1455 Market Street, Suite 600, San Francisco, CA 94103 until the Company designates another address in writing.

(b) **Non-Transferability of Restricted Stock**. These Shares of Restricted Stock may not be transferred other than by will or the laws of descent or distribution.

(c) **Binding Agreement** . If any Shares of Restricted Stock are transferred, this Agreement will be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors, and assigns of the parties to this Agreement.

(d) **Additional Conditions to Issuance of Stock and Release from Escrow** . If the Company determines that the listing, registration, qualification, or rule compliance of the Common Stock on any securities exchange or under any state, federal, or foreign law or the tax code and related regulations or the consent or approval of any governmental regulatory authority is necessary or desirable as a condition to the issuance of these Shares of Restricted Stock or their release from escrow to the Participant (or his or her estate), the Company will try to meet the requirements of any such state, federal, or foreign law or securities exchange and to obtain any such consent or approval of any such governmental authority or securities exchange, but these Shares of Restricted Stock will not be issued until such conditions have been met in a manner acceptable to the Company.

(e) **Captions** . Captions provided in this Agreement are for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

(f) **Agreement Severable** . If any provision of this Agreement is held invalid or unenforceable, that provision will be severed from the remaining provisions of this Agreement and the invalidity or unenforceability will have no effect on the remainder of the Agreement.

(g) **Non-U.S. Appendix** . These Shares of Restricted Stock are subject to any special terms and conditions set forth in any appendix to this Agreement for the Participant's country (the "**Appendix** "). If the Participant relocates to a country included in the Appendix, the special terms and conditions for that country will apply to him or her to the extent the Company determines that applying such terms and conditions is necessary or advisable for legal or administrative reasons.

(h) **Choice of Law; Choice of Forum**. The Plan, this Agreement, these Shares of Restricted Stock, and all determinations made and actions taken under the Plan, to the extent not otherwise governed by the laws of the United States, will be governed by the laws of the State of Delaware without giving effect to principles of conflicts of law. For purposes of litigating any dispute that arises under the Plan, the Participant's acceptance of these Shares of Restricted Stock is his or her consent to the jurisdiction of the State of Delaware and his or her agreement that any such litigation will be conducted in the Delaware Court of Chancery or the federal courts for the United States for the District of Delaware and no other courts, regardless of where he or she is performing services.

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(i) **Modifications to the Agreement** . The Plan and this Agreement constitute the entire understanding of the parties on the subjects covered. The 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. The Company reserves the right to revise the Agreement as it deems necessary or advisable, in its sole discretion and without the consent of the Participant, to comply with other Applicable Laws.

(j) **Waiver** . The Participant acknowledges that a waiver by the Company of a breach of any provision of this Agreement will not operate or be construed as a waiver of any other provision of this Agreement or of any subsequent breach of this Agreement by him or her.

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**EXHIBIT B**

**APPENDIX TO RESTRICTED STOCK AGREEMENT**

***Terms and Conditions***

This Appendix to Restricted Stock Agreement (the “**Appendix**”) includes additional terms and conditions that govern these Shares of Restricted Stock granted to the Participant under the Plan if he or she resides in one of the countries listed below on the Grant Date or he or she moves to one of the listed countries.

***Notifications***

This Appendix may also include information regarding exchange controls and certain other issues of which the Participant should be aware with respect to participation in the Plan. The information is based on the securities, exchange control, and other Applicable Laws in effect in the respective countries as of \_\_\_\_\_, 20\_\_\_\_. Such Applicable Laws are often complex and change frequently. As a result, the Company strongly recommends that the Participant not rely on the information in this Appendix as the only source of information relating to the consequences of participation in the Plan because the information may be out of date at the time the Participant sells Shares acquired under the Plan.

In addition, the information contained in this Appendix is general in nature and may not apply to the Participant’s particular situation, and the Company is not in a position to assure him or her of a particular result. The Participant is advised to seek appropriate professional advice as to how the Applicable Laws in his or her country may apply to his or her situation.

Finally, if the Participant is a citizen or resident of a country other than the one in which he or she is currently working, transfers employment after these Shares of Restricted Stock are granted, or is considered a resident of another country for local law purposes, the information in this Appendix may not apply to him or her, and the Administrator will determine to what extent the terms and conditions in this Appendix apply.

**SQUARE, INC.**  
**2015 EQUITY INCENTIVE PLAN**

**NOTICE OF RESTRICTED STOCK UNIT AWARD AND RESTRICTED STOCK UNIT AGREEMENT**

Capitalized terms that are not defined in this Notice of Restricted Stock Unit Award and Restricted Stock Unit Agreement (the “**Notice of Grant**”), the Terms and Conditions of Restricted Stock Unit Award, or any of the exhibits to these documents (all together, the “**Agreement**”) have the meanings given to them in the Square, Inc. 2015 Equity Incentive Plan (the “**Plan**”).

The Participant has been granted this Restricted Stock Unit (“**RSU**”) award according to the terms below and subject to the terms and conditions of the Plan and this Agreement, as follows:

Participant	_____
Grant Number	_____
Grant Date	_____
Vesting Start Date	_____
Number of RSUs Granted	_____

Vesting Schedule:

Unless the vesting is accelerated, these RSUs will vest on the following schedule:

If the Participant continues to be a Service Provider through each such date, 25% of these RSUs will vest on the 1-year anniversary of the Vesting Start Date, and 1/16<sup>th</sup> of these RSUs will vest each quarter thereafter on the same day of the month as the Vesting Start Date (or if there is no corresponding day in a given month, then on the last day of that month). All vesting will be rounded in accordance with Section 3(f) of the Plan.

If the Participant ceases to be a Service Provider for any or no reason before he or she fully vests in these RSUs, the unvested RSUs will terminate according to the terms of Section 5 of this Agreement.

The Participant’s signature below indicates that:

- (i) He or she agrees that this Restricted Stock Unit award is granted under and governed by the terms and conditions of the Plan and this Agreement, including their exhibits and appendices.
- (ii) He or she understands that the Company is not providing any tax, legal, or financial advice and is not making any recommendations regarding his or her participation in the Plan or his or her acquisition or sale of Shares.
- (iii) He or she has reviewed the Plan and this Agreement, has had an opportunity to obtain the advice of personal tax, legal, and financial advisors prior to signing this Agreement, and fully understands all provisions of the Plan and Agreement. He or she will consult with his or her own personal tax, legal, and financial advisors before taking any action related to the Plan.

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(iv) He or she has read and agrees to each provision of Section 10 of this Agreement.

(v) He or she will notify the Company of any change to the contact address below.

PARTICIPANT

\_\_\_\_\_  
Signature

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## EXHIBIT A

### TERMS AND CONDITIONS OF RESTRICTED STOCK UNIT AWARD

1. Grant. The Company grants the Participant an award of RSUs as described in the Notice of Grant. If there is a conflict between the Plan, this Agreement, or any other agreement with the Participant governing these RSUs, those documents will take precedence and prevail in the following order: (a) the Plan, (b) the Agreement, and (c) any other agreement between the Company and the Participant governing these RSUs.

2. Company's Obligation to Pay. Each RSU is a right to receive a Share on the date it vests. Until an RSU vests, the Participant has no right to payment of the Share. Before a vested RSU is paid, the RSU is an unsecured obligation of the Company, payable (if at all) only from the Company's general assets. A vested RSU will be paid to the Participant (or in the event of his or her death, to his or her estate) in whole Shares as soon as practicable after vesting (but no later than 60 days following the vesting date), subject to him or her satisfying any obligations for Tax-Related Items (as defined in Section 7 of this Agreement) and any delay in payment required under Section 7 of this Agreement. The Participant cannot specify (directly or indirectly) the taxable year of the payment of any vested RSU under this Agreement.

3. Vesting. These RSUs will vest only under the Vesting Schedule in the Notice of Grant, Section 4 of this Agreement, or Section 14 of the Plan. RSUs scheduled to vest on a certain date or upon the occurrence of a certain condition will not vest unless the Participant continues to be a Service Provider until the time such vesting is scheduled to occur. The Administrator may modify the Vesting Schedule according to its authority under the Plan if the Participant takes a leave of absence or has a reduction in hours worked.

4. Administrator Discretion. The Administrator has the discretion to accelerate the vesting of any RSUs at any time, subject to the terms of the Plan. In that case, those RSUs will be vested as of the date specified by the Administrator.

5. Forfeiture upon Termination of Status as a Service Provider. Upon the Participant's termination as a Service Provider for any reason, these RSUs will immediately stop vesting, and on the 30<sup>th</sup> day following the Termination of Status Date (or any earlier date on or following the Termination of Status Date determined by the Administrator), any of these RSUs that have not yet vested will be forfeited by the Participant, subject to Applicable Laws. The date of the Participant's termination as a Service Provider is detailed in Section 3(c) of the Plan.

6. Death of Participant. Any distribution or delivery to be made to the Participant under this Agreement will, if he or she is then deceased, be made to the administrator or executor of his or her estate or, if the Administrator permits, his or her designated beneficiary. Any such transferee must furnish the Company with (a) written notice of his or her status as transferee, and (b) evidence satisfactory to the Company to establish the validity of the transfer and compliance with any laws or regulations that apply to the transfer.

#### 7. Tax Obligations.

##### (a) **Tax Withholding**.

(i) No Shares will be issued to the Participant until he or she makes satisfactory arrangements (as determined by the Administrator) for the payment of income, employment, social insurance, National Insurance Contributions, payroll tax, fringe benefit tax, payment on account, or other tax-related items related to his or her participation in the Plan and legally applicable to him or her that the Administrator

determines must be withheld (“**Tax-Related Items**”), including those that result from the grant, vesting, or payment of these RSUs, the subsequent sale of Shares acquired pursuant to such payment, or the receipt of any dividends. If the Participant is a non-U.S. employee, the method of payment of Tax-Related Items may be restricted by any Appendix. If the Participant fails to make satisfactory arrangements for the payment of any Tax-Related Items under this Agreement when any of these RSUs otherwise are supposed to vest or Tax-Related Items related to RSUs otherwise are due, he or she will permanently forfeit the applicable RSUs and any right to receive Shares under such RSUs, and such RSUs will be returned to the Company at no cost to the Company.

(ii) The Company has the right (but not the obligation) to satisfy any Tax-Related Items by withholding from proceeds of a sale of Shares acquired upon payment of these RSUs arranged by the Company (on the Participant’s behalf pursuant to this authorization without further consent), and this will be the method by which such tax withholding obligations are satisfied until the Company determines otherwise, subject to Applicable Laws.

(iii) The Company also has the right (but not the obligation) to satisfy any Tax-Related Items by reducing the number of Shares otherwise deliverable to the Participant.

(iv) Further, if the Participant is subject to taxation in more than one jurisdiction between the Grant Date and the date of any relevant taxable or tax withholding event, the Company and/or any member of the Company Group for whom he or she is performing services (each, an “**Employer**”) or former Employer(s) may withhold or account for tax in more than one jurisdiction.

(v) Regardless of any action of the Company or the Employer(s), the Participant acknowledges that the ultimate liability for all Tax-Related Items is and remains his or her responsibility and may exceed the amount actually withheld by the Company or the Employer(s). The Participant further acknowledges that the Company and the Employer(s) (1) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of these RSUs and (2) do not commit to and are under no obligation to structure the terms of the grant or any aspect of these RSUs to reduce or eliminate his or her liability for Tax-Related Items or achieve any particular tax result.

(b) **Code Section 409A** . This Section 7(b) does not apply if the Participant is not a U.S. taxpayer.

(i) If the vesting of any RSUs is accelerated in connection with a termination of the Participant’s status as a Service Provider that is a “separation from service” within the meaning of Code Section 409A and (x) the Participant is a “specified employee” within the meaning of Code Section 409A at that time and (y) the payment of such accelerated RSUs would result in the imposition of additional tax under Code Section 409A if paid to the Participant within the 6-month period following such termination, then the accelerated RSUs will not be paid until the first day after the 6-month period ends.

(ii) If the Participant’s status as a Service Provider terminates due to death or the Participant dies after he or she stops being a Service Provider, the delay under Section 7(b)(i) of this Agreement will not apply, and these RSUs will be paid in Shares to the Participant’s estate as soon as practicable.

(iii) All payments and benefits under this Agreement are intended to be exempt from Code Section 409A or comply with any requirements necessary to avoid the imposition of additional tax under Code Section 409A(a)(1)(B) so that none of these RSUs or Shares issuable upon the vesting of RSUs will be subject to the additional tax imposed under Code Section 409A, and any ambiguities will be interpreted according to that intent.

(iv) Each payment under this Agreement is a separate payment under Treasury Regulations Section 1.409A-2(b)(2).

8. Forfeiture or Clawback. These RSUs (including any proceeds, gains or other economic benefit received by the Participant from any subsequent sale of Shares issued upon payment of the RSUs) will be subject to any compensation recovery or clawback policy implemented by the Company before or after the date of this Agreement. This includes any clawback policy adopted to comply with the requirements of Applicable Laws.

9. Rights as Stockholder. The Participant's rights as a stockholder of the Company (including the right to vote and to receive dividends and distributions) will not begin until Shares have been issued and recorded on the records of the Company or its transfer agents or registrars.

10. Acknowledgements and Agreements. The Participant's signature on the Notice of Grant accepting these RSUs indicates that:

(a) HE OR SHE ACKNOWLEDGES AND AGREES THAT THE VESTING OF THESE RSUS IS EARNED ONLY BY CONTINUING AS A SERVICE PROVIDER AND THAT BEING HIRED OR BEING GRANTED THESE RSUS WILL NOT RESULT IN VESTING.

(b) HE OR SHE FURTHER ACKNOWLEDGES AND AGREES THAT THESE RSUS AND THIS AGREEMENT DO NOT CREATE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS A SERVICE PROVIDER FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL AND DOES NOT INTERFERE IN ANY WAY WITH HIS OR HER RIGHT OR THE RIGHT OF THE EMPLOYER(S) TO TERMINATE HIS OR HER RELATIONSHIP AS A SERVICE PROVIDER AT ANY TIME, WITH OR WITHOUT CAUSE, SUBJECT TO APPLICABLE LAWS.

(c) The Participant agrees that this Agreement and its incorporated documents reflect all agreements on its subject matters and that he or she is not accepting this Agreement based on any promises, representations, or inducements other than those reflected in the Agreement.

(d) The Participant agrees that the Company's delivery of any documents related to the Plan or these RSUs (including the Plan, the Agreement, the Plan's prospectus, and any reports of the Company provided generally to the Company's stockholders) to him or her may be made by electronic delivery, which may include the delivery of a link to a Company intranet or to the Internet site of a third party involved in administering the Plan, the delivery of the document via e-mail, or any other means of electronic delivery specified by the Company. If the attempted electronic delivery of such documents fails, the Participant will be provided with a paper copy of the documents. The Participant acknowledges that he or she may receive from the Company a paper copy of any documents that were delivered electronically at no cost to him or her by contacting the Company by telephone or in writing. The Participant may revoke his or her consent to the electronic delivery of documents or may change the electronic mail address to which such documents are to be delivered (if the Participant has provided an electronic mail address) at any time by notifying the Company of such revoked consent or revised e-mail address by telephone, postal service or electronic mail. Finally, the Participant understands that he or she is not required to consent to electronic delivery of documents.

(e) The Participant may deliver any documents related to the Plan or these RSUs to the Company by e-mail or any other means of electronic delivery approved by the Administrator, but he or she must provide the Company or any designated third party administrator with a paper copy of any documents if his or her attempted electronic delivery of such documents fails.

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(f) The Participant accepts that all good faith decisions or interpretations of the Administrator regarding the Plan and Awards under the Plan are binding, conclusive, and final. No member of the Administrator will be personally liable for any such decisions or interpretations.

(g) The Participant agrees that the Plan is established voluntarily by the Company, is discretionary in nature, and may be amended, suspended, or terminated by the Company at any time, to the extent permitted by the Plan.

(h) The Participant agrees that the grant of these RSUs is voluntary and occasional and does not create any contractual or other right to receive future grants of restricted stock units or benefits in lieu of restricted stock units, even if restricted stock units have been granted in the past.

(i) The Participant agrees that any decisions regarding future Awards will be in the Company's sole discretion.

(j) The Participant agrees that he or she is voluntarily participating in the Plan.

(k) The Participant agrees that these RSUs and any Shares acquired under these RSUs are not intended to replace any pension rights or compensation.

(l) The Participant agrees that these RSUs, any Shares acquired under these RSUs, and their income and value are not part of normal or expected compensation for any purpose, including for calculating any severance, resignation, termination, redundancy, dismissal, end-of-service payments, bonuses, holiday pay, long-service awards, pension or retirement or welfare benefits, or similar payments.

(m) The Participant agrees that the future value of the Shares underlying these RSUs is unknown, indeterminable, and cannot be predicted with certainty.

(n) The Participant agrees that, for purposes of these RSUs, his or her engagement as a Service Provider is terminated as of the Termination of Status Date (regardless of the reason for such termination and whether or not the termination is later found to be invalid or in breach of employment laws in the jurisdiction where he or she is a Service Provider or the terms of his or her service agreement, if any), unless otherwise expressly provided in this Agreement or determined by the Administrator.

(o) The Participant agrees that any right to vest in these RSUs terminates as of the Termination of Status Date and will not be extended by any notice period (e.g., the period that he or she is a Service Provider would not include any contractual notice period or any period of "garden leave" or similar period mandated under employment laws (including common law, if applicable) in the jurisdiction where he or she is a Service Provider or by his or her service agreement or employment agreement, if any, unless he or she is providing bona fide services during such time).

(p) The Participant agrees that the Administrator has the exclusive discretion to determine when he or she is no longer actively providing services for purposes of these RSUs (including whether he or she is still considered to be providing services while on a leave of absence).

(q) The Participant agrees that no member of the Company Group is liable for any foreign exchange rate fluctuation between the Participant's local currency and the United States Dollar that may affect the value of these RSUs or of any amounts due to him or her from the payment of these RSUs or the subsequent sale of any Shares acquired upon such payment.

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(r) The Participant has read and agrees to the Data Privacy Provisions of Section 11 of this Agreement.

(s) The Participant agrees that he or she has no claim or entitlement to compensation or damages from any forfeiture of these RSUs resulting from the termination of his or her status as a Service Provider (for any reason whatsoever, whether or not later found to be invalid or in breach of employment laws in the jurisdiction where he or she is a Service Provider or the terms of his or her service agreement, if any), and in consideration of the grant of these RSUs to which he or she is otherwise not entitled, he or she irrevocably agrees never to institute any claim against the Company or any member of the Company Group, waives his or her ability (if any) to bring any such claim, and releases the Company and all members of the Company Group from any such claim. If any such claim is nevertheless allowed by a court of competent jurisdiction, then the Participant's participation in the Plan constitutes his or her irrevocable agreement to not pursue such claim and to execute any and all documents necessary to request dismissal or withdrawal of such claim.

#### 11. Data Privacy.

(a) *The Participant voluntarily consents to the collection, use and transfer, in electronic or other form, of his or her personal data as described in this Agreement and any other Award materials (" Data ") by and among, as applicable, the Employer(s), the Company and any member of the Company Group for the exclusive purpose of implementing, administering, and managing his or her participation in the Plan.*

(b) *The Participant understands that the Company and the Employer(s) may hold certain personal information about him or her, including, but not limited to, his or her name, home address and telephone number, date of birth, social insurance number or other identification number, salary, nationality, job title, any shares of stock or directorships held in the Company, details of all equity awards or any other entitlement to stock awarded, canceled, exercised, vested, unvested or outstanding in his or her favor, for the exclusive purpose of implementing, administering, and managing the Plan.*

(c) *The Participant understands that Data will be transferred to one or more a stock plan service provider(s) selected by the Company, which may assist the Company with the implementation, administration, and management of the Plan. The Participant understands that the recipients of the Data may be located in the United States or elsewhere, and that the recipient's country (e.g., the United States) may have different data privacy laws and protections than his or her country. The Participant understands that if he or she resides outside the United States, he or she may request a list with the names and addresses of any potential recipients of the Data by contacting his or her local human resources representative. The Participant authorizes the Company and any other possible recipients that may assist the Company (presently or in the future) with implementing, administering and managing the Plan to receive, possess, use, retain and transfer the Data, in electronic or other form, for the sole purposes of implementing, administering and managing his or her participation in the Plan.*

(d) *The Participant understands that Data will be held only as long as is necessary to implement, administer and manage his or her participation in the Plan. The Participant understands that if he or she resides in certain jurisdictions outside the United States, to the extent required by Applicable Laws, he or she may, at any time, request access to Data, request additional information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents given by accepting these RSUs, in any case without cost, by contacting in writing his or her local human resources representative. Further, the Participant understands that he or she is providing these consents on a purely voluntary basis. If the Participant does not consent or if he or she later seeks to revoke his or her consent, his or her engagement as a Service Provider with the Employer(s) will not be adversely affected; the only consequence of refusing or withdrawing his*

or her consent is that the Company will not be able to grant him or her awards under the Plan or administer or maintain awards. Therefore, the Participant understands that refusing or withdrawing his or her consent may affect his or her ability to participate in the Plan (including the right to retain these RSUs). The Participant understands that he or she may contact his or her local human resources representative for more information on the consequences of his or her refusal to consent or withdrawal of consent.

12. Miscellaneous .

(a) **Address for Notices** . Any notice to be given to the Company under the terms of this Agreement must be addressed to the Company at Square, Inc., 1455 Market Street, Suite 600, San Francisco, CA 94103 until the Company designates another address in writing.

(b) **Non-Transferability of RSUs**. These RSUs may not be transferred other than by will or the laws of descent or distribution.

(c) **Binding Agreement** . If any RSUs are transferred, this Agreement will be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors, and assigns of the parties to this Agreement.

(d) **Additional Conditions to Issuance of Stock** . If the Company determines that the listing, registration, qualification, or rule compliance of the Common Stock on any securities exchange or under any state, federal, or foreign law or the tax code and related regulations or the consent or approval of any governmental regulatory authority is necessary or desirable as a condition to the issuance of Shares to the Participant (or his or her estate), the Company will try to meet the requirements of any such state, federal, or foreign law or securities exchange and to obtain any such consent or approval of any such governmental authority or securities exchange, but the Shares will not be issued until such conditions have been met in a manner acceptable to the Company.

(e) **Captions** . Captions provided in this Agreement are for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

(f) **Agreement Severable** . If any provision of this Agreement is held invalid or unenforceable, that provision will be severed from the remaining provisions of this Agreement and the invalidity or unenforceability will have no effect on the remainder of the Agreement.

(g) **Non-U.S. Appendix** . These RSUs are subject to any special terms and conditions set forth in any appendix to this Agreement for the Participant's country (the "**Appendix** "). If the Participant relocates to a country included in the Appendix, the special terms and conditions for that country will apply to him or her to the extent the Company determines that applying such terms and conditions is necessary or advisable for legal or administrative reasons.

(h) **Choice of Law; Choice of Forum**. The Plan, this Agreement, these RSUs, and all determinations made and actions taken under the Plan, to the extent not otherwise governed by the laws of the United States, will be governed by the laws of the State of Delaware without giving effect to principles of conflicts of law. For purposes of litigating any dispute that arises under the Plan, the Participant's acceptance of these RSUs is his or her consent to the jurisdiction of the State of Delaware and his or her agreement that any such litigation will be conducted in the Delaware Court of Chancery or the federal courts for the United States for the District of Delaware and no other courts, regardless of where he or she is performing services.

(i) **Modifications to the Agreement** . The Plan and this Agreement constitute the entire understanding of the parties on the subjects covered. The Participant expressly warrants that he or she is not

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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. The Company reserves the right to revise the Agreement as it deems necessary or advisable, in its sole discretion and without the consent of the Participant, to comply with Code Section 409A, to otherwise avoid imposition of any additional tax or income recognition under Code Section 409A in connection with these RSUs, or to comply with other Applicable Laws.

(j) **Waiver** . The Participant acknowledges that a waiver by the Company of a breach of any provision of this Agreement will not operate or be construed as a waiver of any other provision of this Agreement or of any subsequent breach of this Agreement by him or her.

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**EXHIBIT B**

**APPENDIX TO RESTRICTED STOCK UNIT AGREEMENT**

***Terms and Conditions***

This Appendix to Restricted Stock Unit Agreement (the “ **Appendix** ”) includes additional terms and conditions that govern these RSUs granted to the Participant under the Plan if he or she resides in one of the countries listed below on the Grant Date or he or she moves to one of the listed countries.

***Notifications***

This Appendix may also include information regarding exchange controls and certain other issues of which the Participant should be aware with respect to participation in the Plan. The information is based on the securities, exchange control, and other Applicable Laws in effect in the respective countries as of \_\_\_\_\_, 20\_\_\_\_. Such Applicable Laws are often complex and change frequently. As a result, the Company strongly recommends that the Participant not rely on the information in this Appendix as the only source of information relating to the consequences of participation in the Plan because the information may be out of date at the time the Participant sells Shares acquired under the Plan.

In addition, the information contained in this Appendix is general in nature and may not apply to the Participant’s particular situation, and the Company is not in a position to assure him or her of a particular result. The Participant is advised to seek appropriate professional advice as to how the Applicable Laws in his or her country may apply to his or her situation.

Finally, if the Participant is a citizen or resident of a country other than the one in which he or she is currently working, transfers employment after these RSUs are granted, or is considered a resident of another country for local law purposes, the information in this Appendix may not apply to him or her, and the Administrator will determine to what extent the terms and conditions in this Appendix apply.

## SQUARE, INC.

## 2015 EMPLOYEE STOCK PURCHASE PLAN

1. Purpose. The purpose of the Plan is to provide employees of the Company and its Designated Companies with an opportunity to purchase Common Stock through accumulated Contributions. The Company intends for the Plan to have two components: a component intended to qualify as an “employee stock purchase plan” under Section 423 of the Code (the “423 Component”) and a component that is not intended to qualify as an “employee stock purchase plan” under Section 423 of the Code (the “Non-423 Component”). The provisions of the 423 Component will be construed so as to extend and limit Plan participation in a uniform and nondiscriminatory basis consistent with the requirements of Section 423 of the Code. An option granted under the Non-423 Component will be granted under rules, procedures, or sub-plans adopted by the Administrator designed to achieve tax, securities laws, or other objectives for Eligible Employees and the Company. Except as otherwise provided in the Plan, the Non-423 Component will operate and be administered in the same manner as the 423 Component.

2. Definitions.

(a) “Administrator” means the Board or any Committee.

(b) “Affiliate” means any entity, other than a Subsidiary, in which the Company has an equity or other ownership interest.

(c) “Applicable Laws” means the requirements relating to the administration of equity-based awards under U.S. state corporate laws, U.S. federal and state securities laws, the Code, any stock exchange or quotation system on which the Common Stock is listed or quoted, and the applicable laws of any foreign country or jurisdiction where options are, or will be, granted under the Plan.

(d) “Board” means the Board of Directors of the Company.

(e) “Change in Control” means the occurrence of any of the following events:

(i) A change in the ownership of the Company, which occurs when any one person or more than one person acting as a group (in either case, a “Person”) acquires ownership of the stock of the Company that, together with the stock held by such Person, constitutes more than 50% of the total voting power of the stock of the Company; provided that the acquisition of additional stock by any one Person, who is considered to own more than 50% of the total voting power of the stock of the Company is not a Change in Control; or

(ii) A change in the effective control of the Company, which occurs when 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; provided that 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 is not a Change in Control; or

(iii) A change in the ownership of a substantial portion of the Company's assets, which occurs when 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 that the following will not constitute a change in the 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 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 described in this subsection (iii)(B)(3). For purposes of this subsection, 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.

Persons are considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase, or acquisition of stock, or similar business transaction with the Company.

A transaction is not a Change in Control 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 U.S. Treasury Regulations and Internal Revenue Service guidance that has been promulgated or may be promulgated under Code Section 409A from time to time.

In addition, a transaction is not a Change in Control if its sole purpose is (i) to change the state of the Company's incorporation or (ii) 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.

(f) "Code" means the U.S. Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code will include such section, any U.S. Treasury Regulation promulgated under such section, any other official applicable guidance promulgated under such section, and any comparable provision of any future legislation or regulation amending, supplementing, or superseding such section or regulation.

(g) "Committee" means a committee of the Board that is constituted to comply with Applicable Laws and designated by the Board to administer the Plan.

(h) "Common Stock" means the Class A common stock of the Company.

(i) "Company" means Square, Inc., a Delaware corporation, or any of its successors.

(j) "Compensation" includes an Eligible Employee's base straight time gross earnings and does not include payments for incentive compensation, bonuses, payments for overtime and shift premium, equity compensation income and other similar compensation. The Administrator, in its discretion, may, on a uniform and nondiscriminatory basis, establish a different definition of Compensation for a subsequent Offering Period.

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(k) “Contributions” means the payroll deductions and other additional payments that the Company may permit to be made by a Participant to fund the exercise of options granted under the Plan.

(l) “Designated Company” means any Affiliate or Subsidiary of the Company that has been designated by the Administrator from time to time in its sole discretion as eligible to participate in the Plan. For purposes of the 423 Component, only the Company and its Subsidiaries may be Designated Companies, provided, however that at any given time, a Subsidiary that is a Designated Company under the 423 Component will not be a Designated Company under the Non-423 Component.

(m) “Director” means a member of the Board.

(n) “Eligible Employee” means any individual who is a common law employee providing services to the Company or a Designated Company and is customarily employed for at least 20 hours per week and more than 5 months in any calendar year by the Employer, or any lesser number of hours per week and/or number of months in any calendar year established by the Administrator (if required under applicable local law) for purposes of any separate Offering or the Non-423 Component. For purposes of the Plan, the employment relationship will be treated as continuing intact while the individual is on sick leave or other leave of absence that the Employer approves or is legally protected under Applicable Laws. If the period of leave exceeds 3 months and the individual’s right to reemployment is not guaranteed either by statute or by contract, the employment relationship will be considered terminated three 3 months and 1 day following the commencement of such leave. The Administrator has the discretion to determine (on a uniform and nondiscriminatory basis or as otherwise permitted by U.S. Treasury Regulation Section 1.423-2), prior to an Enrollment Date for all options to be granted on such Enrollment Date, whether the definition of Eligible Employee will or will not include an individual that: (i) has not completed at least 2 years of service since his or her last hire date (or such lesser period of time that the Administrator determines), (ii) customarily works not more than 20 hours per week (or such lesser period of time that the Administrator determines), (iii) customarily works not more than 5 months per calendar year (or such lesser period of time that the Administrator determines), (iv) is a highly compensated employee within the meaning of Section 414(q) of the Code, or (v) is a highly compensated employee within the meaning of Section 414(q) of the Code with compensation above a certain level or is an officer or subject to the disclosure requirements of Section 16(a) of the Exchange Act, provided the exclusion is applied with respect to each Offering in an identical manner to all highly compensated individuals of the Employer whose Eligible Employees are participating in that Offering. Each exclusion will be applied with respect to an Offering in a manner complying with U.S. Treasury Regulation Section 1.423-2(e)(2)(ii).

(o) “Employer” means the employer of the applicable Eligible Employee(s).

(p) “Enrollment Date” means the first Trading Day of an Offering Period.

(q) “Exchange Act” means the U.S. Securities Exchange Act of 1934, as amended, including the rules and regulations promulgated under such act.

(r) “Exercise Date” means the last Trading Day of a Purchase Period. If an Offering Period is terminated prior to its expiration under Section 20(a), the Administrator has the discretion to determine that any Purchase Period also terminating under such Offering Period will terminate without options being exercised on the Exercise Date that otherwise would have occurred on the last Trading Day of the Purchase Period.

(s) "Fair Market Value" means, as of any date and unless the Administrator determines otherwise, the value of a share of Common Stock determined as follows:

(i) If the Common Stock is listed on any established stock exchange or a national market system, including without limitation the New York Stock Exchange, NASDAQ Global Select Market, the NASDAQ Global Market or the NASDAQ Capital Market of The NASDAQ Stock Market, the Fair Market Value will be the closing sales price for a share of Common stock (or the closing bid, if no sales were reported) as quoted on such exchange or system on the date of determination, as reported in any source the Administrator deems reliable;

(ii) If the Common Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, the Fair Market Value will be the mean between the high bid and low asked prices for a share of Common Stock on the date of determination (or if no bids and asks were reported on that date, as applicable, on the last Trading Day such bids and asks were reported), as reported in any source the Administrator deems reliable;

(iii) In the absence of an established market for the Common Stock, the Fair Market Value will be determined in good faith by the Administrator;  
or

(iv) For purposes of the Enrollment Date of the first Offering Period under the Plan, the Fair Market Value will be the initial price to the public as set forth in the final prospectus included within the Registration Statement (the "Registration Statement").

(t) "Fiscal Year" means a fiscal year of the Company.

(u) "New Exercise Date" means a new Exercise Date if the Administrator shortens any Offering Period then in progress.

(v) "Offering" means an offer under the Plan of an option that may be exercised during an Offering Period as further described in Section 4. For purposes of the Plan, the Administrator may designate separate Offerings under the Plan (the terms of which need not be identical) in which Eligible Employees of one or more Employers will participate, even if the dates of the applicable Offering Periods of each such Offering are identical, and the provisions of the Plan will separately apply to each Offering. To the extent permitted by U.S. Treasury Regulation Section 1.423-2(a)(1), the terms of each Offering need not be identical as long as the terms of the Plan and an Offering together satisfy U.S. Treasury Regulation Section 1.423-2(a)(2) and (a)(3).

(w) "Offering Periods" means the periods of approximately 12 months during which an option granted under the Plan may be exercised. Offering Periods will commence on the first Trading Day on or after May 15 and November 15 of each year and terminate on the last Trading Day on or before May 15 and November 15 (approximately 12 months later), except that the first Offering Period under the Plan will commence with the first Trading Day on or after the Registration Date and will end on the last Trading Day on or before November 15, 2016 and the second Offering Period under the Plan will commence on the first Trading Day on or after May 15, 2016. The duration and timing of Offering Periods may be changed under Sections 4, 19, and 20.

(x) "Parent" means a "parent corporation," whether now or hereafter existing, as defined in Section 424(e) of the Code.

(y) “Participant” means an Eligible Employee that participates in the Plan.

(z) “Plan” means this Square, Inc. 2015 Employee Stock Purchase Plan.

(aa) “Purchase Periods” means the periods in an Offering Period during which shares of Common Stock may be purchased on a Participant’s behalf in accordance with the terms of the Plan. For the first Offering Period, Purchase Periods will (i) commence on the first Trading Day on or after the Registration Date and June 15, 2016 and (ii) terminate on the last Trading Day on or before June 15, 2016 and November 15, 2016, respectively. Unless the Administrator provides otherwise, Purchase Periods for all other Offering Periods will (i) commence on the first Trading Day on or after May 15 and November 15 and (ii) terminate on the last Trading Day on or before November 15 of the same year and May 15 of the following year, respectively.

(bb) “Purchase Price” means an amount equal to 85% of the Fair Market Value on the Enrollment Date or on the Exercise Date, whichever is lower. The Administrator may set a different Purchase Price for subsequent Offering Periods subject to compliance with Section 423 of the Code (or any successor rule or provision or any other Applicable Law, regulation or stock exchange rule) or under Section 20.

(cc) “Registration Date” means the effective date of the Registration Statement.

(dd) “Registration Statement” means the registration statement on Form S-1 filed with the Securities and Exchange Commission for the initial public offering of the Common Stock .

(ee) “Subsidiary” means a “subsidiary corporation,” whether now or hereafter existing, as defined in Section 424(f) of the Code.

(ff) “Trading Day” means a day on which the national stock exchange upon which the Common Stock is listed is open for trading.

(gg) “U.S. Treasury Regulations” means the Treasury regulations of the Code. Reference to a specific U.S. Treasury Regulation will include such Treasury Regulation, the section of the Code under which such regulation was promulgated, any other official applicable guidance promulgated under such section, and any comparable provision of any future legislation or regulation amending, supplementing, or superseding such section or regulation.

### 3. Eligibility.

(a) First Offering Period. Any individual who is an Eligible Employee immediately prior to the first Offering Period will be automatically enrolled in the first Offering Period.

(b) Subsequent Offering Periods. Any Eligible Employee on a given Enrollment Date subsequent to the first Offering Period will be eligible to participate in the Plan, subject to the requirements of Section 5.

(c) Non-U.S. Employees. Eligible Employees who are citizens or residents of a non-U.S. jurisdiction (without regard to whether they also are citizens or residents of the United States or resident aliens (within the meaning of Section 7701(b)(1)(A) of the Code)) may be excluded from participation in the Plan or an Offering if the participation of such Eligible Employees is prohibited under the laws of the

applicable jurisdiction or if complying with the laws of the applicable jurisdiction would cause the Plan or an Offering to violate Section 423 of the Code. In the case of the Non-423 Component, Eligible Employees may be excluded from participation in the Plan or an Offering if the Administrator has determined that participation of such Eligible Employees is not advisable or practicable.

(d) Limitations. No Eligible Employee will be granted an option under the Plan (i) to the extent that, immediately after the grant, such Eligible Employee (or any other person whose stock would be attributed to such Eligible Employee under Section 424(d) of the Code) would own capital stock of the Company or any Parent or Subsidiary of the Company and/or hold outstanding options to purchase such stock possessing 5% or more of the total combined voting power or value of all classes of the capital stock of the Company or of any Parent or Subsidiary of the Company, or (ii) to the extent that his or her rights to purchase stock under all employee stock purchase plans (as defined in Section 423 of the Code) of the Company or any Parent or Subsidiary of the Company accrues at a rate which exceeds \$25,000 worth of stock (determined at the Fair Market Value of the stock at the time such option is granted) for each calendar year in which such option is outstanding at any time, as determined in accordance with Code Section 423 and the regulations under Code Section 423.

4. Offering Periods. The Plan will be implemented by consecutive, overlapping Offering Periods with a new Offering Period commencing on the first Trading Day on or after May 15 and November 15 each year or on such other date as the Administrator determines, except that the first Offering Period under the Plan will commence with the first Trading Day on or after the Registration Date and end on the last Trading Day on or before November 15, 2016 and the second Offering Period under the Plan will commence on the first Trading Day on or after May 15, 2016. The Administrator has the power to change the duration of Offering Periods (including the commencement dates of such Offering Periods) with respect to future Offerings without stockholder approval if such change is announced prior to the scheduled beginning of the first Offering Period to be affected, but no Offering Period may last more than 27 months.

#### 5. Participation.

(a) First Offering Period. An Eligible Employee will be entitled to continue to participate in the first Offering Period under Section 3(a) only if he or she submits a subscription agreement authorizing Contributions in a form determined by the Administrator (such as the form attached to the Plan as Exhibit A) to the Company's designated plan administrator (i) no earlier than the effective date of the Form S-8 registration statement with respect to the issuance of Common Stock under this Plan and (ii) no later than 10 business days following the effective date of such S-8 registration statement or such other date determined by the Administrator (the "Enrollment Window"). An Eligible Employee's failure to submit the subscription agreement during the Enrollment Window will result in the automatic termination of the Eligible Employee's participation in the first Offering Period.

(b) Subsequent Offering Periods. An Eligible Employee may participate in the Plan under Section 3(b) by (i) submitting to the Company's stock administration office (or its designee) a properly completed subscription agreement authorizing Contributions in the form provided by the Administrator for such purpose or (ii) following an electronic or other enrollment procedure determined by the Administrator, in either case on or before a date determined by the Administrator prior to the applicable Enrollment Date.

#### 6. Contributions.

(a) When a Participant enrolls in the Plan under Section 5, he or she will elect to have Contributions (in the form of payroll deductions or otherwise, to the extent permitted by the Administrator)

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made on each pay day during the Offering Period in an amount not exceeding 15% of the Compensation that he or she receives on the pay day (for illustrative purposes, if a pay day occurs on an Exercise Date, a Participant's payroll deductions on that day will be applied to his or her account under the then-current Purchase Period or Offering Period). The Administrator has the discretion to permit all Participants in a specified Offering to contribute amounts to the Plan through payment by cash, check, or other means set forth in the subscription agreement prior to each Exercise Date of each Purchase Period. A Participant's subscription agreement will remain in effect for successive Offering Periods unless terminated as provided in Section 10.

(b) If Contributions are made in the form of payroll deductions, such payroll deductions for a Participant will commence on the first pay day following the Enrollment Date and will end on the last pay day on or prior to the last Exercise Date of such Offering Period to which such authorization is applicable, unless sooner terminated by the Participant under Section 10; provided, however, that for the first Offering Period, payroll deductions will commence on the first pay day on or following the end of the Enrollment Window.

(c) All of a Participant's Contributions will be credited to his or her account under the Plan, and Contributions will be made in whole percentages of his or her Compensation only. The Participant may not make any additional payments into such account.

(d) A Participant may discontinue his or her participation in the Plan as provided under Section 10. Unless otherwise determined by the Administrator, during a Purchase Period, a Participant may not increase the rate of his or her Contributions, but he or she may (i) make a one-time decrease in the rate of his or her Contributions and/or (ii) stop making Contributions. Any such decrease or discontinuation during a Purchase Period or any change to the Participant's rate of Contributions for future Purchase Periods requires the Participant to (i) properly complete and submit to the Company's stock administration office (or its designee) a new subscription agreement authorizing the change in Contribution rate in the form provided by the Administrator for such purpose or (ii) follow an electronic or other procedure prescribed by the Administrator, in each case on or before a date determined by the Administrator prior to the applicable Exercise Date or Enrollment Date, respectively. If the Participant has not followed such procedures to change the rate of Contributions or stop making Contributions, he or she will continue to make Contributions at the originally elected rate throughout the Purchase Period and future Offering Periods and Purchase Periods (unless the Participant's participation is terminated as provided in Sections 10 or 11). The Administrator has the discretion to amend the nature and/or number of Contribution rate changes that may be made by Participants during any Offering Period or Purchase Period and may establish other conditions or limitations as it deems appropriate for Plan administration. Any change in Contribution rate or discontinuation of Contributions made under this Section 6(d) will be effective as of the first full payroll period following 5 business days after the date on which the change is made by the Participant (unless the Administrator, in its sole discretion, elects to process a given change in payroll deduction rate more quickly). If a Participant stops making Contributions under this Section 6(d), he or she will be withdrawn from the Plan immediately after the exercise of his or her option on the applicable Exercise Date.

(e) To the extent necessary to comply with Section 423(b)(8) of the Code and Section 3(d), a Participant's Contributions may be decreased to zero percent at any time during a Purchase Period. Subject to Section 423(b)(8) of the Code and Section 3(d) of the Plan, Contributions will recommence at the rate originally elected by the Participant effective as of the beginning of the first Purchase Period scheduled to end in the following calendar year, unless terminated by the Participant as provided in Section 10.

(f) The Administrator may allow Eligible Employees to participate in the Plan via cash contributions instead of payroll deductions if (i) payroll deductions are not permitted under applicable local law, (ii) the Administrator determines that cash contributions are permissible under Section 423 of the Code, or (iii) the Eligible Employees are participating in the Non-423 Component.

(g) At the time the option is exercised, in whole or in part, or at the time some or all of the Common Stock issued under the Plan is disposed of (or any other time that a taxable event related to the Plan occurs), the Participant must make adequate provision for the Company's or Employer's federal, state, local or any other tax liability payable to any authority including taxes imposed by jurisdictions outside of the U.S., national insurance, social security or other tax withholding obligations, if any, which arise upon the exercise of the option or the disposition of the Common Stock (or any other time that a taxable event related to the Plan occurs). At any time, the Company or the Employer may, but will not be obligated to, withhold from the Participant's compensation the amount necessary for the Company or the Employer to meet applicable withholding obligations, including any withholding required to make available to the Company or the Employer any tax deductions or benefits attributable to sale or early disposition of Common Stock by the Eligible Employee. In addition, the Company or the Employer may, but will not be obligated to, withhold from the proceeds of the sale of Common Stock or any other method of withholding the Company or the Employer deems appropriate to the extent permitted by U.S. Treasury Regulation Section 1.423-2(f).

7. Grant of Option. On the Enrollment Date of each Offering Period, each Eligible Employee participating in such Offering Period will be granted an option to purchase on each Exercise Date during such Offering Period (at the applicable Purchase Price) up to a number of shares of Common Stock determined by dividing such Eligible Employee's Contributions accumulated prior to such Exercise Date and retained in the Eligible Employee's account as of the Exercise Date by the applicable Purchase Price, up to a maximum of 4,000 shares of Common Stock (subject to any adjustment under Section 19) in each Purchase Period and subject to the limitations in Sections 3(d) and 13. The Eligible Employee may accept the grant of such option (i) with respect to the first Offering Period by submitting a properly completed subscription agreement in accordance with the requirements of Section 5 on or before the last day of the Enrollment Window, and (ii) with respect to any subsequent Offering Period under the Plan, by electing to participate in the Plan in accordance with the requirements of Section 5. The Administrator may, for future Offering Periods, change the maximum number of shares of Common Stock that an Eligible Employee may purchase during each Purchase Period or Offering Period. The option will expire on the last day of the Offering Period.

#### 8. Exercise of Option.

(a) Unless a Participant withdraws from the Plan as provided in Section 10, his or her option for the purchase of shares of Common Stock will be exercised automatically on each Exercise Date, and the maximum number of full shares subject to the option will be purchased for such Participant at the applicable Purchase Price with the accumulated Contributions from his or her account. No fractional shares of Common Stock will be purchased; any Contributions accumulated in a Participant's account that are not sufficient to purchase a full share will be returned to the Participant. During a Participant's lifetime, a Participant's option to purchase shares under the Plan is exercisable only by him or her.

(b) If the Administrator determines that, on a given Exercise Date, the number of shares of Common Stock with respect to which options are to be exercised may exceed (i) the number of shares of Common Stock that were available for sale under the Plan on the Enrollment Date of the applicable Offering Period or (ii) the number of shares of Common Stock available for sale under the Plan on such Exercise Date, the Administrator may in its sole discretion (x) provide that the Company will make a pro rata allocation of

the shares of Common Stock available for purchase on such Enrollment Date or Exercise Date, as applicable, in as uniform a manner as will be practicable and as it will determine in its sole discretion to be equitable among all Participants exercising options to purchase Common Stock on such Exercise Date and continue all Offering Periods then in effect or (y) provide that the Company will make a pro rata allocation of the shares of Common Stock available for purchase on such Enrollment Date or Exercise Date, as applicable, in as uniform a manner as will be practicable and as it will determine in its sole discretion to be equitable among all participants exercising options to purchase Common Stock on such Exercise Date and terminate any or all Offering Periods then in effect under Section 20. The Company may make a pro rata allocation of the shares available on the Enrollment Date of any applicable Offering Period under the preceding sentence even if there is an authorization of additional shares for issuance under the Plan by the Company's stockholders subsequent to such Enrollment Date.

9. Delivery. As soon as reasonably practicable after each Exercise Date on which a purchase of shares of Common Stock occurs, the Company will arrange the delivery to each Participant of the shares purchased upon exercise of his or her option in a form determined by the Administrator (in its sole discretion) and under rules established by the Administrator. The Company may permit or require that shares be deposited directly with a broker designated by the Company or to a designated agent of the Company, and the Company may utilize electronic or automated methods of share transfer. The Company may require that shares be retained with such broker or agent for a designated period of time and/or may establish other procedures to permit tracking of disqualifying dispositions of such shares. No Participant has any voting, dividend, or other stockholder rights with respect to shares of Common Stock subject to any option granted under the Plan until such shares have been purchased and delivered to the Participant as provided in this Section 9.

10. Withdrawal.

(a) A Participant may withdraw all but not less than all of the Contributions credited to his or her account and not yet used to exercise his or her option under the Plan at any time by (i) submitting to the Company's stock administration office (or its designee) a written notice of withdrawal in the form determined by the Administrator for such purpose (which may be similar to the form attached to the Plan as Exhibit B) or (ii) following an electronic or other withdrawal procedure determined by the Administrator. All of the Participant's Contributions credited to his or her account will be paid to such Participant on the first payroll date on or after receipt of notice of withdrawal and such Participant's option for the Offering Period will be automatically terminated, and no further Contributions for the purchase of shares will be made for such Offering Period. If a Participant withdraws from an Offering Period, Contributions will not resume at the beginning of the succeeding Offering Period, unless the Participant re-enrolls in the Plan in accordance with the provisions of Section 5.

(b) A Participant's withdrawal from an Offering Period will not have any effect on his or her eligibility to participate in any similar plan adopted by the Company or in succeeding Offering Periods that commence after the termination of the Offering Period from which the Participant withdraws.

11. Termination of Employment. Upon a Participant's ceasing to be an Eligible Employee, for any reason, he or she will be withdrawn from the Plan and the Contributions credited to such Participant's account during the Offering Period but not yet used to purchase shares of Common Stock under the Plan will be returned to such Participant (or, in the case of his or her death, to the person or persons entitled to receive such Contributions under Section 15), and such Participant's option will be automatically terminated. A Participant whose employment transfers between entities through a termination with an

immediate rehire (with no break in service) by the Company or a Designated Company will not be treated as terminated under the Plan; however, if a Participant transfers from an Offering under the 423 Component to the Non-423 Component, the exercise of the option will be qualified under the 423 Component only to the extent it complies with Section 423 of the Code.

12. Interest. No interest will accrue on the Contributions of a participant in the Plan, except as may be required by Applicable Law, as determined by the Company, and if so required by the laws of a particular jurisdiction, will apply to all Participants in the relevant Offering under the 423 Component, except to the extent otherwise permitted by U.S. Treasury Regulation Section 1.423-2(f).

13. Stock.

(a) Subject to adjustment upon changes in capitalization of the Company as provided in Section 19, the maximum number of shares of Common Stock that will be made available for sale under the Plan will be 4,200,000 shares of Common Stock. The number of shares of Common Stock available for issuance under the Plan will be increased on the first day of each Fiscal Year beginning with the 2016 Fiscal Year equal to the least of (i) 8,400,000 shares of Common Stock, (ii) 1% of the outstanding shares of all classes of the Company's common stock on the last day of the immediately preceding Fiscal Year, or (iii) an amount determined by the Administrator.

(b) Until the shares of Common Stock are issued (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), a Participant has only the rights of an unsecured creditor with respect to such shares, and no right to vote or receive dividends or any other rights as a stockholder will exist with respect to such shares.

(c) Shares of Common Stock to be delivered to a Participant under the Plan will be registered in the name of the Participant or in the name of the Participant and his or her spouse.

14. Administration. The Administrator has full and exclusive discretionary authority to construe, interpret, and apply the terms of the Plan, to delegate ministerial duties to any of the Company's employees, to designate separate Offerings under the Plan, to designate Affiliates and Subsidiaries of the Company as participating in the 423 Component or Non-423 Component, to determine eligibility, to adjudicate all disputed claims filed under the Plan, and to establish such procedures that it deems necessary for the administration of the Plan (including, without limitation, to adopt such procedures and sub-plans as are necessary or appropriate to permit the participation in the Plan by employees who are foreign nationals or employed outside the U.S., the terms of which sub-plans may take precedence over other provisions of this Plan, with the exception of Section 13(a), but unless otherwise superseded by the terms of such sub-plan, the provisions of this Plan will govern the operation of such sub-plan). Unless otherwise determined by the Administrator, the Eligible Employees eligible by participate in each sub-plan will participate in a separate Offering or in the Non-423 Component. Without limiting the generality of the foregoing, the Administrator is specifically authorized to adopt rules and procedures regarding eligibility to participate, the definition of Compensation, handling of Contributions, making of Contributions to the Plan (including, without limitation, in forms other than payroll deductions), establishment of bank or trust accounts to hold Contributions, payment of interest, conversion of local currency, obligations to pay payroll tax, determination of beneficiary designation requirements, withholding procedures and handling of stock certificates that vary with applicable local requirements. The Administrator also is authorized to determine that, to the extent permitted by U.S. Treasury Regulation Section 1.423-2(f), the terms of an option granted under the Plan or an Offering to citizens or residents of a non-U.S. jurisdiction will be less favorable than the

terms of options granted under the Plan or the same Offering to employees resident solely in the U.S. Every finding, decision, and determination made by the Administrator will, to the full extent permitted by law, be final and binding upon all parties.

15. Designation of Beneficiary.

(a) If permitted by the Administrator, a Participant may file a designation of a beneficiary who is to receive any shares of Common Stock and cash, if any, from the Participant's account under the Plan in the event of such Participant's death subsequent to an Exercise Date on which the option is exercised but prior to delivery to such Participant of such shares and cash. In addition, if permitted by the Administrator, a Participant may file a designation of a beneficiary who is to receive any cash from the Participant's account under the Plan in the event of such Participant's death prior to exercise of the option. If a Participant is married and the designated beneficiary is not the spouse, spousal consent will be required for such designation to be effective.

(b) Such designation of beneficiary may be changed by the Participant at any time by notice in a form determined by the Administrator. In the event of the death of a Participant and in the absence of a beneficiary validly designated under the Plan who is living at the time of such Participant's death, the Company will deliver such shares and/or cash to the executor or administrator of the estate of the Participant, or if no such executor or administrator has been appointed (to the knowledge of the Company), the Company, in its discretion, may deliver such shares and/or cash to the spouse or to any one or more dependents or relatives of the Participant, or if no spouse, dependent or relative is known to the Company, then to such other person as the Company may designate.

(c) All beneficiary designations will be in such form and manner as the Administrator may designate from time to time. The Company and/or the Administrator may decide not to permit such designations by Participants in non-U.S. jurisdictions to the extent permitted by U.S. Treasury Regulation Section 1.423-2(f).

16. Transferability. Neither Contributions credited to a Participant's account nor any rights with regard to the exercise of an option or to receive shares of Common Stock under the Plan may be assigned, transferred, pledged or otherwise disposed of in any way (other than by will, the laws of descent and distribution or as provided in Section 15) by the Participant. Any such attempt at assignment, transfer, pledge or other disposition will be without effect, except that the Company may treat such act as an election to withdraw funds from an Offering Period in accordance with Section 10.

17. Use of Funds. The Company may use all Contributions received or held by it under the Plan for any corporate purpose, and the Company will not be obligated to segregate such Contributions except under Offerings or for Participants in the Non-423 Component for which Applicable Laws require that Contributions to the Plan by Participants be segregated from the Company's general corporate funds and/or deposited with an independent third party. Until shares of Common Stock are issued, Participants have only the rights of an unsecured creditor with respect to such shares.

18. Reports. Individual accounts will be maintained for each Participant in the Plan. Statements of account will be given to participating Eligible Employees at least annually, which statements will set forth the amounts of Contributions, the Purchase Price, the number of shares of Common Stock purchased, and the remaining cash balance, if any.

19. Adjustments, Dissolution, Liquidation, Merger, or Change in Control.

(a) Adjustments. In the event that any dividend or other distribution (whether in the form of cash, Common Stock, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Common Stock or other securities of the Company, or other change in the corporate structure of the Company affecting the Common Stock occurs, the Administrator, in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, will, in such manner as it may deem equitable, adjust the number and class of Common Stock that may be delivered under the Plan, the Purchase Price per share and the number of shares of Common Stock covered by each option under the Plan that has not yet been exercised, and the numerical limits of Sections 7 and 13.

(b) Dissolution or Liquidation. In the event of the proposed dissolution or liquidation of the Company, any Offering Period then in progress will be shortened by setting a New Exercise Date, and will terminate immediately prior to the consummation of such proposed dissolution or liquidation, unless provided otherwise by the Administrator. The New Exercise Date will be before the date of the Company's proposed dissolution or liquidation. The Administrator will notify each Participant in writing or electronically, prior to the New Exercise Date, that the Exercise Date for the Participant's option has been changed to the New Exercise Date 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 as provided in Section 10.

(c) Merger or Change in Control. In the event of a merger or Change in Control, each outstanding option will be assumed or an equivalent option substituted by the successor corporation or a Parent or Subsidiary of the successor corporation. In the event that the successor corporation refuses to assume or substitute for the option, the Offering Period with respect to which such option relates will be shortened by setting a New Exercise Date on which such Offering Period will end. The New Exercise Date will occur before the date of the Company's proposed merger or Change in Control. The Administrator will notify each Participant in writing or electronically prior to the New Exercise Date, that the Exercise Date for the Participant's option has been changed to the New Exercise Date 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 as provided in Section 10.

## 20. Amendment or Termination.

(a) The Administrator, in its sole discretion, may amend, suspend, or terminate the Plan, or any part of the Plan, at any time and for any reason. If the Plan is terminated, the Administrator, in its discretion, may elect to terminate all outstanding Offering Periods either immediately or upon completion of the purchase of shares of Common Stock on the next Exercise Date (which may be sooner than originally scheduled, if determined by the Administrator in its discretion), or may elect to permit Offering Periods to expire in accordance with their terms (and subject to any adjustment under Section 19). If the Offering Periods are terminated prior to expiration, all amounts then credited to Participants' accounts that have not been used to purchase shares of Common Stock will be returned to the Participants (without interest thereon, except as otherwise required under Applicable Laws, as further set forth in Section 12) as soon as administratively practicable.

(b) Without stockholder consent and without limiting Section 20(a), the Administrator will be entitled to change the Offering Periods or Purchase Periods, designate separate Offerings, limit the frequency and/or number of changes in the amount withheld during an Offering Period, establish the exchange ratio applicable to amounts withheld in a currency other than U.S. dollars, permit Contributions in

excess of the amount designated by a Participant in order to adjust for delays or mistakes in the Company's processing of properly completed Contribution elections, establish reasonable waiting and adjustment periods and/or accounting and crediting procedures to ensure that amounts applied toward the purchase of Common Stock for each Participant properly correspond with Contribution amounts, and establish such other limitations or procedures as the Administrator determines in its sole discretion advisable that are consistent with the Plan.

(c) In the event the Administrator determines that the ongoing operation of the Plan may result in unfavorable financial accounting consequences, the Administrator may, in its discretion and, to the extent necessary or desirable, modify, amend or terminate the Plan to reduce or eliminate such accounting consequence including, but not limited to:

(i) amending the Plan to conform with the safe harbor definition under the Financial Accounting Standards Board Accounting Standards Codification Topic 718 (or any of its successors), including with respect to an Offering Period underway at the time;

(ii) altering the Purchase Price for any Offering Period or Purchase Period including an Offering Period or Purchase Period underway at the time of the change in Purchase Price;

(iii) shortening any Offering Period or Purchase Period by setting a New Exercise Date, including an Offering Period or Purchase Period underway at the time of the Administrator action;

(iv) reducing the maximum percentage of Compensation a Participant may elect to set aside as Contributions; and

(v) reducing the maximum number of shares of Common Stock a Participant may purchase during any Offering Period or Purchase Period.

Such modifications or amendments will not require stockholder approval or the consent of any Participants.

21. Notices. All notices or other communications by a Participant to the Company under or in connection with the Plan is given when received in the form and manner specified by the Company at the location, or by the person, designated by the Company for the receipt of such notices or other communications.

22. Conditions Upon Issuance of Shares. Shares of Common Stock will not be issued with respect to an option unless the exercise of such option and the issuance and delivery of such shares complies with all applicable provisions of law, domestic or foreign, including, without limitation, the U.S. Securities Act of 1933, as amended, the Exchange Act, the rules and regulations promulgated under such acts, and the requirements of any stock exchange upon which the shares may then be listed, and will be further subject to the approval of counsel for the Company with respect to such compliance.

As a condition to the exercise of an option, the Company may require the person exercising such option to represent and warrant at the time of any such exercise 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 any of the aforementioned applicable provisions of law.

23. Code Section 409A. The 423 Component of the Plan is exempt from the application of Code Section 409A, and any ambiguities in the Plan will be interpreted to so that the Plan is exempt from Code Section 409A. If the Administrator determines that an option granted under the Plan may be subject to Code Section 409A or that any provision in the Plan would cause an option under the Plan to be subject to Code Section 409A, the Administrator may amend the terms of the Plan and/or of an outstanding option granted under the Plan or take such other action the Administrator determines is necessary or appropriate, in each case without the Participant's consent, to exempt any outstanding option or future option that may be granted under the Plan from or to allow any such options to comply with any requirements necessary to avoid the imposition of additional tax under Code Section 409A(a)(1)(B), but only to the extent any such amendments or action by the Administrator would not violate Code Section 409A. The Company has no liability to a Participant or any other party if the option to purchase Common Stock under the Plan that is intended to be exempt from Code Section 409A or compliant with any requirements necessary to avoid the imposition of additional tax under Code Section 409A(a)(1)(B) is not so exempt or compliant or for any action taken by the Administrator with respect to such option. The Company makes no representation that the option to purchase Common Stock under the Plan complies with any requirements necessary to avoid the imposition of additional tax under Code Section 409A(a)(1)(B).

24. Term of Plan. The Plan will become effective upon the later to occur of (a) its adoption by the Board or (b) the business day immediately prior to the Registration Date. It will continue in effect for a term of 20 years, unless sooner terminated under Section 20.

25. Stockholder Approval. The Plan will be subject to approval by the stockholders of the Company within 12 months after the date the Plan is adopted by the Board. Such stockholder approval will be obtained in the manner and to the degree required under Applicable Laws.

26. Governing Law. The Plan will be governed by, and construed in accordance with, the laws of the State of Delaware (except its choice-of-law provisions).

27. No Right to Employment. Participation in the Plan by a Participant will not be construed as giving a Participant the right to be retained as an employee of the Company or an Affiliate or Subsidiary of the Company, as applicable. Further, the Company or an Affiliate or Subsidiary of the Company may dismiss a Participant from employment at any time, free from any liability or any claim under the Plan.

28. Severability. If any provision of the Plan is or becomes or is deemed to be invalid, illegal, or unenforceable for any reason in any jurisdiction or as to any Participant, such invalidity, illegality or unenforceability will not affect the remaining parts of the Plan, and the Plan will be construed and enforced as to such jurisdiction or Participant as if the invalid, illegal or unenforceable provision had not been included.

29. Compliance with Applicable Laws. The terms of this Plan are intended to comply with all Applicable Laws and will be construed accordingly.

30. Automatic Transfer to Low Price Offering Period. To the extent permitted by Applicable Laws, if the Fair Market Value on any Exercise Date in an Offering Period is lower than the Fair Market Value on the Enrollment Date of such Offering Period, then all Participants in such Offering Period automatically will be withdrawn from such Offering Period immediately after the exercise of their option on such Exercise Date and automatically re-enrolled in the immediately following Offering Period as of the first day of such following Offering Period.

**EXHIBIT A**

**SQUARE, INC.**

**2015 EMPLOYEE STOCK PURCHASE PLAN**

**SUBSCRIPTION AGREEMENT**

\_\_\_\_\_ Original Application  
\_\_\_\_\_ Change in Payroll Deduction Rate

Offering Date: \_\_\_\_\_

1. ("Employee") hereby elects to participate in the Square, Inc. 2015 Employee Stock Purchase Plan (the "Plan") and subscribes to purchase shares of the Company's Common Stock in accordance with this Subscription Agreement and the Plan. Unless otherwise defined in this Subscription Agreement, the terms defined in the Plan have the same meanings in this Subscription Agreement.

2. Employee hereby authorizes payroll deductions from each paycheck in the amount of \_\_\_\_\_ % (from 0 to 15%) of his or her Compensation on each payday during the Offering Period in accordance with the Plan. (Please note that no fractional percentages are permitted.)

3. Employee understands that said payroll deductions will be accumulated for the purchase of shares of Common Stock at the applicable Purchase Price determined in accordance with the Plan. Employee understands that if he or she does not withdraw from an Offering Period, any accumulated payroll deductions will be used to automatically exercise his or her option and purchase Common Stock under the Plan.

4. Employee has received a copy of the complete Plan and its accompanying prospectus. Employee understands that his or her participation in the Plan is in all respects subject to the terms of the Plan.

5. Shares of Common Stock purchased for Employee under the Plan should be issued in the name(s) of \_\_\_\_\_ (Employee or Employee and Spouse only).

6. Employee hereby agrees to hold any shares he or she acquires under the Plan with a broker designated by the Company until the day after the later of (i) the 2-year anniversary of the Enrollment Date of the Offering Period in which such shares were purchased or (ii) the 1-year anniversary of the day such shares were purchased. Employee understands that upon his or her disposition of such shares at any time on or after such date, Employee will be treated for federal income tax purposes as having received income only at the time of such disposition and that such income will be taxed as ordinary income only to the extent of an amount equal to the lesser of (a) the excess of the fair market value of the shares at the time of such disposition over the purchase price which he or she paid for the shares or (b) 15% of the fair market value of the shares on the first day of the Offering Period. The Company may, but will not be obligated to, withhold from Employee's compensation the amount necessary to meet any applicable withholding obligation including any withholding necessary to make available to the Company any tax deductions or benefits attributable to the disposition of such shares by Employee. The remainder of the gain, if any, recognized on such disposition will be taxed as capital gain.

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7. Employee hereby agrees to be bound by the terms of the Plan. The effectiveness of this Subscription Agreement is dependent upon Employee's eligibility to participate in the Plan.

Employee's ID Number:

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Employee's Address:

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EMPLOYEE UNDERSTANDS THAT THIS SUBSCRIPTION AGREEMENT WILL REMAIN IN EFFECT THROUGHOUT SUCCESSIVE OFFERING PERIODS UNLESS TERMINATED BY EMPLOYEE.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Employee

**EXHIBIT B**

**SQUARE, INC.**

**2015 EMPLOYEE STOCK PURCHASE PLAN**

**NOTICE OF WITHDRAWAL**

Unless otherwise defined in this Notice of Withdrawal, the terms defined in the Square, Inc. 2015 Employee Stock Purchase Plan (the "Plan") have the same meanings in this Notice of Withdrawal.

The undersigned participant in the Offering Period of the Plan that began on \_\_\_\_\_, (the "Current Offering Period") hereby notifies the Company that he or she hereby withdraws from the Current Offering Period. The undersigned hereby directs the Company to pay to him or her as promptly as practicable all the payroll deductions credited to his or her account with respect to the Current Offering Period. The undersigned understands and agrees that his or her option for the Current Offering Period will be terminated automatically. The undersigned understands further that no further payroll deductions will be made for the purchase of shares in the Current Offering Period and that the undersigned will be eligible to participate in succeeding Offering Periods only by delivering to the Company a new subscription agreement.

Name and Address of Participant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature:

\_\_\_\_\_

Date: \_\_\_\_\_



10/1/2015

Jack Dorsey  
c/o Square, Inc.  
1455 Market Street, Suite 600  
San Francisco, CA 94103

**Re: Confirmatory Employment Letter**

Dear Jack:

As discussed, you and Square, Inc., a Delaware corporation (the "Company") have agreed to the terms of this letter agreement (the "Agreement") to confirm the current terms and conditions of your employment. This Agreement is effective as of the date you sign this letter, as indicated below.

1. **Position**. Your position will continue to be Chief Executive Officer, and you will continue to report to the Company's Chief Executive Officer, with responsibilities as defined in the job description previously provided to you or as otherwise reasonably assigned to you by your supervisor. During your employment with the Company, you will perform your duties faithfully and to the best of your ability and will devote your full business efforts and time to the Company.
2. **Compensation**.
  - a. *Base Salary* : Your current base salary is \$6,000.00 annually, payable on the Company's regular payroll dates and subject to the usual, required withholdings and deductions. Your base salary will be subject to review and adjustments will be made based upon the Company's normal performance review practices.
  - b. *Benefits* : You will continue to be eligible to participate in all of the Company benefit plans as available, including group health insurance and paid time off, based on policies in effect during your employment. The Company reserves the right to cancel or change the benefit plans and programs it offers to its employees at any time.
3. **Severance**. You will be eligible to enter into a Change of Control and Severance Agreement (the "Severance Agreement") applicable to you based on your senior position within the Company. The Severance Agreement will specify the severance payments and benefits you would be entitled to in connection with a change of control transaction and certain terminations of employment. These protections will supersede all other severance or other benefits you would otherwise be entitled to under any plan, program or policy that the Company may have in effect from time to time.
4. **Employment Relationship**. Your employment with the Company continues to be for no specific period of time and is "at will," meaning that either you or the Company may terminate your employment at any time and for any reason, without prior notice and with or without cause. Any contrary representations which may have been made to you are superseded by this offer. This is the full and complete agreement between you and the Company on this term. Further, your participation in any equity-based or benefit program is not to be regarded as assuring you of continuing employment for any particular period of time. Although your job duties, title, compensation and benefits, as well as the Company's personnel policies and procedures, may change from time to time, the "at will" nature of your employment may only be changed in an express written agreement signed by you and the Company's Chief Executive Officer.
5. **Other Agreements**. As an employee of the Company, you will continue to have access to certain confidential information of the Company and you may, during the course of your employment, develop certain information or inventions that will be the property of the Company. To protect the interests of the Company, your acceptance of this letter confirms that the terms of the Company's Confidential Information and Invention Assignment Agreement (the "Confidentiality Agreement") and other compliance agreements that you executed when you joined the Company.
6. **Outside Activities**. While you render services to the Company, you agree that you will not engage in any other employment, consulting or other business activity without the written consent of the Company. In addition, while you render services to the Company, you will not assist any person or entity in competing with the Company, in preparing to compete with the Company or in hiring any employees or consultants of the Company.

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7. **Arbitration.** You and the Company shall submit to mandatory and exclusive binding arbitration of any controversy or claim arising out of, or relating to, this Agreement or any breach hereof, provided, however, that the parties retain their right to, and shall 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 shall be governed by the Federal Arbitration Act and conducted through the American Arbitration Association in the State of California, San Francisco County, before a single neutral arbitrator, in accordance with 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 prior to the hearing, as defined by the AAA arbitrator. The arbitrator shall issue a written decision that contains the essential findings and conclusions on which the decision is based. You shall bear only those costs of arbitration you would otherwise bear had you brought a claim covered by this Agreement in court. Judgment upon the determination or award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
  8. **Entire Agreement.** This Agreement, along with the Confidentiality Agreement and Severance Agreement, constitute the entire agreement between you and the Company regarding the subject matters discussed herein, and they supersede all prior negotiations, representations or agreements between you and the Company. This Agreement may only be modified by a written agreement signed by you and the Company's Chief Executive Officer.

If you wish to accept the terms of this Agreement, please sign and date in the space indicated below and return it to me.

Very truly yours,

**Square, Inc.**

**By: /s/ Aditya K. Roy**

Aditya K. Roy  
People Lead

**Accepted and agreed:**

**/s/ Jack Dorsey**

Jack Dorsey



10/1/2015

Sarah Friar  
c/o Square, Inc.  
1455 Market Street, Suite 600  
San Francisco, CA 94103

**Re: Confirmatory Employment Letter**

Dear Sarah:

As discussed, you and Square, Inc., a Delaware corporation (the “Company”) have agreed to the terms of this letter agreement (the “Agreement”) to confirm the current terms and conditions of your employment. This Agreement is effective as of the date you sign this letter, as indicated below.

1. **Position**. Your position will continue to be Chief Financial Officer, and you will continue to report to the Company’s Chief Executive Officer, with responsibilities as defined in the job description previously provided to you or as otherwise reasonably assigned to you by your supervisor. During your employment with the Company, you will perform your duties faithfully and to the best of your ability and will devote your full business efforts and time to the Company.
2. **Compensation**.
  - a. *Base Salary* : Your current base salary is \$250,000.00 annually, payable on the Company’s regular payroll dates and subject to the usual, required withholdings and deductions. Your base salary will be subject to review and adjustments will be made based upon the Company’s normal performance review practices.
  - b. *Benefits* : You will continue to be eligible to participate in all of the Company benefit plans as available, including group health insurance and paid time off, based on policies in effect during your employment. The Company reserves the right to cancel or change the benefit plans and programs it offers to its employees at any time.
3. **Severance**. You will be eligible to enter into a Change of Control and Severance Agreement (the “Severance Agreement”) applicable to you based on your senior position within the Company. The Severance Agreement will specify the severance payments and benefits you would be entitled to in connection with a change of control transaction and certain terminations of employment. These protections will supersede all other severance or other benefits you would otherwise be entitled to under any plan, program or policy that the Company may have in effect from time to time.
4. **Employment Relationship**. Your employment with the Company continues to be for no specific period of time and is “at will,” meaning that either you or the Company may terminate your employment at any time and for any reason, without prior notice and with or without cause. Any contrary representations which may have been made to you are superseded by this offer. This is the full and complete agreement between you and the Company on this term. Further, your participation in any equity-based or benefit program is not to be regarded as assuring you of continuing employment for any particular period of time. Although your job duties, title, compensation and benefits, as well as the Company’s personnel policies and procedures, may change from time to time, the “at will” nature of your employment may only be changed in an express written agreement signed by you and the Company’s Chief Executive Officer.
5. **Other Agreements**. As an employee of the Company, you will continue to have access to certain confidential information of the Company and you may, during the course of your employment, develop certain information or inventions that will be the property of the Company. To protect the interests of the Company, your acceptance of this letter confirms that the terms of the Company’s Confidential Information and Invention Assignment Agreement (the “Confidentiality Agreement”) and other compliance agreements that you executed when you joined the Company.
6. **Outside Activities**. While you render services to the Company, you agree that you will not engage in any other employment, consulting or other business activity without the written consent of the Company. In addition, while you render services to the Company, you will not assist any person or entity in competing with the Company, in preparing to compete with the Company or in hiring any employees or consultants of the Company.

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7. **Arbitration.** You and the Company shall submit to mandatory and exclusive binding arbitration of any controversy or claim arising out of, or relating to, this Agreement or any breach hereof, provided, however, that the parties retain their right to, and shall 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 shall be governed by the Federal Arbitration Act and conducted through the American Arbitration Association in the State of California, San Francisco County, before a single neutral arbitrator, in accordance with 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 prior to the hearing, as defined by the AAA arbitrator. The arbitrator shall issue a written decision that contains the essential findings and conclusions on which the decision is based. You shall bear only those costs of arbitration you would otherwise bear had you brought a claim covered by this Agreement in court. Judgment upon the determination or award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
  8. **Entire Agreement.** This Agreement, along with the Confidentiality Agreement and Severance Agreement, constitute the entire agreement between you and the Company regarding the subject matters discussed herein, and they supersede all prior negotiations, representations or agreements between you and the Company. This Agreement may only be modified by a written agreement signed by you and the Company's Chief Executive Officer.

If you wish to accept the terms of this Agreement, please sign and date in the space indicated below and return it to me.

Very truly yours,

**Square, Inc.**

**By: /s/ Jack Dorsey**

\_\_\_\_\_  
Jack Dorsey  
Chief Executive Officer

**Accepted and agreed:**

**/s/ Sarah Friar**

\_\_\_\_\_  
Sarah Friar



10/1/2015

Dana R. Wagner  
c/o Square, Inc.  
1455 Market Street, Suite 600  
San Francisco, CA 94103

**Re: Confirmatory Employment Letter**

Dear Dana:

As discussed, you and Square, Inc., a Delaware corporation (the "Company") have agreed to the terms of this letter agreement (the "Agreement") to confirm the current terms and conditions of your employment. This Agreement is effective as of the date you sign this letter, as indicated below.

1. **Position**. Your position will continue to be General Counsel, and you will continue to report to the Company's Chief Executive Officer, with responsibilities as defined in the job description previously provided to you or as otherwise reasonably assigned to you by your supervisor. During your employment with the Company, you will perform your duties faithfully and to the best of your ability and will devote your full business efforts and time to the Company.
2. **Compensation**.
  - a. *Base Salary* : Your current base salary is \$250,000.00 annually, payable on the Company's regular payroll dates and subject to the usual, required withholdings and deductions. Your base salary will be subject to review and adjustments will be made based upon the Company's normal performance review practices.
  - b. *Benefits* : You will continue to be eligible to participate in all of the Company benefit plans as available, including group health insurance and paid time off, based on policies in effect during your employment. The Company reserves the right to cancel or change the benefit plans and programs it offers to its employees at any time.
3. **Severance**. You will be eligible to enter into a Change of Control and Severance Agreement (the "Severance Agreement") applicable to you based on your senior position within the Company. The Severance Agreement will specify the severance payments and benefits you would be entitled to in connection with a change of control transaction and certain terminations of employment. These protections will supersede all other severance or other benefits you would otherwise be entitled to under any plan, program or policy that the Company may have in effect from time to time.
4. **Employment Relationship**. Your employment with the Company continues to be for no specific period of time and is "at will," meaning that either you or the Company may terminate your employment at any time and for any reason, without prior notice and with or without cause. Any contrary representations which may have been made to you are superseded by this offer. This is the full and complete agreement between you and the Company on this term. Further, your participation in any equity-based or benefit program is not to be regarded as assuring you of continuing employment for any particular period of time. Although your job duties, title, compensation and benefits, as well as the Company's personnel policies and procedures, may change from time to time, the "at will" nature of your employment may only be changed in an express written agreement signed by you and the Company's Chief Executive Officer.
5. **Other Agreements**. As an employee of the Company, you will continue to have access to certain confidential information of the Company and you may, during the course of your employment, develop certain information or inventions that will be the property of the Company. To protect the interests of the Company, your acceptance of this letter confirms that the terms of the Company's Confidential Information and Invention Assignment Agreement (the "Confidentiality Agreement") and other compliance agreements that you executed when you joined the Company.
6. **Outside Activities**. While you render services to the Company, you agree that you will not engage in any other employment, consulting or other business activity without the written consent of the Company. In addition, while you render services to the Company, you will not assist any person or entity in competing with the Company, in preparing to compete with the Company or in hiring any employees or consultants of the Company.

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7. **Arbitration.** You and the Company shall submit to mandatory and exclusive binding arbitration of any controversy or claim arising out of, or relating to, this Agreement or any breach hereof, provided, however, that the parties retain their right to, and shall 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 shall be governed by the Federal Arbitration Act and conducted through the American Arbitration Association in the State of California, San Francisco County, before a single neutral arbitrator, in accordance with 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 prior to the hearing, as defined by the AAA arbitrator. The arbitrator shall issue a written decision that contains the essential findings and conclusions on which the decision is based. You shall bear only those costs of arbitration you would otherwise bear had you brought a claim covered by this Agreement in court. Judgment upon the determination or award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
8. **Entire Agreement.** This Agreement, along with the Confidentiality Agreement and Severance Agreement, constitute the entire agreement between you and the Company regarding the subject matters discussed herein, and they supersede all prior negotiations, representations or agreements between you and the Company. This Agreement may only be modified by a written agreement signed by you and the Company's Chief Executive Officer.

If you wish to accept the terms of this Agreement, please sign and date in the space indicated below and return it to me.

Very truly yours,

**Square, Inc.**

**By: /s/ Jack Dorsey**

\_\_\_\_\_  
Jack Dorsey  
Chief Executive Officer

**Accepted and agreed:**

**/s/ Dana R. Wagner**

\_\_\_\_\_  
Dana R. Wagner



October 1, 2015

Francoise Brougher  
c/o Square, Inc.  
1455 Market Street, Suite 600  
San Francisco, CA 94103

**Re: Confirmatory Employment Letter**

Dear Francoise:

As discussed, you and Square, Inc., a Delaware corporation (the “Company”) have agreed to the terms of this letter agreement (the “Agreement”) to confirm the current terms and conditions of your employment. This Agreement is effective as of the date you sign this letter, as indicated below.

1. **Position**. Your position will continue to be Business Lead, and you will continue to report to the Company’s Chief Executive Officer, with responsibilities as defined in the job description previously provided to you or as otherwise reasonably assigned to you by your supervisor. During your employment with the Company, you will perform your duties faithfully and to the best of your ability and will devote your full business efforts and time to the Company.
2. **Compensation**.
  - a. *Base Salary* : Your current base salary is \$250,000.00 annually, payable on the Company’s regular payroll dates and subject to the usual, required withholdings and deductions. Your base salary will be subject to review and adjustments will be made based upon the Company’s normal performance review practices.
  - b. *Benefits* : You will continue to be eligible to participate in all of the Company benefit plans as available, including group health insurance and paid time off, based on policies in effect during your employment. The Company reserves the right to cancel or change the benefit plans and programs it offers to its employees at any time.
3. **Severance**. You will be eligible to enter into a Change of Control and Severance Agreement (the “Severance Agreement”) applicable to you based on your senior position within the Company. The Severance Agreement will specify the severance payments and benefits you would be entitled to in connection with a change of control transaction and certain terminations of employment. These protections will supersede all other severance or other benefits you would otherwise be entitled to under any plan, program or policy that the Company may have in effect from time to time.
4. **Employment Relationship**. Your employment with the Company continues to be for no specific period of time and is “at will,” meaning that either you or the Company may terminate your employment at any time and for any reason, without prior notice and with or without cause. Any contrary representations which may have been made to you are superseded by this offer. This is the full and complete agreement between you and the Company on this term. Further, your participation in any equity-based or benefit program is not to be regarded as assuring you of continuing employment for any particular period of time. Although your job duties, title, compensation and benefits, as well as the Company’s personnel policies and procedures, may change from time to time, the “at will” nature of your employment may only be changed in an express written agreement signed by you and the Company’s Chief Executive Officer.
5. **Other Agreements**. As an employee of the Company, you will continue to have access to certain confidential information of the Company and you may, during the course of your employment, develop certain information or inventions that will be the property of the Company. To protect the interests of the Company, your acceptance of this letter confirms that the terms of the Company’s Confidential Information and Invention Assignment Agreement (the “Confidentiality Agreement”) and other compliance agreements that you executed when you joined the Company.
6. **Outside Activities**. While you render services to the Company, you agree that you will not engage in any other employment, consulting or other business activity without the written consent of the Company. In

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addition, while you render services to the Company, you will not assist any person or entity in competing with the Company, in preparing to compete with the Company or in hiring any employees or consultants of the Company.

7. **Arbitration**. You and the Company shall submit to mandatory and exclusive binding arbitration of any controversy or claim arising out of, or relating to, this Agreement or any breach hereof, provided, however, that the parties retain their right to, and shall 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 shall be governed by the Federal Arbitration Act and conducted through the American Arbitration Association in the State of California, San Francisco County, before a single neutral arbitrator, in accordance with 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 prior to the hearing, as defined by the AAA arbitrator. The arbitrator shall issue a written decision that contains the essential findings and conclusions on which the decision is based. You shall bear only those costs of arbitration you would otherwise bear had you brought a claim covered by this Agreement in court. Judgment upon the determination or award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
8. **Entire Agreement**. This Agreement, along with the Confidentiality Agreement and Severance Agreement, constitute the entire agreement between you and the Company regarding the subject matters discussed herein, and they supersede all prior negotiations, representations or agreements between you and the Company. This Agreement may only be modified by a written agreement signed by you and the Company's Chief Executive Officer.

If you wish to accept the terms of this Agreement, please sign and date in the space indicated below and return it to me.

Very truly yours,

**Square, Inc.**

**By: /s/ Jack Dorsey**

\_\_\_\_\_  
Jack Dorsey  
Chief Executive Officer

**Accepted and agreed:**

**/s/ Francoise Brougher**

\_\_\_\_\_  
Francoise Brougher



October 1, 2015

Alyssa Henry  
c/o Square, Inc.  
1455 Market Street, Suite 600  
San Francisco, CA 94103

**Re: Confirmatory Employment Letter**

Dear Alyssa:

As discussed, you and Square, Inc., a Delaware corporation (the “Company”) have agreed to the terms of this letter agreement (the “Agreement”) to confirm the current terms and conditions of your employment. This Agreement is effective as of the date you sign this letter, as indicated below.

1. **Position**. Your position will continue to be Seller Lead, and you will continue to report to the Company’s Chief Executive Officer, with responsibilities as defined in the job description previously provided to you or as otherwise reasonably assigned to you by your supervisor. During your employment with the Company, you will perform your duties faithfully and to the best of your ability and will devote your full business efforts and time to the Company.
2. **Compensation**.
  - a. *Base Salary* : Your current base salary is \$250,000.00 annually, payable on the Company’s regular payroll dates and subject to the usual, required withholdings and deductions. Your base salary will be subject to review and adjustments will be made based upon the Company’s normal performance review practices.
  - b. *Benefits* : You will continue to be eligible to participate in all of the Company benefit plans as available, including group health insurance and paid time off, based on policies in effect during your employment. The Company reserves the right to cancel or change the benefit plans and programs it offers to its employees at any time.
3. **Severance**. You will be eligible to enter into a Change of Control and Severance Agreement (the “Severance Agreement”) applicable to you based on your senior position within the Company. The Severance Agreement will specify the severance payments and benefits you would be entitled to in connection with a change of control transaction and certain terminations of employment. These protections will supersede all other severance or other benefits you would otherwise be entitled to under any plan, program or policy that the Company may have in effect from time to time.
4. **Employment Relationship**. Your employment with the Company continues to be for no specific period of time and is “at will,” meaning that either you or the Company may terminate your employment at any time and for any reason, without prior notice and with or without cause. Any contrary representations which may have been made to you are superseded by this offer. This is the full and complete agreement between you and the Company on this term. Further, your participation in any equity-based or benefit program is not to be regarded as assuring you of continuing employment for any particular period of time. Although your job duties, title, compensation and benefits, as well as the Company’s personnel policies and procedures, may change from time to time, the “at will” nature of your employment may only be changed in an express written agreement signed by you and the Company’s Chief Executive Officer.
5. **Other Agreements**. As an employee of the Company, you will continue to have access to certain confidential information of the Company and you may, during the course of your employment, develop certain information or inventions that will be the property of the Company. To protect the interests of the Company, your acceptance of this letter confirms that the terms of the Company’s Confidential Information and Invention Assignment Agreement (the “Confidentiality Agreement”) and other compliance agreements that you executed when you joined the Company.
6. **Outside Activities**. While you render services to the Company, you agree that you will not engage in any other employment, consulting or other business activity without the written consent of the Company. In addition, while you render services to the Company, you will not assist any person or entity in competing with the Company, in preparing to compete with the Company or in hiring any employees or consultants of the Company.

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7. **Arbitration.** You and the Company shall submit to mandatory and exclusive binding arbitration of any controversy or claim arising out of, or relating to, this Agreement or any breach hereof, provided, however, that the parties retain their right to, and shall 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 shall be governed by the Federal Arbitration Act and conducted through the American Arbitration Association in the State of California, San Francisco County, before a single neutral arbitrator, in accordance with 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 prior to the hearing, as defined by the AAA arbitrator. The arbitrator shall issue a written decision that contains the essential findings and conclusions on which the decision is based. You shall bear only those costs of arbitration you would otherwise bear had you brought a claim covered by this Agreement in court. Judgment upon the determination or award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
  8. **Entire Agreement.** This Agreement, along with the Confidentiality Agreement and Severance Agreement, constitute the entire agreement between you and the Company regarding the subject matters discussed herein, and they supersede all prior negotiations, representations or agreements between you and the Company. This Agreement may only be modified by a written agreement signed by you and the Company's Chief Executive Officer.

If you wish to accept the terms of this Agreement, please sign and date in the space indicated below and return it to me.

Very truly yours,

**Square, Inc.**

**By:** /s/ Jack Dorsey  
Jack Dorsey  
Chief Executive Officer

**Accepted and agreed:**

/s/ Alyssa Henry  
Alyssa Henry

REVOLVING CREDIT AGREEMENT

dated as of

November 2, 2015

among

SQUARE, INC.,

The Lenders Party Hereto

and

JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent

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J.P. MORGAN SECURITIES LLC

and

GOLDMAN SACHS LENDING PARTNERS LLC,  
as Joint Lead Arrangers and Joint Bookrunners

GOLDMAN SACHS LENDING PARTNERS LLC  
as Syndication Agent

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REVOLVING CREDIT AGREEMENT dated as of November 2, 2015 among SQUARE, INC., as Borrower, the LENDERS party hereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent.

The Borrower (such term and each other capitalized term used and not otherwise defined herein having the meaning assigned to it in Article 1), has requested the Lenders to make Loans to the Borrower on a revolving credit basis on and after the Effective Date and at any time and from time to time prior to the Maturity Date.

The proceeds of borrowings hereunder are to be used for the purposes described in Section 5.09. The Lenders are willing to establish the credit facility referred to in the preceding paragraph upon the terms and subject to the conditions set forth herein. Accordingly, the parties hereto agree as follows:

## ARTICLE 1 DEFINITIONS

Section 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

“**ABR**”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

“**Adjusted LIBO Rate**” means, for any Interest Rate Determination Date with respect to an Interest Period for a Eurodollar Borrowing, the rate *per annum* obtained by dividing (i) the LIBO Rate by (ii) an amount equal to (a) one *minus* (b) the Applicable Reserve Requirement.

“**Administrative Agent**” means JPMorgan Chase Bank, N.A., in its capacity as administrative agent for the Lenders hereunder, or any successor administrative agent.

“**Administrative Questionnaire**” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“**Affiliate**” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“**Agent Fee Letter**” means that certain Agent Fee Letter, dated as of October 14, 2015, by and among the Borrower, J.P. Morgan Securities LLC and the Administrative Agent.

“**Agent Parties**” has the meaning set forth in Section 9.01.

“**Agents**” means the Administrative Agent, the Arrangers and the Syndication Agent.

“**Agreement**” means this Revolving Credit Agreement, as the same may hereafter be modified, supplemented, extended, amended, restated or amended and restated from time to time.

“**Alternate Base Rate**” means, for any day, a rate *per annum* equal to the greatest of (i) the Prime Rate in effect on such day, (ii) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1% and (iii) the sum of (a) the Adjusted LIBO Rate that would be payable on such day for a Eurodollar Borrowing with a one-month interest period *plus* (b) the difference between the Applicable Rate for Eurodollar Borrowings and the Applicable Rate for ABR Borrowings. Any change in the Alternate Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective on the effective day of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or its Subsidiaries from time to time concerning or relating to bribery or corruption.

“**Anti-Terrorism Laws**” has the meaning set forth in Section 3.15(a).

“**Applicable Percentage**” means, with respect to any Lender, the percentage of the total Commitments represented by such Lender’s Commitment. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments.

“**Applicable Rate**” means, for any day, with respect to any Eurodollar Loan, any ABR Loan or the commitment fees payable hereunder, as the case may be, the applicable rate *per annum* set forth across from the caption “Applicable Rate for Eurodollar Loans”, “Applicable Rate for ABR Loans” or “Commitment Fee” in the table below, as the case may be, based upon the Total Leverage Ratio, as more fully described below.

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Level 4</u>	<u>Level 5</u>
Total Leverage Ratio	< 2.00:1.00	≥ 2.00:1.00 and < 2.50:1.00	≥ 2.50:1.00 and < 3.00:1.00	≥ 3.00:1.00 and < 4.00:1.00	≥ 4.00:1.00
Commitment Fee	0.150%	0.150%	0.150%	0.150%	0.150%
Applicable Rate for Eurodollar Loans	1.000%	1.250%	1.500%	1.750%	2.000%
Applicable Rate for ABR Loans	0.000%	0.250%	0.500%	0.750%	1.000%

The Total Leverage Ratio shall be determined on the basis of the most recent certificate of the Borrower to be delivered pursuant to Section 5.01(c), for the most recently ended fiscal quarter or fiscal year of the Borrower, as applicable, and any change in the Total Leverage Ratio

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shall be effective one Business Day after the date on which the Administrative Agent receives such certificate; *provided*, that for so long as the Borrower has not delivered such certificate when due pursuant to Section 5.01(c), the Total Leverage Ratio shall be deemed to be at Level 5 until the respective certificate is delivered to the Administrative Agent; *provided* further, that at all times prior to a Qualifying Capital Raise, the Total Leverage Ratio shall be deemed to be at Level 4.

In the event that any financial statement or compliance certificate delivered pursuant to Sections 5.01(a), 5.01(b) or 5.01(c) is inaccurate (regardless of whether this Agreement or the Commitments are in effect when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Rate for any period (an “Applicable Period”) than the Applicable Rate applied for such Applicable Period, then (i) the Borrower shall immediately deliver to the Administrative Agent a corrected financial statement and a corrected compliance certificate for such Applicable Period, (ii) the Applicable Rate shall be determined based on the corrected financial statement and corrected compliance certificate for such Applicable Period and (iii) the Borrower shall immediately pay to the Administrative Agent (for the account of the Lenders during the Applicable Period or their successors and assigns) the accrued additional interest owing as a result of such increased Applicable Rate for such Applicable Period. This paragraph shall not limit the rights of the Administrative Agent or the Lenders with respect to Section 2.10(c) and Article 7 hereof, and shall survive the termination of this Agreement.

“ **Applicable Reserve Requirement** ” means, at any time, for any Eurodollar Borrowing, the maximum rate, expressed as a decimal, at which reserves (including any basic marginal, special, supplemental, emergency or other reserves) are required to be maintained with respect thereto against “Eurocurrency liabilities” (as such term is defined in Regulation D) under regulations issued from time to time by the Board or other applicable banking regulator. Without limiting the effect of the foregoing, the Applicable Reserve Requirement shall reflect any other reserves required to be maintained by such member banks with respect to (i) any category of liabilities which includes deposits by reference to which the applicable Adjusted LIBO Rate or any other interest rate of a Loan is to be determined, or (ii) any category of extensions of credit or other assets which include Eurodollar Borrowings. A Eurodollar Borrowing shall be deemed to constitute Eurocurrency liabilities and as such shall be deemed subject to reserve requirements without benefits of credit for proration, exceptions or offsets that may be available from time to time to the applicable Lender. The rate of interest on Eurodollar Borrowings shall be adjusted automatically on and as of the effective date of any change in the Applicable Reserve Requirement.

“ **Approved Fund** ” means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its activities and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“ **Arrangers** ” means J.P. Morgan Securities LLC and Goldman Sachs Lending Partners LLC, in their capacity as joint lead arrangers and joint bookrunners, and any successor thereto.

“ **Assignment and Assumption** ” means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04 ), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

“ **Availability Period** ” means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

“ **Bankruptcy Code** ” means Chapter 11 of Title 11 of the United States Code, as amended from time to time and any successor statute and all rules and regulations promulgated thereunder.

“ **Board** ” means the Board of Governors of the Federal Reserve System of the United States of America.

“ **Borrower** ” means Square, Inc., a Delaware corporation.

“ **Borrowing** ” means Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect.

“ **Borrowing Request** ” means a request by the Borrower for a Borrowing in accordance with Section 2.03 .

“ **Business Day** ” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; *provided that*, when used in connection with a Eurodollar Loan, the term “ **Business Day** ” shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

“ **Capital Lease Obligations** ” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP; *provided that*, for the avoidance of doubt, any obligations relating to a lease that was accounted for by such Person as an operating lease as of the Effective Date and any similar lease entered into after the Effective Date by such Person shall be accounted for as obligations relating to an operating lease and not as Capital Lease Obligations.

“ **Cash Collateralize** ” means, in respect of an Obligation, to provide and pledge (as a first priority perfected security interest) cash collateral in dollars, at a location and pursuant to documentation in form and substance satisfactory to the Administrative Agent and the applicable Issuing Bank (and “ **Cash Collateralization** ” has a corresponding meaning). “ **Cash Collateral** ” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“ **Change in Control** ” means (a) prior to an IPO, the failure by the holders of the Borrower’s Equity Interests as of the Effective Date to continue to own, beneficially and of record, Equity Interests in the Borrower representing at least 50.1% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in the Borrower; (b) after an IPO, the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act and the rules of the Securities and Exchange Commission thereunder), of Equity Interests in the Borrower representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in the Borrower; or (c) persons who were (i) directors of the Borrower on the Effective Date, (ii) nominated by the board of directors of the Borrower or whose nomination for election by the stockholders of the Borrower was approved by the board of directors of the Borrower or (iii) appointed by directors that were directors of the Borrower or directors nominated as provided in the preceding clause (ii), ceasing to occupy a majority of the seats (excluding vacant seats) on the board of directors of the Borrower. The consummation of an IPO shall not be deemed a Change in Control.

“ **Change in Law** ” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; *provided* that, notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law,” regardless of the date enacted, adopted or issued.

“ **Charges** ” has the meaning set forth in Section 9.13 .

“ **Code** ” means the U.S. Internal Revenue Code of 1986, as amended from time to time.

“ **Collateral** ” means all property and rights of the Loan Parties, now owned or hereafter acquired, upon which a Lien is purported to be created by any Security Document.

“ **Commitment** ” means, with respect to each Lender, the commitment of such Lender to make Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum aggregate amount of such Lender’s Revolving Credit Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.06 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04 . The initial amount of each Lender’s Commitment as of the Effective Date is set forth on Schedule 2.01 . The initial aggregate amount of the Lenders’ Commitments as of the Effective Date is \$350,000,000.

“ **Commitment Fee** ” has the meaning set forth in Section 2.09(a) .

“ **Communications** ” has the meaning set forth in Section 9.01 .

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“ **Connection Income Taxes** ” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“ **Consolidated Adjusted EBITDA** ” means, for any period, Consolidated Net Income for such period plus, without duplication and to the extent reflected as a charge in the statement of such Consolidated Net Income for such period, the sum of (a) income tax expense, (b) interest expense, amortization or write-off of debt discount and debt issuance costs and commissions, discounts and other fees and charges associated with Indebtedness (including the Loans), (c) depreciation and amortization expense, (d) amortization of intangibles (including, but not limited to, goodwill), (e) any extraordinary charges or losses determined in accordance with GAAP, (f) non-cash stock option and other equity-based compensation expenses and payroll tax expense related to stock option and other equity-based compensation expenses, (g) any other non-cash charges, non-cash expenses or non-cash losses of the Borrower or any Subsidiaries for such period (excluding any such charge, expense or loss incurred in the ordinary course of business that constitutes an accrual of, or a reserve for, cash charges for any future period), including, for the avoidance of doubt, non-cash foreign currency translation losses (including non-cash losses related to currency remeasurement of Indebtedness); *provided*, however that cash payments made in such period or in any future period in respect of such non-cash charges, expenses or losses (excluding any such charge, expense or loss incurred in the ordinary course of business that constitutes an accrual of, or a reserve for, cash charges for any future period) shall be subtracted from Consolidated Net Income in calculating Consolidated Adjusted EBITDA in the period when such payments are made, (h) transition, integration and similar fees, charges and expenses related acquisitions or dispositions, (i) restructuring charges, and (j) charges related to settlements of legal claims (provided that the amount that may be added back pursuant to clause (h), (i) and (j) may not in the aggregate for any four fiscal quarter period exceed the greater of (x) \$5,000,000 and (y) 15% of Consolidated Adjusted EBITDA for such period (determined without giving effect to any such adjustment pursuant to such clause (h), (i) and (j))) and minus, to the extent included in the statement of such Consolidated Net Income for such period, the sum of (a) interest income, (b) any extraordinary income or gains determined in accordance with GAAP, and (c) any other non-cash income (excluding any items that represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period that are described in the parenthetical to clause (g) above), including for the avoidance of doubt non-cash foreign currency translation gains (including non-cash gains related to currency remeasurement of Indebtedness), all as determined on a consolidated basis.

“ **Consolidated Net Income** ” means, for any period, the net income or loss of the Borrower and its consolidated Subsidiaries for such period, determined on a consolidated basis in conformity with GAAP; *provided* that there shall be excluded (a) the income of any Person that is not a consolidated Subsidiary except to the extent of the amount of cash dividends or similar cash distributions actually paid by such Person to the Borrower or, subject to clauses (b) and (c) below, any consolidated Subsidiary during such period, (b) the income of, and any amounts referred to in clause (a) above paid to, any consolidated Subsidiary of the Borrower to the extent that, on the date of determination, the declaration or payment of cash dividends or similar cash distributions by such Subsidiary is not permitted without any prior approval of any Governmental Authority that has not been obtained or is not permitted by the operation of the terms of the organizational documents of such Subsidiary, any agreement or other instrument

binding upon such Subsidiary or any law applicable to such Subsidiary, unless such restrictions with respect to the payment of cash dividends and other similar cash distributions have been legally and effectively waived, and (c) the income or loss of, and any amounts referred to in clause (a) above paid to, any consolidated Subsidiary that is not wholly owned by the Borrower to the extent such income or loss or such amounts are attributable to the noncontrolling interest in such consolidated Subsidiary.

“ **Consolidated Net Tangible Assets** ” means, at any date, the total assets of the Borrower and its Subsidiaries on a consolidated basis after deducting (a) all current liabilities (excluding the amount of those which are by their terms extendable or renewable at the option of the obligor to a date more than 12 months after the date of which the amount is being determined) and (b) all goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangible assets, all as set forth on the most recent balance sheet of the Borrower and its consolidated Subsidiaries delivered pursuant to Section 5.01(a) or (b).

“ **Control** ” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “ **Controlling** ” and “ **Controlled** ” have meanings correlative thereto.

“ **Debtor Relief Laws** ” means the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

“ **Default** ” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“ **Defaulting Lender** ” means, subject to Section 2.17(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder, unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s good faith determination that one or more conditions precedent to such funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, (ii) fund any portion of its participation in Letters of Credit hereunder within two Business Days of the date when due or (iii) pay to the Administrative Agent, any Issuing Bank or any other Lender any other amount required to be paid by it hereunder within two Business Days of the date when due, (b) has notified the Borrower or the Administrative Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s good faith determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such

written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.17(b)) upon delivery of written notice of such determination to the Borrower and each Lender.

“ **Disclosure Letter** ” means the disclosure letter, dated as of the Effective Date, as amended or supplemented from time to time by the Borrower with the written consent of the Administrative Agent (or as supplemented by the Borrower pursuant to the terms of this Agreement), delivered by the Borrower to the Administrative Agent for the benefit of the Lenders.

“ **Disposition** ” means, with respect to any property or right, any sale, lease, sale and leaseback, assignment, license, conveyance, transfer or other disposition thereof. “ **Dispose** ” and “ **Disposed of** ” have meanings correlative thereto.

“ **dollars** ” or “ **\$** ” refers to lawful money of the United States of America.

“ **Domestic Subsidiary** ” means any Subsidiary that is organized under the laws of any political subdivision of the United States, excluding (x) any such Subsidiary substantially all of the assets of which consist of Equity Interests in one or more Subsidiaries that are “controlled foreign corporations” within the meaning of Section 957 of the Code and (y) any such Subsidiary that is owned (directly or indirectly, in whole or in part) by one or more Subsidiaries that are “controlled foreign corporations” within the meaning of Section 957 of the Code.

“ **Earn-Out** ” means any bona fide contingent obligation to make “earn-out” payments to one or more prior owners of any Person, business or division, the capital stock of which, or all or substantially all of the assets of which, have been acquired by the Borrower or any of its Subsidiaries, which “earn-out” payment obligation is contingent upon, or varies in amount based upon, the performance of the Person or of the assets so acquired, as such performance is measured by one or more financial, business or other performance criteria.

“ **Effective Date** ” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

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“ **Environmental Laws** ” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the generation, use, handling, transportation, storage, treatment, disposal, management, release or threatened release of any Hazardous Material or to health and safety matters.

“ **Environmental Liability** ” means any liability, contingent or otherwise (including any liability for damages, costs of investigation, reclamation or remediation, fines, penalties or indemnities), of the Borrower or any Subsidiary directly or indirectly resulting from or based upon (a) any Environmental Law, including compliance or noncompliance therewith, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the presence, release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“ **Equity Interests** ” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest; *provided* that Equity Interests shall not include any debt securities that are convertible into or exchangeable for any combination of Equity Interests and/or cash.

“ **ERISA** ” means the U.S. Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

“ **ERISA Affiliate** ” means any person that for purposes of Title I or Title IV of ERISA or Section 412 of the Code would be deemed at any relevant time to be a single employer or otherwise aggregated with the Borrower or a Subsidiary under Section 414(b), (c), (m) or (o) of the Code or Section 4001 of ERISA.

“ **ERISA Event** ” means any one or more of the following: (a) any reportable event, as defined in Section 4043 of ERISA, with respect to a Plan, as to which the PBGC has not waived under subsection .22, .23, .25, .26, .27, .28, .29, .30, .31, .32, .34 or .35 of PBGC Regulation Section 4043 the requirement of Section 4043(a) of ERISA that it be notified of such event; (b) the termination of any Plan under Section 4041(c) of ERISA; (c) the institution of proceedings by the PBGC under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan; (d) the failure to make a required contribution to any Plan that would result in the imposition of a lien or other encumbrance or the provision of security under Section 430 of the Code or Section 303 or 4068 of ERISA, or the arising of such a lien or encumbrance; (e) the failure to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA, whether or not waived; or a determination that any Plan is, or is expected to be, considered an at-risk plan within the meaning of Section 430 of the Code or Section 303 of ERISA; (f) engaging in a non-exempt prohibited transaction within the meaning of Section 4975 of the Code or Section 406 of ERISA with respect to a Plan; (g) the complete or partial withdrawal of any Borrower, Subsidiary or any ERISA Affiliate from a Multiemployer

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Plan which results in the imposition of Withdrawal Liability or the reorganization or insolvency under Title IV of ERISA of any Multiemployer Plan or (h) a determination that any Multiemployer Plan is in endangered or critical status under Section 432 of the Code or Section 305 of ERISA.

“**Eurodollar**”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

“**Event of Default**” has the meaning set forth in [Article 7](#).

“**Excluded Swap Obligation**” with respect to any Guarantor, (a) any Swap Obligation if, and to the extent that, and only for so long as, all or a portion of the guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, as applicable, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor’s failure to constitute an “eligible contract participant,” as defined in the Commodity Exchange Act and the regulations thereunder, at the time the guarantee of (or grant of such security interest by, as applicable) such Guarantor becomes or would become effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one Swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to Swaps for which such guarantee or security interest is or becomes illegal.

“**Excluded Taxes**” means, with respect to the Administrative Agent, any Issuing Bank, any Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) Taxes imposed on (or measured by) its net income (however denominated), franchise Taxes, and branch profits Taxes, in each case (i) imposed by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located or (ii) that otherwise are Other Connection Taxes, (b) in the case of a Lender, any U.S. federal withholding Tax that is imposed on amounts payable to such Lender at the time such Lender becomes a party to this Agreement (other than pursuant to an assignment request by Borrower under [Section 2.16\(b\)](#)) or designates a new lending office, except to the extent that such Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office or assignment, to receive additional amounts from the Borrower with respect to such withholding tax pursuant to [Section 2.14\(a\)](#), (c) Taxes attributable to such recipient’s failure to comply with [Section 2.14\(f\)](#) and (d) any U.S. federal withholding Taxes imposed under FATCA.

“**Executive Order**” has the meaning set forth in [Section 3.15\(a\)](#).

“**FATCA**” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code or any published intergovernmental agreement and any fiscal or regulatory legislation, rules or official practices adopted pursuant to any published intergovernmental agreement entered into in connection with the implementation of such Sections of the Code.

“ **Federal Funds Effective Rate** ” means for any day, the rate *per annum* equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; *provided* that (i) if such day is not a Business Day, the Federal Funds Effective Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Effective Rate for such day shall be the average rate charged to the Administrative Agent on such day on such transactions as determined by the Administrative Agent; *provided further* that if the Federal Funds Effective Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“ **Financial Officer** ” means the chief financial officer, principal accounting officer, vice president of finance or corporate controller of the Borrower.

“ **Foreign Lender** ” means any Lender that is organized under the laws of a jurisdiction other than that in which the Borrower is located. For purposes of this definition, the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“ **Fronting Exposure** ” means, at any time there is a Defaulting Lender, with respect to any Issuing Bank, such Defaulting Lender’s Applicable Percentage of the outstanding Obligations with respect to Letters of Credit issued by such Issuing Bank other than such Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

“ **GAAP** ” means generally accepted accounting principles in the United States of America.

“ **Governmental Authority** ” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“ **Guarantee** ” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness of any other Person (the “ **primary obligor** ”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness of the payment thereof, (c) to maintain working capital,

equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness; *provided*, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business, or customary indemnification obligations entered into in connection with any acquisition or disposition of assets or of other entities (other than to the extent that the primary obligations that are the subject of such indemnification obligation would be considered Indebtedness hereunder).

“**Guarantor**” means any Material Domestic Subsidiary of the Borrower that has delivered a Guaranty or a joinder agreement to a Guaranty pursuant to Section 5.10 hereof.

“**Guaranty**” has the meaning set forth in Section 5.10.

“**Hazardous Materials**” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“**Impacted Interest Period**” has the meaning set forth in the definition of “LIBO Rate”.

“**Increased Amount Date**” has the meaning set forth in Section 2.18.

“**Indebtedness**” of any Person at any date means, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services (other than current trade payables incurred in the ordinary course of such Person’s business), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all Capital Lease Obligations of such Person, (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under or in respect of bankers’ acceptances, letters of credit, surety bonds or similar arrangements, (g) all Guarantees of such Person in respect of obligations of the kind referred to in clauses (a) through (f) above, and (h) all obligations of the kind referred to in clauses (a) through (g) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on property (including accounts and contract rights) owned or acquired by such Person, whether or not such Person has assumed or become liable for the payment of such obligation. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness expressly provide that such Person is not liable therefor.

“ **Indemnified Taxes** ” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

“ **Indemnitee** ” has the meaning set forth in [Section 9.03\(b\)](#).

“ **Information** ” has the meaning set forth in [Section 9.12\(a\)](#).

“ **Intellectual Property** ” has the meaning set forth in the Security Agreement, as in effect on the Effective Date.

“ **Interest Election Request** ” has the meaning set forth in [Section 2.05\(b\)](#).

“ **Interest Payment Date** ” means (a) with respect to any ABR Loan, the last day of each March, June, September and December and (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurodollar Borrowing with an Interest Period of more than three months’ duration, each day prior to the last day of such Interest Period that occurs at intervals of three months’ duration after the first day of such Interest Period.

“ **Interest Period** ” means, with respect to any Eurodollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months (or, with the consent of each Lender, twelve months) thereafter, as the Borrower may elect; *provided*, that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period pertaining to a Eurodollar Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“ **Interest Rate Determination Date** ” means, with respect to any Interest Period, the date that is two Business Days prior to the first day of such Interest Period.

“ **Interpolated Rate** ” means, at any time, the rate *per annum* (rounded to the same number of decimal places as the Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the Screen Rate (for the longest period for which that Screen Rate is available in dollars) that is shorter than the Impacted Interest Period and (b) the Screen Rate (for the shortest period for which that Screen Rate is available for dollars) that exceeds the Impacted Interest Period, in each case, at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period. When determining the rate for a period which is less than the shortest period for which the Screen Rate is available, the Screen Rate for purposes of clause (a) above shall be deemed to be the overnight rate for dollars determined by the Administrative Agent from such service as the Administrative Agent may select.

“**IPO**” means a bona fide underwritten sale to the public of common stock of the Borrower pursuant to a registration statement (other than on Form S-8 or any other form relating to securities issuable under any benefit plan of the Borrower or any of its Subsidiaries, as the case may be) that is declared effective by the Securities and Exchange Commission.

“**IRS**” means the U.S. Internal Revenue Service.

“**Issuing Bank**” means, with respect to a particular Letter of Credit, (a) JPMorgan Chase Bank, N.A. in its capacity as the issuer of such Letter of Credit, and its successors in such capacity as provided in Section 2.19(j), (b) Goldman Sachs Lending Partners LLC in its capacity as the issuer of such Letter of Credit, and its successors in such capacity as provided in Section 2.19(j), (c) such other Lender selected by the Borrower from time to time to issue such Letter of Credit hereunder upon receipt by the Administrative Agent of documentation in form and substance satisfactory to the Administrative Agent pursuant to which such Lender agrees to assume the rights and obligations of an Issuing Bank hereunder ( provided that no Lender shall be required to become an Issuing Bank pursuant to this subclause (c) without such Lender’s consent), or any successor in such capacity as provided in Section 2.19(j), or (d) any Lender selected by the Borrower (with the prior consent of the Administrative Agent) to replace a Lender who is a Defaulting Lender at the time of such Lender’s appointment as an Issuing Bank ( provided that no Lender shall be required to become an Issuing Bank pursuant to this subclause (d) without such Lender’s consent), or any successor in such capacity as provided in Section 2.19(j). Any Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates or branches of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate or branch.

“**Joinder Agreement**” means a joinder agreement in form and substance reasonably satisfactory to the Administrative Agent.

“**LC Disbursement**” means a payment made by an Issuing Bank pursuant to a Letter of Credit.

“**LC Exposure**” means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time plus (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

“**LC Sublimit**” means the lesser of (a) \$50,000,000 and (b) the aggregate unused amount of the Commitments then in effect; *provided* that (i) JPMorgan Chase Bank, N.A. in its capacity as an Issuing Bank shall not be required to issue Letters of Credit in an aggregate amount outstanding at any time in excess of \$25,000,000 and (ii) Goldman Sachs Lending Partners LLC in its capacity as an Issuing Bank shall not be required to issue Letters of Credit in an aggregate amount outstanding at any time in excess of \$25,000,000.

“ **Lenders** ” means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term “Lenders” includes the Issuing Banks.

“ **Letter of Credit** ” means any letter of credit issued pursuant to this Agreement.

“ **Letter of Credit Request** ” means a request by the Borrower for a Letter of Credit in accordance with Section 2.19.

“ **LIBO Rate** ” means, with respect to any Eurodollar Borrowing for any Interest Period, a rate *per annum* equal to the London interbank offered rate as administered by the ICE Benchmark Administration (or any other Person that takes over the administration of such rate) appearing on Reuters Screen LIBOR01 Page (or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, as determined by the Administrative Agent from time to time for purposes of providing quotations of interest rates applicable to dollar deposits in the London interbank market) at approximately 11:00 a.m., London time, on the Interest Rate Determination Date for such Interest Period, as the rate for dollar deposits with a maturity comparable to such Interest Period (the “ **Screen Rate** ”); *provided* that if the Screen Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement; *provided, further*, that in the event the Screen Rate shall not be available at such time for dollar deposits with a maturity comparable to such Interest Period (an “ **Impacted Interest Period** ”), the LIBO Rate shall be the Interpolated Rate at such time ( *provided* that if the Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement).

“ **Lien** ” means, with respect to any asset or right, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset or right, and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset or right.

“ **Loan Documents** ” means this Agreement (including any amendment hereto or waiver hereunder), the Notes (if any), any Joinder Agreement, any Guaranty, any instrument of joinder to any Guaranty delivered pursuant to Section 5.10 hereof, the Security Documents, the Agent Fee Letter and any other agreement, instrument or document executed after the Effective Date and designated by its terms as a Loan Document.

“ **Loan Parties** ” means the Borrower and the Guarantors.

“ **Loans** ” means the loans made by the Lenders to the Borrower pursuant to this Agreement.

“ **Material Adverse Effect** ” means a material adverse effect on (a) the business, property, financial condition or results of operations of the Borrower and Subsidiaries taken as a whole or (b) the rights of or remedies available to the Agents and the Lenders under this Agreement, any Guaranty or any Security Document.

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“ **Material Domestic Subsidiary** ” means a Domestic Subsidiary that is a Material Subsidiary.

“ **Material Indebtedness** ” means Indebtedness (other than any Indebtedness under the Loan Documents and Letters of Credit hereunder), or obligations in respect of one or more Swap Agreements, of any one or more of the Borrower and its Subsidiaries in a principal amount exceeding \$65,000,000. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Borrower or any Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Borrower or such Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

“ **Material Subsidiary** ” means, at any date of determination, a Subsidiary of the Borrower (a) whose total assets as of the most recent available quarterly or year-end financial statements were equal to or greater than 5% of the total assets of the Borrower and its Subsidiaries at such date ( *provided* that, solely for purposes of determining if Caviar, Inc. shall constitute a Material Subsidiary under this clause (a), the goodwill of Caviar, Inc. shall not be considered an asset), (b) whose gross revenues as of the most recent available quarterly or year-end financial statements were equal to or greater than 5% of the consolidated gross revenues of the Borrower and its Subsidiaries for such period, in each case determined in accordance with GAAP or (c) who, as of the date of the most recently available financial statements delivered pursuant to Section 5.01(a) or (b), as the case may be, has owned and as of such date continues to own title to or an exclusive license (that conveys substantially all economic rights) to use any reasonably identifiable material Intellectual Property (as determined in the reasonable good faith judgment of the Borrower) for longer than 60 days. For the avoidance of doubt, having a license or right to use Intellectual Property does not constitute ownership.

“ **Maturity Date** ” means November 2, 2020.

“ **Maximum Rate** ” has the meaning set forth in Section 9.13 .

“ **Measurement Period** ” means, at any date of determination, the most recently completed four consecutive fiscal quarters of the Borrower ended on such date.

“ **Minimum Collateral Amount** ” means, at any time, (i) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 103% of the Fronting Exposure of an Issuing Bank with respect to Letters of Credit issued and outstanding at such time and (ii) otherwise, an amount determined by the Administrative Agent and the applicable Issuing Bank in their sole discretion.

“ **Multiemployer Plan** ” means any multiemployer plan as defined in Section 4001(a)(3) of ERISA, which is contributed to by (or to which there is or could be an obligation to contribute of) the Borrower or a Subsidiary or an ERISA Affiliate, and each such plan for the five- year period immediately following the latest date on which the Borrower, or a Subsidiary or an ERISA Affiliate contributed to or had an obligation to contribute to such plan.

“ **New Commitments** ” has the meaning set forth in Section 2.18 .

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“ **New Lender** ” has the meaning set forth in Section 2.18.

“ **New Loans** ” has the meaning set forth in Section 2.18.

“ **Non-Consenting Lender** ” means any Lender that does not approve any consent, waiver or amendment that (i) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 9.02 and (ii) has been approved by the Required Lenders.

“ **Non-Defaulting Lender** ” means, at any time, each Lender that is not a Defaulting Lender at such time.

“ **Non-U.S. Plan** ” means any plan, fund (including, without limitation, any superannuation fund) or other similar program established, contributed to (regardless of whether through direct contributions or through employee withholding) or maintained outside the United States by the Borrower or one or more Subsidiaries primarily for the benefit of employees of the Borrower or such Subsidiaries residing outside the United States, which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment, and which plan is not subject to ERISA or the Code.

“ **Note** ” has the meaning set forth in Section 2.07.

“ **Obligations** ” means all amounts owing by any Loan Party to the Administrative Agent, any Issuing Bank or any Lender (or, in the case of Specified Swap Agreements and Specified Cash Management Agreements, any affiliate of any Lender) pursuant to the terms of this Agreement or any other Loan Document, including any obligation to provide Cash Collateral, or in respect of any Letter of Credit, any Specified Swap Agreement or any Specified Cash Management Agreement (including all interest which accrues after the commencement of any case or proceeding in bankruptcy after the insolvency of, or for the reorganization of the Borrower or any of its Subsidiaries, whether or not allowed in such case or proceeding).

“ **Operating Cash Flow** ” means, for any period, the net cash provided by operating activities (or any equivalent line item) as set forth in the consolidated statement of cash flows of the Borrower for such period prepared in accordance with GAAP.

“ **Other Connection Taxes** ” means, with respect to the Administrative Agent, any Issuing Bank, any Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, Taxes imposed as a result of a present or former connection between such Administrative Agent, Issuing Bank, Lender or other recipient and the jurisdiction imposing such Tax (other than connections arising solely from such Administrative Agent, Issuing Bank, Lender or recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan, Letter of Credit or Loan Document).

“ **Other Taxes** ” means any and all present or future stamp, court or documentary taxes or any other excise, property, intangible, recording, filing or similar Taxes which arise from any payment made, from the execution, delivery, performance, enforcement or registration of, from

the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement and the other Loan Documents; excluding, however, such taxes that are Other Connection Taxes imposed with respect to an assignment (other than such taxes imposed with respect to an assignment that occurs as a result of the Borrower's request pursuant to Section 2.16(b)).

“ **Participant** ” has the meaning set forth in Section 9.04(c)(i).

“ **Participant Register** ” has the meaning set forth in Section 9.04(c)(iii).

“ **Payment Processing Accounts** ” means all payment processing platform deposit accounts, including reserve accounts, holding funds in connection with Payment Processing Arrangements.

“ **Payment Processing Arrangements** ” means all agreements and arrangements for the processing of merchant transactions in the ordinary course of business, including the Paymentech Agreement.

“ **Paymentech Agreement** ” means the Submitter Payment Instrument Processing Agreement, dated as of January 27, 2010, as amended from time to time.

“ **PBGC** ” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“ **Pension Plan** ” means any “employee pension benefit plan” within the meaning of Section 3(2) of ERISA, other than a Multiemployer Plan, that is subject to Title IV of ERISA, Section 412 of the Code or Section 302 of ERISA and is maintained in whole or in part by the Borrower, any Subsidiary or any ERISA Affiliate or with respect to which any of the Borrower, any Subsidiary or any ERISA Affiliate has actual or contingent liability.

“ **Permitted Encumbrances** ” means:

(a) Liens imposed by law for taxes, assessments or governmental charges or levies that are not yet delinquent or are being contested in compliance with Section 5.04;

(b) carriers', warehousemen's, mechanics', materialmen's, landlord's, supplier's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 60 days or are being contested in compliance with Section 5.04;

(c) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;

(d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case incurred in the ordinary course of business;

(e) judgment liens in respect of judgments that do not constitute an Event of Default under clause (k) of Article 7;

(f) easements, zoning restrictions, rights-of-way, encroachments and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower or any Subsidiary; and

(g) Uniform Commercial Code financing statements filed (or similar filings under applicable law) solely as a precautionary measure in connection with operating leases.

“ **Person** ” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“ **Plan** ” means any “employee benefit plan” as defined in Section 3 of ERISA (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA maintained or contributed to by the Borrower, a Subsidiary or any ERISA Affiliate or to which the Borrower, a Subsidiary or an ERISA Affiliate has or could have an obligation to contribute, and each such plan subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA for the five-year period immediately following the latest date on which the Borrower, a Subsidiary or an ERISA Affiliate maintained, contributed to or had an obligation to contribute to (or is deemed under Section 4069 of ERISA to have maintained or contributed to or to have had an obligation to contribute to, or otherwise to have liability with respect to) such plan.

“ **Platform** ” has the meaning set forth in Section 9.01.

“ **Prime Rate** ” means the rate of interest *per annum* publicly announced from time to time by JPMorgan Chase Bank, N.A. as its prime rate in effect at its principal office in New York City (the Prime Rate not being intended to be the lowest rate of interest charged by JPMorgan Chase Bank, N.A. in connection with extensions of credit to debtors).

“ **Principal Office** ” means the office of the Administrative Agent as set forth in Section 9.01, or such other office or office of a third party or sub-agent, as appropriate, as the Administrative Agent may from time to time designate in writing to Borrower and each Lender.

“ **Purchase Money Indebtedness** ” means Indebtedness incurred to finance the acquisition, construction or improvement of any fixed or capital asset to the extent incurred prior to or within 180 days following such acquisition, construction or improvement.

“ **Qualifying Capital Raise** ” means the Borrower raising at least an aggregate of \$300,000,000 of gross proceeds from any combination of an IPO, follow-on public equity offering or registered or Rule 144A convertible securities offering; *provided* that at least \$200,000,000 of such proceeds shall be gross primary proceeds from an IPO and any follow-on public equity offering.

“ **Register** ” has the meaning set forth in Section 9.04(b).

“ **Related Parties** ” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person’s Affiliates.

“ **Required Lenders** ” means, at any time, Lenders having Revolving Credit Exposures and unused Commitments representing more than 50% of the sum of the total Revolving Credit Exposures and unused Commitments at such time, or, if the Commitments shall have been terminated, holding more than 50% of the total Revolving Credit Exposures at such time. The Revolving Credit Exposure and Commitment of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“ **Responsible Officer** ” means any of the President and Chief Executive Officer, Senior Vice President and Chief Financial Officer of the applicable Loan Party, or any person designated by any such Loan Party in writing to the Administrative Agent from time to time, acting singly.

“ **Restricted Payment** ” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in the Borrower. For the avoidance of doubt, the receipt or acceptance by the Borrower or any Subsidiary of the return of Equity Interests issued by the Borrower or any Subsidiary to the seller of a Person, business or division as consideration for the purchase of such Person, business or division, which return is in settlement of indemnification claims owed by such seller in connection with such acquisition, shall not be deemed to be a Restricted Payment.

“ **Revolving Credit Exposure** ” means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender’s Loans and its LC Exposure at such time.

“ **Sanctioned Country** ” means, at any time, a country, region or territory which is the subject or target of any Sanctions.

“ **Sanctioned Person** ” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, the United Nations Security Council, the European Union, any EU member state, Her Majesty’s Treasury of the United Kingdom or any other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons.

“ **Sanctions** ” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, Her Majesty’s Treasury of the United Kingdom or any other relevant sanctions authority.

“ **Screen Rate** ” has the meaning set forth in the definition of “LIBO Rate”.

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“**Security Agreement**” means the Security Agreement to be executed and delivered by the Borrower and the Guarantors, substantially in the form of Exhibit G.

“**Security Documents**” means the collective reference to the Security Agreement and all other security documents hereafter delivered to the Administrative Agent granting or perfecting a Lien on any property or right of any person to secure the obligations and liabilities of any Loan Party under any Loan Document.

“**Security Release Date**” has the meaning set forth in Section 9.17(c).

“**Solvent**” means, with respect to the Borrower and its Subsidiaries on a particular date, that on such date (a) the fair value of the present assets of the Borrower and its Subsidiaries, taken as a whole, is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of the Borrower and its Subsidiaries, taken as a whole, (b) the present fair saleable value of the assets of the Borrower and its Subsidiaries, taken as a whole, is not less than the amount that will be required to pay the probable liability of the Borrower and its Subsidiaries, taken as a whole, on their debts as they become absolute and matured, (c) the Borrower and its Subsidiaries, taken as a whole, do not intend to, and do not believe that they will, incur debts or liabilities (including current obligations and contingent liabilities) beyond their ability to pay such debts and liabilities as they mature in the ordinary course of business and (d) the Borrower and its Subsidiaries, taken as a whole, are not engaged in business or a transaction, and are not about to engage in business or a transaction, in relation to which their property would constitute an unreasonably small capital. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5 (ASC 450)).

“**Specified Cash Management Agreement**” means any agreement providing for treasury, depositary, purchasing card or cash management services, including in connection with any automated clearing house transfers of funds or any similar transactions between the Borrower or any Guarantor and any Lender or affiliate thereof, which is in effect as of the Effective Date or which has been designated by such Lender and the Borrower, by notice to the Administrative Agent not later than 90 days after the execution and delivery by the Borrower or such Guarantor, as a “Specified Cash Management Agreement”; *provided* that Payment Processing Arrangements shall not constitute Specified Cash Management Agreements.

“**Specified Indebtedness**” means (i) indebtedness for borrowed money (including, for the avoidance of doubt, outstanding Loans), (ii) obligations for the deferred purchase price of property or services (other than current trade payables incurred in the ordinary course of business and excluding Earn-Outs), (iii) obligations evidenced by notes, bonds, debentures and similar instruments, (iv) all obligations, contingent or otherwise, as an account party or applicant under or in respect of bankers acceptances or letters of credit, (v) Capital Lease Obligations, (vi) Purchase Money Indebtedness and (vii) Guarantees of indebtedness of the type referred to in clauses (i) through (vi); provided, that Specified Indebtedness shall exclude (a) indebtedness among the Borrower and its Subsidiaries and (b) indebtedness consisting of overdrafts and similar obligations in connection with Payment Processing Arrangements so long as any such indebtedness described in this clause (b) is outstanding no longer than two Business Days after the date of its incurrence.

“**Specified Swap Agreement**” means any Swap Agreement in respect of interest rates or currency exchange rates entered into by the Borrower or any Guarantor and any Person that is a Lender or an Affiliate of a Lender at the time such Swap Agreement is entered into; *provided* that such Swap Agreement is entered into to hedge or mitigate risks, and not for speculative purposes, in the ordinary course of the Borrower or such Guarantor’s business or in order to effectively cap, collar or exchange interest rates (from floating to fixed rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Borrower or such Guarantor.

“**Subsidiary**” means any subsidiary of the Borrower.

“**subsidiary**” means, with respect to any Person (the “**parent**”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent and which is required by GAAP to be consolidated in the consolidated financial statements of the parent.

“**Swap Agreement**” means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; *provided* that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or the Subsidiaries shall be a Swap Agreement.

“**Syndication Agent**” means Goldman Sachs Lending Partners LLC, in its capacity as syndication agent, and any successor thereto.

“**Taxes**” means any and all present or future taxes, levies, imposts, duties, deductions, charges, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“**Total Assets**” means the total assets of the Borrower and its Subsidiaries on a consolidated basis, as shown on the most recent balance sheet of the Borrower delivered pursuant to Section 5.01(a) or (b).

“**Total Indebtedness**” means the aggregate principal amount of Specified Indebtedness of the Borrower and its Subsidiaries, as determined on a consolidated basis.

“**Total Leverage Ratio**” means, as of the last day of any period, the ratio of (a) Total Indebtedness to (b) Consolidated Adjusted EBITDA for such period.

“**Transactions**” means the execution, delivery and performance by the Loan Parties of each Loan Document to which it is a party, the borrowing of Loans and the issuance of Letters of Credit hereunder.

“**Type**”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

“**Unfunded Pension Liability**” means the excess of a Pension Plan’s benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan’s assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

“**USA Patriot Act**” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)), as amended from time to time.

“**U.S. Person**” means any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Code.

“**Withdrawal Liability**” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

“**Withholding Agent**” means any Loan Party and the Administrative Agent.

Section 1.02 Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Type (e.g., a “Eurodollar Loan”). Borrowings also may be classified and referred to by Type (e.g., a “Eurodollar Borrowing”).

Section 1.03 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, amended and restated, supplemented or otherwise modified (subject to any restrictions on such amendments, amendments and restatements, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein,” “hereof” and “hereunder,” and words of similar import, shall be construed to

refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (f) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time.

Section 1.04 Accounting Terms: GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; *provided* that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Effective Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding the foregoing, all financial covenants contained herein shall be calculated (1) without giving effect to any election under the Statement of Financial Accounting Standards No. 159 (ASC 825) (or any similar accounting principle) permitting or requiring a Person to value its financial liabilities or Indebtedness at the fair value thereof and (2) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

## **ARTICLE 2 THE CREDITS**

Section 2.01 Commitments. Subject to the terms and conditions set forth herein, each Lender severally agrees to make Loans in dollars to the Borrower from time to time during the Availability Period in an aggregate principal amount that will not result in (a) such Lender’s Revolving Credit Exposure exceeding such Lender’s Commitment or (b) the sum of the total Revolving Credit Exposures exceeding the total Commitments. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Loans.

Section 2.02 Loans and Borrowings. (a) Each Loan shall be made as part of a Borrowing consisting of Loans made by the Lenders in accordance with their respective Applicable Percentages. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; *provided* that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender’s failure to make Loans as required.

(b) Subject to Section 2.11, each Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; *provided* that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurodollar Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000; *provided* that an ABR Borrowing may be in an aggregate amount that is equal to the entire unused balance of the total Commitments or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.19(e). Borrowings of more than one Type may be outstanding at the same time; *provided* that there shall not at any time be more than a total of ten Eurodollar Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

Section 2.03 Requests for Borrowings. To request a Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone or telecopy (a) in the case of a Eurodollar Borrowing, not later than 12:00 noon, New York City time, three Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, not later than 12:00 noon, New York City time, one Business Day prior to the date of the proposed Borrowing; *provided* that any such notice of an ABR Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.19(e) may be given not later than 10:00 a.m. New York City time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be confirmed promptly by delivery to the Administrative Agent of a written Borrowing Request in substantially the form of Exhibit B-1 attached hereto and signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) the aggregate amount of the requested Borrowing;
- (ii) the date of such Borrowing, which shall be a Business Day;
- (iii) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;
- (iv) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and

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(v) the location and number of the account or accounts to which funds are to be disbursed, which shall comply with the requirements of Section 2.04.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing. Except as otherwise provided herein, a Borrowing Notice for a Eurodollar Borrowing shall be irrevocable on and after the related Interest Rate Determination Date, and the Borrower shall be bound to make a borrowing in accordance therewith. As soon as practicable after 10:00 a.m., New York City time, on each Interest Rate Determination Date, Administrative Agent shall determine (which determination shall, absent manifest error, be final, conclusive and binding upon all parties) the interest rate that shall apply to the Eurodollar Borrowing for which an interest rate is then being determined for the applicable Interest Period and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to the Borrower and each Lender.

Section 2.04 Funding of Borrowings. (a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 12:00 noon, New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account or accounts designated by the Borrower in the applicable Borrowing Request; *provided* that ABR Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.19(e) shall be remitted by the Administrative Agent to the applicable Issuing Bank.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's Applicable Percentage of such Borrowing, the Administrative Agent may assume that such Lender has made such Applicable Percentage available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its Applicable Percentage of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

Section 2.05 Interest Elections. (a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated among the Lenders holding the Loans comprising such Borrowing in accordance with their respective Applicable Percentages, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic request shall be irrevocable and shall be confirmed promptly by hand delivery or telecopy to the Administrative Agent of a written request (an “**Interest Election Request**”) in substantially the form of Exhibit C attached hereto and signed by the Borrower.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term “**Interest Period**.”

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month’s duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender’s portion of each resulting Borrowing. Except as otherwise provided herein, an Interest Election Request for conversion to, or continuation of, any Eurodollar Borrowing shall be irrevocable on and after the related Interest Rate Determination Date, and the Borrower shall be bound to effect a conversion or continuation in accordance therewith.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be continued as a Eurodollar Borrowing with an Interest Period of one month's duration. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing, (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Section 2.06 Termination and Reduction of Commitments. (a) Unless previously terminated, the Commitments shall terminate on the Maturity Date.

(b) The Borrower may at any time terminate, or from time to time reduce, the Commitments; *provided* that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 and (ii) the Borrower shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.08, the sum of the Revolving Credit Exposures would exceed the total Commitments.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; *provided* that a notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities or another transaction, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be applied to the Lenders in accordance with their respective Applicable Percentages.

Section 2.07 Repayment of Loans; Evidence of Debt. (a) The Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Loan on the Maturity Date.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be *prima facie* evidence of the existence and amounts of the obligations recorded therein (absent manifest error); *provided* that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note (each such promissory note being called a “ **Note** ” and all such promissory notes being collectively called the “ **Notes** ”). In such event, the Borrower shall prepare, execute and deliver to such Lender a Note payable to the order of such Lender (or, if requested by such Lender, to such Lender and its registered assigns) in substantially the form of Exhibit D attached hereto. Thereafter, the Loans evidenced by such Note and interest thereon shall at all times (including after assignment pursuant to Section 9.04.) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

**Section 2.08 Prepayment of Loans.** (a) The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, without premium or penalty (subject to the requirements of Section 2.13), subject to prior notice in accordance with paragraph (b) of this Section.

(b) The Borrower shall notify the Administrative Agent by telephone (confirmed by telecopy or delivery of written notice) or telecopy of any prepayment hereunder (i) in the case of prepayment of a Eurodollar Borrowing, not later than 12:00 noon, New York City time, three Business Days before the date of prepayment or (ii) in the case of prepayment of an ABR Borrowing, not later than 12:00 noon, New York City time, one Business Day before the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; *provided* that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.06, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.06. Promptly following receipt of any such notice relating to a Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Borrowing shall be applied ratably to the Loans of the Lenders in accordance with their respective Applicable Percentages. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.10 and any costs incurred as contemplated by Section 2.13.

(c) The Borrower shall from time to time prepay the Loans to the extent necessary so that the aggregate principal amount of all outstanding Loans shall not at any time exceed the Commitments then in effect.

**Section 2.09 Fees.** (a) The Borrower agrees to pay to the Administrative Agent for the account of each Lender (other than any Defaulting Lender) a commitment fee (the “ **Commitment Fee** ”), which shall accrue at the relevant percentage set forth in the row entitled

“Commitment Fee” in the definition of “Applicable Rate” on the average daily amount of the unused Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which such Commitment terminates. Accrued commitment fees shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Commitments terminate, commencing on December 31, 2015; *provided* that any commitment fees accruing after the date on which the Commitments terminate shall be payable on demand. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Borrower agrees to pay (i) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Eurodollar Loans on the average daily amount of such Lender’s LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender’s Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to the applicable Issuing Bank a fronting fee, which shall accrue at the rate or rates *per annum* separately agreed upon between the Borrower and such Issuing Bank on the average daily amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any LC Exposure, as well as such Issuing Bank’s standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Accrued participation fees and fronting fees shall be payable on the last day of March, June, September and December of each year, commencing on the first such date to occur after the Effective Date; *provided* that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to any Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(c) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent in the Agent Fee Letter.

(d) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to the applicable Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Lenders. Fees paid shall not be refundable under any circumstances.

Section 2.10 Interest. (a) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate *plus* the Applicable Rate.

(b) The Loans comprising each Eurodollar Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing *plus* the Applicable Rate.

(c) Notwithstanding the foregoing, at all times when an Event of Default listed in paragraph (a) or (b) of Article 7 has occurred hereunder and is continuing, all overdue amounts outstanding hereunder shall bear interest, after as well as before judgment, at a rate *per annum* equal to (i) in the case of overdue principal of any Loan, 2% *plus* the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other overdue amount, 2% *plus* the rate applicable to ABR Loans as provided in paragraph (a) of this Section.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and upon termination of the Commitments; *provided* that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Adjusted LIBO Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

Section 2.11 Alternate Rate of Interest. If prior to the commencement of any Interest Period for a Eurodollar Borrowing:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period; or

(b) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or telecopy as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective, and (ii) if any Borrowing Request requests a Eurodollar Borrowing, such Borrowing shall be made as an ABR Borrowing.

Section 2.12 Increased Costs. (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate) or any Issuing Bank;

(ii) subject the Administrative Agent, any Issuing Bank or any Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes, but excluding any capital or other non-income taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or Issuing Bank or the London interbank market any other condition, cost or expense (other than Indemnified Taxes and Excluded Taxes) affecting this Agreement or Eurodollar Loans made by such Lender or any Letter of Credit or participation therein; and the result of any of the foregoing shall be to increase the cost to such Lender or Issuing Bank of making, continuing, converting to or maintaining any Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender or Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender or Issuing Bank hereunder (whether of principal, interest or otherwise), then the Borrower will pay to such Lender or Issuing Bank such additional amount or amounts as will compensate such Lender or Issuing Bank for such additional costs incurred or reduction suffered.

(b) If any Lender or Issuing Bank determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement, the Commitments hereunder or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or Issuing Bank's policies and the policies of such Lender's or Issuing Bank's holding company with respect to capital adequacy or liquidity), then from time to time the Borrower will pay to such Lender or Issuing Bank such additional amount or amounts as will compensate such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or Issuing Bank setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender or Issuing Bank the amount shown as due on any such certificate within 10 days after receipt thereof.

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(d) Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; *provided* that the Borrower shall not be required to compensate a Lender or Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender or Issuing Bank notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefore; *provided further* that, if the Change in Law giving rise to such increased costs or reductions is retroactive (or has retroactive effect), then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.13 Break Funding Payments. In the event of (a) the payment or prepayment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.08(b) and is revoked in accordance therewith), or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.16, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurodollar Loan, such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the eurodollar market. A certificate of any Lender setting forth in reasonable detail any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

Section 2.14 Taxes. (a) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made free and clear of and without deduction or withholding for any Taxes, except as required by law. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall make such deduction or withholding and timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower shall be increased

as necessary so that after making such deduction or withholding for Indemnified Taxes (including such deductions and withholdings for Indemnified Taxes applicable to additional sums payable under this Section) the Administrative Agent, Issuing Bank or Lender (as the case may be) receives an amount equal to the sum it would have received had no such deduction or withholding for Indemnified Taxes been made.

(b) In addition, the Loan Parties shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) The Loan Parties shall jointly and severally indemnify the Administrative Agent, each Issuing Bank and each Lender, within 10 days after demand therefore, for the full amount of any Indemnified Taxes paid by the Administrative Agent, such Issuing Bank or such Lender, as the case may be, or required to be withheld or deducted from any payment to such recipient by or on account of any obligation of the Borrower hereunder (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by an Issuing Bank or a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of an Issuing Bank or a Lender, shall be conclusive absent manifest error.

(d) Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Loan Parties have not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04 relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (d).

(e) As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) Any Foreign Lender, if it is legally entitled to do so, shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be required by law or requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter as required by law or upon the reasonable request of the Borrower or the Administrative Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

(i) executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, claiming eligibility for benefits of an income tax treaty to which the United States of America is a party;

(ii) executed originals of IRS Form W-8ECI;

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate to the effect that such Foreign Lender is not (A) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (B) a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code and (y) executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable;

(iv) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a portfolio interest certificate in compliance with Section 2.14(f)(iii), IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; *provided* that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a certificate in compliance with Section 2.14(f)(iii) on behalf of such direct or indirect partner or partners; or

(v) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction required to be made unless, in the Foreign Lender’s reasonable determination, such completion would subject such Foreign Lender to any material cost or expense or would materially prejudice the legal or commercial position of such Foreign Lender.

In addition, any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter as required by law or upon the reasonable request of the Borrower or the Administrative Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding. In addition, each Lender shall deliver such forms (including those forms required pursuant to Section 2.14(g)) promptly upon the obsolescence or invalidity of any form previously delivered by such Lender or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(g) If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender failed to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the

Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such other documentation reasonably requested by the Borrower and the Administrative Agent sufficient for the Administrative Agent and the Borrower to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 2.14(g), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(h) If any Lender, any Issuing Bank or the Administrative Agent determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Loan Party pursuant to this Section (including by the payment of additional amounts pursuant to this Section), it shall pay to the applicable Loan Party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); *provided, however*, that (w) any Lender, any Issuing Bank or the Administrative Agent may determine, in its sole discretion exercised in good faith consistent with the policies of such Lender, such Issuing Bank or the Administrative Agent, whether to seek a refund for any Taxes; (x) any Taxes that are incurred by a Lender, a Issuing Bank or the Administrative Agent as a result of a disallowance or reduction of any Tax refund with respect to which such Lender, such Issuing Bank or the Administrative Agent has made a payment to the Loan Party pursuant to this Section shall be treated as an Indemnified Tax for which the Loan Party is obligated to indemnify such Lender, such Issuing Bank or the Administrative Agent pursuant to this Section without any exclusions or defenses; (y) nothing in this Section shall require any Lender, any Issuing Bank or the Administrative Agent to disclose any confidential information to a Loan Party (including, without limitation, its tax returns); and (z) neither any Lender, any Issuing Bank nor the Administrative Agent shall be required to pay any amounts pursuant to this Section for so long as a Default or Event of Default exists. Notwithstanding anything to the contrary in this paragraph (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (h), the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid.

Section 2.15 Payments Generally; Pro Rata Treatment; Sharing of Set-offs. (a) The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Sections 2.12, 2.13 or 2.14, or otherwise) prior to 12:00 noon, New York City time, on the date when due, in immediately available funds, without set off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its Principal Office and except that payments pursuant to Sections 2.12, 2.13 or 2.14 and Section 9.03 shall be made directly to the

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Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment or performance hereunder shall be due on a day that is not a Business Day, the date for payment or performance shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties.

(c) If any Lender shall, by exercising any right of set off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and participations in LC Disbursements and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans and participations in LC Disbursements of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and participations in LC Disbursements; *provided* that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender) or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the applicable Issuing Bank hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the applicable Issuing Bank, as the case may be, severally agrees to repay to the

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Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04(b), paragraph (d) or (e) of Section 2.19, or paragraph (d) of this Section, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

**Section 2.16 Mitigation Obligations: Replacement of Lenders.** (a) If any Lender requests compensation under Section 2.12, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.12 or Section 2.14, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender requests compensation under Section 2.12, (ii) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14 or (iii) any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under this Agreement and the other Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); *provided* that (i) the Borrower shall have received the prior written consent of the Administrative Agent (and if a Commitment is being assigned, the Issuing Banks), which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents, from the assignee (to the extent of such outstanding principal and accrued interest and fees so assigned) or the Borrower (in the case of all other amounts so assigned), (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.12 or payments required to be made pursuant to Section 2.14, such assignment will result in a reduction in such compensation or payments, (iv) such assignment does not conflict with applicable law and (v) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, (x) the applicable assignee shall have consented to, or shall consent to, the applicable amendment, waiver or consent and (y) the Borrower exercises its rights pursuant to this clause (b) with respect to all Non-Consenting

Lenders relating to the applicable amendment, waiver or consent. A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

Section 2.17 Defaulting Lenders. (a) Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders and in Section 9.02.

(ii) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article 7 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the Issuing Banks hereunder; *third*, to Cash Collateralize each Issuing Bank's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.17(d); *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize each Issuing Bank's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.17(d); *sixth*, to the payment of any amounts owing to the Lenders or the Issuing Banks as a result of any judgment of a court of competent jurisdiction obtained by any Lender or any Issuing Bank against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans or reimbursement obligations with respect to Letters of Credit in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and reimbursement obligations with respect to Letters of Credit owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or reimbursement obligations with respect to Letters of Credit owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letters of Credit are held by the Lenders pro rata in accordance with the Commitments without giving

effect to Section 2.17(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.17(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) (A) No Defaulting Lender shall be entitled to receive any commitment fee pursuant to Section 2.09(a) or participation fees pursuant to Section 2.09(b)(i) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender); *provided* that such Defaulting Lender shall be entitled to receive participation fees pursuant to Section 2.09(b)(i) for any period during which that Lender is a Defaulting Lender only to extent allocable to its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.17(d); and (B) with respect to any fees not required to be paid to any Defaulting Lender pursuant to clause (A) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letters of Credit that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each Issuing Bank the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) So long as no Event of Default shall have occurred and be continuing, all or any part of such Defaulting Lender's participation in Letters of Credit shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, Cash Collateralize each Issuing Bank's Fronting Exposure in accordance with the procedures set forth in Section 2.17(d).

(b) If the Borrower, the Administrative Agent and each Issuing Bank agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit to be held on a pro rata basis by the Lenders in accordance with their respective Applicable Percentages (without giving effect to Section 2.17(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to

fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and *provided, further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) So long as any Lender is a Defaulting Lender, each Issuing Bank shall not be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that the participations in any existing Letters of Credit as well as the new, extended, renewed or increased Letter of Credit has been or will be fully allocated among the Non-Defaulting Lenders in a manner consistent with clause (a)(iv) above and such Defaulting Lender shall not participate therein except to the extent such Defaulting Lender's participation has been or will be fully Cash Collateralized in accordance with Section 2.17(d).

(d) At any time that there shall exist a Defaulting Lender, within one Business Day following the written request of the Administrative Agent or any Issuing Bank (with a copy to the Administrative Agent), the Borrower shall Cash Collateralize such Issuing Bank's Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to Section 2.17(a)(iv) and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum Collateral Amount.

(i) The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of the Issuing Banks, and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lenders' obligation to fund participations in respect of Letters of Credit, to be applied pursuant to clause (ii) below. If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent and the Issuing Banks as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(ii) Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 2.17 in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of Letters of Credit (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(iii) Cash Collateral (or the appropriate portion thereof) provided to reduce each Issuing Bank's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 2.17 following (i) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender) or (ii) the determination by the Administrative Agent and such Issuing Bank that there exists excess Cash Collateral; *provided* that, subject to the other provisions of this Section 2.17, the Person providing Cash Collateral and such Issuing Bank may agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations.

Section 2.18 Incremental Facility. (a) The Borrower may by written notice to the Administrative Agent elect to request prior to the Maturity Date, one or more increases to the existing Commitments (any such increase, the “ **New Commitments** ”), by an amount not in excess of \$50,000,000 in the aggregate and not less than \$10,000,000 individually (or such lesser amount which shall be approved by the Administrative Agent or such lesser amount that shall constitute the difference between \$50,000,000 and all such New Commitments obtained prior to such date), and integral multiples of \$5,000,000 in excess of that amount. Each such notice shall specify (A) the date (each, an “ **Increased Amount Date** ”) on which the Borrower proposes that the New Commitments shall be effective, which shall be a date not less than 10 Business Days after the date on which such notice is delivered to the Administrative Agent (unless otherwise agreed by the Administrative Agent in its sole discretion) and (B) the identity of each Lender or other Person that is an eligible assignee under Section 9.04(b), subject to approval thereof by the Administrative Agent in the case of a Person that is not a Lender (such approval not to be unreasonably withheld or delayed) (each, a “ **New Lender** ”), to whom the Borrower proposes any portion of such New Commitments be allocated and the amounts of such allocations; *provided* that the Administrative Agent may elect or decline to arrange such New Commitments in its sole discretion and any Lender approached to provide all or a portion of the New Commitments may elect or decline, in its sole discretion, to provide a New Commitment. Such New Commitments shall become effective as of such Increased Amount Date; *provided* that (1) on such Increased Amount Date before or after giving effect to such New Commitments, each of the conditions set forth in Section 4.02 shall be satisfied; (2) the New Commitments shall be effected pursuant to one or more Joinder Agreements executed and delivered by the Borrower, the New Lenders and the Administrative Agent, and each of which shall be recorded in the Register and each New Lender shall be subject to the requirements set forth in Section 2.14; (3) the Borrower shall make any payments required pursuant to Sections 2.12 and 2.13 in connection with the New Commitments; and (4) the Borrower shall deliver or cause to be delivered any legal opinions or other documents reasonably requested by the Administrative Agent in connection with any such transaction.

(b) On any Increased Amount Date on which New Commitments are effected, subject to the satisfaction of the foregoing terms and conditions, (i) each of the Lenders shall assign to each of the New Lenders, and each of the New Lenders shall purchase from each of the Lenders, at the principal amount thereof (together with accrued interest), such interests in the Loans outstanding on such Increased Amount Date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Loans will be held by existing Lenders and New Lenders ratably in accordance with their Commitments after giving effect to the addition of such New Commitments to the Commitments, (ii) each New Commitment shall be deemed for all purposes a Commitment and each Loan made thereunder (a “ **New Loan** ”) shall be deemed, for all purposes, a Loan and (iii) each New Lender shall become a Lender for all purposes hereunder.

(c) The Administrative Agent shall notify Lenders promptly upon receipt of the Borrower’s notice of each Increased Amount Date and in respect thereof (i) the New Commitments and the New Lenders, and (ii) the respective interests in such Lender’s Loans, in each case subject to the assignments contemplated by this Section 2.18.

(d) The terms and provisions (including pricing) of the New Loans shall be identical to the existing Loans. Notwithstanding anything in Section 9.02 to the contrary, each Joinder Agreement may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate in the opinion of the Administrative Agent to effect the provision of this Section 2.18.

Section 2.19 Letters of Credit. (a) General. Subject to the terms and conditions set forth herein, the Borrower may request the issuance of Letters of Credit as the applicant thereof for the support of its or its Subsidiaries' obligations, in a form reasonably acceptable to the Administrative Agent and the applicable Issuing Bank, at any time and from time to time during the Availability Period. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, the applicable Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control. Notwithstanding anything herein to the contrary, no Issuing Bank shall have any obligation hereunder to issue any Letter of Credit (x) the proceeds of which would be made to any Person (i) to fund any activity or business of or with any Sanctioned Person, or in any country or territory, that at the time of such funding is the subject of any Sanctions or (ii) in any manner that would result in a violation of any Sanctions by any party to this Agreement or (y) if the issuance of such Letter of Credit would violate one or more policies of such Issuing Bank now or hereafter in effect applicable to letters of credit generally.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the applicable Issuing Bank) to the applicable Issuing Bank and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment, renewal or extension, but in any event no less than three Business Days) a written Letter of Credit Request in substantially the form of Exhibit B-2 attached hereto and signed by the Borrower requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the applicable Issuing Bank, the Borrower also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit, the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension (i) the LC Exposure shall not exceed the LC Sublimit, (ii) the sum of the total Revolving Credit Exposures shall not exceed the total Commitments, (iii) the LC Exposure of the applicable Issuing Bank shall not exceed the LC Sublimit applicable to such Issuing Bank and (iv) the Revolving Credit Exposure of the applicable Issuing Bank shall not exceed the Commitment of such Issuing Bank.

(c) Expiration Date. Each Letter of Credit shall expire (or be subject to termination by notice from the applicable Issuing Bank to the beneficiary thereof) at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (ii) the date that is five Business Days prior to the Maturity Date.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of any Issuing Bank or the Lenders, the applicable Issuing Bank hereby grants to each Lender, and each Lender hereby acquires from the applicable Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely, unconditionally and irrevocably agrees to pay to the Administrative Agent, for the account of such Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by such Issuing Bank and not reimbursed by the Borrower on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrower for any reason. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute, unconditional and irrevocable and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Reimbursement. If any Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement not later than 12:00 noon, New York City time, on the date that such LC Disbursement is made, if the Borrower shall have received notice of such LC Disbursement prior to 10:00 a.m., New York City time, on such date, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than 12:00 noon, New York City time, on the Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time on the day of receipt; *provided* that the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 that such payment be financed with an ABR Borrowing in an equivalent amount and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Borrowing. If the Borrower fails to make such payment when due, the Administrative Agent shall notify each Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrower, in the same manner as provided in Section 2.04 with respect to Loans made by such Lender (and Section 2.04 shall apply, *mutatis mutandis*, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the applicable Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to this

paragraph, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Lenders and such Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse any Issuing Bank for any LC Disbursement (other than the funding of ABR Loans as contemplated above) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such LC Disbursement.

(f) Obligations Absolute. The Borrower's obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by any Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. Neither the Administrative Agent, the Lenders nor the Issuing Banks, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of any Issuing Bank; *provided* that the foregoing shall not be construed to excuse any Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of any Issuing Bank (as finally determined by a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, any Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. Each Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. Such Issuing Bank shall promptly notify the Administrative Agent by telephone (confirmed by telecopy) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder and, upon receipt of such notice, the

Administrative Agent shall promptly notify the Borrower by telephone (confirmed by telecopy) of the same; *provided* that any failure to give or delay by the Issuing Bank or the Administrative Agent in giving such notice shall not relieve the Borrower of its obligation to reimburse such Issuing Bank and the Lenders with respect to any such LC Disbursement.

(h) Interim Interest. If any Issuing Bank shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the reimbursement is due and payable at the rate *per annum* then applicable to ABR Loans; *provided* that, if the Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.10(c) shall apply. Interest accrued pursuant to this paragraph shall be for the account of such Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (e) of this Section to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment.

(i) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent, any Issuing Bank or the Required Lenders (or, if the maturity of the Loans has been accelerated, Lenders with LC Exposure representing greater than 50.0% of the total LC Exposure) demanding the deposit of Cash Collateral pursuant to this paragraph, the Borrower shall provide Cash Collateral in an amount equal to the LC Exposure as of such date plus any accrued and unpaid interest thereon; *provided* that the obligation to deposit such Cash Collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in clause (h) or (i) of Article 7. Such Cash Collateral shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the applicable Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of each Issuing Bank), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower is required to provide an amount of Cash Collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three Business Days after all Events of Default have been cured or waived.

(j) Replacement of an Issuing Bank. Any Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of any Issuing Bank. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant

to Section 2.09(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(k) Resignation of an Issuing Bank. Any Issuing Bank may resign at any time that such Issuing Bank (or its applicable Affiliate) ceases to hold a Commitment hereunder. The Administrative Agent shall notify the Lenders of any such resignation of any Issuing Bank. After the resignation of an Issuing Bank hereunder, the resigning Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such resignation, but shall not be required to issue additional Letters of Credit.

### **ARTICLE 3 REPRESENTATIONS AND WARRANTIES**

The Borrower represents and warrants to the Lenders that:

Section 3.01 Organization; Powers. Each of the Borrower and its Material Subsidiaries is duly organized, validly existing and (to the extent the concept is applicable in such jurisdiction) in good standing under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

Section 3.02 Authorization; Enforceability. The Transactions are within the Borrower's and each Guarantor's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational and, if required, equity holder action. Each of the Borrower and the Guarantors has duly executed and delivered each of the Loan Documents to which it is party, and each of such Loan Documents constitute its legal, valid and binding obligations, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

Section 3.03 Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except (i) such as have been obtained or made and are in full force and effect and (ii) those approvals, consents, registrations, filings or other actions, the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect, (b) except as could not reasonably be expected to have a Material Adverse Effect, will not

violate any applicable law or regulation or any order of any Governmental Authority, (c) will not violate any charter, by-laws or other organizational document of the Borrower or any of its Subsidiaries, (d) except as could not reasonably be expected to have a Material Adverse Effect, will not violate or result in a default under any indenture, agreement or other instrument (other than the agreements and instruments referred to in clause (c)) binding upon the Borrower or any of its Subsidiaries or its assets, or give rise to a right thereunder to require any payment to be made by the Borrower or any of its Subsidiaries, and (e) will not result in the creation or imposition of any Lien on any asset of the Borrower or any of its Subsidiaries.

Section 3.04 Financial Condition; No Material Adverse Change. (a) The Borrower has heretofore furnished to the Administrative Agent its consolidated balance sheet and statements of income, stockholders equity and cash flows as of and for the fiscal years ended December 31, 2014, December 31, 2013 and December 31, 2012, reported on by KPMG LLP, independent public accountants. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP.

(b) Since December 31, 2014, no event, development or circumstance exists or has occurred that has had or could reasonably be expected to have a material adverse effect on the business, property, financial condition or results of operations of the Borrower and its Subsidiaries, taken as a whole, or on the ability of the Borrower to consummate the Transactions.

Section 3.05 Properties. (a) Each of the Borrower and its Subsidiaries has good title to, or valid leasehold interests in or rights to use, all its real and personal property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes.

(b) Each of the Borrower and its Subsidiaries owns, or has the valid and enforceable right to use, all Intellectual Property material to its business as currently conducted, free and clear of all Liens other than Liens permitted by Section 6.02, and the operation of such business or the use of such Intellectual Property rights by the Borrower and its Subsidiaries does not infringe upon, misappropriate, or otherwise violate the rights of any other Person, except for any such infringements, misappropriations, or violations that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. The Borrower and its Subsidiaries have taken commercially reasonable actions to protect and maintain the integrity, operation and security of their material software and systems, and to the knowledge of the Borrower, there have been no material breaches, violations, outages or unauthorized accesses of same, other than those that were resolved without material adverse harm.

Section 3.06 Litigation and Environmental Matters. (a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower, threatened in writing (including "cease and desist" letters and invitations to take a patent license) against or affecting the Borrower or any of its Subsidiaries (i) that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or (ii) that involve this Agreement, any other Loan Document or the Transactions.

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(b) Except with respect to any matter that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any of its Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, or (iii) has received notice of any claim with respect to any Environmental Liability.

Section 3.07 Compliance with Laws and Agreements; No Default. Each of the Borrower and its Subsidiaries is in compliance with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property and rights and all indentures, agreements, and other instruments binding upon it or its property and rights, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

Section 3.08 Investment Company Status. None of the Borrower or any Subsidiary is or is required to be registered as an “investment company” under the Investment Company Act of 1940.

Section 3.09 Margin Stock. None of the Borrower or any Subsidiary is engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board), and no proceeds of any Loan will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock in violation of Regulation U or Regulation X issued by the Board and all official rulings and interpretations thereunder or thereof.

Section 3.10 Taxes. Except as could not reasonably be expected to result in a Material Adverse Effect, (i) each of the Borrower and its Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed with respect to income, properties or operations of the Borrower and its Subsidiaries, (ii) such returns accurately reflect in all material respects all liability for Taxes of the Borrower and its Subsidiaries as a whole for the periods covered thereby and (iii) each of the Borrower and its Subsidiaries has paid or caused to be paid all Taxes required to have been paid by it, except Taxes that are being contested in good faith by appropriate proceedings and, to the extent required by GAAP, for which the Borrower or such Subsidiary, as applicable, has set aside on its books adequate reserves in accordance with GAAP.

Section 3.11 ERISA. (a) Schedule 3.11 to the Disclosure Letter sets forth each material Plan as of the Effective Date. Each Plan is in compliance in form and operation with its terms and with ERISA and the Code (including without limitation the Code provisions compliance with which is necessary for any intended favorable tax treatment) and all other applicable laws and regulations, except where any failure to comply could not reasonably be expected to result in a Material Adverse Effect (or, prior to a Qualifying Capital Raise, any material liability). Each Plan (and each related trust, if any) which is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the IRS to the effect that it meets the requirements of Sections 401(a) and 501(a) of the Code covering all applicable tax law changes or is comprised of a master or prototype plan that has received a favorable opinion letter from the IRS, and, nothing has occurred since the date of such determination that would adversely affect such determination (or, in the case of a Plan with no determination, nothing has occurred that

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would materially adversely affect the issuance of a favorable determination letter or otherwise materially adversely affect such qualification). No ERISA Event has occurred, or is reasonably expected to occur, other than as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect (or, prior to a Qualifying Capital Raise, any material liability).

(b) There exists no Unfunded Pension Liability with respect to any Plan, except as could not reasonably be expected to result in a Material Adverse Effect.

(c) None of the Borrower, any Subsidiary or any ERISA Affiliate is making or accruing an obligation to make contributions, or has within any of the five calendar years immediately preceding the date this assurance is given or deemed given, made or accrued an obligation to make contributions to any Multiemployer Plan.

(d) There are no actions, suits or claims pending against or involving a Plan (other than routine claims for benefits) or, to the knowledge of the Borrower, any Subsidiary or any ERISA Affiliate, threatened, which would reasonably be expected to be asserted successfully against any Plan and, if so asserted successfully, would reasonably be expected either singly or in the aggregate to result in a Material Adverse Effect (or, prior to a Qualifying Capital Raise, any material liability).

(e) The Borrower, its Subsidiaries and its ERISA Affiliates have made all contributions to or under each Plan and Multiemployer Plan required by law within the applicable time limits prescribed thereby, the terms of such Plan or Multiemployer Plan, respectively, or any contract or agreement requiring contributions to a Plan or Multiemployer Plan save where any failure to comply, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect (or, prior to a Qualifying Capital Raise, any material liability).

(f) No Plan which is subject to Section 412 of the Code or Section 302 of ERISA has applied for or received an extension of any amortization period, within the meaning of Section 412 of the Code or Section 302 or 304 of ERISA. The Borrower, any Subsidiary, and any ERISA Affiliate have not ceased operations at a facility so as to become subject to the provisions of Section 4062(e) of ERISA, withdrawn as a substantial employer so as to become subject to the provisions of Section 4063 of ERISA or ceased making contributions to any Plan subject to Section 4064(a) of ERISA to which it made contributions. None of the Borrower, any Subsidiary or any ERISA Affiliate have incurred or reasonably expect to incur any liability to PBGC except as could not reasonably be expected to result in material liability, save for any liability for premiums due in the ordinary course or other liability which could not reasonably be expected to result in material liability, and no lien imposed under the Code or ERISA on the assets of the Borrower or any Subsidiary or any ERISA Affiliate exists or, to the knowledge of the Borrower, is likely to arise on account of any Plan. None of the Borrower, any Subsidiary or any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA.

(g) Each Non-U.S. Plan has been maintained in compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders and has been maintained, where required, in good standing with applicable regulatory authorities, except as could not reasonably be expected to result in a material liability. All contributions required to be made with respect to a Non-U.S. Plan have been timely made, except as could not reasonably be expected to result in a Material Adverse Effect. Neither the Borrower nor any of its Subsidiaries has incurred any material obligation in connection with the termination of, or withdrawal from, any Non-U.S. Plan. The present value of the accrued benefit liabilities (whether or not vested) under each Non-U.S. Plan, determined as of the end of the Borrower's most recently ended fiscal year on the basis of actuarial assumptions, each of which is reasonable, did not exceed the current value of the assets of such Non-U.S. Plan allocable to such benefit liabilities, except as could not reasonably be expected to result in a Material Adverse Effect.

Section 3.12 Disclosure. All written information or oral information provided in formal presentations or in any meeting or conference call with Lenders (other than any projected financial information and other than information of a general economic or industry specific nature) furnished by or on behalf of the Borrower to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or delivered hereunder, as modified or supplemented by other information so furnished and when taken as a whole and together with any information disclosed in the Borrower's public filings with the Securities and Exchange Commission, does not contain any material misstatement of fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not materially misleading; *provided that*, with respect to any projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time furnished (it being understood that such projected financial information is subject to significant uncertainties and contingencies, any of which are beyond the Borrower's control, that no assurance can be given that any particular projections will be realized and that actual results during the period or periods covered by any such projected financial information may differ significantly from the projected results and such differences may be material).

Section 3.13 Subsidiaries. Schedule 3.13 to the Disclosure Letter sets forth as of the Effective Date a list of all Subsidiaries and the percentage ownership (directly or indirectly) of the Borrower therein. Except as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the shares of capital stock or other ownership interests of all Subsidiaries of the Borrower are fully paid and non-assessable and are owned by the Borrower, directly or indirectly, free and clear of all Liens other than Liens permitted under Section 6.02.

Section 3.14 Solvency. As of the Effective Date, the Borrower is, individually and together with its Subsidiaries, and after giving effect to the incurrence of any Indebtedness and obligations being incurred in connection herewith will be, Solvent.

Section 3.15 Anti-Terrorism Law. (a) To the extent applicable, neither the Borrower nor any of its Subsidiaries is in violation of any legal requirement relating to U.S. economic sanctions or any laws with respect to terrorism or money laundering (collectively, "**Anti-Terrorism Laws**"), including Executive Order No. 13224 on Terrorist Financing effective September 24, 2001 (the "**Executive Order**") and the USA Patriot Act.

(b) None of (x) the Borrower, any of its Subsidiaries or, to the knowledge of the Borrower, any of their respective directors, officers or employees, or (y) to the knowledge of the Borrower, any agent of the Borrower or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is any of the following:

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(iii) a Person with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(iv) a Person that commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order; or

(v) a Sanctioned Person.

(c) Neither the Borrower nor any of its Subsidiaries (i) conducts any business with, or engages in making or receiving any contribution of funds, goods or services to or for the benefit of, a Person described in Section 3.15(b)(i)-(v) above, except as permitted under U.S. law, (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order, or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(d) The Borrower will not use, and will not permit any of its Subsidiaries to use, the proceeds of the Loans or Letters of Credit or otherwise make available such proceeds to any Person described in Section 3.15(b)(i)-(v) above, for the purpose of financing the activities of any Person described in Section 3.15(b)(i)-(v) above, in any Sanctioned Country or in any other manner that would violate any Anti-Terrorism Laws or Sanctions by any party hereto.

Section 3.16 Anti-Corruption Laws and Sanctions. (a) No part of the proceeds of the Loans or Letters of Credit will be used by the Borrower or any of its Subsidiaries, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended, or any applicable Anti-Corruption Law.

(b) The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Borrower, its Subsidiaries and their respective officers and employees and to the knowledge of the Borrower its directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects.

Section 3.17 Security Documents. The Security Agreement is effective to create in favor of the Administrative Agent, for the benefit of the Lenders, a legal, valid and enforceable security interest (subject to Liens permitted by Section 6.02) in the Collateral described therein and proceeds thereof. In the case of the Pledged Stock described in the Security Agreement, when stock certificates representing such Pledged Stock are delivered to the Administrative Agent (together with a properly completed and signed stock power or endorsement), and in the case of the other Collateral described in the Security Agreement, when financing statements and other filings specified on Schedule 3 to the Security Agreement in appropriate form are filed in the offices specified on Schedule 3 to the Security Agreement, the Security Agreement shall constitute a fully perfected Lien on, and security interest (subject to Liens permitted by Section 6.02) in, all right, title and interest of the Loan Parties in such Collateral and the proceeds thereof, as security for the Obligations, in each case prior and superior in right to any other Person (except, in the case of Collateral other than Pledged Stock, Liens permitted by Section 6.02).

#### **ARTICLE 4 CONDITIONS**

Section 4.01 Effective Date. The obligations of the Lenders to make Loans hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include telecopy or electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received (i) the Security Agreement, executed and delivered by the Borrower, and (ii) a Note executed by the Borrower in favor of each Lender requesting a Note in advance of the Effective Date.

(c) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of Wilson Sonsini Goodrich & Rosati, P.C., counsel for the Borrower in form and substance reasonably satisfactory to the Administrative Agent. The Borrower hereby requests such counsel to deliver such opinion.

(d) The Administrative Agent shall have received (i) certified copies of the resolutions of the board of directors of the Borrower and the Guarantors approving the transactions contemplated by the Loan Documents to which each such Loan Party is a party and the execution and delivery of such Loan Documents to be delivered by such Loan Party on the Effective Date, and all documents evidencing other necessary organizational action and governmental approvals, if any, with respect to the Loan Documents and (ii) all other documents reasonably requested by the Administrative Agent relating to the organization, existence and good standing of the Guarantors and the Borrower and authorization of the transactions contemplated hereby.

(e) The Administrative Agent shall have received a certificate of the Secretary or an Assistant Secretary of the Borrower and each Guarantor certifying the names and true signatures of the officers of such entity authorized to sign the Loan Documents to which it is a party, to be delivered by such entity on the Effective Date and the other documents to be delivered hereunder on the Effective Date.

(f) The Administrative Agent shall have received (i) a certificate, dated the Effective Date and signed on behalf of the Borrower by the President, a Vice President or a Financial Officer of the Borrower, confirming compliance with the conditions set forth in paragraphs (a) and (b) of Section 4.02 as of the Effective Date, and (ii) a certificate, dated the Effective Date and signed on behalf of the Borrower by the chief financial officer of the Borrower, certifying that, as of the Effective Date, the Borrower is, individually and together with its Subsidiaries, and after giving effect to the incurrence of any Indebtedness and obligations being incurred in connection herewith will be, Solvent.

(g) The Lenders, the Administrative Agent and the Arrangers shall have received all fees required to be paid by the Borrower on the Effective Date, and all expenses required to be reimbursed by the Borrower for which invoices have been presented at least three business days prior to the Effective Date, on or before the Effective Date.

(h) The Administrative Agent shall have received, to the extent reasonably requested by any of the Lenders at least five Business Days prior to the Effective Date, all documentation and other information required by bank regulatory authorities under applicable "know-your-customer" and anti-money laundering rules and regulations, including the USA Patriot Act.

(i) The Administrative Agent shall have received (i) audited consolidated financial statements of the Borrower for the three most recent fiscal years ended at least 90 days prior to the Effective Date as to which such financial statements are available, (ii) unaudited interim consolidated financial statements of the Borrower for each quarterly period ended subsequent to the date of the latest financial statements delivered pursuant to clause (i) of this paragraph and at least 45 days prior to the Effective Date as to which such financial statements are available and (iii) reasonably detailed projections of the Borrower for at least the three fiscal years ended after the Effective Date.

(j) The Administrative Agent shall have received satisfactory evidence that the Revolving Credit Agreement, dated as of April 4, 2014, among the Borrower, the lenders party thereto and Goldman Sachs Lending Partners LLC, as administrative agent, shall have been terminated and all amounts thereunder shall have been paid in full.

(k) The Administrative Agent shall have received the results of a recent Lien search with respect to each Loan Party, and such search shall reveal no Liens on any of the assets of the Loan Parties except for Liens permitted by Section 6.02 or discharged on or prior to the Closing Date pursuant to documentation satisfactory to the Administrative Agent.

(l) The Administrative Agent shall have received the certificates representing the shares of Equity Interests pledged pursuant to the Security Agreement, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof.

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(m) Each document (including any Uniform Commercial Code financing statement) required by the Security Documents or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of the Lenders, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (other than with respect to Liens expressly permitted by Section 6.02), shall be in proper form for filing, registration or recordation.

The Administrative Agent shall notify the Borrower and the Lenders of the Effective Date, and such notice shall be conclusive and binding. Without limiting the generality of the provisions of Article 8, for purposes of determining compliance with the conditions specified in this Section, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Effective Date specifying its objection thereto.

Section 4.02 Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing, and of the applicable Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) The representations and warranties of the Borrower set forth in this Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable, except that (i) for purposes of this Section, the representations and warranties contained in Section 3.04(a) shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b) (subject, in the case of unaudited financial statements furnished pursuant to clause (b), to year-end audit adjustments and the absence of footnotes), respectively, of Section 5.01, (ii) to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date and (iii) to the extent that such representations and warranties are already qualified or modified by materiality in the text thereof, they shall be true and correct in all respects; and

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower that the conditions specified in paragraphs (a) and (b) of this Section have been satisfied as of the date thereof.

**ARTICLE 5**  
**AFFIRMATIVE COVENANTS**

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit shall have expired or terminated, in each case, without any pending draw, or shall have been Cash Collateralized in an amount not less than the Minimum Collateral Amount, and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

Section 5.01 Financial Statements; Ratings Change and Other Information. The Borrower will furnish to the Administrative Agent (for distribution to each Lender):

(a) within 90 days after the end of each fiscal year of the Borrower, its audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by KPMG LLP, or other independent public accountants of recognized national standing (without a "going concern" or like qualification or exception (other than a qualification related to the maturity of the Commitments and the Loans at the Maturity Date) and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(b) within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(c) concurrently with any delivery of financial statements under clause (a) or (b) above, a certificate of a Financial Officer of the Borrower in substantially the form of Exhibit F attached hereto (i) certifying as to whether a Default has occurred and is continuing as of the date thereof and, if a Default has occurred and is continuing as of the date thereof, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed calculations demonstrating the Total Leverage Ratio for the Measurement Period ending on the last day of the applicable fiscal quarter or fiscal year for which such financial statements are being delivered, (iii) setting forth reasonably detailed calculations demonstrating compliance with Section 6.01(b) and (c) as of the last day of the applicable fiscal quarter or fiscal year for which such financial statements are being delivered, (iv) setting forth the amount of Restricted Payments made pursuant to Section 6.04(viii) during the respective fiscal quarter or fiscal year and demonstrating compliance with such Section 6.04(viii), (v) if and to the extent that any change in GAAP that has occurred since the date of the audited financial

statements referred to in Section 3.04 had an impact on such financial statements, specifying the effect of such change on the financial statements accompanying such certificate and (vi) setting forth a description of any registered patents, registered trademarks or registered copyrights acquired, exclusively licensed or developed by the Borrower and its Subsidiaries since the Effective Date or the date of the most recent certificate delivered pursuant to this Section 5.01(c) prior to the date thereof, as applicable;

(d) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by the Borrower or any Subsidiary with the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of the functions of said Commission, or with any national securities exchange, as the case may be, in each case that is not otherwise required to be delivered to the Administrative Agent pursuant hereto, *provided*, that such information shall be deemed to have been delivered on the date on which such information has been posted on the Borrower's website on the Internet on the investor relations page at <https://squareup.com> (or any successor page) or at <http://www.sec.gov>; and

(e) promptly following any request in writing (including any electronic message) therefor, such other information regarding the operations, business affairs and financial condition of the Borrower or any Subsidiary, or compliance with the terms of this Agreement or any other Loan Document, as the Administrative Agent or any Lender (through the Administrative Agent) may reasonably request.

Information required to be delivered pursuant to Section 5.01(a) or Section 5.01(b) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such information, or provides a link thereto on the Borrower's website on the Internet on the investor relations page at <https://squareup.com> (or any successor page) or at <http://www.sec.gov>; or (ii) on which such information is posted on the Borrower's behalf on an Internet or intranet website, if any, to which the Lenders and the Administrative Agent have been granted access (whether a commercial, third-party website or whether sponsored by the Administrative Agent).

Section 5.02 Notices of Material Events. The Borrower will furnish to the Administrative Agent (for distribution to each Lender) prompt written notice of the following:

(a) the occurrence of any Default;

(b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Borrower or any Subsidiary thereof that could reasonably be expected to result in a Material Adverse Effect; and

(c) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Responsible Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

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Section 5.03 Existence; Conduct of Business. The Borrower will, and will cause each of its Material Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence in its jurisdiction of organization and the rights, licenses, permits, privileges and franchises material to the conduct of its business; *provided* that (i) the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03 and (ii) none of the Borrower or any of its Material Subsidiaries shall be required to preserve, renew or keep in full force and effect its rights, licenses, permits, privileges or franchises where failure to do so could not reasonably be expected to result in a Material Adverse Effect.

Section 5.04 Payment of Taxes. The Borrower will, and will cause each of its Subsidiaries to, pay all Tax liabilities, including all Taxes imposed upon it or upon its income or profits or upon any properties belonging to it that, if not paid, could reasonably be expected to result in a Material Adverse Effect, before the same shall become delinquent or in default, and all lawful claims other than Tax liabilities that, if unpaid, would become a Lien upon any properties of the Borrower or any of its Subsidiaries not otherwise permitted under Section 6.02, in both cases except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings and (b) to the extent required by GAAP, the Borrower or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP.

Section 5.05 Maintenance of Properties; Insurance. The Borrower will, and will cause each of its Subsidiaries to, (a) keep and maintain all property used in the conduct of its business in good working order and condition, ordinary wear and tear and casualty events excepted, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect, and (b) maintain insurance with financially sound and reputable insurance companies in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations.

Section 5.06 Books and Records; Inspection Rights. The Borrower will, and will cause each of its Subsidiaries to, keep proper books of record and account in which entries full, true and correct in all material respects are made and are sufficient to prepare financial statements in accordance with GAAP. The Borrower will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent or any Lender (pursuant to the request made through the Administrative Agent), upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants (*provided* that the Borrower or such Subsidiary shall be afforded the opportunity to participate in any discussions with such independent accountants), all at such reasonable times and as often as reasonably requested (but no more than once annually if no Event of Default exists). Notwithstanding anything to the contrary in this Section, none of the Borrower or any of its Subsidiaries shall be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter that (i) constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives) is prohibited by applicable law or any third party contract legally binding on the Borrower or its Subsidiaries or (iii) is subject to attorney, client or similar privilege or constitutes attorney work-product.

Section 5.07 ERISA-Related Information. The Borrower shall supply to the Administrative Agent (in sufficient copies for all the Lenders, if the Administrative Agent so requests): (a) promptly and in any event within 15 days after the Borrower, any Subsidiary or any ERISA Affiliate files a Schedule B (or such other schedule as contains actuarial information) to IRS Form 5500 in respect of a Plan with Unfunded Pension Liabilities, a copy of such IRS Form 5500 (including the Schedule B); (b) promptly and in any event within 30 days after the Borrower, any Subsidiary or any ERISA Affiliate knows or has reason to know that any ERISA Event has occurred, a certificate of the chief financial officer of the Borrower describing such ERISA Event and the action, if any, proposed to be taken with respect to such ERISA Event and a copy of any notice filed with the PBGC or the IRS pertaining to such ERISA Event and any notices received by such Borrower, Subsidiary, or ERISA Affiliate from the PBGC or any other governmental agency with respect thereto; *provided that*, in the case of ERISA Events under paragraph (b) of the definition thereof, in no event shall notice be given later than the occurrence of the ERISA Event; (c) promptly, and in any event within 30 days, after becoming aware that there has been (i) a material increase in Unfunded Pension Liabilities (taking into account only Pension Plans with positive Unfunded Pension Liabilities) since the date the representations hereunder are given or deemed given, or from any prior notice, as applicable; (ii) the existence of potential withdrawal liability under Section 4201 of ERISA, if the Borrower, any Subsidiary and the ERISA Affiliates were to withdraw completely from any and all Multiemployer Plans, (iii) the adoption of, or the commencement of contributions to, any Plan subject to Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA by the Borrower, any Subsidiary or any ERISA Affiliate, or (iv) the adoption of any amendment to a Plan subject to Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA which results in a material increase in contribution obligations of the Borrower, any Subsidiary or any ERISA Affiliate, a detailed written description thereof from the chief financial officer of the Borrower; and (d) if, at any time after the Effective Date, the Borrower, any Subsidiary or any ERISA Affiliate maintains, or contributes to (or incurs an obligation to contribute to), a Pension Plan or Multiemployer Plan which is not set forth in Schedule 3.11 to the Disclosure Letter, then the Borrower shall deliver to the Administrative Agent an updated Schedule 3.11 to the Disclosure Letter as soon as practicable, and in any event within 20 days after the Borrower, such Subsidiary or such ERISA Affiliate maintains, or contributes to (or incurs an obligation to contribute to), thereto.

Section 5.08 Compliance with Laws and Agreements. The Borrower will, and will cause each of its Subsidiaries to, comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property and rights and all indentures, agreements, and other instruments binding upon it or its property and rights, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws, Anti-Terrorism Laws and applicable Sanctions.

Section 5.09 Use of Proceeds. The proceeds of the Loans and Letters of Credit will be used only for working capital and general corporate purposes, including, without limitation, for stock repurchases under stock repurchase programs approved by the Borrower and for acquisitions not prohibited hereunder. No part of the proceeds of any Loan or Letter of Credit will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

Section 5.10 Guarantors: Additional Collateral. (a) If, as of the date of the most recently available financial statements delivered pursuant to Section 5.01(a) or (b), as the case may be, any Person shall have become a Material Domestic Subsidiary, then the Borrower shall, within 30 days (or such longer period of time as the Administrative Agent may agree in its sole discretion) after delivery of such financial statements, cause such Material Domestic Subsidiary to (i) enter into a guaranty agreement (a “**Guaranty**”) in substantially the form of Exhibit E hereto, or, if a Guaranty has previously been entered into by a Material Domestic Subsidiary (and remains in effect), a joinder agreement in form and substance reasonably satisfactory to the Administrative Agent to such Guaranty and (ii) (A) enter into a joinder agreement in form and substance reasonably satisfactory to the Administrative Agent to the Security Agreement and (B) take such actions necessary or advisable to grant to the Administrative Agent for the benefit of the Lenders a perfected first priority security interest (subject to Liens permitted by Section 6.02) in the Collateral described in the Security Agreement with respect to such Material Domestic Subsidiary, including the filing of Uniform Commercial Code financing statements in such jurisdictions, and filings with the United States Copyright Office, as may be required by the Security Agreement or by law or as may be requested by the Administrative Agent and (iii) if requested by the Administrative Agent, deliver to the Administrative Agent legal opinions consistent with the legal opinions delivered on the Effective Date, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent; *provided* that the Borrower and its Subsidiaries shall not be required to take any action under this Section 5.10(a) if prior to the end of such 30 day period (or such longer period of time as the Administrative Agent may agree in its sole discretion) such Person ceases to be a Material Domestic Subsidiary as a result of a transfer of assets from such Person to the Borrower in a transaction or transactions permitted under this Agreement.

(b) If, as of the date of the most recently available financial statements delivered pursuant to Section 5.01(a) or (b), as the case may be, (A) any Foreign Subsidiary that is a direct Subsidiary of any Loan Party shall have been created or acquired after the Effective Date by any Loan Party, which Foreign Subsidiary has owned and as of such date continues to own title to or an exclusive license (that conveys substantially all economic rights) to use any reasonably identifiable material Intellectual Property (as determined in the reasonable good faith judgment of the Borrower) for longer than 60 days, or (B) any Foreign Subsidiary that is a direct Subsidiary of any Loan Party shall have owned and as of such date shall continue to own, directly or indirectly, title to or an exclusive license (that conveys substantially all economic rights) to use any reasonably identifiable material Intellectual Property (as determined in the reasonable good faith judgment of the Borrower) for longer than 60 days, the Borrower will, or will cause the applicable Guarantor to, within 30 days (or such longer period of time as the Administrative Agent may agree in its sole discretion) after delivery of such financial statements, (i) execute and deliver to the Administrative Agent such amendments to the Security Agreement as the Administrative Agent deems necessary or advisable to grant to the Administrative Agent, for the benefit of the Lenders, a perfected first priority security interest (subject to Liens permitted by Section 6.02) in 66% of the total outstanding voting Equity Interests of any such Foreign Subsidiary, (ii) deliver to the Administrative Agent any certificates representing such Equity Interests, together with undated stock powers, in blank, executed and delivered by a duly

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authorized officer of the relevant Loan Party, and take such other action as may be necessary or, in the opinion of the Administrative Agent, desirable to perfect the Administrative Agent's security interest therein, and (iii) if requested by the Administrative Agent, deliver to the Administrative Agent legal opinions consistent with the legal opinions delivered on the Effective Date, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

(c) If, as of the date of the most recently available financial statements delivered pursuant to Section 5.01(a) or (b), as the case may be, any Intellectual Property shall be created, acquired or exclusively licensed by any Loan Party as to which the Administrative Agent, for the benefit of the Lenders, does not have a perfected Lien, the Borrower will, or will cause the applicable Guarantor to, within 30 days (or such longer period of time as the Administrative Agent may agree in its sole discretion) after the delivery of such financial statements (i) execute and deliver to the Administrative Agent such amendments to the Security Agreement or such other documents as the Administrative Agent deems reasonably necessary or advisable to grant to the Administrative Agent, for the benefit of the Lenders, a security interest in such Intellectual Property and (ii) take all actions reasonably necessary or advisable to grant to the Administrative Agent, for the benefit of the Lenders, a perfected first priority security interest (subject to Liens permitted by Section 6.02) in such Intellectual Property, including the filing of Uniform Commercial Code financing statements in such jurisdictions, and filings with the United States Copyright Office, as may be required by the Security Agreement or by law or as may be reasonably requested by the Administrative Agent.

(d) Notwithstanding the foregoing, none of the Borrower or its Subsidiaries shall be required to take any action (i) outside of the United States to create or perfect any security interest in the Collateral (including the registration of Intellectual Property in, and the execution of any agreement, document or other instrument governed by the law of, any jurisdiction other than the United States, any State thereof or the District of Columbia) or (ii) pursuant to clause (a)(ii), (b) or (c) of this Section 5.10 if the Security Release Date shall have occurred.

Section 5.11 Further Assurances. Promptly upon request by the Administrative Agent, or any Lender through the Administrative Agent, the Borrower will (a) correct any error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably require from time to time in order to (i) perfect and maintain the validity, effectiveness and priority of any of the Security Documents and any of the Liens created thereunder and (ii) assure, preserve, protect and confirm more effectively unto the Lenders, or the Administrative Agent for the benefit of the Lenders, the rights granted to the Lenders, or the Administrative Agent for the benefit of the Lenders, under any Loan Document or under any other instrument executed in connection with any Loan Document to which any Loan Party or any of its Subsidiaries is or is to be a party.

**ARTICLE 6**  
**NEGATIVE COVENANTS**

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired or terminated, in each case, without any pending draw, or shall have been Cash Collateralized in an amount not less than the Minimum Collateral Amount, and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

Section 6.01 Indebtedness. The Borrower will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Indebtedness other than:

(a) Indebtedness that is not Specified Indebtedness;

(b) Specified Indebtedness constituting Capital Lease Obligations and Purchase Money Indebtedness; *provided* that the aggregate principal amount of Indebtedness pursuant to this clause (b) shall not exceed \$215,000,000 at any time outstanding;

(c) Specified Indebtedness in an aggregate principal amount at any time outstanding not to exceed the greater of (A) \$250,000,000 (*provided* that such Specified Indebtedness (i) shall not mature prior to the Maturity Date, (ii) either (x) shall not require any payment of principal prior to the Maturity Date or (y) shall not require payments of principal in an aggregate amount *per annum* in excess of 1.0% of the principal amount thereof and (iii) contains terms customary for similar issuances of Indebtedness at such time (as determined in good faith by the Borrower) (it being understood that, other than in the case of any issuance of a debt security, such terms shall be no more restrictive, taken as a whole (as determined in good faith by the Borrower), than the Loans, and in any event no such Indebtedness (including any debt securities) shall contain a financial maintenance covenant more restrictive than any financial maintenance covenant contained herein)) and (B) the product of (x) 2.5 and (y) Consolidated Adjusted EBITDA for the most recently ended Measurement Period for which financial statements have been delivered; and

(d) Obligations under the Loan Documents.

Notwithstanding the foregoing, any Indebtedness owed by a Loan Party to a Subsidiary that is not a Loan Party shall be permitted only to the extent subordinated to the Obligations on customary terms reasonably satisfactory to the Administrative Agent.

Section 6.02 Liens. The Borrower will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it except:

(a) Permitted Encumbrances;

(b) any Lien on any property or asset of the Borrower or any Subsidiary existing on the Effective Date and set forth in Schedule 6.02 to the Disclosure Letter and any modifications, renewals and extensions thereof and any Lien granted as a replacement or substitute therefor;

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*provided* that (i) such Lien shall not apply to any other property or asset of the Borrower or any Subsidiary other than improvements thereon or proceeds thereof and (ii) such Lien shall secure only those obligations which it secures on the Effective Date and any refinancing, extension, renewal or replacement thereof that does not increase the outstanding principal amount thereof except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing, extensions, renewals or replacements;

(c) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower or any Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the Effective Date prior to the time such Person becomes a Subsidiary; *provided* that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Borrower or any Subsidiary and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be, and any refinancing, extension, renewal or replacement thereof that does not increase the outstanding principal amount thereof except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing, extensions, renewals or replacements;

(d) Liens on fixed or capital assets acquired, constructed or improved by the Borrower or any Subsidiary; *provided* that (i) such security interests secure Indebtedness that is not prohibited by Section 6.01, (ii) such security interests and the Indebtedness secured thereby are initially incurred prior to or within 180 days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed 100% of the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such security interests shall not apply to any other property or assets of the Borrower or any Subsidiary other than additions, accessions, parts, attachments or improvements thereon or proceeds thereof;

(e) licenses, sublicenses, leases or subleases granted to others in the ordinary course of business not interfering in any material respect with the business of the Borrower and its Subsidiaries, taken as a whole;

(f) the interest and title of a lessor under any lease or sublease entered into by the Borrower or any Subsidiary in the ordinary course of its business and other statutory and common law landlords' Liens under leases;

(g) in connection with the sale or transfer of any assets in a transaction not prohibited hereunder, customary rights and restrictions contained in agreements relating to such sale or transfer pending the completion thereof;

(h) in the case of any joint venture, any put and call arrangements related to its Equity Interests set forth in its organizational documents or any related joint venture or similar agreement;

(i) Liens securing Indebtedness to finance insurance premiums owing in the ordinary course of business to the extent such financing is not prohibited hereunder;

(j) Liens on earnest money deposits of cash or cash equivalents made in connection with any acquisition not prohibited hereunder;

(k) bankers' Liens, rights of setoff and other similar Liens existing solely with respect to cash and cash equivalents on deposit in one or more accounts maintained by the Borrower or any Subsidiary, in each case granted in the ordinary course of business in favor of the banks, securities intermediaries or other depository institutions with which such accounts are maintained, securing amounts owing to such institutions with respect to cash management and operating account arrangements;

(l) Liens in the nature of the right of setoff in favor of counterparties to contractual agreements not otherwise prohibited hereunder with the Borrower or any of its Subsidiaries in the ordinary course of business;

(m) Liens securing overdraft and similar obligations that arise in connection with Payment Processing Arrangements; *provided* that the property covered by such Liens is limited to the Payment Processing Accounts, amounts due from payment processing counterparties and similar assets arising in connection with the Payment Processing Arrangements and the overdraft or similar obligations so secured are outstanding no longer than two Business Days after the date of their incurrence;

(n) Liens created pursuant to the Security Documents; and

(o) other Liens securing obligations in an aggregate amount at any time outstanding not to exceed the greater of (x) \$65,000,000 and (y) 7.5% of Consolidated Net Tangible Assets.

Section 6.03 Fundamental Changes. (a) The Borrower will not, and will not permit any Subsidiary to, (x) merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, (y) Dispose of (in one transaction or in a series of transactions) all or substantially all of the assets of the Borrower and its Subsidiaries, taken as a whole, or all or substantially all of the stock of any of its Subsidiaries (in each case, whether now owned or hereafter acquired), or (z) liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall have occurred and be continuing:

(i) any Subsidiary or any other Person may merge into or consolidate with the Borrower in a transaction in which the Borrower is the surviving corporation;

(ii) any Person (other than the Borrower) may merge into or consolidate with any Subsidiary in a transaction in which the surviving entity is a Subsidiary (provided that any such merger or consolidation involving a Guarantor must result in a Guarantor as the surviving entity or the surviving entity becoming a Guarantor as part of the transaction);

(iii) any Subsidiary may Dispose of its assets to the Borrower or to another Subsidiary;

(iv) any Loan Party may Dispose of its assets to any other Loan Party;

(v) in connection with any acquisition, any Subsidiary may merge into or consolidate with any other Person, so long as the Person surviving such merger or consolidation shall be a Subsidiary (provided that any such merger or consolidation involving a Guarantor must result in a Guarantor as the surviving entity or the surviving entity becoming a Guarantor as part of the transaction);

(vi) any Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders; and

(vii) any Subsidiary may merge into or consolidate with any other Person in a transaction not otherwise prohibited hereunder and all or substantially all of the Equity Interests of any Subsidiary may be Disposed of, so long as the aggregate consideration received in respect of all such mergers, consolidations or Dispositions pursuant to this clause (vii) shall not exceed the greater of (a) \$30,000,000 and (b) 10% of Total Assets as of the date of such merger, consolidation or Disposition.

(b) The Borrower will not, and will not permit any of its Subsidiaries to, engage to any material extent in any business other than businesses of the type conducted by the Borrower and its Subsidiaries on the date of execution of this Agreement and businesses reasonably related, complementary or incidental thereto, which businesses, for the avoidance of doubt, may include or relate to the provision of financial or commerce services on mobile and other media platforms or devices.

Section 6.04 Restricted Payments. The Borrower will not, and will not permit any of its Subsidiaries to, declare or make any Restricted Payments with respect to the Borrower or any of its Subsidiaries, except:

(i) any Subsidiary of the Borrower may make Restricted Payments to the Borrower or to any direct or indirect wholly-owned Subsidiary of the Borrower, and any non-wholly-owned Subsidiary may make Restricted Payments to the Borrower or any of its other Subsidiaries and to each other owner of Equity Interests of such Subsidiary ratably based on their relative ownership interests of the relevant class of Equity Interests;

(ii) the Borrower may declare and make dividends payable solely in additional shares of the Borrower's common stock;

(iii) the Borrower may repurchase fractional shares of its Equity Interests arising out of stock dividends, splits or combinations, business combinations or conversions of convertible securities or, so long as no Default or Event of Default then exists or would result therefrom, make cash settlement payments upon the exercise of warrants to purchase its Equity Interests, or "net exercise" or "net share settle" warrants;

(iv) the Borrower may redeem or otherwise cancel Equity Interests or rights in respect thereof granted to (or make payments on behalf of) directors, officers, employees or other providers of services to the Borrower and the Subsidiaries in an amount required to satisfy tax withholding obligations relating to the vesting, settlement or exercise of such Equity Interests or rights;

(v) following a Qualifying Capital Raise, the Borrower or any Subsidiary may make any Restricted Payment that has been declared by the Borrower or such Subsidiary, so long as (A) such Restricted Payment was permitted under clause (viii) of this Section 6.04 at the time so declared and (B) such Restricted Payment is made within 30 days of such declaration;

(vi) following a Qualifying Capital Raise, the Borrower may repurchase Equity Interests pursuant to any accelerated stock repurchase or similar agreement; *provided* that the payment made by the Borrower with respect to such repurchase was permitted under clause (viii) of this Section 6.04 at the time made as if it was a Restricted Payment made by the Borrower at such time;

(vii) the Borrower may make Restricted Payments pursuant to and in accordance with stock option plans or other benefit plans or agreements for directors, management, employees or other eligible service providers of the Borrower or its Subsidiaries; and

(viii) so long as no Default or Event of Default then exists or would result therefrom, the Borrower may declare or make Restricted Payments if the Total Leverage Ratio for the most recent Measurement Period then ended and after giving pro forma effect to such Restricted Payment is less than 2.0:1.0; *provided* that, following a Qualifying Capital Raise, and so long as no Default or Event of Default then exists or would result therefrom, the Borrower may declare or make Restricted Payments not otherwise permitted under this clause (viii) in an aggregate principal amount not to exceed \$165,000,000.

Section 6.05 Restrictive Agreements. The Borrower will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of the Borrower or any Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets to secure the Obligations, or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to any shares of its capital stock or to make or repay loans or advances to the Borrower or any other Subsidiary or of any Subsidiary to Guarantee Indebtedness of the Borrower or any other Subsidiary under the Loan Documents; *provided* that (i) the foregoing shall not apply to restrictions and conditions imposed by law or by this Agreement or any other Loan Document, (ii) the foregoing shall not apply to restrictions and conditions existing on the Effective Date identified on Schedule 6.05 to the Disclosure Letter (and shall apply to any extension or renewal of, or any amendment or modification materially expanding the scope of, any such restrictions or conditions taken as a whole), (iii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary or assets of the Borrower or any Subsidiary pending such sale, provided such restrictions and conditions apply only to the Subsidiary or assets to be sold and such sale is not prohibited hereunder, (iv) the foregoing shall not apply to any agreement or restriction or condition in effect at the time any Subsidiary becomes a Subsidiary of the Borrower, so long as such agreement was not entered into solely in contemplation of such Person becoming a Subsidiary of the Borrower, (v) the foregoing shall not apply to customary provisions in joint venture agreements and other similar agreements applicable to joint ventures, (vi) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing

such Indebtedness, (vii) clause (a) of the foregoing shall not apply to customary provisions in leases, licenses, subleases and sublicenses and other contracts restricting the assignment thereof, (viii) the foregoing shall not apply to restrictions or conditions set forth in any agreement governing Indebtedness not prohibited by Section 6.01; *provided* that such restrictions and conditions are customary for such Indebtedness, and (ix) the foregoing shall not apply to (x) restrictions on cash or other deposits (including escrowed funds) imposed under contracts entered into in the ordinary course of business or (y) restrictions set forth in Payment Processing Arrangements, *provided* that such restrictions are not materially more restrictive on the Borrower or any of its Subsidiaries than the Paymenttech Agreement and related agreements as of the Effective Date.

Section 6.06 Transactions with Affiliates. The Borrower will not, and will not permit any of its Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates (other than between or among the Borrower and its Subsidiaries and not involving any other Affiliate except as otherwise permitted hereunder), except (a) on terms and conditions not less favorable to the Borrower or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) payment of customary directors' fees, reasonable out-of-pocket expense reimbursement, indemnities (including the provision of directors and officers insurance) and compensation arrangements for members of the board of directors, officers or other employees of the Borrower or any of its Subsidiaries, (c) transactions approved by a majority of the disinterested directors of the Borrower's board of directors, (d) any transaction involving amounts less than \$250,000 individually and \$2,500,000 in the aggregate and (e) any Restricted Payment permitted by Section 6.04.

Section 6.07 Use of Proceeds. The Borrower will not request any Borrowing or Letter of Credit, and the Borrower shall not use, and shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing or Letter of Credit (a) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (b) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (c) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

Section 6.08 Disposition of Collateral. At all times prior to the Security Release Date, the Borrower will not, and will not permit any of its Subsidiaries to, Dispose of any Collateral, whether now owned or hereafter acquired, or, in the case of any Subsidiary, issue or sell any shares of such Subsidiary's Equity Interests, which shares are (or upon issuance would be required pursuant to Section 5.10 to be) Collateral, to any Person, except:

- (a) licenses and sublicenses of Intellectual Property in the ordinary course of business;
- (b) Dispositions of Intellectual Property between the Borrower and the Guarantors;

(c) Dispositions of Intellectual Property between Subsidiaries that are not Guarantors and Dispositions of Intellectual Property from Subsidiaries that are not Guarantors to the Borrower or a Guarantor; and

(d) Dispositions of Intellectual Property that in the reasonable business judgment of the Borrower is no longer material to the business of the Borrower and its Subsidiaries.

## **ARTICLE 7 EVENTS OF DEFAULT**

If any of the following events (each, an “Event of Default”) shall occur:

(a) the Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise, or shall fail to Cash Collateralize any Obligation when and as required pursuant to the terms of this Agreement;

(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under any of the Loan Documents, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five Business Days;

(c) any representation or warranty made or deemed made by or on behalf of the Borrower or any Subsidiary in or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement, any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, shall prove to have been incorrect in any material respect when made or deemed made;

(d) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02, Section 5.03 (solely with respect to the Borrower’s existence), Section 5.09 or in Article 6;

(e) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in any of the Loan Documents (other than those specified in clause (a), (b) or (d) of this Article of this Agreement), and such failure shall continue unremedied for a period of 30 days after notice thereof from the Administrative Agent to the Borrower (which notice will be given at the request of any Lender);

(f) the Borrower or any Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such failure shall have continued after the applicable grace period, if any;

(g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; *provided* that this clause (g) shall not apply to (x) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, (y) any redemption, repurchase, conversion or settlement with respect to any convertible debt instrument (including any termination of any related Swap Agreement) pursuant to its terms unless such redemption, repurchase, conversion or settlement results from a default thereunder or an event of the type that constitutes an Event of Default or (z) an early payment requirement, unwinding or termination with respect to any Swap Agreement except (i) an early payment, unwinding or termination that results from a default or non-compliance thereunder by the Borrower or any Subsidiary, or another event of the type that would constitute an Event of Default or (ii) an early termination of such Swap Agreement by the counterparty thereto;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any Material Subsidiary or its debts, or of a substantial part of its assets, under any Debtor Relief Law or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Material Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) except as may otherwise be permitted under Section 6.03, the Borrower or any Material Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Debtor Relief Law, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Material Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) the Borrower or any Material Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in excess of \$65,000,000 in the aggregate shall be rendered against the Borrower, any Subsidiary or any combination thereof (to the extent not paid or covered by a reputable and solvent independent third-party insurance company which has not disputed coverage) and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower or any Subsidiary to enforce any such judgment and such action shall not be stayed;

(l) one or more ERISA Events shall have occurred, other than as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect;

(m) a Change in Control shall occur; or

(n) any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the obligations hereunder or thereunder, ceases to be in full force and effect; or any Loan Party contests in any manner the validity or enforceability of any Loan Document; or any Lien created by any of the Security Documents shall cease to be enforceable and of the same effect and priority (subject to Liens permitted by Section 6.02) to be created thereby,

then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; and in case of any event with respect to the Borrower described in clause (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

## **ARTICLE 8 THE AGENTS**

Section 8.01 Appointment of Administrative Agent. JPMorgan Chase Bank, N.A. is hereby appointed Administrative Agent hereunder and under the other Loan Documents and each Lender hereby authorizes JPMorgan Chase Bank, N.A. to act as Administrative Agent in accordance with the terms hereof and the other Loan Documents. Each Agent hereby agrees to act in its capacity as such upon the express conditions contained herein and the other Loan Documents, as applicable. The provisions of this Article 8 are solely for the benefit of the Agents and Lenders and no Loan Party shall have any rights as a third party beneficiary of any of the provisions thereof. In performing its functions and duties hereunder, each Agent shall act solely as an agent of Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for the Borrower or any of its Subsidiaries. As of the Effective Date, none of the Arrangers or the Syndication Agent in such capacity shall have any obligations but shall be entitled to all benefits of this Article 8. Each Arranger and the Syndication Agent may resign from such role at any time, with immediate effect, by giving prior written notice thereof to the Administrative Agent and the Borrower.

Section 8.02 Powers and Duties. Each Lender irrevocably authorizes each Agent to take such action on such Lender's behalf and to exercise such powers, rights and remedies hereunder and under the other Loan Documents as are specifically delegated or granted to such Agent by the terms hereof and thereof, together with such powers, rights and remedies as are reasonably incidental thereto. Each Agent shall have only those duties and responsibilities that are expressly specified herein and the other Loan Documents. Each Agent may exercise such powers, rights and remedies and perform such duties by or through its agents or employees. No Agent shall have, by reason hereof or any of the other Loan Documents, a fiduciary relationship in respect of any Lender or any other Person; and nothing herein or any of the other Loan Documents, expressed or implied, is intended to or shall be so construed as to impose upon any Agent any obligations in respect hereof or any of the other Loan Documents except as expressly set forth herein or therein.

Section 8.03 General Immunity. (a) No Agent shall be responsible to any Lender for the execution, effectiveness, genuineness, validity, enforceability, collectability or sufficiency hereof or any other Loan Document or for any representations, warranties, recitals or statements made herein or therein or made in any written or oral statements or in any financial or other statements, instruments, reports or certificates or any other documents furnished or made by any Agent to Lenders or by or on behalf of any Loan Party to any Agent or any Lender in connection with the Loan Documents and the transactions contemplated thereby or for the financial condition or business affairs of any Loan Party or any other Person liable for the payment of any Obligations, nor shall any Agent be required to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained in any of the Loan Documents or as to the use of the proceeds of the Loans or as to the existence or possible existence of any Event of Default or Default or to make any disclosures with respect to the foregoing. Anything contained herein to the contrary notwithstanding, the Administrative Agent shall not have any liability arising from confirmations of the amount of outstanding Loans or the Revolving Credit Exposures or the component amounts thereof.

(b) No Agent nor any of its officers, partners, directors, employees or agents shall be liable to Lenders for any action taken or omitted by any Agent under or in connection with any of the Loan Documents except to the extent caused by such Agent's gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction. Each Agent shall be entitled to refrain from any act or the taking of any action (including the failure to take an action) in connection herewith or any of the other Loan Documents or from the exercise of any power, discretion or authority vested in it hereunder or thereunder unless and until such Agent shall have received instructions in respect thereof from Required Lenders (or such other Lenders as may be required to give such instructions under Section 9.02) and, upon receipt of such instructions from Required Lenders (or such other Lenders, as the case may be), such Agent shall be entitled to act or (where so instructed) refrain from acting, or to exercise such power, discretion or authority, in accordance with such instructions, including for the avoidance of doubt refraining from any action that, in its opinion or the opinion of its counsel, may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law. Without prejudice to the generality of the foregoing, (i) each Agent shall be entitled to rely, and shall be fully protected in relying, upon any communication, instrument or document believed by it to be genuine and correct and to have

been signed or sent by the proper Person or Persons, and shall be entitled to rely and shall be protected in relying on opinions and judgments of attorneys (who may be attorneys for Borrower and its Subsidiaries), accountants, experts and other professional advisors selected by it; and (ii) no Lender shall have any right of action whatsoever against any Agent as a result of such Agent acting or (where so instructed) refraining from acting hereunder or any of the other Loan Documents in accordance with the instructions of Required Lenders (or such other Lenders as may be required to give such instructions under Section 9.02).

(c) The Administrative Agent may perform any and all of its duties and exercise its rights and powers under this Agreement or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Affiliates. The exculpatory, indemnification and other provisions of this Section 8.03 and of Section 8.06 shall apply to any the Affiliates of the Administrative Agent and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Administrative Agent. All of the rights, benefits, and privileges (including the exculpatory and indemnification provisions) of this Section 8.03 and of Section 8.06 shall apply to any such sub-agent and to the Affiliates of any such sub-agent, and shall apply to their respective activities as sub-agent as if such sub-agent and Affiliates were named herein. Notwithstanding anything herein to the contrary, with respect to each sub-agent appointed by the Administrative Agent, (i) such sub-agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory rights and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of Loan Parties and the Lenders, (ii) such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be modified or amended without the consent of such sub-agent, and (iii) such sub-agent shall only have obligations to the Administrative Agent and not to any Loan Party, Lender or any other Person and no Loan Party, Lender or any other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise, against such sub-agent.

Section 8.04 Administrative Agent Entitled to Act as Lender. The agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, any Agent in its individual capacity as a Lender hereunder. With respect to its participation in the Loans, each Agent shall have the same rights and powers hereunder as any other Lender and may exercise the same as if it were not performing the duties and functions delegated to it hereunder, and the term "Lender" shall, unless the context clearly otherwise indicates, include each Agent in its individual capacity. Any Agent and its Affiliates may accept deposits from, lend money to, own securities of, and generally engage in any kind of banking, trust, financial advisory or other business with the Borrower or any of its Affiliates as if it were not performing the duties specified herein, and may accept fees and other consideration from the Borrower for services in connection herewith and otherwise without having to account for the same to Lenders.

Section 8.05 Lenders' Representations, Warranties and Acknowledgment. (a) Each Lender represents and warrants that it has made its own independent investigation of the financial condition and affairs of the Borrower and its Subsidiaries in connection with Loans hereunder and that it has made and shall continue to make its own appraisal of the creditworthiness of the Borrower and its Subsidiaries. No Agent shall have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of Lenders or to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter, and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to Lenders.

(b) Each Lender, by delivering its signature page to this Agreement, an Assignment and Assumption or a Joinder Agreement and funding its Loans on or after the Effective Date or by the funding of any New Loans, as the case may be, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be approved by any Agent, Issuing Bank or Lender, as applicable on the Effective Date or as of the date of funding of such New Loans.

Section 8.06 Right to Indemnity. Each Lender, in proportion to its Applicable Percentage, severally agrees to indemnify each Agent, to the extent that such Agent shall not have been reimbursed by any Loan Party, for and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against such Agent in exercising its powers, rights and remedies or performing its duties hereunder or under the other Loan Documents or otherwise in its capacity as such Agent in any way relating to or arising out of this Agreement or the other Loan Documents; *provided*, no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction. If any indemnity furnished to any Agent for any purpose shall, in the opinion of such Agent, be insufficient or become impaired, such Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; *provided*, in no event shall this sentence require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's Applicable Percentage thereof; and *provided further*, this sentence shall not be deemed to require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement described in the proviso in the immediately preceding sentence.

Section 8.07 Successor Administrative Agent. The Administrative Agent shall have the right to resign at any time by giving prior written notice thereof to Lenders and the Borrower. The Administrative Agent shall have the right to appoint a financial institution to act as the Administrative Agent hereunder, subject to the reasonable satisfaction of the Borrower and the Required Lenders, and the Administrative Agent's resignation shall become effective on the earliest of (i) 30 days after delivery of the notice of resignation (regardless of whether a successor has been appointed or not), (ii) the acceptance of such successor Administrative Agent by the Borrower and the Required Lenders or (iii) such other date, if any, agreed to by the Required Lenders. Upon any such notice of resignation, if a successor Administrative Agent has

not already been appointed by the retiring Administrative Agent, Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor Administrative Agent. If neither the Required Lenders nor the Administrative Agent have appointed a successor Administrative Agent, the Required Lenders shall be deemed to have succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, that successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent and the retiring Administrative Agent shall promptly (i) transfer to such successor Administrative Agent all sums held under the Loan Documents, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Administrative Agent under the Loan Documents, and (ii) take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Administrative Agent of the Loan Documents, whereupon such retiring Administrative Agent shall be discharged from its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Article). After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Article 8 and Section 9.03 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent hereunder.

Section 8.08 Guaranty and Security Documents. (a) Each Lender hereby further authorizes the Administrative Agent, on behalf of and for the benefit of the Lenders, to be the agent for and representative of the Lenders with respect to the Guaranty and the Loan Documents. Subject to Section 9.02, without further written consent or authorization from any Lender, the Administrative Agent may execute any documents or instruments necessary to release any Guarantor from the Guaranty pursuant to Section 9.17 or with respect to which Required Lenders (or such other Lenders as may be required to give such consent under Section 9.02) have otherwise consented.

(b) Anything contained in any of the Loan Documents to the contrary notwithstanding, the Borrower, the Administrative Agent and each Lender hereby agree that no Lender shall have any right individually to enforce the Guaranty or the Security Documents, it being understood and agreed that all powers, rights and remedies hereunder and under any of the Loan Documents may be exercised solely by the Administrative Agent, for the benefit of the Lenders in accordance with the terms hereof and thereof.

(c) Notwithstanding anything to the contrary contained herein or any other Loan Document, when all Obligations (other than obligations under or in respect of Specified Swap Agreements or Specified Cash Management Agreements) have been paid in full and all Commitments have terminated or expired and no Letter of Credit shall be outstanding or subject to any pending draw, upon request of the Borrower, the Administrative Agent shall take such actions as shall be required to release all guarantee obligations provided for in and Liens created by any Loan Document. Any such release of guarantee obligations shall be deemed subject to the provision that such guarantee obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Borrower or any Guarantor or any substantial part of its property, or otherwise, all as though such payment had not been made.

Section 8.09 Withholding Taxes. To the extent required by any applicable law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. If the Internal Revenue Service or any other Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender because the appropriate form was not delivered or was not properly executed or because such Lender failed to notify the Administrative Agent of a change in circumstance which rendered the exemption from, or reduction of, withholding Tax ineffective or for any other reason, or if the Administrative Agent reasonably determines that a payment was made to a Lender pursuant to this Agreement without deduction of applicable withholding tax from such payment, such Lender shall indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including any penalties or interest and together with all expenses (including legal expenses, allocated internal costs and out-of-pocket expenses) incurred.

Section 8.10 Administrative Agent May File Bankruptcy Disclosure and Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Laws relative to any Loan Party, The Administrative Agent (irrespective of whether the principal of any Loan or Obligation under a Letter of Credit shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(a) to file a verified statement pursuant to rule 2019 of the Federal Rules of Bankruptcy Procedure that, in its sole opinion, complies with such rule's disclosure requirements for entities representing more than one creditor;

(b) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its respective agents and counsel and all other amounts due Administrative Agent under Sections 2.09 and 9.03 allowed in such judicial proceeding; and

(c) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and Issuing Bank to make such payments to Administrative Agent and, in the event that Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements

and advances of the Administrative Agent and its agents and counsel, and any other amounts due to the Administrative Agent under Sections 2.09 and 9.03. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Administrative Agent, its agents and counsel, and any other amounts due to the Administrative Agent under Sections 2.09 and 9.03 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Lenders or the Issuing Banks may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

## **ARTICLE 9 MISCELLANEOUS**

Section 9.01 Notices. (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(i) if to the Borrower, to it at:

Square, Inc.  
1455 Market Street, Suite 600  
San Francisco, CA 94103  
Attention: Chief Financial Officer  
Email: treasury-external@squareup.com; with a copy to  
legalnotices@squareup.com

(ii) if to the Administrative Agent, to it at:

JPMorgan Chase Bank, N.A.  
500 Stanton Christiana Road, Ops 2 Floor 3  
Newark, DE 19713  
Attention: Christopher Jackson  
Email: Christopher.Jackson@chase.com  
Reference: Square Inc.  
Telephone No: (302) 634-1198

(iii) if to any other Lender, to it at its address (or telecopy number) set forth in its Administrative Questionnaire.

(iv) if to JPMorgan Chase Bank, N.A., as an Issuing Bank, to it at:

JPMorgan Chase Bank, N.A.  
c/o JPMorgan Treasury Services  
10420 Highland Manor Drive, 4th Floor  
Tampa, FL 33610  
Attention: Standby Letter of Credit Department

(v) if to Goldman Sachs Lending Partners LLC, as an Issuing Bank, to it at:

Goldman Sachs Lending Partners LLC  
200 West Street  
New York, NY 10282  
Telecopy: (646) 769-7700

(vi) With respect to any other Issuing Bank, at its address provided by notice to the other parties hereto.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Notices and other communications to the Lenders and the Issuing Banks hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; *provided* that the foregoing shall not apply to notices pursuant to Article 2 unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; *provided* that approval of such procedures may be limited to particular notices or communications. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; *provided* that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(c) Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto.

(d) The Borrower agrees that the Administrative Agent may make the Communications (as defined below) available to the Lenders and the Issuing Banks by posting the Communications on Debt Domain, IntraLinks, Syndtrak, the Internet or another similar electronic system (the “**Platform**”). THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE.” The Agent Parties (as defined below) do not warrant the adequacy of the Platform and expressly disclaim liability for errors or omissions in the communications effected thereby (the “**Communications**”). No warranty of any kind, express, implied or statutory, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Communications or the Platform. In no event shall the Administrative Agent or any of its Related Parties (collectively, the “**Agent Parties**”) be responsible or liable for damages arising from the unauthorized use by others of information or other materials obtained through internet, electronic, telecommunications or other information transmission, except to the extent that such damages have resulted from the willful misconduct or gross negligence of such Agent Party (as determined in a final, non-appealable judgment by a court of competent jurisdiction).

Section 9.02 Waivers; Amendments. (a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of such Default at the time.

(b) None of this Agreement, any other Loan Document or any provision hereof or thereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or by the Borrower and the Administrative Agent with the consent of the Required Lenders; *provided, however*, that no such amendment, waiver or consent shall: (i) extend or increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender directly affected thereby, (iii) postpone the scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender directly affected thereby; *provided, however*, that notwithstanding clause (ii) or (iii) of this Section 9.02(b), only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the default rate set forth in Section 2.10(c), (iv) change Section 2.15(b), Section 2.15(c) or any other Section hereof

providing for the ratable treatment of the Lenders, in each case in a manner that would alter the *pro rata* sharing of payments required thereby, without the written consent of each Lender, (v) release all or substantially all of the value of any Guaranty or release all or substantially all of the Collateral, without the written consent of each Lender, except to the extent the release of any Guarantor or the Collateral is permitted pursuant to Article 8 or Section 9.17 (in which case such release may be made by the Administrative Agent acting alone), (vi) change any of the provisions of this Section or the percentage referred to in the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender or (vii) waive any condition set forth in Section 4.01 (other than as it relates to the payment of fees and expenses of counsel), or, in the case of any Loans made on the Effective Date, Section 4.02, without the written consent of each Lender. Notwithstanding anything to the contrary herein, no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or any Issuing Bank hereunder without the prior written consent of the Administrative Agent or any Issuing Bank, as the case may be.

(c) This Agreement may be amended as contemplated by Section 2.18 to effect New Commitments pursuant to a Joinder Agreement with only the consent of the Administrative Agent, the Borrower and the New Lenders providing New Commitments.

Section 9.03 Expenses; Indemnity; Damage Waiver. (a) The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, Arrangers, Syndication Agent and their respective Affiliates, including, without limitation, the reasonable and documented fees, disbursements and other charges of one firm of counsel for the Administrative Agent, Arrangers and Syndication Agent, taken as a whole, (and if reasonably necessary (as determined by the Administrative Agent in consultation with the Borrower), of a single regulatory counsel and a single local counsel in each appropriate jurisdiction) in connection with the syndication of the credit facilities provided for herein, the preparation, execution, delivery and administration of this Agreement, any other Loan Document or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all documented out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all documented out-of-pocket expenses incurred by the Administrative Agent, the Arrangers, the Syndication Agent, any Issuing Bank or any Lender, including, without limitation, the fees, disbursements and other charges of one firm of counsel for the Administrative Agent, Arrangers and Syndication Agent, taken as a whole (and if reasonably necessary (as determined by the Administrative Agent in consultation with the Borrower), of a single regulatory counsel and a single local counsel in each appropriate jurisdiction and in the case of an actual or potential conflict of interest where the Administrative Agent, any Arranger affected by such conflict or the Syndication Agent informs the Borrower of such conflict and thereafter retains its own counsel, of another firm of counsel for such affected person), in connection with the enforcement or protection of its rights in connection with this Agreement or any other Loan Document, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) The Borrower shall indemnify the Administrative Agent, the Arrangers, the Syndication Agent, each Issuing Bank and each Lender, and each Related Party, successor, partner, representative or assign of any of the foregoing Persons (each such Person being called an “ **Indemnitee** ”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, costs or reasonable and documented expenses, including the fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the performance by the parties hereto of their respective obligations hereunder or the consummation of the Transactions or any other transactions contemplated hereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned, leased or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto (and regardless of whether such matter is initiated by a third party or the Borrower or any Affiliate of the Borrower); *provided* that such indemnity shall not, as to any Indemnitee, be available, (w) with respect to Taxes and amounts relating thereto (other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim), the indemnification for which shall be governed solely and exclusively by Section 2.14, (x) to the extent that such losses, claims, damages, liabilities, costs or reasonable and documented expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee, or (y) if arising from a material breach by such Indemnitee or one of its Affiliates of its obligations under this Agreement or any other Loan Document (as determined by a court of competent jurisdiction by final and non-appealable judgment), or (z) if arising from any dispute between and among Indemnitees that does not involve an act or omission by the Borrower or its Subsidiaries (as determined by a court of competent jurisdiction by final and non-appealable judgment) other than any proceeding against the Administrative Agent, the Arrangers or the Syndication Agent in such capacity. The Borrower will not be required to indemnify any Indemnitee for any amount paid or payable by such Indemnitee in the settlement of any such indemnified losses, claims, damages, liabilities, costs or reasonable and documented expenses which is entered into by such Indemnitee without the Borrower’s written consent (such consent not to be unreasonably withheld, conditioned or delayed); *provided* that (A) the Borrower shall be deemed to consent to such settlement if it does not respond to the Indemnitee’s request within 5 Business Days; (B) the foregoing indemnity will apply if the Borrower shall have been offered an opportunity to assume the defense of such matter and shall have declined to do so and (C) the foregoing indemnity will apply if there is a final judgment for the plaintiff in such proceeding. In the case of any proceeding to which the indemnity in this paragraph applies, such indemnity and reimbursement obligations shall be effective, whether or not such proceeding is brought by the Borrower, any of its securityholders or creditors, an Indemnitee or any other Person, or an Indemnitee is otherwise a party thereto.

(c) Without limiting in any way the indemnification obligations of the Borrower pursuant to Section 9.03(b) or of the Lenders pursuant to Section 8.06, to the extent permitted by applicable law, each party hereto shall not assert, and hereby waives, any claim against any Indemnitee or the Borrower or any of its Subsidiaries, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the Transactions or any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and non-appealable judgment of a court of competent jurisdiction.

(d) All amounts due under this Section shall be payable promptly after written demand therefor.

Section 9.04 Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), the Related Parties of each of the Administrative Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (but not to the Borrower or an Affiliate thereof) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment, participations in Letters of Credit and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Borrower; *provided* that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee; and *provided further* that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within 10 Business Days after having received notice thereof;

(B) the Administrative Agent; *provided* that no consent of the Administrative Agent shall be required for an assignment of any Commitment to an assignee that is a Lender with a Commitment immediately prior to giving effect to such assignment, an Affiliate of a Lender, or an Approved Fund; and

(C) each Issuing Bank.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000 (or a greater amount that is an integral multiple of \$1,000,000) unless each of the Borrower and the Administrative Agent otherwise consent; *provided* that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500;

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower and its Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws;

(E) no such assignment shall be made to (i) any Loan Party nor any Affiliate of a Loan Party, (ii) any Defaulting Lender or any of its subsidiaries, or any Person, who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (ii), or (iii) any natural person; and

(F) in connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable *pro rata* share of Loans previously requested but not funded by the

Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full *pro rata* share of all Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Section 2.12, Section 2.13, Section 2.14 and Section 9.03); *provided*, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and amounts on the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive (absent manifest error), and the Borrower, the Administrative Agent, the Issuing Banks and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, any Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice. The Borrower agrees to indemnify the Administrative Agent from and against any and all losses, claims, damages and liabilities of whatsoever nature which may be imposed on, asserted against or incurred by the Administrative Agent in performing its duties under this Section 9.04(b)(iv), except to the extent that such losses, claims, damages or liabilities are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of the Administrative Agent. The Loans (including principal and interest) are registered obligations and the right, title, and interest of any Lender or its assigns in and to such Loans shall be transferable only upon notation of such transfer in the Register.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; *provided* that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.04(b), Section 2.15(d) or Section 8.06, the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of, or notice to, the Borrower or the Administrative Agent or any Issuing Bank, sell participations to one or more banks or other entities (but not to the Borrower or an Affiliate thereof) (a "**Participant**") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); *provided* that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.12, 2.13 and 2.14 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.15(c) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Sections 2.12 or 2.14 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant except to the extent such entitlement to receive a greater payment results from a Change in Law requiring a payment under Section 2.12 that occurs after the Participant acquired the applicable participation. Participants entitled to the benefits of Sections 2.12, 2.13 and 2.14 are entitled to such benefits subject to the requirements and limitations therein, including the requirements under Section 2.14(f) (it being understood that the documentation required under Section 2.14(f) shall be delivered to the participating Lender).

(iii) Each Lender that sells a participation shall, acting solely for this purpose as a nonfiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "**Participant Register**"); *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank or any other central bank having jurisdiction over such Lender, and this Section shall not apply to any such pledge or assignment of a security interest; *provided* that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 9.05 Survival. All covenants, agreements, representations and warranties made by the Borrower herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding or subject to any pending draw and so long as the Commitments have not expired or terminated. The provisions of Section 2.12, Section 2.13, Section 2.14 and Section 9.03 and Article 8 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments, the resignation of the Administrative Agent, the replacement of any Lender, or the termination of this Agreement or any provision hereof.

Section 9.06 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent

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and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 9.07 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, then such provisions shall be deemed to be in effect only to the extent not so limited.

Section 9.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of the Borrower against any of and all the obligations of the Borrower now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.17 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the obligations owing to such Defaulting Lender as to which it exercised such right of setoff; *provided, further*, that no Lender shall have a right of setoff with respect to Obligations of the Borrower under this Agreement against the Payment Processing Accounts. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; *provided* that the failure to give such notice shall not affect the validity of such setoff and application. Notwithstanding the foregoing, to the extent prohibited by applicable law as described in the definition of “Excluded Swap Obligation,” no amounts received from, or set off with respect to, any Guarantor shall be applied to any Excluded Swap Obligations of such Guarantor.

Section 9.09 Governing Law; Jurisdiction; Consent to Service of Process.

(a) This Agreement shall be construed in accordance with and governed by the law of the State of New York.

(b) The Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County, Borough of Manhattan and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement against the Borrower or its properties in the courts of any jurisdiction.

(c) The Borrower hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

Section 9.10 Waiver Of Jury Trial. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 9.11 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 9.12 Confidentiality. (a) Each of the Administrative Agent, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information (as defined below) and to not use the Information for any purpose except in connection with the Loan Documents, except that Information may be disclosed (i) to its and its Affiliates' directors, officers,

employees, and agents, including accountants, legal counsel and other professionals, experts or advisors, or to any credit insurance provider relating to the Borrower and its obligations, in each case whom it reasonably determines needs to know such information in connection with this Agreement and the transactions contemplated hereby and who are informed of the confidential nature of such Information and instructed to keep such Information confidential, (ii) to the extent requested by any rating agency or regulatory authority, examiner regulating banks or banking, or other self-regulatory authority having or claiming oversight over the Administrative Agent, any Issuing Bank, any Lender or any of their respective Affiliates, (iii) pursuant to the order of any court or administrative agency or in any pending legal, judicial or administrative proceeding, or otherwise as required by applicable laws or regulations or by any subpoena or similar legal process based on the advice of counsel (in which case the Administrative Agent, such Issuing Bank or such Lender, as applicable, agrees, to the extent permitted by applicable law, to inform the Borrower promptly thereof), (iv) to any other party to this Agreement, (v) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder, (vi) subject to an agreement containing provisions substantially the same as those of this Section, to (A) any assignee of or Participant in, or any prospective assignee of or prospective Participant in, any of its rights or obligations under this Agreement or (B) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (vii) with the consent of the Borrower, (viii) to the extent such Information (A) becomes publicly available other than as a result of a breach of this Section, (B) becomes available to the Administrative Agent, any Issuing Bank or any Lender on a nonconfidential basis from a source other than the Borrower or (C) is independently developed by the Administrative Agent, an Issuing Bank or a Lender or (ix) for purposes of establishing a “due diligence” defense. In addition, the Administrative Agent, the Issuing Banks and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent, the Issuing Banks and the Lenders in connection with the administration of this Agreement, the other Loan Documents, the Letters of Credit and the Loans. For the purposes of this Section, “Information” means all memoranda or other information received from or on behalf of the Borrower relating to the Borrower or its business that is clearly identified by the Borrower as confidential, other than any such information that is available to the Administrative Agent, any Issuing Bank or any Lender on a nonconfidential basis prior to disclosure by the Borrower. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

(b) EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN SECTION 9.12(A) FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWER AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

(c) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWER AND ITS RELATED PARTIES OR ITS SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW.

Section 9.13 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the “Charges”), shall exceed the maximum lawful rate (the “**Maximum Rate**”) which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

Section 9.14 No Advisory or Fiduciary Responsibility. In connection with all aspects of each Transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges and agrees, and acknowledges its Subsidiaries’ understanding, that: (a) (i) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers, the Syndication Agent, the Issuing Banks and the Lenders are arm’s-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Administrative Agent, the Arrangers, the Syndication Agent, the Issuing Banks and the Lenders, on the other hand, (ii) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the Transactions contemplated hereby and by the other Loan Documents; (b) (i) each of the Administrative Agent, the Arrangers, the Syndication Agent, the Issuing Banks and the Lenders is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Subsidiaries, or any other Person and (ii) neither the Administrative Agent, any Arranger, the Syndication Agent, any Issuing Bank, nor any Lender has any obligation to the Borrower or any of its Affiliates with respect to the Transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Administrative Agent, the Arrangers, the Syndication Agent, the Issuing Banks and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and neither the Administrative Agent, any Arranger, the Syndication Agent, any

Issuing Bank, nor any Lender has any obligation to disclose any of such interests to the Borrower or its Affiliates. The Borrower, on behalf of itself and each of its Subsidiaries, agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between the Administrative Agent, the Arrangers, the Syndication Agent, any Issuing Bank or any Lender, on the one hand, and the Borrower, any of its Subsidiaries, or their respective stockholders or affiliates, on the other.

Section 9.15 Electronic Execution of Assignments and Certain Other Documents. The words “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 9.16 USA PATRIOT Act. Each Lender and each Issuing Bank that is subject to the requirements of the USA Patriot Act hereby notifies the Borrower and each Guarantor that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies the Borrower and each Guarantor, which information includes the name and address of the Borrower and each Guarantor and other information that will allow such Lender or such Issuing Bank to identify the Borrower and each Guarantor in accordance with the USA Patriot Act. The Borrower and each Guarantor shall, promptly following a request by the Administrative Agent, any Issuing Bank or any Lender, provide all documentation and other information that the Administrative Agent, such Issuing Bank or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the USA Patriot Act.

Section 9.17 Releases of Guarantors and Liens. (a) In the event that all the Equity Interests in any Guarantor are sold, transferred or otherwise disposed of to a Person other than the Borrower or its Subsidiaries in a transaction permitted under this Agreement or in the event that a Guarantor ceases to be a Material Subsidiary, the Administrative Agent shall, at the Borrower’s expense, promptly take such action and execute such documents as the Borrower may reasonably request to terminate the guarantee of such Guarantor and to release the Collateral owned by such Guarantor from the Liens created by the Security Documents.

(b) In the event that any of the Collateral shall be sold, transferred or otherwise disposed of by any Loan Party to a Person other than the Borrower or its Subsidiaries in a transaction permitted under Section 6.08 of this Agreement, the Administrative Agent shall, at the Borrower’s expense, promptly take such action and execute such documents as the Borrower may reasonably request to release the Liens created by the Security Documents on such Collateral.

(c) Notwithstanding any other provision of this Agreement or any Security Document, the Collateral shall be released from the Liens created under the Security Documents, and the Security Documents and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Loan Party under the Security Documents shall terminate on a Business Day specified by the Borrower (the “**Security Release Date**”), upon satisfaction of the following conditions precedent:

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(i) the Borrower shall have given written notice to the Administrative Agent at least five Business Days prior to such Security Release Date, specifying the proposed Security Release Date;

(ii) Operating Cash Flow for the most recently ended Measurement Period for which financial statements have been delivered as of such proposed Security Release Date shall be equal to or greater than \$100,000,000;

(iii) no Default or Event of Default shall have occurred and be continuing as of such Security Release Date; and

(iv) on such Security Release Date, the Administrative Agent shall have received a certificate, dated as of such Security Release Date and executed on behalf of the Borrower by a Responsible Officer of the Borrower, confirming the satisfaction of the conditions set forth in clauses (ii) and (iii) above.

(d) Unless the Security Release Date shall have occurred prior to such time, at such time as all Obligations (other than inchoate indemnity obligations and obligations under or in respect of Specified Swap Agreements or Specified Cash Management Agreements) have been paid in full and all Commitments have terminated or expired and no Letter of Credit shall be outstanding or subject to any pending draw, the Collateral shall be released from the Liens created by the Security Documents, and the Security Documents and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Loan Party under the Security Documents shall terminate, all without delivery of any instrument or performance of any act by any Person.

[Remainder of page intentionally left blank; signature pages follow]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

SQUARE, INC.,  
as Borrower

By: /s/ Sarah Friar  
Name: Sarah Friar  
Title: Chief Financial Officer

[Signature Page to Revolving Credit Agreement]

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JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent, an Issuing Bank and a Lender

By: /s/ John G. Kowalczuk  
Name: John G. Kowalczuk  
Title: Executive Director

[Signature Page to Revolving Credit Agreement]

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GOLDMAN SACHS LENDING PARTNERS LLC,  
as an Issuing Bank and a Lender

By: /s/ Rebecca Kratz

Name: Rebecca Kratz

Title: Authorized Signatory

[Signature Page to Revolving Credit Agreement]

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MORGAN STANLEY SENIOR FUNDING, INC.,  
as a Lender

By: /s/ Michael King  
Name: Michael King  
Title: Vice President

[Signature Page to Revolving Credit Agreement]

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BARCLAYS BANK PLC,  
as a Lender

By: /s/ Christopher R. Lee  
Name: Christopher R. Lee  
Title: Vice President

[Signature Page to Revolving Credit Agreement]

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ROYAL BANK OF CANADA,  
as a Lender

By: /s/ Sheldon Pinto

Name: Sheldon Pinto

Title: Authorized Signatory

[Signature Page to Revolving Credit Agreement]

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SILICON VALLEY BANK,  
as a Lender

By: /s/ Alina Zinchik  
Name: Alina Zinchik  
Title: Vice President

[Signature Page to Revolving Credit Agreement]

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SUMITOMO MITSUI BANKING CORP.,  
as a Lender

By: /s/ David W. Kee  
Name: David W. Kee  
Title: Managing Director

[Signature Page to Revolving Credit Agreement]

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JEFFERIES FINANCE LLC,  
as a Lender

By: /s/ Brian Buoye  
Name: Brian Buoye  
Title: Managing Director

[Signature Page to Revolving Credit Agreement]

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STIFEL, NICOLAUS & COMPANY, INC.,  
as a Lender

By: /s/ Scott Hague  
Name: Scott Hague  
Title: Managing Director

[Signature Page to Revolving Credit Agreement]

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**SCHEDULE 2.01**

**Commitments**

JPMorgan Chase Bank, N.A.	\$100,000,000
Goldman Sachs Lending Partners LLC	75,000,000
Morgan Stanley Senior Funding, Inc.	75,000,000
Barclays Bank PLC	25,000,000
Royal Bank of Canada	25,000,000
Silicon Valley Bank	25,000,000
Sumitomo Mitsui Banking Corp.	20,000,000
Jefferies Finance LLC	3,000,000
Stifel Financial Corp.	2,000,000
<b>Total</b>	<b><u>\$350,000,000</u></b>

**EXHIBIT A**

**FORM OF ASSIGNMENT AND ASSUMPTION**

This Assignment and Assumption (the “ **Assignment and Assumption** ”) is dated as of the Effective Date set forth below and is entered into by and between (the “ **Assignor** ”) and (the “ **Assignee** ”). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, restated, amended and restated, supplemented, extended and/or otherwise modified from time to time, the “ **Credit Agreement** ”), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex I attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor’s rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the facility identified below (including any letters of credit included in the facility) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the “ **Assigned Interest** ”). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

- 1. Assignor: \_\_\_\_\_  
[Assignor [is] [is not] a Defaulting Lender]
  
- 2. Assignee: \_\_\_\_\_  
[and is an Affiliate of [identify Lender]]
  
- 3. Borrower: Square, Inc., (the “ **Company** ”)
  
- 4. Administrative Agent: JPMorgan Chase Bank, N.A.,  
as administrative agent under the Credit Agreement
  
- 5. Credit Agreement: Revolving Credit Agreement, dated as of November 2, 2015, among Square, Inc., as Borrower, the Lenders party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent.

6. Assigned Interest:

<u>Facility Assigned</u>	<u>Aggregate Amount of Commitment/Loans for all Lenders</u>	<u>Amount of Commitment/Loans Assigned</u>	<u>Percentage Assigned of Commitment Loans <sup>1</sup></u>
Revolving Facility	\$	\$	%

Effective Date: \_\_\_\_\_, 20 \_\_\_\_\_ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The Assignee agrees to deliver to the Administrative Agent a completed Administrative Questionnaire in which the Assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information) will be made available and who may receive such information in accordance with the Assignee's compliance procedures and applicable laws, including Federal and state securities laws.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR:

By: \_\_\_\_\_  
Name:  
Title:

ASSIGNEE:

By: \_\_\_\_\_  
Name:  
Title:

CONSENTED TO AND ACCEPTED:

JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

<sup>1</sup> Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

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CONSENTED TO:

[ISSUING BANK]

By: \_\_\_\_\_  
Name:  
Title:

[CONSENTED TO:

SQUARE, INC.

By: \_\_\_\_\_  
Name:  
Title:] 2

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2 To be added only if the consent of the Company is required by the terms of the Credit Agreement.

## SQUARE, INC. REVOLVING CREDIT AGREEMENT

Standard Terms and Conditions for  
Assignment and Assumption1. *Representations and Warranties* .

1.1 *Assignor* . The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and (iv) it is [not] a Defaulting Lender; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Company, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Company, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2 *Assignee* . The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received and/or had the opportunity to review a copy of the Credit Agreement to the extent it has in its sole discretion deemed necessary, together with copies of the most recent financial statements delivered pursuant to Section 5.01(a) and Section 5.01(b) thereof, as applicable, and such other documents and information as it has in its sole discretion deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) attached to this Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; (b) agrees that it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents; (c) appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under the Credit Agreement and the other Loan Documents as are delegated to or otherwise conferred upon the Administrative Agent by the terms thereof, together with such powers as are reasonably incidental thereto; and (d) agrees that it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

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2. *Payments.* From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. *Effect of Assignment.* Upon the delivery of a fully executed original hereof to the Administrative Agent, as of the Effective Date, (i) the Assignee shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Assumption, have the rights and obligations of a Lender thereunder and under the other Loan Documents and (ii) the Assignor shall, to the extent provided in this Assignment and Assumption, relinquish its rights and be released from its obligations under the Credit Agreement and the other Loan Documents.

4. *General Provisions .* This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy or other means of electronic imaging shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. THIS ASSIGNMENT AND ASSUMPTION SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

**EXHIBIT B-1**

**FORM OF BORROWING REQUEST**

JPMorgan Chase Bank, N.A., as Administrative Agent  
for the Lenders party to the  
Credit Agreement referred to below

\_\_\_\_\_, 20 \_\_\_\_

Ladies and Gentlemen:

The undersigned, Square, Inc. (the “**Borrower**”), refers to the Revolving Credit Agreement, dated as of November 2, 2015 (as amended, restated, amended and restated, modified, extended and/or supplemented from time to time, the “**Credit Agreement**,” the terms defined therein being used herein as therein defined), among the Borrower, the lenders from time to time party thereto (each a “**Lender**” and collectively, the “**Lenders**”) and you, as Administrative Agent for such Lenders, and hereby gives you notice, irrevocably, pursuant to Section 2.03 of the Credit Agreement, that the undersigned hereby requests a Borrowing under the Credit Agreement, and in that connection sets forth below the information relating to such Borrowing (the “**Proposed Borrowing**”) as required by Section 2.03 of the Credit Agreement:

- (i) The Business Day of the Proposed Borrowing is \_\_\_\_\_, 20 \_\_\_\_ .<sup>1</sup>
- (ii) The aggregate principal amount of the Proposed Borrowing is [ \_\_\_\_\_ ].<sup>2</sup>
- (iii) The Proposed Borrowing is to consist of [ABR Loans] [Eurodollar Loans].
- (iv) [The initial Interest Period for the Proposed Borrowing is [one/two/three/six/twelve months][ *insert period less than one month* ].<sup>3</sup> ]
- (v) The location and number of the account or accounts to which funds are to be disbursed is as follows:

*[Insert location and number of the account(s)]*

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the Proposed Borrowing:

- <sup>1</sup> Shall be a Business Day at least one Business Day in the case of ABR Loans and at least three Business Days in the case of Eurodollar Loans, in each case, after the date hereof, provided that any such notice shall be deemed to have been given on a certain day only if given before 12:00 noon (New York City time) in the case of ABR Loans or before 12:00 noon (New York City time) in the case of Eurodollar Loans, on such day.
- <sup>2</sup> Such amounts to be stated in Dollars.
- <sup>3</sup> To be included for a Proposed Borrowing of Eurodollar Loans. Interest Periods of twelve or less than one month only available with the consent of each Lender.

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(A) the representations and warranties of the Borrower set forth in the Credit Agreement and in the other Loan Documents are and will be true and correct in all material respects, on and as of the date of the Proposed Borrowing, except that (i) for purposes of this Borrowing Request, the representations and warranties contained in Section 3.04(a) of the Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b) (subject, in the case of unaudited financial statements furnished pursuant to clause (b), to year-end audit adjustments and the absence of footnotes), respectively, of Section 5.01 of the Credit Agreement, (ii) to the extent that such representations and warranties specifically refer to an earlier date, they were true and correct in all material respects as of such earlier date and (iii) to the extent that such representations and warranties are already qualified or modified by materiality in the text thereof, they shall be true and correct in all respects; and

(B) at the time of and immediately after giving effect to the Proposed Borrowing, no Default has occurred and is continuing.

*[Signature Page Follows]*

B-1-2

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The Borrower has caused this Borrowing Request to be executed and delivered by its duly authorized officer as of the date first written above.

Very truly yours,

SQUARE, INC.

By: \_\_\_\_\_  
Name:  
Title:

B-1-3

**EXHIBIT B-2**

**FORM OF LETTER OF CREDIT REQUEST**

JPMorgan Chase Bank, N.A., as Administrative Agent  
for the Lenders party to the  
Credit Agreement referred to below

\_\_\_\_\_, 20 \_\_\_\_

Ladies and Gentlemen:

The undersigned, Square, Inc. (the “**Borrower**”), refers to the Revolving Credit Agreement, dated as of November 2, 2015 (as amended, restated, amended and restated, modified, extended and/or supplemented from time to time, the “**Credit Agreement**,” the terms defined therein being used herein as therein defined), among the Borrower, the lenders from time to time party thereto (each a “**Lender**” and collectively, the “**Lenders**”) and you, as Administrative Agent for such Lenders, and hereby gives you notice, irrevocably, pursuant to Section 2.19 of the Credit Agreement, that the undersigned hereby requests a Letter of Credit to be issued in accordance with the terms and conditions of the Credit Agreement, and in that connection the following information relating to such Letter of Credit (the “**Proposed Letter of Credit**”) is attached hereto:

- (i) The stated amount of such Proposed Letter of Credit.
- (ii) The name and address of the beneficiary.
- (iii) The expiration date.
- (iv) either (i) the verbatim text of such Proposed Letter of Credit, or (ii) a description of the proposed terms and conditions of such Proposed Letter of Credit, including a precise description of any documents to be presented by the beneficiary which, if presented by the beneficiary prior to the expiration date of such Proposed Letter of Credit, would require the Issuing Bank to make payment under such Proposed Letter of Credit.

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of issuance of the Proposed Letter of Credit:

(A) the representations and warranties of the Borrower set forth in the Credit Agreement and in the other Loan Documents are and will be true and correct in all material respects, on and as of the date of issuance of the Proposed Letter of Credit, except that (i) for purposes of this Letter of Credit Request, the representations and warranties contained in Section 3.04(a) of the Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b) (subject, in the case of unaudited financial statements furnished pursuant to clause (b), to year-end audit adjustments and the absence of footnotes), respectively, of Section 5.01 of the Credit Agreement, (ii) to the extent that such representations and warranties specifically refer to an earlier date, they were true and correct in all material respects as of such earlier date and (iii) to the extent that such representations and warranties are already qualified or modified by materiality in the text thereof, they shall be true and correct in all respects; and

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(B) at the time of and immediately after giving effect to the issuance of the Proposed Letter of Credit, no Default has occurred and is continuing.

*[Signature Page Follows]*

B-2-2

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The Borrower has caused this Letter of Credit Request to be executed and delivered by its duly authorized officer as of the date first written above.

Very truly yours,

SQUARE, INC.

By: \_\_\_\_\_  
Name:  
Title:

B-2-3

**EXHIBIT C**

**FORM OF INTEREST ELECTION REQUEST**

JPMorgan Chase Bank, N.A., as Administrative Agent  
for the Lenders party to the  
Credit Agreement referred to below

\_\_\_\_\_, 20 \_\_\_\_

Ladies and Gentlemen:

The undersigned, Square, Inc. (the “**Borrower**”), refers to the Revolving Credit Agreement, dated as of November 2, 2015 (as amended, restated, amended and restated, modified, extended and/or supplemented from time to time, the “**Credit Agreement**,” the terms defined therein being used herein as therein defined), among the Borrower, the lenders from time to time party thereto (the “**Lenders**”) and you, as Administrative Agent for such Lenders, and hereby gives you notice, irrevocably, pursuant to Section 2.05 of the Credit Agreement, that the undersigned hereby requests to [convert] [continue] the Borrowing of Loans referred to below, and in that connection sets forth below the information relating to such [conversion] [continuation] (the “**Proposed [Conversion] [Continuation]**”) as required by Section 2.05 of the Credit Agreement:

- (i) The Proposed [Conversion] [Continuation] relates to the Borrowing of Loans originally made on \_\_\_\_\_, 20\_\_\_\_ (the “**Outstanding Borrowing**”) in the principal amount of \$ \_\_\_\_\_ and currently maintained as a Borrowing of [ABR Loans] [Eurodollar Loans with an Interest Period ending on \_\_\_\_\_, \_\_\_\_\_].
- (ii) The Business Day of the Proposed [Conversion] [Continuation] is \_\_\_\_\_, \_\_\_\_\_.<sup>1</sup>
- (iii) [The Outstanding Borrowing][A portion of the Outstanding Borrowing in the principal amount of \$ \_\_\_\_\_] shall be [continued as a Borrowing of [Eurodollar Loans with an Interest Period of [one/two/three/six/ twelve months][ *insert period less than one month* ]<sup>2</sup>]] [converted into a Borrowing of [ABR Loans] [Eurodollar Loans with an Interest Period of [one/two/three/six/ twelve months][ *insert period less than one month* ]<sup>3</sup>]]<sup>3</sup>

<sup>1</sup> Shall be a Business Day at least one Business Day in the case of ABR Loans and at least three Business Days in the case of Eurodollar Loans, in each case, after the date hereof, provided that any such notice shall be deemed to have been given on a certain day only if given before 12:00 noon (New York City time) in the case of ABR Loans or before 12:00 noon (New York City time) in the case of Eurodollar Loans, on such day.  
<sup>2</sup> Interest Periods of twelve or less than one month only available with the consent of each Lender.  
<sup>3</sup> Interest Periods of twelve or less than one month only available with the consent of each Lender.

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[The undersigned hereby certifies that no Default or Event of Default has occurred and will be continuing on the date of the Proposed [Conversion] [Continuation] or will have occurred and be continuing on the date of the Proposed [Conversion] [Continuation]].<sup>4</sup>

*[Signature Page Follows]*

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<sup>4</sup> In the case of a Proposed Conversion or Continuation, insert this sentence only in the event that the conversion is from an ABR Loan to a Eurodollar Loan or in the case of a continuation of a Eurodollar Loan.

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The Borrower has caused this Interest Election Request to be executed and delivered by its duly authorized officer as of the date first written above.

Very truly yours,

SQUARE, INC.

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT D**

**FORM OF REVOLVING NOTE**

New York, New York

FOR VALUE RECEIVED, SQUARE, INC., a corporation organized and existing under the laws of the State of Delaware (the “**Borrower**”), hereby promises to pay to \_\_\_\_\_ or its registered assigns (the “**Lender**”), in Dollars, in immediately available funds, at the office of JPMORGAN CHASE BANK, N.A. (the “**Administrative Agent**”) at its Principal Office (as defined in the Credit Agreement) on the Maturity Date (as defined in the Credit Agreement referred to below) the unpaid principal amount of all Loans (as defined in the Credit Agreement) made by the Lender to the Borrower pursuant to the Credit Agreement, payable at such times and in such amounts as are specified in the Credit Agreement.

The Borrower promises also to pay to the Lender interest on the unpaid principal amount of each Loan incurred by the Borrower from the Lender in like money at said office from the date such Loan is made until paid at the rates and at the times provided in Section 2.10 of the Credit Agreement.

This Note is one of the Notes referred to in the Revolving Credit Agreement, dated as of November 2, 2015, among the Borrower, the lenders party thereto (including the Lender) and JPMorgan Chase Bank, N.A., as Administrative Agent (as the same may be amended, restated, amended and restated, modified, extended and/or supplemented from time to time, the “**Credit Agreement**”) and is entitled to the benefits thereof and of the other Loan Documents (as defined in the Credit Agreement). As provided in the Credit Agreement, this Note is subject to voluntary prepayment, in whole or in part, prior to the Maturity Date and the Loans may be converted from one Type (as defined in the Credit Agreement) into another Type to the extent provided in the Credit Agreement.

In case an Event of Default (as defined in the Credit Agreement) shall occur and be continuing, the principal of and accrued interest on this Note may be declared to be due and payable in the manner and with the effect provided in the Credit Agreement.

The Borrower hereby waives presentment, demand, protest or notice of any kind in connection with this Note.

*[Signature page follows]*

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**THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK.**

SQUARE, INC.

By: \_\_\_\_\_

Name:

Title:

D-2

## EXHIBIT E

GUARANTY AGREEMENT, dated as of \_\_\_\_\_, 20\_\_\_\_ (as amended, restated, amended and restated, supplemented, extended or otherwise modified from time to time, this “**Agreement**”), made by and among each of the undersigned guarantors (together with any other entity that becomes a guarantor hereunder pursuant to Section 19 hereof, each, a “**Guarantor**” and collectively, the “**Guarantors**”) in favor of JPMORGAN CHASE BANK, N.A., as Administrative Agent (together with any successor administrative agent, the “**Administrative Agent**”), for the benefit of the Lenders (as defined below), the Issuing Banks and the Administrative Agent.

Reference is made to the Revolving Credit Agreement dated as of November 2, 2015 (as amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), among Square, Inc. (the “**Borrower**”), the lenders from time to time party thereto (the “**Lenders**”) and the Administrative Agent.

Each Guarantor is a direct or indirect Subsidiary of the Borrower.

It is a condition precedent to the making of Loans to the Borrower and the issuance of Letters of Credit under the Credit Agreement that each Guarantor shall have executed and delivered to the Administrative Agent this Agreement.

The Lenders and Issuing Banks have agreed to extend credit to the Borrower subject to the terms and conditions set forth in the Credit Agreement. Each Guarantor will derive substantial benefits from the extension of credit to the Borrower pursuant to the Credit Agreement and is willing to execute and deliver this Agreement in order to induce the Lenders and Issuing Banks to continue to extend such credit. Accordingly, the parties hereto agree as follows:

SECTION 1. *Definitions*. (a) Capitalized terms used in this Agreement and not otherwise defined herein have the meanings specified in the Credit Agreement.

(b) The rules of construction specified in Section 1.03 of the Credit Agreement also apply to this Agreement.

SECTION 2. *Guarantee*. (a) Each Guarantor hereby irrevocably and unconditionally guarantees, jointly with the other Guarantors and severally, as a primary obligor and not merely as a surety, the Obligations of the Borrower. Each Guarantor further agrees that the due and punctual payment of the Obligations of the Borrower may be extended or renewed, in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee hereunder notwithstanding any such extension or renewal of any Obligation.

(b) To the maximum extent permitted by applicable law, each Guarantor waives presentment to, demand of payment from and protest to the Borrower of any of the Obligations, and also waives notice of acceptance of its obligations and notice of protest for nonpayment. The obligations of each Guarantor hereunder shall not be affected by (i) the failure of any Lender to assert any claim or demand or to enforce any right or remedy against the Borrower under the provisions of this Agreement, any other Loan Document or otherwise; (ii) any extension or

renewal of any of the Obligations; (iii) any rescission, waiver, amendment or modification of, or release from, any of the terms or provisions of this Agreement or any other Loan Document or other agreement; (iv) the failure or delay of any Lender to exercise any right or remedy against any other guarantor of the Obligations; (v) the failure of any Lender to assert any claim or demand or to enforce any remedy under any Loan Document or any other agreement or instrument; (vi) any default, failure or delay, willful or otherwise, in the performance of the Obligations; or (vii) any other act, omission or delay to do any other act which may or might in any manner or to any extent vary the risk of such Guarantor or otherwise operate as a discharge of such Guarantor as a matter of law or equity or which would impair or eliminate any right of any Guarantor to subrogation (other than payment in full of the Obligations (excluding contingent obligations as to which no claim has been made) or release pursuant to Section 17 hereof).

(c) Each Guarantor further agrees that its guarantee hereunder constitutes a promise of payment when due (whether or not any bankruptcy or similar proceeding shall have stayed the accrual or collection of any of the Obligations or operated as a discharge thereof) and not merely of collection, and waives any right to require that any resort be had by any Lender or any Issuing Bank to any balance of any deposit account or credit on the books of any Lender or any Issuing Bank in favor of the Borrower or any Subsidiary or any other Person.

(d) Except for the release or termination of a Guarantor's obligations hereunder as provided in Section 17, the obligations of each Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason other than the payment in full in cash of the Obligations (excluding contingent obligations as to which no claim has been made), and shall not be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever, by reason of the invalidity, illegality or unenforceability of the Obligations, any impossibility in the performance of the Obligations or otherwise.

(e) Each Guarantor further agrees that its obligations hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Obligation is rescinded or must otherwise be restored by any Lender upon the bankruptcy or reorganization of the Borrower or otherwise.

(f) In furtherance of the foregoing and not in limitation of any other right which any Lender may have at law or in equity against any Guarantor by virtue hereof, upon the failure of the Borrower to pay any Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice of prepayment or otherwise, each Guarantor hereby promises to and will, upon receipt of written demand by the Administrative Agent, forthwith pay, or cause to be paid, to the Administrative Agent for distribution to the applicable Lenders in cash an amount equal to the unpaid principal amount of such Obligation.

(g) Notwithstanding anything to the contrary in this Agreement, each Guarantor shall be liable under this Agreement only for amounts aggregating up to the largest amount that would not render its obligations hereunder subject to avoidance under Section 548 of the United States Bankruptcy Code or any comparable provision of any other applicable law.

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(h) Upon payment in full by any Guarantor of any Obligation of the Borrower, each Lender and Issuing Bank shall, in a reasonable manner, assign to such Guarantor the amount of such Obligation owed to such Lender or Issuing Bank and so paid, such assignment to be pro tanto to the extent to which the Obligation in question was discharged by such Guarantor, or make such disposition thereof as such Guarantor shall direct (all without recourse to any Lender or Issuing Bank and without any representation or warranty by any Lender or Issuing Bank). Upon payment by any Guarantor of any sums as provided above, all rights of such Guarantor against the Borrower arising as a result thereof by way of right of subrogation or otherwise shall in all respects be subordinated and junior in right of payment to the prior payment in full of all the Obligations owed by the Borrower to the Lenders and Issuing Banks (it being understood that, after the discharge of all the Obligations due and payable from the Borrower, such rights may be exercised by such Guarantor notwithstanding that the Borrower may remain contingently liable for indemnity or other Obligations).

(i) Each Qualified Keepwell Provider hereby jointly and severally absolutely, unconditionally, and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to honor all of such Loan Party's obligations under this guarantee in respect of any Swap Obligation (provided, however, that each Qualified Keepwell Provider shall only be liable under this Section 2(i) for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 2(i), or otherwise under this guarantee, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified Keepwell Provider under this Section 2(i) shall remain in full force and effect until termination of this Agreement in accordance with Section 17 hereof. A "Qualified Keepwell Provider" shall mean, in respect of any Swap Obligation, each Loan Party that, at the time the relevant guarantee (or grant of the relevant security interest, as applicable) becomes effective with respect to such Swap Obligation, has total assets exceeding \$10,000,000 or otherwise constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an "eligible contract participant" with respect to such Swap Obligation at such time by entering into a keepwell or guarantee pursuant to Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

SECTION 3. *Additional Agreements* . Until the Commitments have expired or terminated and all Obligations (excluding contingent obligations as to which no claim has been made) under the Credit Agreement have been paid in full and no Letter of Credit shall be outstanding or subject to any pending draw, each Guarantor covenants and agrees with the Administrative Agent for the benefit of the Lenders and Issuing Banks that it will be bound by each of the covenants contained in the Credit Agreement to the extent applicable to such Guarantor.

SECTION 4. *Information* . Each Guarantor assumes all responsibility for being and keeping itself informed of the Borrower's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Obligations and the nature, scope and extent of the risks that such Guarantor assumes and incurs hereunder, and agrees that neither the Administrative Agent nor any Lender will have any duty to advise such Guarantor of information known to it or any of them regarding such circumstances or risks.

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SECTION 5. *Notices* . All communications and notices hereunder shall (except as otherwise expressly permitted herein) be in writing and given as provided in Section 9.01 of the Credit Agreement. All communications and notices hereunder to any Guarantor shall be given to it in care of the Borrower as provided in Section 9.01 of the Credit Agreement.

SECTION 6. *Survival of Agreement* . All covenants, agreements, representations and warranties made by each Guarantor herein and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the Administrative Agent and shall survive the execution and delivery of this Agreement, the other Loan Documents and the making of any Loans or issuance of any Letters of Credit, regardless of any investigation made by the Administrative Agent or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended under the Credit Agreement, and shall continue in full force and effect as long as any Obligation (excluding contingent obligations as to which no claim has been made) is outstanding and unpaid and so long as the Commitments have not expired or terminated.

SECTION 7. *Binding Effect; Several Agreement* . (a) This Agreement shall become effective as to each Guarantor when a counterpart hereof executed on behalf of such Guarantor shall have been delivered to the Administrative Agent (regardless of whether any other Guarantor has executed and delivered a counterpart hereof) and a counterpart hereof shall have been executed on behalf of the Administrative Agent.

(b) Following the effectiveness of this Agreement as to a Guarantor in accordance with subsection (a) of this Section 7, this Agreement shall be binding upon such Guarantor and the Administrative Agent and their respective permitted successors and assigns, and shall inure to the benefit of such Guarantor, the Administrative Agent, the Issuing Banks and the Lenders and their respective successors and assigns, except that no Guarantor shall have the right to assign or transfer any of its rights or obligations hereunder or any interest herein (and any such assignment or transfer shall be void) except as expressly contemplated by this Agreement or the Credit Agreement. This Agreement shall be construed as a separate agreement with respect to each Guarantor and may be amended, modified, supplemented, waived or released with respect to any Guarantor without the approval of any other Guarantor and without affecting the obligations of any other Guarantor hereunder.

SECTION 8. *Successors and Assigns* . Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party; and all covenants, promises and agreements by or on behalf of any Guarantor or the Administrative Agent that are contained in this Agreement shall bind and inure to the benefit of their respective successors and assigns.

SECTION 9. *Administrative Agent's Fees and Expenses; Indemnification* . (a) The parties hereto agree that the Administrative Agent shall be entitled to reimbursement of its expenses incurred hereunder as provided in Section 9.03 of the Credit Agreement.

(b) Each Guarantor, jointly and severally, agrees to indemnify the Administrative Agent and the other Indemnitees against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, costs or reasonable and documented expenses, including the fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement or any agreement or instrument contemplated hereby, the performance by the parties hereto of their respective obligations hereunder or the consummation of the Transactions or any other transactions contemplated hereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement or (ii) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto (and regardless of whether such matter is initiated by a third party or the Borrower or any Affiliate of the Borrower); *provided* that such indemnity shall not, as to any Indemnitee, be available (x) to the extent that such losses, claims, damages, liabilities, costs or reasonable and documented expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee, or (y) if arising from a material breach by such Indemnitee or one of its Affiliates of its obligations under this Agreement (as determined by a court of competent jurisdiction by final and non-appealable judgment), and (z) if arising from any dispute between and among Indemnitees that does not involve an act or omission by the Borrower or its Subsidiaries (as determined by a court of competent jurisdiction by final and non-appealable judgment) other than any proceeding against the Administrative Agent, the Arrangers or the Syndication Agent in such capacity. No Guarantor shall be required to indemnify any Indemnitee for any amount paid or payable by such Indemnitee in the settlement of any such indemnified liabilities which is entered into by such Indemnitee without Borrower's written consent (such consent not to be unreasonably withheld, conditioned or delayed); *provided* that (i) Borrower shall be deemed to consent to such settlement if it does not respond to the Indemnitee's request within 5 business days; (ii) the foregoing indemnity will apply if the Borrower shall have been offered an opportunity to assume the defense of such matter and shall have declined to do so and (iii) if settled with the Borrower's consent or if there is a final judgment for the plaintiff in such proceeding, the Borrower shall indemnify and hold harmless each Indemnitee from and against any and all losses, claims, damages, liabilities and expenses by reason of such settlement or judgment in accordance with this paragraph. In the case of any proceeding to which the indemnity in this paragraph applies, such indemnity and reimbursement obligations shall be effective, whether or not such proceeding is brought by the Borrower, any of its securityholders or creditors, an Indemnitee or any other Person, or an Indemnitee is otherwise a party thereto.

(c) Any such amounts payable as provided hereunder shall be additional Obligations. The provisions of this Section 9 shall remain operative and in full force and effect regardless of the termination of this Agreement or any other Loan Document, the consummation of the transactions contemplated hereby, the repayment of any of the Obligations, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Administrative Agent, any Issuing Bank or any Lender. All amounts due under this Section 9 shall be payable on written demand therefor.

**SECTION 10. *APPLICABLE LAW* . THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.**

SECTION 11. *Waivers; Amendment* . (a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any Guarantor therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 11, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on any Guarantor in any case shall entitle such Guarantor to any other or further notice or demand in similar or other circumstances.

(b) Except as expressly provided in Section 19, neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into between the Administrative Agent and each Guarantor with respect to which such waiver, amendment or modification is to apply, in accordance with Section 9.02 of the Credit Agreement.

**SECTION 12. *WAIVER OF JURY TRIAL* . EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**

SECTION 13. *Severability* . In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

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SECTION 14. *Counterparts* . This Agreement may be executed in counterparts, each of which shall constitute an original but all of which when taken together shall constitute a single contract, and shall become effective as provided in Section 7. Delivery of an executed signature page to this Agreement by facsimile transmission or other electronic means shall be as effective as delivery of a manually signed counterpart of this Agreement.

SECTION 15. *Headings* . Section headings used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

SECTION 16. *Jurisdiction; Consent to Service of Process* . (a) Each Guarantor hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County, Borough of Manhattan and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Guarantor or its properties in the courts of any jurisdiction.

(b) Each Guarantor hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any court referred to in paragraph (a) of this Section 16. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 5. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 17. *Termination; Release of a Guarantor* . (a) This Agreement and the guarantees set forth herein shall terminate when all the Obligations (excluding contingent obligations as to which no claim has been made) have been paid in full and no Letter of Credit shall be outstanding or subject to any pending draw, and the Lenders have no further commitment to lend and the Issuing Banks has no further obligation to issue Letters of Credit under the Credit Agreement.

(b) In the event that all the Equity Interests in any Guarantor are sold, transferred or otherwise disposed of to a Person other than the Borrower or its Subsidiaries in a transaction permitted under the Credit Agreement or in the event that a Guarantor ceases to be a Material Subsidiary, the Administrative Agent shall, at the Borrower's expense, promptly take such action and execute such documents as the Borrower may reasonably request to terminate the guarantee of such Guarantor hereunder.

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SECTION 18. *Right of Setoff* . If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of any Guarantor against any of and all the obligations of such Guarantor now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.17 of the Credit Agreement and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the obligations owing to such Defaulting Lender as to which it exercised such right of setoff; *provided, further*, that no Lender shall have a right of setoff with respect to obligations of such Guarantor under this Agreement against the Payment Processing Accounts. The rights of each Lender under this Section 18 are in addition to other rights and remedies (including other rights of setoff) which such Lender may have. Each Lender agrees to notify such Guarantor and the Administrative Agent promptly after any such setoff and application; *provided* that the failure to give such notice shall not affect the validity of such setoff and application.

SECTION 19. *Additional Guarantors* . It is understood and agreed that any Subsidiary of the Borrower that is required to execute a counterpart of, or joinder to, this Agreement after the date hereof pursuant to Section 5.10 of the Credit Agreement shall become a Guarantor hereunder by (x) executing and delivering a counterpart hereof to the Administrative Agent or executing a joinder agreement hereto and delivering same to the Administrative Agent, in each case as may be requested by (and in form and substance reasonably satisfactory to) the Administrative Agent and (y) taking all actions as specified in this Agreement as would have been taken by such Guarantor had it been an original party to this Agreement, in each case with all documents and actions required to be taken above to be taken to the reasonable satisfaction of the Administrative Agent.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

[INSERT GUARANTOR NAME]

By: \_\_\_\_\_  
Name:  
Title:

[INSERT GUARANTOR NAME]

By: \_\_\_\_\_  
Name:  
Title:

JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT F**

**FORM OF COMPLIANCE CERTIFICATE**

This Compliance Certificate is delivered to you pursuant to Section 5.01(c) of the Revolving Credit Agreement, dated as of November 2, 2015 (as amended, restated, amended and restated, supplemented, extended or modified from time to time, the “**Credit Agreement**”), among Square, Inc. (the “**Borrower**”), the lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent. Terms defined in the Credit Agreement and not otherwise defined herein are used herein as therein defined.

1. I am the duly elected, qualified and acting [ ]<sup>1</sup> of the Borrower.
2. I have reviewed and am familiar with the contents of this Compliance Certificate. I am providing this Compliance Certificate solely in my capacity as an officer of the Borrower.
3. I have reviewed the terms of the Credit Agreement and the other Loan Documents. The financial statements for the fiscal [quarter][year] of the Borrower ended , 20 attached hereto as ANNEX 1 or otherwise delivered to the Administrative Agent pursuant to the requirements of Section 5.01 of the Credit Agreement (the “**Financial Statements**”) present fairly in all material respects as of the date of each such statement the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied[, subject to normal year-end audit adjustments and the absence of footnotes].<sup>2</sup> No Default has occurred and is continuing as of the date hereof[, except for ].<sup>3</sup> There has been no change in GAAP or in the application thereof applicable to the Borrower and its consolidated Subsidiaries since the date of the audited financial statements referred to in Section 3.04 of the Credit Agreement that has had an impact on the Financial Statements [, except for ], the effect of which on the Financial Statements has been [ ].<sup>4</sup>

<sup>1</sup> Certificate may be signed by any Financial Officer of the Borrower (chief financial officer, principal accounting officer or vice president of finance or corporate controller of the Borrower).

<sup>2</sup> To be included only if the Compliance Certificate is certifying the quarterly financials.

<sup>3</sup> Specify the details of any Default, if any, and any action taken or proposed to be taken with respect thereto.

<sup>4</sup> If and to the extent that any change in GAAP that has occurred since the date of the audited financial statements referred to in Section 3.04 of the Credit Agreement had an impact on such financial statements, specify the effect of such change on the financial statements accompanying this Compliance Certificate.

4. Attached hereto as ANNEX 2 are the computations showing (in reasonable detail) the Total Leverage Ratio for the Measurement Period ending on the last day of \_\_\_\_\_, 20\_\_ .<sup>5</sup>
5. Attached hereto as ANNEX 3 are the computations showing (in reasonable detail) (a) information required by Section 5.01(c)(iii) of the Credit Agreement and (b) information required by Section 5.01(c)(iv) of the Credit Agreement as of the date of this Compliance Certificate.
6. Attached hereto as ANNEX 4 is a description of any registered patents, registered trademarks or registered copyrights acquired, developed or exclusively licensed by the Borrower and its Subsidiaries since the [Effective Date][date of the most recent Compliance Certificate delivered pursuant to Section 5.01(c) of the Credit Agreement prior to the date hereof].

IN WITNESS WHEREOF, I have executed this Compliance Certificate as of the date first written above.

SQUARE, INC.

By: \_\_\_\_\_  
Name:  
Title:

<sup>5</sup> Insert the last day of the respective fiscal quarter or fiscal year covered by the financial statements which are required to be accompanied by this Compliance Certificate.

[Applicable Financial Statements to be attached if applicable]

The information described herein is as of \_\_\_\_\_, 20\_\_<sup>1</sup>, (the “**Computation Date**”) and, except as otherwise indicated below, pertains to the period from \_\_\_\_\_, 20\_\_<sup>2</sup> to the Computation Date (the “**Relevant Period**”).

**Total Leverage Ratio**

a. Total Indebtedness as of the Computation Date	\$
b. Consolidated Adjusted EBITDA <sup>3</sup> for the Relevant Period ended on the Computation Date	\$
c. Ratio of line a. to line b.	:1.00
d. Level for the purposes of the Applicable Rate <sup>4</sup>	Level [1][2][3][4][5]

<sup>1</sup> Insert the last day of the respective fiscal quarter or fiscal year covered by the financial statements which are required to be accompanied by this Compliance Certificate.

<sup>2</sup> Insert the first day of the most recently completed four consecutive fiscal quarters of the Borrower ended on the Computation Date.

<sup>3</sup> Insert amount from line B.15 of Annex 3, or otherwise attach hereto in reasonable detail the calculations required to arrive at Consolidated Adjusted EBITDA.

<sup>4</sup> At all times prior to a Qualifying Capital Raise, the Total Leverage Ratio shall be deemed to be at Level 4.

The information described herein is as of the Computation Date and, except as otherwise indicated below, pertains to the Relevant Period.

**Negative Covenants**

<b>Section 6.01 – Indebtedness Covenant</b>		<b>Amount</b>
A.	2.5	
B.	Consolidated Adjusted EBITDA for the Relevant Period ended on the Computation Date	
	1. Consolidated Net Income	\$
	2. Income tax expense	\$
	3. Interest expense, amortization or write-off of debt discount and debt issuance costs and commissions, discounts and other fees and charges associated with Indebtedness (including the Loans)	\$
	4. Depreciation and amortization expense	\$
	5. Amortization of intangibles (including, but not limited to, goodwill)	\$
	6. Any extraordinary charges or losses determined in accordance with GAAP	\$
	7. Non-cash stock option and other equity-based compensation expenses and payroll tax expense related to stock option and other equity-based compensation expenses	\$
	8. Any other non-cash charges, non-cash expenses or non-cash losses of the Borrower or any Subsidiaries for such period (excluding any such charge, expense or loss incurred in the ordinary course of business that constitutes an accrual of, or a reserve for, cash charges for any future period), including, for the avoidance of doubt, non-cash foreign currency translation losses (including non-cash losses related to currency remeasurement of Indebtedness) <sup>1</sup>	\$
	9. Transition, integration and similar fees, charges and expenses related to acquisitions or dispositions	\$
	10. Restructuring charges	\$

<sup>1</sup> Cash payments made in such period or in any future period in respect of such non-cash charges, expenses or losses (excluding any such charge, expense or loss incurred in the ordinary course of business that constitutes an accrual of, or a reserve for, cash charges for any future period) shall be subtracted from Consolidated Net Income in calculating Consolidated Adjusted EBITDA in the period when such payments are made.

11.	Charges related to settlements of legal claims	\$
12.	Interest income	\$
13.	Any extraordinary income or gains determined in accordance with GAAP	\$
14.	Any other non-cash income (excluding any items that represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period that are described in the footnote to line 8)	\$
15.	Consolidated Adjusted EBITDA (line B.1 + (lines B.2 + 3 + 4 + 5 +6 +7 +8 + (9 + 10 + 11) 2 ) 3 – (lines B.12 + 13 + 14) 4	
C.	Specified Indebtedness 5	
1.	\$250,000,000	\$
2.	Line A multiplied by line B.15	\$
	<i>Maximum Permitted:</i> Greater of line C.1 and C.2	
<b>Section 6.04(viii) – Restricted Payments</b>		
A.	Aggregate amount of Restricted Payments made pursuant to Section 6.04(viii)	\$
B.	Total Leverage Ratio 6	:1.00
	<i>Permitted When :</i> Total Leverage Ratio as of the date of such Restricted Payment (and giving pro forma effect to such Restricted Payment) is less than 2.0:1.0	
C.	[Aggregate amount of Restricted Payments made following a Qualifying Capital Raise pursuant to Section 6.04(viii)	\$
	<i>Maximum Permitted : \$165,000,000]</i>	

- 2 The amount that may be added back pursuant to lines 9, 10 and 11 may not in the aggregate for any four fiscal quarter period exceed the greater of (x) \$5,000,000 and (y) 15% of Consolidated Adjusted EBITDA for such period (determined without giving effect to any such adjustment pursuant to such line 9, 10 and 11).
- 3 To the extent reflected as a charge in the statement of such Consolidated Net Income for such period.
- 4 To the extent included in the statement of such Consolidated Net Income for such period.
- 5 Specified Indebtedness means (i) indebtedness for borrowed money, (ii) obligations for the deferred purchase price of property or services (other than current trade payables incurred in the ordinary course of business and excluding Earn-Outs), (iii) obligations evidenced by notes, bonds, debentures and similar instruments, (iv) all obligations, contingent or otherwise, as an account party or applicant under or in respect of bankers acceptances or letters of credit, (v) Capital Lease Obligations, (vi) Purchase Money Indebtedness and (vii) Guarantees of indebtedness of the type referred to in clauses (i) through (vi); provided that Specified Indebtedness shall exclude (a) indebtedness among Borrower and its Subsidiaries and (b) indebtedness consisting of overdrafts and similar obligations in connection with Payment Processing Arrangements so long as any such indebtedness described in this clause (b) is outstanding no longer than two Business Days after the date of its incurrence.
- 6 Insert ratio from line c of Annex 2, or otherwise attach hereto in reasonable detail the calculations required to arrive at Total Leverage Ratio.

[Description of Intellectual Property]

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**EXHIBIT G**

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SECURITY AGREEMENT

made by

SQUARE, INC.

and certain of its Subsidiaries

in favor of

JPMORGAN CHASE BANK, N.A.,

as Administrative Agent

Dated as of November 2, 2015

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SECURITY AGREEMENT

SECURITY AGREEMENT, dated as of November 2, 2015, made by Square, Inc. (the "Borrower"), each Subsidiary of the Borrower party hereto (together with any other entity that may become a party hereto as provided herein, the "Subsidiary Grantors"; the Subsidiary Grantors, together with the Borrower, the "Grantors"), in favor of JPMorgan Chase Bank, N.A., as Administrative Agent (in such capacity, the "Administrative Agent") for the banks and other financial institutions or entities (the "Lenders") from time to time parties to the Credit Agreement, dated as of November 2, 2015 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Borrower, the Lenders and the Administrative Agent.

WITNESSETH:

WHEREAS, pursuant to the Credit Agreement, the Lenders have severally agreed to make extensions of credit to the Borrower upon the terms and subject to the conditions set forth therein;

WHEREAS, the Borrower is a member of an affiliated group of companies that includes each other Grantor;

WHEREAS, the proceeds of the extensions of credit under the Credit Agreement will be used in part to enable the Borrower to make valuable transfers to one or more of the other Grantors in connection with the operation of their respective businesses;

WHEREAS, the Borrower and the other Grantors are engaged in related businesses, and each Grantor will derive substantial direct and indirect benefit from the making of the extensions of credit under the Credit Agreement; and

WHEREAS, it is a condition precedent to the obligation of the Lenders to make their respective extensions of credit to the Borrower under the Credit Agreement that the Grantors shall have executed and delivered this Agreement to the Administrative Agent for the ratable benefit of the Secured Parties;

NOW, THEREFORE, in consideration of the premises and to induce the Administrative Agent and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective extensions of credit to the Borrower thereunder, each Grantor hereby agrees with the Administrative Agent, for the ratable benefit of the Secured Parties, as follows:

**SECTION 1. DEFINED TERMS**

1.1 Definitions. (a) Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement, and the following terms are used herein as defined in the New York UCC: Accounts, Certificated Security, General Intangibles, Investment Property and Supporting Obligations.

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(b) The following terms shall have the following meanings:

“Agreement”: this Security Agreement, as the same may be amended, amended and restated, supplemented or otherwise modified from time to time.

“Collateral”: as defined in Section 3.

“Collateral Account”: any collateral account established by the Administrative Agent as provided in Section 6.2.

“Copyrights”: (i) all copyrights arising under the laws of the United States, any other country or any political subdivision thereof, whether registered or unregistered and whether published or unpublished (including, without limitation, those listed in Schedule 5 to the Security Agreement Disclosure Letter), all registrations and recordings thereof, and all applications in connection therewith, including, without limitation, all registrations, recordings and applications in the United States Copyright Office, and (ii) the right to obtain all renewals thereof.

“Copyright Licenses”: any written agreement (including, without limitation, those listed in Schedule 5 to the Security Agreement Disclosure Letter), providing for the grant by or to any Grantor of any right under any Copyright, including, without limitation, the grant of rights to manufacture, distribute, exploit and sell materials derived from any Copyright.

“Foreign Subsidiary”: any Subsidiary organized under the laws of any jurisdiction outside the United States of America.

“Foreign Subsidiary Voting Stock”: the voting Equity Interests of any Foreign Subsidiary.

“Intellectual Property”: the collective reference to all rights, priorities and privileges relating to intellectual property and proprietary rights, whether arising under United States, multinational or foreign laws or otherwise, including Copyrights, Copyright Licenses, Patents, Patent Licenses, Trademarks, Trademark Licenses, trade secrets and trade secret licenses, money transmitting licenses and similar rights, all registrations and applications of any of the foregoing and rights in software, programs, applications, source code, object code, documentation, manuals, tools, algorithms, models, formulas, compilations, methodologies and databases (collectively, “Software”) not otherwise included in the foregoing, all written, physical and tangible items and content incorporating or embodying Software, the right to sue at law or in equity or otherwise recover for any past, present or future infringement, dilution, misappropriation, breaches or other violation or impairment thereof, and the right to receive all proceeds therefrom, including license fees, royalties, income, payments, claims, damages and proceeds of suit, now or hereafter due and/or payable with respect thereto.

“Issuers”: the collective reference to each issuer of any Pledged Stock.

“New York UCC”: the Uniform Commercial Code as from time to time in effect in the State of New York.

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“Patents”: (i) all letters patent of the United States, any other country or any political subdivision thereof, all reissues and extensions thereof and all goodwill associated therewith, including, without limitation, any of the foregoing referred to in Schedule 5 to the Security Agreement Disclosure Letter, (ii) all applications for letters patent of the United States or any other country and all divisionals, provisionals, reexaminations, continuations and continuations-in-part thereof, including, without limitation, any of the foregoing referred to in Schedule 5 to the Security Agreement Disclosure Letter, and (iii) all rights to obtain any reissues or extensions of the foregoing.

“Patent License”: all agreements, whether written or oral, providing for the grant by or to any Grantor of any right to manufacture, use or sell any invention covered in whole or in part by a Patent, including, without limitation, any of the foregoing referred to in Schedule 5 to the Security Agreement Disclosure Letter.

“Pledged Stock”: the Equity Interests of any Specified Foreign Issuer, and any Investment Property associated therewith, that may be issued or granted to, or held by, any Grantor while this Agreement is in effect, including without limitation any of the foregoing listed on Schedule 2 to the Security Agreement Disclosure Letter; *provided* that in no event shall more than 66% of the total outstanding Foreign Subsidiary Voting Stock of any Foreign Subsidiary be required to be pledged hereunder.

“Proceeds”: all “proceeds” as such term is defined in Section 9-102(a)(64) of the New York UCC and, in any event, shall include, without limitation, all dividends or other income from the Pledged Stock, collections thereon or distributions or payments with respect thereto.

“Secured Parties”: the collective reference to the Administrative Agent, the Lenders and any affiliate of any Lender to which Obligations are owed.

“Securities Act”: the Securities Act of 1933, as amended.

“Security Agreement Disclosure Letter” means the security agreement disclosure letter, dated as of the date hereof, as amended or supplemented from time to time by the Grantors with the written consent of the Administrative Agent (or as supplemented by the Grantors pursuant to the terms of this Agreement), delivered by the Grantors to the Administrative Agent for the benefit of the Lenders.

“Software”: as defined in the definition of “Intellectual Property”.

“Specified Foreign Issuer”: any first tier Foreign Subsidiary that has owned and continues to own, directly or through one of its Subsidiaries, title to or an exclusive license (that conveys substantially all economic rights) to use any reasonably identifiable material Intellectual Property (as determined in the reasonable good faith judgment of the Borrower) for longer than 60 days.

“Trademarks”: (i) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos, domain names, social media and mobile identifiers and other source or business identifiers, and all goodwill associated therewith, now existing or hereafter adopted or acquired, all registrations and

recordings thereof, and all applications in connection therewith, whether in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof, or otherwise, and all common-law rights related thereto, including, without limitation, any of the foregoing referred to in Schedule 5 to the Security Agreement Disclosure Letter, and (ii) the right to obtain all renewals thereof.

“Trademark License”: any agreement, whether written or oral, providing for the grant by or to any Grantor of any right to use any Trademark, including, without limitation, any of the foregoing referred to in Schedule 5 to the Security Agreement Disclosure Letter.

1.2 Other Definitional Provisions. (a) The words “hereof,” “herein,” “hereto” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section references are to this Agreement unless otherwise specified.

(b) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(c) Where the context requires, terms relating to the Collateral or any part thereof, when used in relation to a Grantor, shall refer to such Grantor’s Collateral or the relevant part thereof.

## SECTION 2. [RESERVED]

## SECTION 3. GRANT OF SECURITY INTEREST

Each Grantor hereby grants to the Administrative Agent, for the ratable benefit of the Secured Parties, a security interest in, all of the following property and rights now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the “Collateral”), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of such Grantor’s Obligations:

(a) all Intellectual Property;

(b) all Pledged Stock;

(c) the Collateral Account;

(d) all General Intangibles constituting Intellectual Property or equivalent rights; and

(e) to the extent not otherwise included, all Proceeds and Supporting Obligations of any and all of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing;

*provided, however*, that notwithstanding any of the other provisions set forth in this Section 3, this Agreement shall not constitute a grant of a security interest in any property or right to the extent that such grant of a security interest is prohibited by any requirements of law of a Governmental Authority, requires a consent not obtained of any Governmental Authority pursuant to such requirement of law or is prohibited by, or constitutes a breach or default under or results in the termination of or requires any consent not obtained under, any contract, license, agreement, instrument or other document evidencing or giving rise to such property or right or, in the case of any Pledged Stock, any applicable shareholder or similar agreement, except to the extent that such requirement of law or the term in such contract, license, agreement, instrument or other document or shareholder or similar agreement providing for such prohibition, breach, default or termination or requiring such consent is ineffective under applicable law. For the avoidance of doubt, it is understood and agreed that with respect to Intellectual Property, Proceeds shall not include Accounts arising from the sale of goods or the provision of services in the ordinary course of such Grantor's business.

#### SECTION 4. REPRESENTATIONS AND WARRANTIES

To induce the Administrative Agent and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective extensions of credit to the Borrower thereunder, each Grantor hereby represents and warrants to the Administrative Agent and each Lender that:

**4.1 Title; No Other Liens.** No financing statement or other public notice with respect to all or any part of the Collateral is on file or of record in any public office (including the United States Patent and Trademark Office and the United States Copyright Office), except such as have been filed in favor of the Administrative Agent, for the ratable benefit of the Secured Parties, pursuant to this Agreement or as are permitted by the Credit Agreement.

**4.2 Perfected First Priority Liens.** The security interests granted pursuant to this Agreement (a) upon completion of the filings and other actions specified on Schedule 3 to the Security Agreement Disclosure Letter will constitute valid perfected security interests in all of the Collateral in favor of the Administrative Agent, for the ratable benefit of the Secured Parties, as collateral security for such Grantor's Obligations, and (b) are prior to all other Liens on the Collateral in existence on the date hereof except for unrecorded Liens permitted by the Credit Agreement which have priority over the Liens on the Collateral by operation of law.

**4.3 Jurisdiction of Organization; Chief Executive Office.** On the date hereof, such Grantor's jurisdiction of organization, identification number from the jurisdiction of organization (if any), and the location of such Grantor's chief executive office or sole place of business or principal residence, as the case may be, are specified on Schedule 4 to the Security Agreement Disclosure Letter. Such Grantor has furnished to the Administrative Agent a certified charter, certificate of incorporation or other organization document and long-form good standing certificate as of a date which is recent to the date hereof.

**4.4 Pledged Stock.** (a) The shares of Pledged Stock pledged by such Grantor hereunder constitute all the issued and outstanding shares of all classes of the Equity Interests of each Specified Foreign Issuer owned by such Grantor or, in the case of Foreign Subsidiary Voting Stock, 66% of the outstanding Foreign Subsidiary Voting Stock of each relevant Specified Foreign Issuer.

(b) All the shares of the Pledged Stock have been duly and validly issued and are fully paid and nonassessable (to the extent such concepts are applicable in the relevant jurisdiction).

(c) Such Grantor is the record and beneficial owner of, and has good and marketable title to, any Pledged Stock pledged by it hereunder, free of any and all Liens or options in favor of, or claims of, any other Person, except the security interest created by this Agreement.

4.5 Intellectual Property. (a) As of the date hereof, Schedule 5 to the Security Agreement Disclosure Letter lists all registrations of Patents, Trademarks and Copyrights owned or exclusively licensed by such Grantor in its own name.

## SECTION 5. COVENANTS

Each Grantor covenants and agrees with the Administrative Agent and the Lenders that, from and after the date of this Agreement until the Obligations shall have been paid in full, no Letter of Credit shall be outstanding and the Commitments shall have terminated:

5.1 Delivery of Certificated Securities. If any amount payable under or in connection with any of the Collateral shall be or become evidenced by any Certificated Security, such Grantor shall promptly notify the Administrative Agent and, upon the request of the Administrative Agent, such Certificated Security shall be immediately delivered to the Administrative Agent, duly indorsed in a manner satisfactory to the Administrative Agent, to be held as Collateral pursuant to this Agreement.

5.2 [ Reserved ].

5.3 Payment of Obligations. Such Grantor will pay and discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all material taxes, assessments and governmental charges or levies imposed upon the Collateral or in respect of income or profits therefrom, as well as all material claims of any kind (including, without limitation, claims for labor, materials and supplies) against or with respect to the Collateral, except that no such charge need be paid if the amount or validity thereof is currently being contested in good faith by appropriate proceedings, reserves in conformity with GAAP with respect thereto have been provided on the books of such Grantor and such proceedings could not reasonably be expected to result in the sale, forfeiture or loss of any material portion of the Collateral or any material interest therein.

5.4 Maintenance of Perfected Security Interest; Further Documentation. (a) Such Grantor shall maintain the security interest created by this Agreement as a perfected security interest having at least the priority described in Section 4.2 and shall defend such security interest against the claims and demands of all Persons whomsoever, subject to the rights of such Grantor under the Loan Documents to dispose of the Collateral.

(b) Such Grantor will furnish to the Administrative Agent and the Lenders from time to time statements and schedules further identifying and describing the property and rights of such Grantor and such other reports in connection therewith as the Administrative Agent may reasonably request, all in reasonable detail.

(c) At any time and from time to time, upon the written request of the Administrative Agent, and at the sole expense of such Grantor, such Grantor will promptly and duly execute and deliver, and have recorded, such further instruments and documents and take such further actions as the Administrative Agent may reasonably request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, (i) filing any financing or continuation statements under the Uniform Commercial Code (or other similar laws) in effect in any jurisdiction with respect to the security interests created hereby, without the signature of any Grantor, and naming any Grantor as debtor and the Administrative Agent as secured party, (ii) in the case of Intellectual Property, filing with the United States Patent and Trademark Office and the United States Copyright Office (or, in each case, any successor office), as applicable, such documents as may be reasonably necessary or advisable for the purposes of perfecting, confirming, continuing, enforcing or protecting the security interests created hereby in the Collateral consisting of Patents, Trademarks or Copyrights granted by each Grantor, and (ii) in the case of Pledged Stock and any other relevant Collateral (including the Collateral Account), taking any actions necessary to enable the Administrative Agent to obtain “control” (within the meaning of the applicable Uniform Commercial Code) with respect thereto.

5.5 Changes in Name, etc. Such Grantor will not, except upon 15 days’ prior written notice to the Administrative Agent and delivery to the Administrative Agent of all additional executed financing statements and other documents reasonably requested by the Administrative Agent to maintain the validity, perfection and priority of the security interests provided for herein, (i) change its jurisdiction of organization from that referred to in Section 4.3 or (ii) change its name.

5.6 Notices. Such Grantor will advise the Administrative Agent and the Lenders promptly, in reasonable detail, of:

(a) any Lien (other than security interests created hereby or Liens permitted under the Credit Agreement) on any of the Collateral which would adversely affect the ability of the Administrative Agent to exercise any of its remedies hereunder; and

(b) of the occurrence of any other event which could reasonably be expected to have a material adverse effect on the security interests created hereby.

5.7 Pledged Stock. (a) If such Grantor shall become entitled to receive or shall receive any certificate (including, without limitation, any certificate representing a dividend or a distribution in connection with any reclassification, increase or reduction of capital or any certificate issued in connection with any reorganization), option or rights in respect of the pledged Equity Interests of any Specified Foreign Issuer, whether in addition to, in substitution of, as a conversion of, or in exchange for, any shares of the Pledged Stock, or otherwise in respect thereof, such Grantor shall accept the same as the agent of the Administrative Agent and the Lenders, hold the same in trust for the Administrative Agent and the Lenders and deliver the same forthwith to the Administrative Agent in the exact form received, duly indorsed by such Grantor to the Administrative Agent, if required, together with an undated stock power covering such certificate duly executed in blank by such Grantor and with, if the Administrative Agent so requests, signature guaranteed, to be held by the Administrative Agent, subject to the terms

hereof, as additional collateral security for the Obligations. If an Event of Default has occurred and is continuing, any sums paid upon or in respect of the Pledged Stock upon the liquidation or dissolution of any Specified Foreign Issuer shall be paid over to the Administrative Agent to be held by it hereunder as additional collateral security for the Obligations, and in case any distribution of capital shall be made on or in respect of the Pledged Stock or any property shall be distributed upon or with respect to the Pledged Stock pursuant to the recapitalization or reclassification of the capital of any Specified Foreign Issuer or pursuant to the reorganization thereof, the property so distributed shall, unless otherwise subject to a perfected security interest in favor of the Administrative Agent, be delivered to the Administrative Agent to be held by it hereunder as additional collateral security for the Obligations. If an Event of Default has occurred and is continuing, if any sums of money or property so paid or distributed in respect of the Pledged Stock shall be received by such Grantor, such Grantor shall, until such money or property is paid or delivered to the Administrative Agent, hold such money or property in trust for the Administrative Agent and the Lenders, segregated from other funds of such Grantor, as additional collateral security for the Obligations. Notwithstanding the provisions of this Section 5.7 or elsewhere in this Agreement, no Grantor shall be required to take any action with respect to the pledge of Equity Interests of Specified Foreign Issuers that would be deemed to be a pledge of in excess of 66% of the Foreign Subsidiary Voting Stock or otherwise could result in adverse tax consequences.

(b) Without the prior written consent of the Administrative Agent, such Grantor will not (i) vote to enable, or take any other action to permit, any Specified Foreign Issuer to issue any Equity Interests of any nature or to issue any other securities convertible into or granting the right to purchase or exchange for any Equity Interests of any nature of any Specified Foreign Issuer, (ii) sell, assign, transfer, exchange, or otherwise dispose of, or grant any option with respect to, the Pledged Stock or Proceeds thereof (except pursuant to a transaction expressly permitted by the Credit Agreement), (iii) create, incur or permit to exist any Lien or option in favor of, or any claim of any Person with respect to, any of the Pledged Stock or Proceeds thereof (other than Liens permitted by the Credit Agreement with respect to Proceeds), or any interest therein, except for the security interests created by this Agreement or (iv) enter into any agreement or undertaking restricting the right or ability of such Grantor or the Administrative Agent to sell, assign or transfer any of the Pledged Stock or Proceeds thereof.

5.8 Intellectual Property. (a) Such Grantor (either itself or through licensees) will (i) continue to use each Trademark material to its business in order to maintain such Trademark in full force free from any claim of abandonment for non-use, (ii) maintain as in the past the quality of products and services offered under such Trademark, including by exercising appropriate quality control as may be required by applicable requirements of law over any licensees using such Trademark, (iii) use such Trademark with the appropriate notice of registration and all other notices and legends required by applicable requirements of law, and (iv) not (and not permit any licensee or sublicensee thereof to) do any act or knowingly omit to do any act whereby such Trademark may become invalidated or impaired in any way.

(b) Such Grantor (either itself or through licensees) will not do any act, or omit to do any act, whereby any Patent or trade secret material to its business may become forfeited, abandoned, compromised or dedicated to the public and will use such Patent with the appropriate marking and all other notices and legends required by applicable requirements of law.

(c) Such Grantor (either itself or through licensees) will not (and will not permit any licensee or sublicensee thereof to) do any act or knowingly omit to do any act whereby any material portion of any Copyright material to its business may become invalidated or otherwise impaired. Such Grantor will not (either itself or through licensees) do any act whereby any material portion of the Copyrights may fall into the public domain unless, in the reasonable business judgment of the Borrower, it is no longer material to the business of the Borrower and its Subsidiaries or that it is in its business interest to do so.

(d) Such Grantor (either itself or through licensees) will not knowingly sell, offer to sell, use or make any technology, product or service or knowingly use any material Intellectual Property to infringe the intellectual property rights of any other Person in a manner that could reasonably be expected to result in a Material Adverse Effect.

(e) [ Reserved ].

(f) Such Grantor will take all reasonable and necessary steps, including, without limitation, in any proceeding before the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency in any other country or any political subdivision thereof, to maintain and pursue each application (and to obtain the relevant registration) and to maintain each registration of the Intellectual Property material to its business, including, without limitation, filing of applications for renewal, affidavits of use and affidavits of incontestability, unless, in the reasonable business judgment of the Borrower, it is no longer material to the business of the Borrower and its Subsidiaries.

(g) In the event the material Intellectual Property is infringed, misappropriated or diluted by a third party, such Grantor shall take such actions or not take actions as such Grantor shall reasonably deem appropriate under the circumstances to protect such Intellectual Property.

(h) Such Grantor shall not (and shall not knowingly permit or assist any person to) (i) destroy or delete any proprietary Software that is material to Grantor's business, (ii) store any Software on any server not under such Grantor's exclusive control unless it determines that it is in its business or legal interests to do so; (iii) engage or allow any persons to create, develop or invent material Intellectual Property that such Grantor intends to be proprietary, other than such Grantor's employees or persons who have assigned in writing all of their rights in any resulting Intellectual Property material to the Grantor's business to such Grantor.

## SECTION 6. REMEDIAL PROVISIONS

6.1 Pledged Stock. (a) Unless an Event of Default shall have occurred and be continuing and the Administrative Agent shall have given notice to the relevant Grantor of the Administrative Agent's intent to exercise its corresponding rights pursuant to Section 6.1(b), each Grantor shall be permitted to receive all cash dividends paid in respect of the Pledged Stock, in each case paid in the normal course of business of the relevant Specified Foreign Issuer and consistent with past practice, to the extent permitted in the Credit Agreement, and to exercise all voting and corporate or other organizational rights with respect to the Pledged Stock; *provided, however*, that no vote shall be cast or corporate or other organizational right exercised or other action taken which, in the Administrative Agent's reasonable judgment, would impair the Collateral or which would be inconsistent with or result in any violation of any provision of the Credit Agreement, this Agreement or any other Loan Document.

(b) If an Event of Default shall occur and be continuing and the Administrative Agent shall give notice of its intent to exercise such rights to the relevant Grantor or Grantors, (i) the Administrative Agent shall have the right to receive any and all cash dividends, payments or other Proceeds paid in respect of the Pledged Stock and make application thereof to the Obligations in such order as the Administrative Agent may determine (but shall have no right to cause such dividends, payments or other Proceeds to occur, be made or transferred to Grantor), and (ii) in connection with the conduct of a commercially reasonable foreclosure sale and to the extent permitted by law, any or all of the Pledged Stock may be registered in the name of the Administrative Agent or its nominee, and the Administrative Agent or its nominee may thereafter exercise (x) all voting, corporate and other rights pertaining to such Pledged Stock at any meeting of shareholders of the relevant Specified Foreign Issuer or Specified Foreign Issuers or otherwise and (y) any and all rights of conversion, exchange and subscription and any other rights, privileges or options pertaining to such Pledged Stock as if it were the absolute owner thereof (including, without limitation, the right to exchange at its discretion any and all of the Pledged Stock upon the merger, consolidation, reorganization, recapitalization or other fundamental change in the corporate or other organizational structure of any Specified Foreign Issuer, or upon the exercise by any Grantor or the Administrative Agent of any right, privilege or option pertaining to such Pledged Stock, and in connection therewith, the right to deposit and deliver any and all of the Pledged Stock with any committee, depository, transfer agent, registrar or other designated agency upon such terms and conditions as the Administrative Agent may determine), all without liability except to account for property actually received by it, but the Administrative Agent shall have no duty to any Grantor to exercise any such right, privilege or option and shall not be responsible for any failure to do so or delay in so doing.

(c) Each Grantor hereby authorizes and instructs each Issuer of any Pledged Stock pledged by such Grantor hereunder to (i) comply with any instruction received by it from the Administrative Agent in writing that (x) states that an Event of Default has occurred and is continuing and (y) is otherwise in accordance with the terms of this Agreement, without any other or further instructions from such Grantor, and each Grantor agrees that each Issuer shall be fully protected in so complying, and (ii) comply with any instruction received by it from the Administrative Agent in writing that is permitted to be issued hereunder to pay any dividends or other payments with respect to the Pledged Stock directly to the Administrative Agent (provided that the Administrative Agent shall have no ability to compel any such dividends or other payments to be made).

6.2 Proceeds to be Turned Over To Administrative Agent. If an Event of Default shall occur and be continuing, at the request of the Administrative Agent, all Proceeds received by any Grantor consisting of cash, checks and other near-cash items shall be held by such Grantor in trust for the Administrative Agent and the Lenders, segregated from other funds of such Grantor, and shall, forthwith upon receipt by such Grantor, be turned over to the Administrative Agent in the exact form received by such Grantor (duly indorsed by such Grantor to the Administrative Agent, if required). All Proceeds received by the Administrative Agent hereunder shall be held by the Administrative Agent in a Collateral Account maintained under its sole dominion and control. All Proceeds while held by the Administrative Agent in a Collateral

Account (or by such Grantor in trust for the Administrative Agent and the Lenders) shall continue to be held as collateral security for all the Obligations and shall not constitute payment thereof until applied as provided in Section 6.3. Notwithstanding anything to the contrary herein, the rights of the Administrative Agent and the Lenders hereunder in respect of any Proceeds shall be limited to the rights set forth in this Section 6.

6.3 Application of Proceeds. At such intervals as may be agreed upon by the Borrower and the Administrative Agent, or, if an Event of Default shall have occurred and be continuing, at any time at the Administrative Agent's election, the Administrative Agent may apply all or any part of Proceeds constituting Collateral, whether or not held in any Collateral Account, in payment of the Obligations in the following order:

First, to pay incurred and unpaid fees and expenses of the Administrative Agent under the Loan Documents;

Second, to the Administrative Agent, for application by it towards payment of amounts then due and owing and remaining unpaid in respect of the Obligations, pro rata among the Secured Parties according to the amounts of the Obligations then due and owing and remaining unpaid to the Secured Parties;

Third, to the Administrative Agent, for application by it towards prepayment of the Obligations, pro rata among the Secured Parties according to the amounts of the Obligations then held by the Secured Parties; and

Fourth, any balance remaining after the Obligations shall have been paid in full, no Letters of Credit shall be outstanding and the Commitments shall have terminated shall be paid over to the Borrower or to whomsoever may be lawfully entitled to receive the same.

Notwithstanding the foregoing, no amounts received from any Subsidiary Grantor shall be applied to any Excluded Swap Obligations of such Subsidiary Grantor.

6.4 Code and Other Remedies. If an Event of Default shall occur and be continuing, the Administrative Agent, on behalf of the Lenders, may exercise, in addition to all other rights and remedies granted to them in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Obligations, all rights and remedies of a secured party under the New York UCC or any other applicable law. Without limiting the generality of the foregoing, to the extent permitted by law, the Administrative Agent, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon any Grantor or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Administrative Agent or any Lender or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. The Administrative Agent or any Lender shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any

right or equity of redemption in any Grantor, which right or equity is hereby waived and released. Each Grantor further agrees, at the Administrative Agent's request, to assemble the Collateral and make it available to the Administrative Agent at places which the Administrative Agent shall reasonably select, whether at such Grantor's premises or elsewhere. In addition, with respect to any Collateral consisting of Intellectual Property, if an Event of Default shall occur and be continuing, to the extent permitted by law, the Administrative Agent, on behalf of the Lenders, may, on demand, cause the security interest granted in such Collateral hereunder to become an assignment, transfer and conveyance of any of or all such Collateral by the applicable Grantors to the Administrative Agent, for the benefit of the Secured Parties, or license or sublicense, whether on an exclusive or nonexclusive basis, any such Collateral throughout the world on such terms and conditions and in such manner as the Administrative Agent shall determine (other than in violation of any then-existing licensing arrangements to the extent that waivers cannot be obtained). The Administrative Agent shall apply the net proceeds of any action taken by it pursuant to this Section 6.4, after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Administrative Agent and the Lenders hereunder, including, without limitation, reasonable attorneys' fees and disbursements, to the payment in whole or in part of the Obligations, in such order as the Administrative Agent may elect, and only after such application and after the payment by the Administrative Agent of any other amount required by any provision of law, including, without limitation, Section 9-615(a)(3) of the New York UCC, need the Administrative Agent account for the surplus, if any, to any Grantor. To the extent permitted by applicable law, each Grantor waives all claims, damages and demands it may acquire against the Administrative Agent or any Lender arising out of the exercise by them of any rights hereunder. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least 10 days before such sale or other disposition.

**6.5 Registration Rights.** (a) If the Administrative Agent shall determine to exercise its right to sell any or all of the Pledged Stock pursuant to Section 6.4, and if in the opinion of the Administrative Agent it is necessary or advisable to have the Pledged Stock, or that portion thereof to be sold, registered under the provisions of the Securities Act, the relevant Grantor will cause the Issuer thereof to (i) execute and deliver, and cause the directors and officers of such Issuer to execute and deliver, all such instruments and documents, and do or cause to be done all such other acts as may be, in the opinion of the Administrative Agent, necessary or advisable to register the Pledged Stock, or that portion thereof to be sold, under the provisions of the Securities Act, (ii) use its commercially reasonable efforts to cause the registration statement relating thereto to become effective and to remain effective for a period of one year from the date of the first public offering of the Pledged Stock, or that portion thereof to be sold, and (iii) make all amendments thereto and/or to the related prospectus which, in the opinion of the Administrative Agent, are necessary or advisable, all in conformity with the requirements of the Securities Act and the rules and regulations of the Securities and Exchange Commission applicable thereto. Each Grantor agrees to cause such Issuer to comply with the provisions of the securities or "Blue Sky" laws of any and all jurisdictions which the Administrative Agent shall designate and to make available to its security holders, as soon as practicable, an earnings statement (which need not be audited) which will satisfy the provisions of Section 11(a) of the Securities Act.

(b) Each Grantor recognizes that the Administrative Agent may be unable to effect a public sale of any or all the Pledged Stock, by reason of certain prohibitions contained in the Securities Act and applicable state securities laws or otherwise, and may be compelled to resort to one or more private sales thereof to a restricted group of purchasers which will be obliged to agree, among other things, to acquire such securities for their own account for investment and not with a view to the distribution or resale thereof. Each Grantor acknowledges and agrees that any such private sale may result in prices and other terms less favorable than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall be deemed to have been made in a commercially reasonable manner. The Administrative Agent shall be under no obligation to delay a sale of any of the Pledged Stock for the period of time necessary to permit the Issuer thereof to register such securities for public sale under the Securities Act, or under applicable state securities laws, even if such Issuer would agree to do so.

(c) Each Grantor agrees to use its commercially reasonable efforts to do or cause to be done all such other acts as may be necessary to make such sale or sales of all or any portion of the Pledged Stock pursuant to this Section 6.5 valid and binding and in compliance with any and all other applicable requirements of law. Each Grantor further agrees that a breach of any of the covenants contained in this Section 6.5 will cause irreparable injury to the Administrative Agent and the Lenders, that the Administrative Agent and the Lenders have no adequate remedy at law in respect of such breach and, as a consequence, that each and every covenant contained in this Section 6.5 shall be specifically enforceable against such Grantor, and such Grantor hereby waives and agrees not to assert any defenses against an action for specific performance of such covenants except for a defense that no Event of Default has occurred under the Credit Agreement.

6.6 Deficiency. Each Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay its Obligations and the fees and disbursements of any attorneys employed by the Administrative Agent or any Lender to collect such deficiency.

## SECTION 7. THE ADMINISTRATIVE AGENT

7.1 Administrative Agent's Appointment as Attorney-in-Fact, etc. (a) Each Grantor hereby irrevocably constitutes and appoints the Administrative Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Grantor and in the name of such Grantor or in its own name, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Agreement, and, without limiting the generality of the foregoing, each Grantor hereby gives the Administrative Agent the power and right, on behalf of such Grantor, without notice to or assent by such Grantor, to do any or all of the following:

(i) in the name of such Grantor or its own name, or otherwise, take possession of and indorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due under or with respect to any Collateral and file any claim or take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by the Administrative Agent for the purpose of collecting any and all such moneys due under or with respect to any Collateral whenever payable;

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(ii) in the case of any Intellectual Property, execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as the Administrative Agent may reasonably request to evidence the Administrative Agent's and the Lenders' security interest in such Intellectual Property and the goodwill and general intangibles of such Grantor relating thereto or represented thereby;

(iii) pay or discharge taxes and Liens levied or placed on or threatened against the Collateral, effect any repairs or any insurance called for by the terms of this Agreement and pay all or any part of the premiums therefor and the costs thereof;

(iv) execute, in connection with any sale provided for in Section 6.4 or 6.5, any indorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral; and

(v) (1) direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to the Administrative Agent or as the Administrative Agent shall direct; (2) ask or demand for, collect, and receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral; (3) sign and indorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Collateral; (4) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any portion thereof and to enforce any other right in respect of any Collateral; (5) defend any suit, action or proceeding brought against such Grantor with respect to any Collateral; (6) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Administrative Agent may deem appropriate; (7) assign any Intellectual Property (along with the goodwill of the business to which any such Intellectual Property pertains), throughout the world for such term or terms, on such conditions, and in such manner, as the Administrative Agent shall in its sole discretion determine; (8) assume any contracts relating to the Collateral to which such Grantor is a party in the name and stead of such Grantor and (9) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Administrative Agent were the absolute owner thereof for all purposes, and do, at the Administrative Agent's option and such Grantor's expense, at any time, or from time to time, all acts and things which the Administrative Agent deems necessary to protect, preserve or realize upon the Collateral and the Administrative Agent's and the Lenders' security interests therein and to effect the intent of this Agreement, all as fully and effectively as such Grantor might do.

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Anything in this Section 7.1(a) to the contrary notwithstanding, the Administrative Agent agrees that it will not exercise any rights under the power of attorney provided for in this Section 7.1(a) (other than pursuant to clause (ii) thereof) unless an Event of Default shall have occurred and be continuing.

(b) If any Grantor fails to perform or comply with any of its agreements contained herein, the Administrative Agent, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement.

(c) The expenses of the Administrative Agent incurred in connection with actions undertaken as provided in this Section 7.1, together with interest thereon at a rate per annum equal to the highest rate per annum at which interest would then be payable on any category of past due ABR Loans under the Credit Agreement, from the date of payment by the Administrative Agent to the date reimbursed by the relevant Grantor, shall be payable by such Grantor to the Administrative Agent on demand.

(d) Each Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the security interests created hereby are released.

7.2 Duty of Administrative Agent. The Administrative Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the New York UCC or otherwise, shall be to deal with it in the same manner as the Administrative Agent deals with similar property for its own account. Neither the Administrative Agent, any Lender nor any of their respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The powers conferred on the Administrative Agent and the Lenders hereunder are solely to protect the Administrative Agent's and the Lenders' interests in the Collateral and shall not impose any duty upon the Administrative Agent or any Lender to exercise any such powers. The Administrative Agent and the Lenders shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

7.3 Execution of Financing Statements. Pursuant to any applicable law, each Grantor authorizes the Administrative Agent to file or record financing statements and other filing or recording documents or instruments with respect to the Collateral without the signature of such Grantor in such form and in such offices as the Administrative Agent reasonably determines appropriate to perfect the security interests of the Administrative Agent under this Agreement. Each Grantor authorizes the Administrative Agent to describe the Collateral covered in any such financing statements in any manner that the Administrative Agent reasonably determines is necessary or advisable to ensure the perfection of the security interest in the Collateral granted under this Agreement. Each Grantor hereby ratifies and authorizes the filing by the Administrative Agent of any financing statement with respect to the Collateral made prior to the date hereof.

7.4 Authority of Administrative Agent. Each Grantor acknowledges that the rights and responsibilities of the Administrative Agent under this Agreement with respect to any action taken by the Administrative Agent or the exercise or non-exercise by the Administrative Agent of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Agreement shall, as between the Administrative Agent and the Lenders, be governed by the Credit Agreement and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Administrative Agent and the Grantors, the Administrative Agent shall be conclusively presumed to be acting as agent for the Lenders with full and valid authority so to act or refrain from acting, and no Grantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

## SECTION 8. MISCELLANEOUS

8.1 Amendments in Writing. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in accordance with Section 9.02 of the Credit Agreement.

8.2 Notices. All notices, requests and demands to or upon the Administrative Agent or any Grantor hereunder shall be effected in the manner provided for in Section 9.01 of the Credit Agreement; provided that any such notice, request or demand to or upon any Subsidiary Grantor shall be addressed to such Subsidiary Grantor at its notice address set forth on Schedule 1 to the Security Agreement Disclosure Letter.

8.3 No Waiver by Course of Conduct; Cumulative Remedies. No failure or delay by the Administrative Agent or any Lender in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent and the Lenders hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by any Grantor therefrom shall in any event be effective unless the same shall be permitted by Section 8.1, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given.

8.4 Enforcement Expenses; Indemnification. (a) Each Subsidiary Grantor agrees to pay all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, the Arrangers, the Syndication Agent, any Issuing Bank or any Lender, including, without limitation, the fees, disbursements and other charges of one firm of counsel for the Administrative Agent, Arrangers and Syndication Agent, taken as a whole (and if reasonably necessary (as determined by the Administrative Agent in consultation with the Borrower), of a single regulatory counsel and a single local counsel in each appropriate jurisdiction and in the case of an actual or potential conflict of interest where the Administrative Agent, any Arranger affected by such conflict or the Syndication Agent informs the Borrower of such conflict and thereafter retains its own counsel, of another firm of counsel for such affected person), in connection with the enforcement or protection of its rights in connection with this Agreement or any other Loan Document, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued under the Credit Agreement, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Each Subsidiary Grantor agrees to pay, and to save the Administrative Agent and the Lenders harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all stamp, excise, sales or other taxes which may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Agreement.

(c) Each Subsidiary Grantor agrees to pay, and to save the Administrative Agent and the Lenders harmless from, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement to the extent the Borrower would be required to do so pursuant to Section 9.03 of the Credit Agreement.

(d) The agreements in this Section 8.4 shall survive repayment of the Obligations and all other amounts payable under the Credit Agreement and the other Loan Documents.

8.5 Successors and Assigns. This Agreement shall be binding upon the successors and assigns of each Grantor and shall inure to the benefit of the Administrative Agent and the Lenders and their successors and assigns; *provided* that no Grantor may assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the Administrative Agent.

8.6 Set-Off. If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of any Grantor against any of and all the obligations of such Grantor now or hereafter existing under this Agreement or the Credit Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or the Credit Agreement and although such obligations may be unmatured; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.17 of the Credit Agreement and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the obligations owing to such Defaulting Lender as to which it exercised such right of setoff; *provided, further*, that no Lender shall have a right of setoff with respect to Obligations of any Grantor under this Agreement or the Credit Agreement against the Payment Processing Accounts. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have. Each Lender agrees to notify the relevant Grantor and the Administrative Agent promptly after any such setoff and application; *provided* that the failure to give such notice shall not affect the validity of such setoff and application. Notwithstanding the foregoing, to the extent prohibited by applicable law as described in the definition of "Excluded Swap Obligation," no amounts received from, or set off with respect to, any Subsidiary Grantor shall be applied to any Excluded Swap Obligations of such Subsidiary Grantor.

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8.7 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by email or telecopy), and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

8.8 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

8.9 Section Headings. The Section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

8.10 Integration. This Agreement and the other Loan Documents represent the agreement of the Grantors, the Administrative Agent and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Administrative Agent or any Lender relative to subject matter hereof and thereof not expressly set forth or referred to herein or in the other Loan Documents.

8.11 GOVERNING LAW. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

8.12 Submission To Jurisdiction; Waivers. (a) Each Grantor submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County, Borough of Manhattan and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each Grantor agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that the Administrative Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement against any Grantor or its properties in the courts of any jurisdiction.

(b) Each Grantor hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any court referred to in paragraph (b) of this Section. Each Grantor hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each Grantor irrevocably consents to service of process to such Grantor at its address referred to in Section 8.2 or at such other address of which the Administrative Agent shall have been notified pursuant thereto and otherwise in the manner provided for notices in Section 9.01 of the Credit Agreement.

8.13 Acknowledgements. Each Grantor hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents to which it is a party;

(b) neither the Administrative Agent nor any Lender has any fiduciary relationship with or duty to any Grantor arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Grantors, on the one hand, and the Administrative Agent and Lenders, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Grantors and the Lenders.

8.14 Additional Grantors. Each Subsidiary of the Borrower that is required to become a party to this Agreement pursuant to Section 5.10 of the Credit Agreement shall become a Grantor for all purposes of this Agreement upon execution and delivery by such Subsidiary of a Joinder Agreement in the form of Annex 1 hereto.

8.15 Releases. The Collateral shall be released from the Liens created by this Agreement, and this Agreement and the obligations of the Administrative Agent and each Grantor hereunder shall terminate, at the time or times and in the manner set forth in Section 9.17 of the Credit Agreement.

**8.16 WAIVER OF JURY TRIAL. EACH GRANTOR HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH GRANTOR (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**

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IN WITNESS WHEREOF, each of the undersigned has caused this Security Agreement to be duly executed and delivered as of the date first above written.

SQUARE, INC.

By: \_\_\_\_\_

Title:

JOINDER AGREEMENT, dated as of \_\_\_\_\_, 20\_\_\_\_, made by \_\_\_\_\_ (the "Additional Grantor"), in favor of \_\_\_\_\_, as administrative agent (in such capacity, the "Administrative Agent") for the banks and other financial institutions or entities (the "Lenders") parties to the Credit Agreement referred to below. All capitalized terms not defined herein shall have the meaning ascribed to them in such Credit Agreement.

WITNESSETH:

WHEREAS, Square, Inc. (the "Borrower"), the Lenders and the Administrative Agent have entered into a Credit Agreement, dated as of November 2, 2015 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement");

WHEREAS, in connection with the Credit Agreement, the Borrower and certain of its Subsidiaries (other than the Additional Grantor) have entered into the Security Agreement, dated as of November, 2015 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Security Agreement") in favor of the Administrative Agent for the ratable benefit of the Secured Parties;

WHEREAS, the Credit Agreement requires the Additional Grantor to become a party to the Security Agreement; and

WHEREAS, the Additional Grantor has agreed to execute and deliver this Joinder Agreement in order to become a party to the Security Agreement;

NOW, THEREFORE, IT IS AGREED:

1. Security Agreement. By executing and delivering this Joinder Agreement, the Additional Grantor, as provided in Section 8.14 of the Security Agreement, hereby becomes a party to the Security Agreement as a Grantor thereunder with the same force and effect as if originally named therein as a Grantor and, without limiting the generality of the foregoing, hereby expressly assumes all obligations and liabilities of a Grantor thereunder. The information set forth in Annex 1-A hereto is hereby added to the information set forth in the Schedules to the Security Agreement Disclosure Letter. The Additional Grantor hereby represents and warrants that each of the representations and warranties contained in Section 4 of the Security Agreement is true and correct on and as the date hereof (after giving effect to this Joinder Agreement) as if made on and as of such date.

**2. Governing Law. THIS JOINDER AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK.**

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IN WITNESS WHEREOF, the undersigned has caused this Joinder Agreement to be duly executed and delivered as of the date first above written.

[ADDITIONAL GRANTOR]

By: \_\_\_\_\_

Name:

Title:

Supplement to Schedule 1 to the Security Agreement Disclosure Letter

Supplement to Schedule 2 to the Security Agreement Disclosure Letter

Supplement to Schedule 3 to the Security Agreement Disclosure Letter

Supplement to Schedule 4 to the Security Agreement Disclosure Letter

Supplement to Schedule 5 to the Security Agreement Disclosure Letter

**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  
November 5, 2015