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WAYFAIR INC.

FORM S-1
(Securities Registration Statement)

Filed 08/15/14

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Fiscal Year	12/31

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As filed with the Securities and Exchange Commission on August 15, 2014.

Registration No. 333-

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

FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

WAYFAIR INC.
(Exact name of registrant as specified in its charter)

Delaware	**5961**	**00-0000000**
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification No.)

4 Copley Place, 7th Floor
Boston, MA 02116
(617) 532-6100
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Niraj Shah
Chief Executive Officer
Wayfair Inc.
4 Copley Place, 7th Floor
Boston, MA 02116
(617) 532-6100
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

John H. Chory, Esq. **Susan L. Mazur, Esq.** **Latham & Watkins LLP** **1000 Winter Street, Suite 3700** **Waltham, MA 02451** **Telephone: (781) 434-6700** **Facsimile: (781) 434-6601**	**Michael Fleisher** **Chief Financial Officer** **Wayfair Inc.** **4 Copley Place,** **7th Floor** **Boston, MA 02116** **Telephone: (617) 532-6100** **Facsimile: (617) 532-6148**	**Julie H. Jones, Esq.** **Thomas Holden, Esq.** **Ropes & Gray LLP** **Prudential Tower** **800 Boylston Street** **Boston, MA 02199** **Telephone: (617) 951-7000** **Facsimile: (617) 951-7050**

Approximate date of commencement of proposed sale to the public:
As soon as practicable after this Registration Statement is declared 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 of 1933, 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, 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.

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	**Proposed Maximum Aggregate Offering Price(1)**	**Amount of Registration Fee(2)**
Class A Common Stock, $0.001 par value per share	$350,000,000	$45,080

(1) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended.

(2) Calculated pursuant to Rule 457(o) based on an estimate of the proposed maximum aggregate offering price.

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 August 15, 2014.

Preliminary Prospectus

Shares

wayfair

Class A Common Stock

This is an initial public offering of shares of Class A common stock of Wayfair Inc.

Wayfair is offering shares of Class A common stock to be sold in the offering. The selling stockholders identified in this prospectus are offering an additional shares of Class A common stock. Wayfair will not receive any of the proceeds from the sale of the shares being sold by the selling stockholders.

Wayfair has two classes of authorized common stock, Class A common stock 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 per share. Each share of Class B common stock is entitled to ten votes per share and is convertible into one share of Class A common stock. Outstanding shares of Class B common stock will represent approximately % of the voting power of our outstanding capital stock immediately following the completion of this offering.

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

We are an "emerging growth company" as that term is used in the Jumpstart Our Business Startups Act of 2012, and, as such, have elected to comply with certain reduced public company reporting requirements. Investing in our common stock involves risks.

See "Risk Factors" beginning on page 14 to read about factors you should consider before buying shares of the Class A common stock.

	Per Share	Total
Initial public offering price	$	$
Underwriting discount	$	$
Proceeds, before expenses, to Wayfair	$	$
Proceeds, before expenses, to the selling stockholders	$	$

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

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

The underwriters expect to deliver the shares against payment in New York, New York on , 2014.

Goldman, Sachs & Co. **BofA Merrill Lynch** **Citigroup**

Allen & Company LLC

Pacific Crest Securities **Piper Jaffray** **Wells Fargo Securities**
Canaccord Genuity **Cowen and Company** **Raymond James**

Prospectus dated , 2014.



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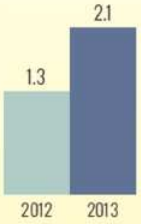
Our homes are the center of our lives, where we raise families, create our fondest memories and spend most of our time. Our homes are very personal expressions of self and identity, which is why many of us seek uniqueness, crave originality and enjoy the feeling created by home design, furniture and décor. We built Wayfair to meet this emotional need.



Orders Delivered*
(in millions)



Active Customers*
(in millions)



Net Revenue
(in millions)



*See the section titled "Management's Discussion and Analysis of Financial Conditions and Results of Operations — Key financial and Operating Metrics."

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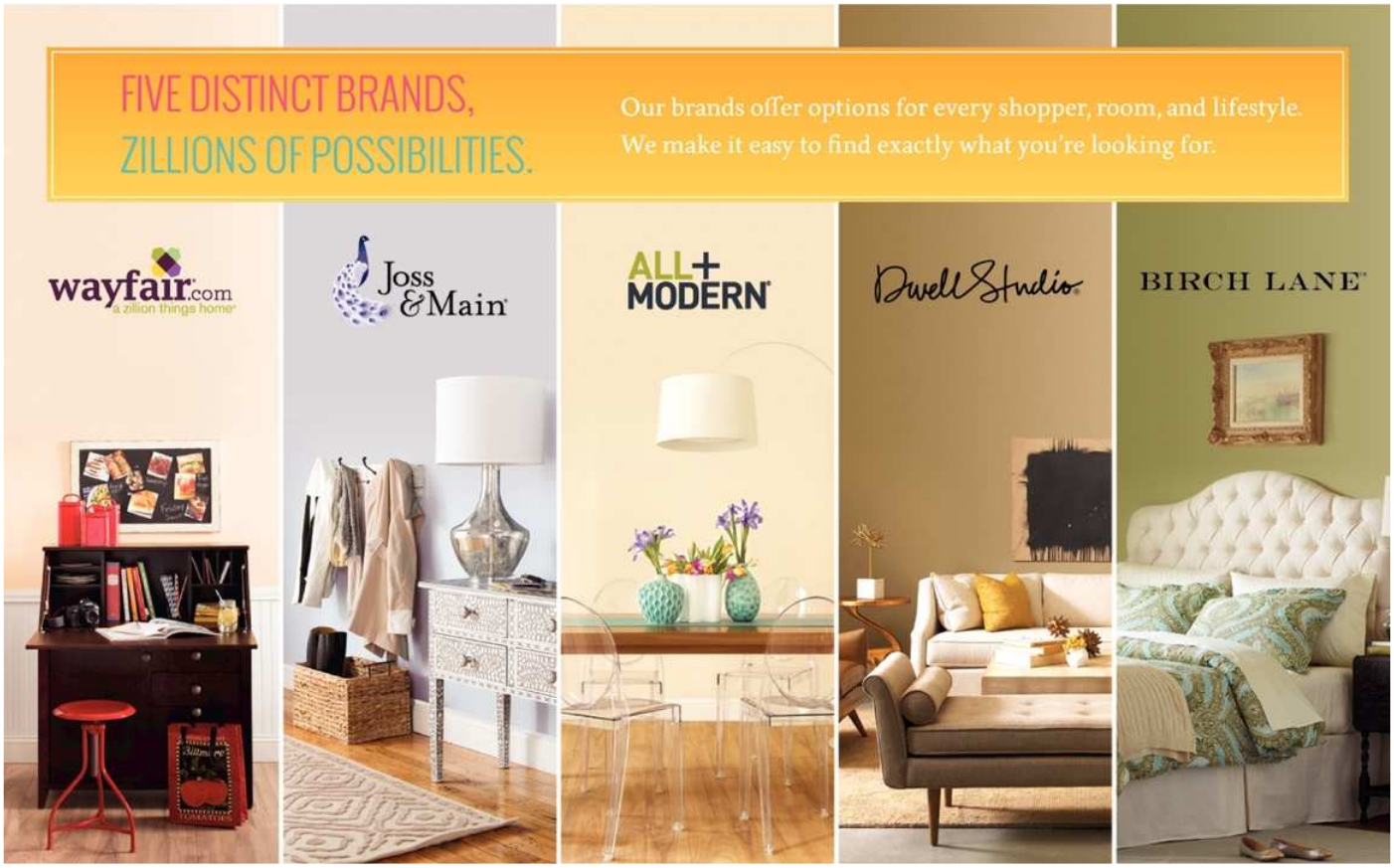


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Through and including , 2014 (the 25th day after the date of this prospectus), all dealers effecting transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to a dealer's obligation to deliver a prospectus when acting as an underwriter and with respect to an unsold allotment or subscription.

We, the selling stockholders and the underwriters, have not authorized anyone to provide any information or to make any representations other than those contained in this prospectus or in any free writing prospectuses we have prepared. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus is an offer to sell only the shares offered hereby, but 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.

Trademarks, Trade Names and Design Marks

We use various trademarks, trade names and design marks in our business, including without limitation Wayfair®, Joss & Main®, AllModern®, DwellStudio® and Birch Lane™. This prospectus also contains trademarks and trade names of other businesses that are the property of their respective holders.

Market, Industry and Other Data

We obtained the industry, market and competitive position data in this prospectus from our own internal estimates and research as well as from industry publications and research, surveys

and studies conducted by third parties and other publicly available information. 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. While we believe our internal company research is reliable and the market definitions are appropriate, neither such research nor these definitions have been verified by any independent source.

Research by Euromonitor International should not be considered as the opinion of Euromonitor International as to the value of any security or the advisability of investing in Wayfair and accordingly, such information should not be relied upon for making any investment decision in respect of Wayfair.

PROSPECTUS SUMMARY

This summary highlights information contained elsewhere in this prospectus and does not contain all of the information you should consider in making your investment decision. Before deciding to invest in shares of our Class A common stock, you should read this summary together with the more detailed information elsewhere in this prospectus, including our consolidated financial statements and the related notes. You should carefully consider, among other things, the matters discussed in "Risk Factors," "Special Note Regarding Forward-Looking Statements ," our consolidated financial statements and related notes, and "Management's Discussion and Analysis of Financial Condition and Results of Operations," in each case included elsewhere in this prospectus.

Unless the context otherwise requires, references in this prospectus to "Wayfair," "the company," "we," "us," and "our" refer, prior to the Corporate Reorganization discussed below, to Wayfair LLC, and, after the Corporate Reorganization discussed below, to Wayfair Inc., in each case together with its consolidated subsidiaries as a combined entity.

Wayfair Inc.

Overview

Wayfair is transforming the way people shop for their homes. Our homes are the center of our lives, where we raise families, create our fondest memories and spend most of our time. Our homes are very personal expressions of self and identity, which is why many of us seek uniqueness, crave originality and enjoy the feeling created by home design, furniture and décor. We built Wayfair to meet this emotional need for mass market consumers.

We have created one of the world's largest online destinations for the home. Through our e-commerce business model, we offer visually inspiring browsing, compelling merchandising, easy product discovery and attractive prices for over seven million products from over 7,000 suppliers across five distinct brands:



an online destination for a "zillion things home"®



an online flash sales site offering inspiring home design daily



a go-to online source for original modern design



a design studio for fashion-forward modern furnishings



a collection of classic furnishings and timeless home décor

Our typical Wayfair customer is a 35 to 65 year old woman with an annual household income of $60,000 to $175,000, who we consider to be a mass market consumer and who we believe is underserved by traditional brick and mortar and other online retailers of home goods. Because each of our customers has a different taste, style, purchasing goal and budget when shopping for her home, we have built one of the largest online selections of furniture, home furnishings, décor and goods. We are able to offer this vast selection of products while holding minimal inventory because we typically ship products directly from our suppliers to our customers. This supplier direct fulfillment network is a key component of our custom-built and seamlessly integrated technology and operational platform, which also includes extensive supplier integrations, a proprietary transportation delivery network and superior customer service.

We founded our company in May 2002 and have since delivered over 11.8 million orders. From 2002 through 2011, the company was bootstrapped by our co-founders and operated as hundreds of niche websites, such as bedroomfurniture.com and allbarstools.com. In 2006, we launched AllModern. From 2003 to 2011, we grew our net revenue organically from $7.7 million to $517.3 million, representing a 69.2% compound annual growth rate, or CAGR. In late 2011, we made the strategic decision to close and permanently redirect over 240 of our niche websites into Wayfair.com to create a one-stop shop for furniture, home furnishings, décor and goods and to build brand awareness, drive customer loyalty and increase repeat purchasing. We also changed our name from CSN Stores LLC to Wayfair LLC.

Our co-founders are lifetime tech innovators who have worked together in the consumer internet sector since 1995 and have created a company culture deeply rooted in technology. Our technology and data focus facilitates critical e-commerce capabilities such as tailored shopping experiences across our five brands, consumer targeting and personalization, and "anytime, anywhere" shopping across our websites, mobile-optimized websites and mobile applications, which we collectively refer to as our sites.

Our strong customer loyalty and deep supplier relationships have helped us grow our Direct Retail sales, which we define as sales generated primarily through the sites of our five brands. In 2013 and the six months ended June 30, 2014, we generated Direct Retail net revenue of $673.4 million and $469.5 million, respectively, an increase of 73.0% and 75.0%, respectively, over our Direct Retail net revenue of $389.3 million and $268.4 million in 2012 and the six months ended June 30, 2013, respectively. In 2013, we delivered 3.3 million orders for 2.1 million Direct Retail active customers, representing increases of 85.2% and 61.0%, respectively, over 2012. In the six months ended June 30, 2014, we delivered 2.2 million orders, representing an increase of 76.6%, over the six months ended June 30, 2013. In the six months ended June 30, 2014, we had 2.6 million Direct Retail active customers, representing an increase of 75.0% over the six months ended June 30, 2013. In 2013 and the six months ended June 30, 2014, LTM net revenue per active customer was $322 and $332, respectively, an increase of 7.3% and 6.1% over 2012 and the six months ended June 30, 2013, respectively. In 2013 and the six months ended June 30, 2014, 47.2% and 51.2%, respectively, of orders delivered were from repeat customers, up from 37.4% and 47.7% in 2012 and the six months ended June 30, 2013, respectively. In addition, our mobile platform drives growth by engaging customers where and when they want to shop; in the first six months of 2014, 27.9% of all Direct Retail orders delivered were placed from a mobile device, up from 21.3% in the first six months of 2013. See the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations — Key Financial and Operating Metrics" on page 55 for further detail.

In 2013 and the six months ended June 30, 2014, we generated net revenue of $915.8 million and $574.1 million, respectively, up 52.4% and 49.8% over 2012 and the six months ended June 30, 2013, respectively. Our 2013 and six months ended June 30, 2014 net revenue included $673.4 million and $469.5 million, respectively, from Direct Retail and $242.4 million and $104.6 million, respectively,

from Other, which we define as net revenue generated primarily online through third parties, which we refer to as our retail partners. In 2013, we generated a net loss of $15.5 million and Adjusted EBITDA of $(2.9) million, improvements of $5.5 million and $9.1 million, respectively, over 2012. In the six months ended June 30, 2014, we generated a net loss of $51.4 million and Adjusted EBITDA of $(37.0) million, increases of $43.1 million and $34.9 million, respectively, over the six months ended June 30, 2013. Our net loss and Adjusted EBITDA results were driven primarily by our increased investment in advertising in 2012, 2013 and the six months ended June 30, 2014. Because we hold minimal inventory and a majority of our customers pay us before we pay our suppliers, we have an attractive net working capital dynamic which typically allows us to generate more cash than our Adjusted EBITDA on an annual basis. See the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations — Non-GAAP Financial Measures" on page 55 for more information and for a reconciliation of Adjusted EBITDA.

Our Industry

The home goods market is large and characterized by specific consumer trends, structural challenges and market dynamics that are shaping the future of our industry.

Addressable Market Size and Growth

Large and Growing Home Goods Market with Significant Online Potential: The home goods market is large, global and growing. Our addressable home goods market, which we define as the U.S. furniture and home décor markets, was $233 billion in 2013, according to Euromonitor International, Ltd., a market research firm. It also expects the U.S. home goods market to grow at a 2.5% CAGR in real terms from 2013 to 2023, reaching $297 billion in 2023. We believe the online penetration of the U.S. home goods market in 2013 was approximately 7%, significantly lower than other retail markets.

Mass Market for Home Goods is Large and Underserved: We believe the mass market for home goods represents the largest addressable opportunity within the home goods sector and that the mass market consumer is underserved due to structural limitations of brick and mortar and other online retailers.

Women Control an Outsized Share of Spending within the Household: In 2013, women represented 70% of our customers. According to a report released by the U.S. Census Bureau in 2013, there are 158 million women in the United States, of which 63 million are between the ages of 35 and 65. We believe these women control an outsized share of spending, particularly spending related to furniture, home furnishings, décor and goods.

Beneficial Effects of the Millennial Generation Aging and Maturing into the Home Category: We believe there are approximately 73 million millennials (which we define as individuals currently between the ages of 18 to 31) in the United States, many of whom are accustomed to purchasing goods online. As millennials age, start new families and move into new homes, we expect online sales of home goods to increase. In addition, we believe the online home goods market will further grow as older generations of consumers become increasingly comfortable purchasing online.

Mobile Commerce is Growing Rapidly and Only Just Beginning in Home Goods: The proliferation of smartphones and tablets has made mobile commerce one of the fastest growing online channels. Since consumers have access to their mobile devices virtually anytime and anywhere, they have the opportunity to browse, discover and shop throughout the day. From 2013 to 2018, mobile e-commerce as a percentage of overall e-commerce is projected to increase from 15% to 30%, according to eMarketer Inc., a market research firm.

Why Home is Different

Home is Shopped Differently than Other Retail Verticals: Homes are very personal expressions of self and identity, which is why many consumers seek uniqueness, crave originality and enjoy the feeling created by home design, furniture and décor. Consumers shopping for home goods often cannot articulate what they are looking for other than to describe a feeling or visual image that they want to capture in their home. In addition, while consumers typically know the names of big box and specialty retailers that offer various home products, we believe they rarely know the names of the product brands or suppliers. We believe traditional search-based sites that rely on directed product search (e.g., "running sneakers") or brand name search (e.g., "Samsung 32-inch LCD television") have difficulty serving customers shopping for home products in this more emotional, visual and inspirational manner.

Home Shoppers Desire Uniqueness, which Requires Vast Selection: In the mass market for home goods, consumers with different tastes, styles, purchasing goals and budgets require a broad selection of products and choices. This need for selection applies across many home categories, including furniture, décor, lighting, kitchen, bed & bath, outdoor, home improvement and baby & kids, each of which has dozens of sub-categories with hundreds to tens of thousands of products. Brick and mortar home goods retailers must balance a consumer's desire for uniqueness, which requires massive selection, with the challenges of high inventory carrying costs and limited showroom and storage space.

Time Consuming and Inconvenient for Consumers to Shop across Brick and Mortar Home Retailers: To browse a vast selection of products across highly-fragmented brick and mortar retailers, consumers must shop multiple stores. For example, if a nearby furniture retailer has 20 bedroom sets on its showroom floor, a consumer may feel she must visit multiple stores to see a wide enough selection to make an informed purchase decision that satisfies her style and budget needs. We believe the lack of an easy-to-browse, one-stop shopping experience with massive selection has led to dissatisfaction with brick and mortar home goods shopping. In contrast, Wayfair.com offers over 900 bedroom sets across many styles and prices, which mitigates the need for a consumer to visit multiple stores to find the perfect item at a price she can afford.

Difficult to Browse, Value Shop and Price Compare: Mass market home goods shoppers frequently seek a wide variety of information from disparate online and offline sources to research home goods products. Because this information is not easily comparable, it is difficult for consumers to make informed home décor and design-related decisions. In addition, consumers may struggle to mix and match different home goods items they are considering buying from multiple traditional brick and mortar retailers.

Challenging Logistics for Consumers and Retailers: Logistics, fulfillment and customer service for home goods products are challenging given the various categories, shapes, sizes, weights and price points in the home market. Given the personal nature and high touch physical characteristics of home goods products, many consumers seek first-rate customer service so they are not burdened with managing delivery, shipping and return logistics on their own. However, we believe big box retailers that serve the mass market for home goods are often unable or unwilling to provide this level of service. In addition, many regional retailers do not ship nationally, which we believe is because they lack the required scalable technology, operations and distribution infrastructure.

Our Solution

Key Benefits for Our Customers

We offer our consumers vast selection, easy access and value, inspirational content, personalized and mobile shopping experiences and superior customer service to help them find the perfect item at a price they can afford.

Broad Selection and Choice: We offer one of the largest online selections of furniture, home furnishings, décor and goods with over seven million products from over 7,000 suppliers.

Easy Access and Value: We offer consumers a one-stop shop with home goods pricing designed to be on par with big box retailers and a merchandising experience designed to be on par with specialty retailers.

Inspirational Photography and Editorial Content: To inspire customers, we produce beautiful imagery and highly-tailored editorial content both in house and through third parties.

Personalized and Mobile Shopping Experiences: We use personalization, based on past browsing, shopping patterns and personal preferences, to create a more engaging consumer experience. Our investment in mobile allows us to deliver value, convenience and inspiration to consumers anytime and anywhere.

Superior Customer Service: Our customer service organization has over 440 representatives who help consumers navigate our sites, answer questions and help complete orders. This team helps us build trust with consumers, build our brand awareness, enhance our reputation and drive sales.

Key Benefits for Our Suppliers

Through our technology platform, we offer our suppliers a cost-effective channel, the ability to leverage our technological expertise, a real-time view of our demand and proven logistics capabilities to help sell their products.

Cost-Effective Access to Our Large Customer Base: We sell products from over 7,000 suppliers, many of which are small, family-run operations without well-known product brands and without easy retail access to a large customer base. We provide our suppliers with access to our customer base of 2.6 million active customers, enabling them to increase their sales and access the growing e-commerce market.

Ability to Leverage Our Technological Expertise to Drive Sales: Our technology platform is designed to allow suppliers to easily provide us with their full product selection. Through our technology platform, we believe many of our suppliers have increased their sales, which has strengthened their loyalty to us.

Real-Time View of Demand and Inventory Needs via Data and Analytics: We offer our suppliers a real-time view of our demand and inventory needs via powerful data and analytics.

Proven Logistics Capabilities: Our logistics infrastructure allows us to ship directly from our suppliers to our customers. This supplier direct fulfillment network is a key component of our custom-built and seamlessly integrated technology and operational platform.

Our Strengths

We believe we have achieved our market leading position through the following key strengths:

- our large scale drives powerful network effects;
- superior logistics infrastructure and supplier direct fulfillment network require minimal inventory and capital expenditures;
- trusted brand with rapidly growing awareness;
- personalized shopping experiences and differentiated use of data, analytics and technology drive high customer repeat rates;
- powerful and custom-built technology platform;
- well-positioned to benefit from platform shift to mobile; and
- proven and operationally disciplined management team.

Our Growth Strategy

Our goal is to further improve our leadership in the home goods market by pursuing the following key strategies:

- continue building leading retail home brands;
- acquire more customers;
- continue to invest in the consumer experience;
- increase repeat purchasing through merchandising, data, analytics and technology;
- add new suppliers and deepen relationships with our existing suppliers;
- continue to invest in our technology and operational platform, including our mobile platform;
- expand internationally; and
- opportunistically pursue strategic acquisitions.

Risk Factors

Our business is subject to numerous risks and uncertainties. Please carefully read "Risk Factors" beginning on page 14 and "Special Note Regarding Forward-Looking Statements" on page 42 for a more detailed explanation of the risks and uncertainties before investing in our Class A common stock. For example, any of the following risks may negatively affect our competitiveness or growth strategy, which could cause the price of our Class A common stock to decline and result in a loss of a part or all of your investment:

- Our recent growth rates may not be sustainable or indicative of our future growth.
- If we fail to manage our growth effectively, our business, financial condition and operating results could be harmed.
- If we fail to acquire new customers, or fail to do so in a cost-effective manner, we may not be able to increase net revenue per active customer or achieve profitability.
- Our success depends in part on our ability to increase our net revenue per active customer. If our efforts to increase customer loyalty and repeat purchasing as well as maintain high levels of customer engagement and average order values of our customers are not successful, our growth prospects and revenue will be materially adversely affected.

- Our business depends on our ability to build and maintain strong brands. We may not be able to maintain and enhance our existing brands if we receive unfavorable customer complaints, negative publicity or otherwise fail to live up to consumers' expectations, which could materially adversely affect our business, results of operations and growth prospects.
- Our efforts to launch new brands and expand our existing brand portfolio internationally may not be successful.
- Expansion of our international operations will require management attention and resources, involves additional risks, and may be unsuccessful, which could harm our future business development and existing domestic operations.
- We have a history of losses, and we have accumulated $277.1 million in common members' deficit as of June 30, 2014. We expect to have increasing operating losses and negative cash flow as we continue to expand our business.
- System interruptions that impair customer access to our sites or other performance failures in our technology infrastructure could damage our business, reputation and brand and substantially harm our business and results of operations.
- Our business is highly competitive. Competition presents an ongoing threat to the success of our business.
- The dual class structure of our common stock and the existing ownership of capital stock by our executive officers, directors and their affiliates have the effect of concentrating voting control with our executive officers, directors and their affiliates for the foreseeable future, which will limit your ability to influence corporate matters. Following this offering, our co-founders will own shares representing approximately % of the economic interest and % of the voting power of our outstanding capital stock, and, together with our other executive officers, directors and their affiliates, will own shares representing approximately % of the economic interest and % of the voting power of our outstanding capital stock.

Company Information and Reorganization

We began operating as Smart Tech Toys, Inc., a Massachusetts corporation, in May 2002 and changed our name to CSN Stores, Inc. in February 2003. In March 2008, we formed, and contributed all of the assets and liabilities of CSN Stores, Inc. to, a subsidiary, CSN Stores LLC, and we continued operating our business through this Delaware limited liability company. In late 2011, we changed the name of CSN Stores, Inc. to SK Retail, Inc. and changed our name from CSN Stores LLC to Wayfair LLC. Prior to the completion of this offering, we intend to complete an internal restructuring, which we refer to in this prospectus as the Corporate Reorganization. The proposed structure of the Corporate Reorganization is described in the section titled "Organizational Structure." Following the Corporate Reorganization, (i) Wayfair Inc. would be a holding company with no material assets other than 100% of the equity interests in Wayfair LLC and (ii) the holders of equity interests in Wayfair LLC would become stockholders of Wayfair Inc. Prior to the Corporate Reorganization, Wayfair Inc. will not have conducted any activities other than in connection with its formation and in preparation for this offering. Accordingly, our consolidated financial statements and other financial information included in this prospectus as of dates and for periods prior to the date of the Corporate Reorganization reflect the results of operations and financial position of Wayfair LLC. Our consolidated financial information, if any, as of dates and for periods from and after the date of the Corporate Reorganization reflect the results of operations and financial condition of Wayfair Inc. and its wholly-owned subsidiary, Wayfair LLC, unless otherwise expressly stated.

While our outstanding equity as a limited liability company prior to the Corporate Reorganization is called "common units," "incentive units" and "preferred units," we refer to such common units and incentive units as common stock and to the preferred units as preferred stock for the periods prior to the Corporate Reorganization for ease of comparison, except in the sections titled "Prospectus Summary — Summary Consolidated Financial Data," "Organizational Structure," "Selected Consolidated Financial Data," "Management's Discussion and Analysis of Financial Condition and Results of Operations," the audited financial statements included elsewhere in this prospectus and where otherwise indicated in this prospectus. For the same reason, we also refer to our "restricted unit bonus awards" and "restricted unit purchase right awards" under our Wayfair LLC second amended and restated 2010 incentive plan, or 2010 Plan, as restricted common stock and to our "deferred units" under our 2010 Plan as our restricted stock units.

Our executive offices are located at 4 Copley Place, 7th Floor, Boston, MA 02116, and our telephone number is (617) 532-6100. Our corporate website address is Wayfair.com. The information contained in, or accessible through, our website does not constitute part of this prospectus, and investors should not rely on any such information in deciding whether to purchase our Class A common stock.

We are an "emerging growth company," as defined in the Jumpstart Our Business Startups Act of 2012. 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 gross 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. We refer to the Jumpstart Our Business Startups Act of 2012 herein as the "JOBS Act," and references herein to "emerging growth company" shall have the meaning associated with such term in the JOBS Act.

The Offering

Issuer	Wayfair Inc.
Class A common stock we are offering	shares
Class A common stock the selling stockholders are offering	shares
Class A common stock to be outstanding after the offering	shares
Class B common stock to be outstanding after the offering	shares
Total Class A common stock and Class B common stock to be outstanding after the offering	shares
Option to purchase additional shares of Class A common stock	shares being offered by the selling stockholders
Voting Rights	We have two classes of authorized common stock: Class A common stock 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 per share, and each share of Class B common stock is entitled to ten votes per share. The Class B common stock also has approval rights over certain corporate actions. Following the completion of this offering, each share of Class B common stock may be converted into one share of Class A common stock at the option of its holder and will be automatically converted into one share of Class A common stock upon transfer thereof, subject to certain exceptions. In addition, upon the date on which there are fewer than shares of Class B common stock outstanding (as adjusted for stock splits), or in the event of the affirmative vote or written consent of holders of at least 66 $^{2}/_{3}$ % of the outstanding shares of Class B common stock, all outstanding shares of Class B common stock shall convert automatically into Class A common stock. Please read the section titled "Description of Capital Stock" for additional information.

Use of Proceeds	We expect to distribute approximately $24.3 million of the net proceeds, or approximately %, to our existing Series A preferred stockholders upon conversion to common stock in connection with the completion of this offering to satisfy the remaining portion of an accrued cash dividend. Our co-founders and certain of our directors, executive officers and holders of more than 5% of our voting securities hold 85% of our outstanding shares of Series A preferred stock and, as a result of their ownership, will receive 85% of the dividend payment, or approximately $20.6 million. We also expect to distribute approximately $ million of the net proceeds to satisfy minimum statutory tax withholding and remittance obligations related to the settlement of outstanding restricted stock units upon the completion of this offering. We intend to use the remaining net proceeds to us from this offering for working capital and other general corporate purposes. We may also use a portion of the net proceeds for the acquisition of, or investment in, technologies, solutions or businesses that complement our business. We will not receive any proceeds from the sale of shares by the selling stockholders. Please read the section titled "Use of Proceeds" for additional information.
Risk Factors	Please read the section titled "Risk Factors" beginning on page 14 and other information included in this prospectus for a discussion of factors you should consider before deciding to invest in our Class A common stock.
Proposed New York Stock Exchange symbol	"W"

Unless otherwise indicated, this prospectus reflects and assumes the following:

- the consummation of the Corporate Reorganization described in the section titled "Organizational Structure" prior to the completion of this offering;
- the reclassification of our common stock and the automatic conversion of all outstanding shares of our preferred stock into shares of our Class B common stock, which will occur immediately prior to the completion of this offering;
- the filing and effectiveness of our restated certificate of incorporation and the adoption of our amended and restated bylaws, each of which will occur immediately prior to the completion of this offering; and
- no exercise by the underwriters of their option to purchase additional shares of Class A common stock.

The number of shares of our Class A common stock and Class B common stock to be outstanding after this offering is based on no shares of Class A common stock and shares of Class B common stock outstanding as of June 30, 2014 and excludes:

- 646,413 shares of Class B common stock issuable upon exercise of options to purchase common stock outstanding as of June 30, 2014 under our 2010 Plan at a weighted-average exercise price of $2.98 per share;
- 6,085,085 shares of Class B common stock issuable from restricted stock units outstanding as of June 30, 2014 under our 2010 Plan; and
- shares of Class A common stock, subject to increase on an annual basis, reserved for future issuance under our 2014 Incentive Award Plan, or our 2014 Plan, which will become effective prior to the completion of this offering.

Summary Consolidated Financial Data

The following tables set forth a summary of our historical financial data as of, and for the period ended on, the dates indicated. The statement of operations data for the years ended December 31, 2012 and 2013 are derived from the audited financial statements of Wayfair LLC included elsewhere in this prospectus. The statement of operations data for the six months ended June 30, 2013 and 2014 are derived from the unaudited financial statements of Wayfair LLC included elsewhere in this prospectus. The statement of operations data for the year ended December 31, 2011 are derived from the unaudited financial statements of Wayfair LLC not included elsewhere in this prospectus. You should read this data together with the audited financial statements and related notes appearing elsewhere in this prospectus and the information in the sections titled "Selected Financial Data" and "Management's Discussion and Analysis of Financial Condition and Results of Operations." The historical results are not necessarily indicative of our future results.

	Years ended December 31,			Six months ended June 30,	
	2011	2012	2013	2013	2014
	(in thousands, except share and per share data)				
Consolidated Statements of Operations:					
Net revenue	$ 517,336	$ 601,028	$ 915,843	$ 383,208	$ 574,144
Cost of goods sold	385,824	455,879	691,602	288,337	440,483
Gross profit	131,512	145,149	224,241	94,871	133,661
Operating expenses:					
Sales and marketing	106,794	113,370	177,475	72,714	138,228
General and administrative	36,772	52,961	62,246	30,014	46,355
Amortization of acquired intangible assets	—	212	539	106	499
Total operating expenses	143,566	166,543	240,260	102,834	185,082
Loss from operations	(12,054)	(21,394)	(16,019)	(7,963)	(51,421)
Interest income, net	157	234	245	124	133
Gain on joint venture acquisition	1,425	—	—	—	—
Other (expense) income, net	(675)	155	294	(504)	(96)
Loss before income taxes	(11,147)	(21,005)	(15,480)	(8,343)	(51,384)
Provision for income taxes	(22)	(50)	(46)	5	(17)
Net loss	$ (11,169)	$ (21,055)	$ (15,526)	$ (8,338)	$ (51,401)
Accretion of convertible redeemable preferred units	(9,337)	(12,154)	(25,388)	(15,948)	(11,755)
Net loss attributable to common unit holders	(20,506)	(33,209)	(40,914)	(24,286)	(63,156)
Net loss attributable to common unit holders per unit — basic and diluted(1)	$ (0.50)	$ (0.80)	$ (0.99)	$ (0.59)	$ (1.55)
Weighted average number of common units outstanding used in computing per unit amounts — basic and diluted(1)	41,271,992	41,271,992	41,331,546	41,271,992	40,828,976
Pro forma net loss per share — basic and diluted (unaudited)(1)			$		$
Pro forma weighted average number of common shares outstanding (unaudited)(1)					

(1) See Note 15 to our consolidated financial statements for an explanation of the calculations of our basic and diluted net loss per share of common stock, and pro forma net loss per share of common stock.

	June 30, 2014		
	Actual	Pro Forma(1)	Pro Forma as Adjusted(2)
	(in thousands)		
Consolidated Balance Sheet Data:			
Cash and cash equivalents	$ 87,781	$ 66,885	$
Working capital	68,706	47,810	
Total assets	277,018	256,122	
Deferred revenue	18,033	18,033	
Convertible redeemable preferred units	392,715	—	
Total member's (deficit)/stockholders' equity	$ (277,455)	$ 94,058	$

(1) The pro forma column reflects (i) the consummation of the proposed Corporate Reorganization described in the section titled "Organizational Structure," including a net adjustment of $0.3 million to accumulated (deficit)/retained earnings in connection with deferred income tax liabilities assumed to be recognized in connection with the Corporate Reorganization, all presented as if these events had occurred as of June 30, 2014, (ii) the reclassification of all outstanding shares of common stock and the automatic conversion of all outstanding shares of preferred stock into shares of Class B common stock immediately prior to the completion of this offering, (iii) an adjustment of $13.3 million to reduce the carrying value of the convertible redeemable preferred units to reflect conversion value assuming the security was converted on the balance sheet date, (iv) the distribution of accrued dividend amounts payable to certain holders of our Series A convertible redeemable preferred units upon conversion to shares of Class B common stock equal to the members' distribution payable balance on our consolidated financial statements as of the completion of this offering, which amount was $20.9 million as of June 30, 2014, (v) the equity compensation expense of $40.3 million associated with the common option units, deferred units and restricted common units that have satisfied the service condition as of June 30, 2014 and (vi) the reclassification of $1.5 million from due to related party to accrued expenses to reflect the effect of consolidation of SK Retail.

(2) The pro forma as adjusted column gives effect to the pro forma adjustments set forth above and (i) the receipt of $ million in proceeds from the sale and issuance by us of shares of Class A common stock in this offering, based on the initial public offering price of $ per share, the midpoint of the range listed on the cover page of this prospectus, after deducting the estimated underwriting discount and estimated offering expenses payable by us, and (ii) the payment of approximately $ million in cash to satisfy minimum statutory tax withholding and remittance obligations in connection with the net settlement of deferred units outstanding under our 2010 Plan.

RISK FACTORS

Investing in our Class A common stock involves a high degree of risk. Before you invest, you should carefully consider the following risks, as well as general economic and business risks and all of the other information contained in this prospectus. Any of the following risks could have a material adverse effect on our business, operating results and financial condition and cause the trading price of our Class A common stock to decline, which could cause you to lose all or part of your investment. When determining whether to invest, you should also refer to the other information contained in this prospectus, including the section titled "Special Note Regarding Forward-Looking Statements" and our financial statements and the related notes thereto.

Risks Related to Our Business and Industry

Our recent growth rates may not be sustainable or indicative of our future growth.

In late 2011, we closed and permanently redirected over 240 of our niche websites into Wayfair.com. Additionally, we launched Joss & Main. In 2013, we acquired DwellStudio, and in 2014, we launched Birch Lane. Because we launched most of our brands recently, we have a limited amount of information regarding the purchasing patterns of our customers on these websites. We depend heavily on this information to plan and forecast our business, including anticipated customer acquisition costs, net revenue per active customer and other key performance metrics. If our assumptions prove to be wrong, we may spend more than we anticipate to acquire and retain customers or may generate less net revenue per active customer than anticipated, any of which could have a negative impact on our business and results of operations. In addition, our historical growth rates may not be sustainable or indicative of future growth.

We believe that our continued revenue growth will depend upon, among other factors, our ability to:

- build our brands and launch new brands;
- acquire more customers;
- develop new features to enhance the consumer experience on our websites, mobile-optimized websites and mobile applications, which we collectively refer to as our sites;
- increase the frequency with which new and repeat customers purchase products on our sites through merchandising, data, analytics and technology;
- add new suppliers and deepen our relationships with our existing suppliers;
- enhance the systems our consumers use to interact with our sites and invest in our infrastructure platform;
- expand internationally; and
- pursue strategic acquisitions.

We cannot assure you we will be able to achieve any of the foregoing. Our customer base may not continue to grow or may decline as a result of increased competition and the maturation of our business. Failure to continue our revenue growth rates could have a material adverse effect on our financial condition and results of operations. You should not rely on our historical rate of revenue growth as an indication of our future performance.

If we fail to manage our growth effectively, our business, financial condition and operating results could be harmed.

To manage our growth effectively, we must continue to implement our operational plans and strategies, improve and expand our infrastructure of people and information systems and expand,

train and manage our employee base. We have rapidly increased employee headcount since our inception to support the growth in our business, and we intend for this growth to continue for the foreseeable future. The number of our employees increased from 1,169 full-time equivalents as of December 31, 2012 to 1,558 full-time equivalents as of December 31, 2013, and we expect to add a significant number of employees in 2014. To support continued growth, we must effectively integrate, develop and motivate a large number of new employees. We face significant competition for personnel, particularly in the Boston, Massachusetts area where our headquarters are located. Failure to manage our hiring needs effectively or successfully integrate our new hires may have a material adverse effect on our business, financial condition and operating results.

Additionally, the growth of our business places significant demands on our management and other employees. For example in 2013, we launched hundreds of promotional events across thousands of products each month on Wayfair.com, in addition to hundreds of promotional events — or "Daily Events" — on Joss & Main in which we promote thousands of products via emails, "push" notifications and personalized displays. These events require us to produce updates of our sites and emails to our customers on a daily basis with different products, photos and text. The growth of our business may require significant additional resources to meet these daily requirements, which may not scale in a cost-effective manner or may negatively affect the quality of our sites and customer experience. We are also required to manage relationships with a growing number of suppliers, customers and other third parties. For example, in 2013, we added over 800 new suppliers. Our information technology systems and our internal controls and procedures may not be adequate to support future growth of our supplier base. If we are unable to manage the growth of our organization effectively, our business, financial condition and operating results may be materially adversely affected.

If we fail to acquire new customers, or fail to do so in a cost-effective manner, we may not be able to increase net revenue per active customer or achieve profitability.

Our success depends on our ability to acquire customers in a cost-effective manner. In order to expand our customer base, we must appeal to and acquire customers who have historically used other means of commerce to purchase home goods and may prefer alternatives to our offerings, such as traditional brick and mortar retailers, the websites of our competitors or a supplier's own website. We have made significant investments related to customer acquisition and expect to continue to spend significant amounts to acquire additional customers. For example, we have recently expanded our national U.S. television branding and advertising campaigns. Such campaigns are expensive and may not result in the cost-effective acquisition of customers. We cannot assure you that the net profit from new customers we acquire will ultimately exceed the cost of acquiring those customers. If we fail to deliver a quality shopping experience, or if consumers do not perceive the products we offer to be of high value and quality, we may not be able to acquire new customers. If we are unable to acquire new customers who purchase products in numbers sufficient to grow our business, we may not be able to generate the scale necessary to drive beneficial network effects with our suppliers, our net revenue may decrease, and our business, financial condition and operating results may be materially adversely affected.

We believe that many of our new customers originate from word-of-mouth and other non-paid referrals from existing customers. Therefore we must ensure that our existing customers remain loyal to us in order to continue receiving those referrals. If our efforts to satisfy our existing customers are not successful, we may not be able to acquire new customers in sufficient numbers to continue to grow our business, or we may be required to incur significantly higher marketing expenses in order to acquire new customers.

We also utilize paid and non-paid advertising. Our paid advertising includes search engine marketing, display advertising, paid social media and television advertisements. Our non-paid

advertising efforts include search engine optimization, non-paid social media, mobile "push" notifications and email. We obtain a significant amount of traffic via search engines and, therefore, rely on search engines such as Google, Bing and Yahoo!. Search engines frequently update and change the logic that determines the placement and display of results of a user's search, such that the purchased or algorithmic placement of links to our sites can be negatively affected. Moreover, a search engine could, for competitive or other purposes, alter its search algorithms or results, causing our sites to place lower in search query results. A major search engine could change its algorithms in a manner that negatively affects our paid or non-paid search ranking, and competitive dynamics could impact the effectiveness of search engine marketing or search engine optimization. We also obtain a significant amount of traffic via social networking websites or other channels used by our current and prospective customers. As e-commerce and social networking continue to rapidly evolve, we must continue to establish relationships with these channels and may be unable to develop or maintain these relationships on acceptable terms. If we are unable to cost-effectively drive traffic to our sites, our ability to acquire new customers and our financial condition would suffer.

Our success depends in part on our ability to increase our net revenue per active customer. If our efforts to increase customer loyalty and repeat purchasing as well as maintain high levels of customer engagement and average order values of our customers are not successful, our growth prospects and revenue will be materially adversely affected.

Our ability to grow our business depends on our ability to retain our existing customer base and generate increased revenue and repeat purchases from this customer base, and maintain high levels of customer engagement. To do this, we must continue to provide our customers and potential customers with a unified, convenient, efficient and differentiated shopping experience by:

- providing imagery, tools and technology that attract customers who historically would have bought elsewhere;
- maintaining a high-quality and diverse portfolio of products;
- managing over 7,000 suppliers to deliver products on time and without damage; and
- continuing to invest in our mobile platforms.

If we fail to increase net revenue per active customer, generate repeat purchases or maintain high levels of customer engagement and average order value, our growth prospects, operating results and financial condition could be materially adversely affected.

Our business depends on our ability to build and maintain strong brands. We may not be able to maintain and enhance our existing brands if we receive unfavorable customer complaints, negative publicity or otherwise fail to live up to consumers' expectations, which could materially adversely affect our business, results of operations and growth prospects.

We currently offer five distinct brands to our customers, but we have a limited operating history with most of these brands. Maintaining and enhancing these brands are critical to expanding our base of customers and suppliers. However, a significant portion of our customers' brand experience depends on third parties outside of our control, including suppliers and logistics providers such as FedEx, UPS and the U.S. Postal Service. If these third parties do not meet our or our customers' expectations, our brand may suffer irreparable damage. In addition, maintaining and enhancing these brands may require us to make substantial investments, and these investments may not be successful. If we fail to promote and maintain our brands, or if we incur excessive expenses in this effort, our business, operating results and financial condition may be materially adversely affected. We anticipate that, as our market becomes increasingly competitive, maintaining and enhancing our brands may become increasingly difficult and expensive. Maintaining and

enhancing our brands will depend largely on our ability to provide high quality products to our customers and a reliable, trustworthy and profitable sales channel to our suppliers, which we may not do successfully.

Customer complaints or negative publicity about our sites, products, product delivery times, customer data handling and security practices or customer support, especially on blogs, social media websites and our sites, could rapidly and severely diminish consumer use of our sites and consumer and supplier confidence in us and result in harm to our brands.

Our efforts to launch new brands and expand our existing brand portfolio internationally may not be successful.

Our business success depends to some extent on our ability to expand our customer offerings by launching new brands and expanding our existing brand portfolio into new geographies. For example, we recently launched Birch Lane in the United States and Canada and we recently launched our Joss & Main brand in the United Kingdom. Launching new brands or expanding our existing brand portfolio internationally requires significant upfront investments, including investments in marketing, information technology and additional personnel. Expanding our brands internationally is particularly challenging because it requires us to gain country-specific knowledge about consumers and regional competitors, construct home goods catalogs specific to the country, build local logistics capabilities and customize portions of our technology for local markets. We may not be able to generate satisfactory revenue from these efforts to offset these upfront costs. Any lack of market acceptance of our efforts to launch new brands or expand our existing brand portfolio could have a material adverse effect on our business, prospects, financial condition and results of operations.

Expansion of our international operations will require management attention and resources, involves additional risks, and may be unsuccessful, which could harm our future business development and existing domestic operations.

We believe international expansion represents a significant growth opportunity for us. Today, we deliver products to customers in a number of countries, including the United States, the United Kingdom, Canada, Australia, Germany, Austria, Ireland and New Zealand. We plan to expand into other international markets in order to grow our business, which will require significant management attention and resources. For example, we have made and will continue to make significant investments in information technology, logistics, supplier relationships, merchandising and marketing in the foreign jurisdictions in which we operate or plan to operate. We have limited experience in selling our products to conform to different local cultures, standards and regulations, and the products we offer may not appeal to customers in the same manner, if at all, in other geographies. We may have to compete with local companies which understand the local market better than we do and/or may have greater brand recognition than we do. In addition, to deliver satisfactory performance for customers in international locations, it may be necessary to locate physical facilities, such as consolidation centers, in foreign markets, and we may have to invest in these facilities before we can determine whether or not our foreign operations are successful. We have limited experience establishing such facilities internationally. We may not be successful in expanding into additional international markets or in generating net revenue from foreign operations. Furthermore, different privacy, censorship, liability, intellectual property and other laws and regulations in foreign countries may cause our business, financial condition and operating results to be materially adversely affected.

Our future results could be materially adversely affected by a number of factors inherent in international operations, including:

- localization of our product offerings, including translation into foreign languages and adaptation for local practices;
- the need to vary our practices in ways with which we have limited or no experience or which are less profitable or carry more risk to us;
- unexpected changes in regulatory requirements, taxes, trade laws, tariffs, export quotas, custom duties or other trade restrictions;
- differing labor regulations where labor laws may be more advantageous to employees as compared to the United States;
- more stringent regulations relating to data privacy and security, including the use of commercial and personal information, particularly in the European Union;
- changes in a specific country's or region's political or economic conditions;
- the rising cost of labor in the foreign countries in which our suppliers operate, resulting in increases in our costs of doing business internationally;
- challenges inherent in efficiently managing an increased number of employees over large geographic distances, including the need to implement appropriate systems, policies, benefits and compliance programs and maintain our corporate culture across geographies;
- risks resulting from changes in currency exchange rates;
- limitations on our ability to reinvest earnings from operations in one country to fund the capital needs of our operations in other countries;
- different or lesser intellectual property protection;
- exposure to liabilities under anti-corruption and anti-money laundering laws, including the U.S. Foreign Corrupt Practices Act and similar laws and regulations in other jurisdictions;
- import/export controls; and
- logistics and sourcing.

Operating internationally requires significant management attention and financial resources. We cannot be certain that the investment and additional resources required to establish and expand our international operations will produce desired levels of net revenue or profitability. If we invest substantial time and resources to establish and expand our international operations and are unable to do so successfully and in a timely manner, our business, financial condition and operating results may be materially adversely affected.

We have a history of losses and expect to have increasing operating losses and negative cash flow as we continue to expand our business.

We have a history of losses, and we have accumulated $277.1 million in common members' deficit as of June 30, 2014. We expect our operating losses and negative cash flow to increase significantly in the near-term as we increase investment in our business. Because the market for purchasing home goods online is rapidly evolving and has not yet reached widespread adoption, it is difficult for us to predict our future operating results. As a result, our losses may be larger than anticipated, and we may never achieve profitability. We expect our operating expenses to increase over the next several years as we increase our advertising budget, hire additional personnel and continue to develop features on our sites. In particular, we intend to continue to invest substantial resources in marketing to acquire new customers. In addition, as we grow as a newly public

company, we have and will continue to incur additional significant legal, accounting and other expenses that we did not incur as a private company. Furthermore, if our future growth and operating performance fail to meet investor or analyst expectations, or if we have future negative cash flow or losses resulting from our investment in acquiring new customers, our financial condition and stock price could be materially adversely affected.

System interruptions that impair customer access to our sites or other performance failures in our technology infrastructure could damage our business, reputation and brand and substantially harm our business and results of operations.

The satisfactory performance, reliability and availability of our sites, transaction processing systems and technology infrastructure are critical to our reputation and our ability to acquire and retain customers, as well as maintain adequate customer service levels.

We currently utilize two third-party data center hosting facilities. If the main facility where substantially all of our computer and communications hardware is located fails, or if we suffer an interruption or degradation of services at our main facility, we could lose customer data and miss order fulfillment deadlines, which could harm our business. Our systems and operations are vulnerable to damage or interruption from fire, flood, power loss, telecommunications failure, terrorist attacks, cyber-attacks, data loss, acts of war, break-ins, earthquake and similar events. In the event of a failure of our main facility, the failover to our back-up facility could take substantial time, during which time our sites could be completely shut down. Our back-up facility is designed to support transaction volume at a level slightly above our average daily sales, but is not adequate to support spikes in demand. The back-up facility may not process effectively during time of higher traffic to our sites and may process transactions more slowly and may not support all of our sites' functionality.

We use complex proprietary software in our technology infrastructure, which we seek to continually update and improve. We may not always be successful in executing these upgrades and improvements, and the operation of our systems may be subject to failure. In particular, we have in the past and may in the future experience slowdowns or interruptions in some or all of our sites when we are updating them, and new technologies or infrastructures may not be fully integrated with existing systems on a timely basis, or at all. Additionally, if we expand our use of third-party services, including cloud-based services, our technology infrastructure may be subject to increased risk of slowdown or interruption as a result of integration with such services and/or failures by such third-parties, which are out of our control. Our net revenue depends on the number of visitors who shop on our sites and the volume of orders we can handle. Unavailability of our sites or reduced order fulfillment performance would reduce the volume of goods sold and could also materially adversely affect consumer perception of our brand. We may experience periodic system interruptions from time to time. In addition, continued growth in our transaction volume, as well as surges in online traffic and orders associated with promotional activities or seasonal trends in our business, place additional demands on our technology platform and could cause or exacerbate slowdowns or interruptions. If there is a substantial increase in the volume of traffic on our sites or the number of orders placed by customers, we will be required to further expand and upgrade our technology, transaction processing systems and network infrastructure. There can be no assurance that we will be able to accurately project the rate or timing of increases, if any, in the use of our sites or expand and upgrade our systems and infrastructure to accommodate such increases on a timely basis. In order to remain competitive, we must continue to enhance and improve the responsiveness, functionality and features of our sites, which is particularly challenging given the rapid rate at which new technologies, customer preferences and expectations and industry standards and practices are evolving in the e-commerce industry. Accordingly, we redesign and enhance various functions on our sites on a regular basis, and we may experience instability and performance issues as a result of these changes.

Any slowdown or failure of our sites and the underlying technology infrastructure could harm our business, reputation and our ability to acquire, retain and serve our customers, which could materially adversely affect our results of operations. Our disaster recovery plan may be inadequate, and our business interruption insurance may not be sufficient to compensate us for the losses that could occur.

Our business is highly competitive. Competition presents an ongoing threat to the success of our business.

Our business is rapidly evolving and intensely competitive, and we have many competitors in different industries. Our competition includes: furniture stores, big box retailers, department stores, specialty retailers, and online home goods retailers and marketplaces, including:

- *Furniture Stores:* Ashley Furniture, Bob's Discount Furniture, Havertys, Raymour & Flanagan and Rooms To Go;
- *Big Box Retailers:* Bed, Bath & Beyond, Home Depot, IKEA, Lowe's, Target and Walmart;
- *Department Stores:* JCPenney and Macy's;
- *Specialty Retailers:* Crate and Barrel, Ethan Allen, HomeGoods, Pottery Barn and Restoration Hardware; and
- *Online Home Goods Retailers and Online Marketplaces:* Amazon, eBay and One Kings Lane.

We expect competition in e-commerce generally to continue to increase. We believe that our ability to compete successfully depends upon many factors both within and beyond our control, including:

- the size and composition of our customer base;
- the number of suppliers and products we feature on our sites;
- our selling and marketing efforts;
- the quality, price and reliability of products offered either by us;
- the convenience of the shopping experience that we provide;
- our ability to distribute our products and manage our operations; and
- our reputation and brand strength.

Many of our current competitors have, and potential competitors may have, longer operating histories, greater brand recognition, larger fulfillment infrastructures, greater technical capabilities, faster and less costly shipping, significantly greater financial, marketing and other resources and larger customer bases than we do. These factors may allow our competitors to derive greater net revenue and profits from their existing customer base, acquire customers at lower costs or respond more quickly than we can to new or emerging technologies and changes in consumer habits. These competitors may engage in more extensive research and development efforts, undertake more far-reaching marketing campaigns and adopt more aggressive pricing policies, which may allow them to build larger customer bases or generate net revenue from their customer bases more effectively than we do.

Purchasers of home goods may not choose to shop online, which would prevent us from growing our business.

The online market for home goods in the United States is less developed than the online market for apparel, consumer electronics and other consumer products in the United States and,

we believe, only accounts for approximately 7% of the market as a whole. If the online market for home goods does not gain acceptance, our business may suffer. Our success will depend, in part, on our ability to attract consumers who have historically purchased home goods through traditional retailers. Furthermore, we may have to incur significantly higher and more sustained advertising and promotional expenditures in order to attract additional online consumers to our sites and convert them into purchasing customers. Specific factors that could impact consumers' willingness to purchase home goods from us include:

- concerns about buying products, and in particular larger products, without a physical storefront, face-to-face interaction with sales personnel and the ability to physically examine products;
- delivery time associated with online orders;
- actual or perceived lack of security of online transactions and concerns regarding the privacy of personal information;
- delayed shipments or shipments of incorrect or damaged products;
- inconvenience associated with returning or exchanging items purchased online; and
- usability, functionality and features of our sites.

If the shopping experience we provide does not appeal to consumers or meet the expectations of existing customers, we may not acquire new customers at rates consistent with historical periods, and existing customers' buying patterns and levels may be less than historical rates.

We may be subject to product liability claims if people or property are harmed by the products we sell.

Some of the products we sell or have manufactured for us may expose us to product liability claims and litigation or regulatory action relating to personal injury, death or environmental or property damage. Some of our agreements with our suppliers and international manufacturers may not indemnify us from product liability for a particular supplier's or international manufacturers' products, or our suppliers or international manufacturers may not have sufficient resources or insurance to satisfy their indemnity and defense obligations. Although we maintain liability insurance, we cannot be certain that our coverage will be adequate for liabilities actually incurred or that insurance will continue to be available to us on economically reasonable terms, or at all.

Risks associated with the suppliers from whom our products are sourced could materially adversely affect our financial performance as well as our reputation and brand.

We depend on our ability to provide our customers with a wide range of products from qualified suppliers in a timely and efficient manner. Political and economic instability, the financial stability of suppliers, suppliers' ability to meet our standards, labor problems experienced by suppliers, the availability of raw materials, merchandise quality issues, currency exchange rates, transport availability and cost, transport security, inflation, and other factors relating to the suppliers are beyond our control.

Our agreements with most of our suppliers do not provide for the long-term availability of merchandise or the continuation of particular pricing practices, nor do they restrict such suppliers from selling products to other buyers. There can be no assurance that our current suppliers will continue to seek to sell us products on current terms or that we will be able to establish new or otherwise extend current supply relationships to ensure product acquisitions in a timely and efficient manner and on acceptable commercial terms. Our ability to develop and maintain relationships with

reputable suppliers and offer high quality merchandise to our customers is critical to our success. If we are unable to develop and maintain relationships with suppliers that would allow us to offer a sufficient amount and variety of quality merchandise on acceptable commercial terms, our ability to satisfy our customers' needs, and therefore our long-term growth prospects, would be materially adversely affected.

We also are unable to predict whether any of the countries in which our suppliers' products are currently manufactured or may be manufactured in the future will be subject to trade restrictions imposed by the U.S. or foreign governments or the likelihood, type or effect of any such restrictions. Any event causing a disruption or delay of imports from suppliers with international manufacturing operations, including the imposition of additional import restrictions, restrictions on the transfer of funds or increased tariffs or quotas, could increase the cost or reduce the supply of merchandise available to our customers and materially adversely affect our financial performance as well as our reputation and brand. Furthermore, some or all of our suppliers' foreign operations may be adversely affected by political and financial instability, resulting in the disruption of trade from exporting countries, restrictions on the transfer of funds or other trade disruptions.

In addition, our business with foreign suppliers, particularly with respect to our international sites, may be affected by changes in the value of the U.S. dollar relative to other foreign currencies. For example, any movement by any other foreign currency against the U.S. dollar may result in higher costs to us for those goods. Declines in foreign currencies and currency exchange rates might negatively affect the profitability and business prospects of one or more of our foreign suppliers. This, in turn, might cause such foreign suppliers to demand higher prices for merchandise in their effort to offset any lost profits associated with any currency devaluation, delay merchandise shipments, or discontinue selling to us altogether, any of which could ultimately reduce our sales or increase our costs.

We may be unable to source additional or strengthen our relationships with suppliers.

As of December 31, 2013, we had relationships with over 7,000 suppliers. Our agreements with suppliers are generally terminable at will by either party upon short notice. If we do not maintain our existing relationships or build new relationships with suppliers on acceptable commercial terms, we may not be able to maintain a broad selection of merchandise, and our business and prospects would suffer severely.

In order to attract quality suppliers to our platform, we must:

- demonstrate our ability to help our suppliers increase their sales;
- offer suppliers a high quality, cost-effective fulfillment process; and
- continue to provide suppliers a dynamic and real-time view of our demand and inventory needs via powerful data and analytics capabilities.

If we are unable to provide our suppliers with a compelling return on investment and an ability to increase their sales, we may be unable to maintain and/or expand our supplier network, which would negatively impact our business.

We depend on our suppliers to perform certain services regarding the products that we offer.

As part of offering our suppliers' products for sale on our sites, these suppliers generally agree to conduct a number of traditional retail operations with respect to their respective products, including maintaining inventory and preparing merchandise for shipment to our customers. We may be unable to ensure that these suppliers will continue to perform these services to our or our customers' satisfaction in a manner that provides our customer with a unified brand experience or on commercially reasonable terms. If our customers become dissatisfied with the services provided by our suppliers, our business, reputation and brands could suffer.

We depend on our relationships with other third parties, including our retail partners, and changes in our relationships with these parties could adversely impact our revenue and profits.

In 2013 and the six months ended June 30, 2014, approximately 26% and 18%, respectively, of our net revenue was generated from other operations, consisting primarily of revenue generated online by third parties, which we refer to as our retail partners. Our relationships with our retail partners allow consumers to purchase products offered by us though their websites and mobile applications. Because our agreements with our retail partners are generally terminable at will, we may be unable to maintain these relationships, and our results of operations could fluctuate significantly from period to period depending on the performance of our retail partners and their willingness to continue to offer and/or promote our products. Our agreements with our retail partners may also restrict our ability to market certain products, and not all of our suppliers may permit us to market through all of our retail partners' sites. Because some of our retail partners are competitors or potential competitors in the home goods market, some or all of our retail partners may in the future determine they no longer wish to do business with us or may decide to take other actions that could harm our business. We may also determine that we no longer want to do business with them. Because we do business with a small number of retail partners, if any one of our contracts with our retailer partners were to terminate, our revenue from our retail partners may decline and our relationships with our suppliers may be adversely affected.

Because we rely on FedEx, UPS and the U.S. Postal Service to deliver most of the small parcel products we offer on our sites, we are subject to shipping delays or disruptions caused by inclement weather, natural disasters, labor activism, health epidemics or bioterrorism. In addition, because we rely on national and regional major transportation companies for the delivery of some of our other products, we are also subject to risks of breakage or other damage during delivery by any of these third parties. We also use and rely on other services from third parties, such as our telecommunications services, and those services may be subject to outages and interruptions that are not within our control. For example, failures by our telecommunications providers have in the past and may in the future interrupt our ability to provide phone support to our customers. If these products are not delivered in a timely fashion or are damaged during the delivery process, or if we are not able to provide adequate customer support, our customers could become dissatisfied and cease buying products through our sites, which would adversely affect our operating results.

If our internal control over financial reporting or our disclosure controls and procedures are not effective, we may not be able to accurately report our financial results, prevent fraud or file our periodic reports in a timely manner, which may cause investors to lose confidence in our reported financial information and may lead to a decline in our stock price.

We have been a private company for 12 years and, as such, we have not had the internal control and financial reporting requirements that are required of a publicly-traded company. We are required to comply with the requirements of The Sarbanes-Oxley Act of 2002, or the Sarbanes-

Oxley Act, following the later of the date we are deemed to be an "accelerated filer" or a "large accelerated filer," each as defined in the Securities Exchange Act of 1934, as amended, or the Exchange Act, or the date we are no longer an "emerging growth company," as defined in the JOBS Act, which could be as early as our first fiscal year beginning after the effective date of this offering. The Sarbanes-Oxley Act requires that we maintain effective internal control over financial reporting and disclosure controls and procedures. In particular, we must perform system and process evaluation, document our controls and perform testing of our key control over financial reporting to allow management and our independent public accounting firm to report on the effectiveness of our internal control over financial reporting, as required by Section 404 of the Sarbanes-Oxley Act. Our testing, or the subsequent testing by our independent public accounting firm, may reveal deficiencies in our internal control over financial reporting that are deemed to be material weaknesses. If we are not able to comply with the requirements of Section 404 in a timely manner, or if we or our accounting firm identify deficiencies in our internal control over financial reporting that are deemed to be material weaknesses, the market price of our stock would likely decline and we could be subject to lawsuits, sanctions or investigations by regulatory authorities, which would require additional financial and management resources.

We continue to invest in more robust technology and in more resources in order to manage those reporting requirements. Implementing any appropriate changes to our internal controls may distract our officers and employees, result in substantial costs if we implement new processes or modify our existing processes and require significant time to complete. For example, we plan to transition from our current accounting system to a new reporting system that is expected to integrate better with our other existing systems. Any difficulties or delays in implementing the system could impact our ability to timely report our financial results. In addition, we currently rely on a manual process in some areas which increases our exposure to human error or intervention in reporting our financial results. For these reasons, we may encounter difficulties in the timely and accurate reporting of our financial results, which would impact our ability to provide our investors with information in a timely manner. As a result, our investors could lose confidence in our reported financial information, and our stock price could decline.

In addition, any such changes do not guarantee that we will be effective in maintaining the adequacy of our internal controls, and any failure to maintain that adequacy could prevent us from accurately reporting our financial results.

We may be unable to accurately forecast net revenue and appropriately plan our expenses in the future.

Net revenue and operating results are difficult to forecast because they generally depend on the volume, timing and type of the orders we receive, all of which are uncertain. We base our expense levels and investment plans on our estimates of total net revenue and gross margins and have not historically relied on a formalized forecasting and budgeting process. In addition, we have been operating as five distinct brands for a short period of time, and we cannot be sure the same growth rates, trends and other key performance metrics are meaningful predictors of future growth. Our business is affected by general economic and business conditions in the United States, and we anticipate that it will be increasingly affected by conditions in international markets. In addition, we experience seasonal trends in our business, and our mix of product offerings is highly variable from day-to-day and quarter-to-quarter. This variability makes it difficult to predict sales and could result in significant fluctuations in our net revenue from period-to-period. A significant portion of our expenses is fixed, and as a result, we may be unable to adjust our spending in a timely manner to compensate for any unexpected shortfall in net revenue. Any failure to accurately predict net revenue or gross margins could cause our operating results to be lower than expected, which could materially adversely affect our financial condition and stock price.

Our ability to raise capital in the future may be limited, and our failure to raise capital when needed could prevent us from growing.

In the future, we could be required to raise capital through public or private financing or other arrangements. Such financing may not be available on acceptable terms, or at all, and our failure to raise capital when needed could harm our business. We may sell Class A common stock, convertible securities and other equity securities in one or more transactions at prices and in a manner as we may determine from time to time. If we sell any such securities in subsequent transactions, investors may be materially diluted. New investors in such subsequent transactions could gain rights, preferences and privileges senior to those of holders of our Class A common stock. Debt financing, if available, may involve restrictive covenants and could reduce our operational flexibility or profitability. If we cannot raise funds on acceptable terms, we may not be able to grow our business or respond to competitive pressures.

Our business may be adversely affected if we are unable to provide our customers a cost-effective shopping platform that is able to respond and adapt to rapid changes in technology.

The number of people who access the Internet through devices other than personal computers, including mobile phones, smartphones, handheld computers such as notebooks and tablets, video game consoles, and television set-top devices, has increased dramatically in the past few years. The smaller screen size, functionality, and memory associated with some alternative devices may make the use of our sites and purchasing our products more difficult. The versions of our sites developed for these devices may not be compelling to consumers. In addition, it is time consuming and costly to keep pace with rapidly changing and continuously evolving technology. We launched our mobile applications for Joss & Main in 2012, and in 2014 we launched the Wayfair.com mobile application and the AllModern, Wayfair.co.uk and Wayfair.com.au mobile-optimized sites. In the first six months of 2014, 43.5% of Joss & Main orders delivered were placed from a mobile device, and 27.9% of our overall orders delivered were placed from a mobile device. However, we have only recently launched a mobile application for Wayfair.com and the mobile-optimized sites for AllModern, Wayfair.co.uk and Wayfair.com.au, and we cannot be certain that they will be successful.

As new mobile devices and platforms are released, it is difficult to predict the problems we may encounter in developing applications for alternative devices and platforms, and we may need to devote significant resources to the creation, support and maintenance of such applications. If we are unable to attract consumers to our websites through these devices or are slow to develop a version of our websites that is more compatible with alternative devices or a mobile application, we may fail to capture a significant share of consumers in the home goods market, which could adversely affect our business.

Further, we continually upgrade existing technologies and business applications, and we may be required to implement new technologies or business applications in the future. The implementation of upgrades and changes requires significant investments. Our results of operations may be affected by the timing, effectiveness and costs associated with the successful implementation of any upgrades or changes to our systems and infrastructure. In the event that it is more difficult for our customers to buy products from us on their mobile devices, or if our customers choose not to buy products from us on their mobile devices or to use mobile products that do not offer access to our websites, our customer growth could be harmed and our business, financial condition and operating results may be materially adversely affected.

Significant merchandise returns could harm our business.

We allow our customers to return products, subject to our return policy. If merchandise returns are significant, our business, prospects, financial condition and results of operations could be harmed. Further, we modify our policies relating to returns from time to time, which may result in customer dissatisfaction or an increase in the number of product returns. Many of our products are large and require special handling and delivery. From time to time our products are damaged in transit, which can increase return rates and harm our brand.

Uncertainties in global economic conditions and their impact on consumer spending patterns, particularly in the home goods segment, could adversely impact our operating results.

Consumers may view a substantial portion of the products we offer as discretionary items rather than necessities. As a result, our results of operations are sensitive to changes in macro-economic conditions that impact consumer spending, including discretionary spending. Some of the factors adversely affecting consumer spending include levels of unemployment, consumer debt levels, changes in net worth based on market changes and uncertainty, home foreclosures and changes in home values, fluctuating interest rates, credit availability, government actions, fluctuating fuel and other energy costs, fluctuating commodity prices and general uncertainty regarding the overall future economic environment. Consumer purchases of discretionary items, including our merchandise, generally decline during periods when disposable income is adversely affected or there is economic uncertainty. Adverse economic changes in any of the regions in which we sell our products could reduce consumer confidence and could negatively affect net revenue and have a material adverse effect on our operating results.

Our business relies heavily on email and other messaging services, and any restrictions on the sending of emails or messages or an inability to timely deliver such communications could materially adversely affect our net revenue and business.

Our business is highly dependent upon email and other messaging services for promoting our sites and products. Daily promotions offered through emails and other messages sent by us, or on our behalf by our vendors, generate a significant portion of our revenue. We provide daily emails and "push" communications to customers and other visitors informing them of what is available for purchase on our sites that day, and we believe these messages are an important part of our customer experience and help generate a substantial portion of our net revenue. If we are unable to successfully deliver emails or other messages to our subscribers, or if subscribers decline to open our emails or other messages, our net revenue and profitability would be materially adversely affected. Changes in how webmail applications organize and prioritize email may reduce the number of subscribers opening our emails. For example, Google Inc.'s Gmail service introduced a new feature that organizes incoming emails into categories (for example, primary, social and promotions). Such categorization or similar inbox organizational features may result in our emails being delivered in a less prominent location in a subscriber's inbox or viewed as "spam" by our subscribers and may reduce the likelihood of that subscriber opening our emails. Actions by third parties to block, impose restrictions on or charge for the delivery of emails or other messages could also adversely impact our business. From time to time, Internet service providers or other third parties may block bulk email transmissions or otherwise experience technical difficulties that result in our inability to successfully deliver emails or other messages to third parties. Changes in the laws or regulations that limit our ability to send such communications or impose additional requirements upon us in connection with sending such communications would also materially adversely impact our business. Our use of email and other messaging services to send communications about our sites or other matters may also result in legal claims against us, which

may cause us increased expenses, and if successful might result in fines and orders with costly reporting and compliance obligations or might limit or prohibit our ability to send emails or other messages. We also rely on social networking messaging services to send communications and to encourage customers to send communications. Changes to the terms of these social networking services to limit promotional communications, any restrictions that would limit our ability or our customers' ability to send communications through their services, disruptions or downtime experienced by these social networking services or decline in the use of or engagement with social networking services by customers and potential customers could materially adversely affect our business, financial condition and operating results.

We are subject to risks related to online payment methods.

We accept payments using a variety of methods, including credit card, debit card, PayPal and gift cards. As we offer new payment options to consumers, we may be subject to additional regulations, compliance requirements and fraud. For certain payment methods, including credit and debit cards, we pay interchange and other fees, which may increase over time and raise our operating costs and lower profitability. We are also subject to payment card association operating rules and certification requirements, including the Payment Card Industry Data Security Standard and rules governing electronic funds transfers, which could change or be reinterpreted to make it difficult or impossible for us to comply. As our business changes, we may also be subject to different rules under existing standards, which may require new assessments that involve costs above what we currently pay for compliance. If we fail to comply with the rules or requirements of any provider of a payment method we accept, if the volume of fraud in our transactions limits or terminates our rights to use payment methods we currently accept, or if a data breach occurs relating to our payment systems, we may, among other things, be subject to fines or higher transaction fees and may lose, or face restrictions placed upon, our ability to accept credit card and debit card payments from consumers or facilitate other types of online payments. If any of these events were to occur, our business, financial condition and operating results could be materially adversely affected.

We occasionally receive orders placed with fraudulent credit card data. We may suffer losses as a result of orders placed with fraudulent credit card data even if the associated financial institution approved payment of the orders. Under current credit card practices, we may be liable for fraudulent credit card transactions. If we are unable to detect or control credit card fraud, our liability for these transactions could harm our business, financial condition and results of operations.

Government regulation of the Internet and e-commerce is evolving, and unfavorable changes or failure by us to comply with these regulations could substantially harm our business and results of operations.

We are subject to general business regulations and laws as well as regulations and laws specifically governing the Internet and e-commerce. Existing and future regulations and laws could impede the growth of the Internet, e-commerce or mobile commerce. These regulations and laws may involve taxes, tariffs, privacy and data security, anti-spam, content protection, electronic contracts and communications, consumer protection, Internet neutrality and gift cards. It is not clear how existing laws governing issues such as property ownership, sales and other taxes and consumer privacy apply to the Internet as the vast majority of these laws were adopted prior to the advent of the Internet and do not contemplate or address the unique issues raised by the Internet or e-commerce. It is possible that general business regulations and laws, or those specifically governing the Internet or e-commerce, may be interpreted and applied in a manner that is inconsistent from one jurisdiction to another and may conflict with other rules or our practices. We cannot be sure that our practices have complied, comply or will comply fully with all such laws and

regulations. Any failure, or perceived failure, by us to comply with any of these laws or regulations could result in damage to our reputation, a loss in business and proceedings or actions against us by governmental entities or others. Any such proceeding or action could hurt our reputation, force us to spend significant amounts in defense of these proceedings, distract our management, increase our costs of doing business, decrease the use of our sites by consumers and suppliers and may result in the imposition of monetary liability. We may also be contractually liable to indemnify and hold harmless third parties from the costs or consequences of non-compliance with any such laws or regulations. In addition, it is possible that governments of one or more countries may seek to censor content available on our sites or may even attempt to completely block access to our sites. Adverse legal or regulatory developments could substantially harm our business. In particular, in the event that we are restricted, in whole or in part, from operating in one or more countries, our ability to retain or increase our customer base may be adversely affected, and we may not be able to maintain or grow our net revenue and expand our business as anticipated.

Failure to comply with federal, state and international laws and regulations relating to privacy, data protection and consumer protection, or the expansion of current or the enactment of new laws or regulations relating to privacy, data protection and consumer protection, could adversely affect our business and our financial condition.

A variety of federal, state and international laws and regulations govern the collection, use, retention, sharing and security of consumer data. Laws and regulations relating to privacy, data protection and consumer protection are evolving and subject to potentially differing interpretations. These requirements may be interpreted and applied in a manner that is inconsistent from one jurisdiction to another or may conflict with other rules or our practices. As a result, our practices may not have complied or may not comply in the future with all such laws, regulations, requirements and obligations. Any failure, or perceived failure, by us to comply with our posted privacy policies or with any federal, state or international privacy or consumer protection-related laws, regulations, industry self-regulatory principles, industry standards or codes of conduct, regulatory guidance, orders to which we may be subject or other legal obligations relating to privacy or consumer protection could adversely affect our reputation, brand and business, and may result in claims, proceedings or actions against us by governmental entities or others or other liabilities or require us to change our operations and/or cease using certain data sets. Any such claim, proceeding or action could hurt our reputation, brand and business, force us to incur significant expenses in defense of such proceedings, distract our management, increase our costs of doing business, result in a loss of customers and suppliers and may result in the imposition of monetary penalties. We may also be contractually required to indemnify and hold harmless third parties from the costs or consequences of non-compliance with any laws, regulations or other legal obligations relating to privacy or consumer protection or any inadvertent or unauthorized use or disclosure of data that we store or handle as part of operating our business.

Federal, state and international governmental authorities continue to evaluate the privacy implications inherent in the use of third-party "cookies" and other methods of online tracking for behavioral advertising and other purposes. U.S. and foreign governments have enacted, have considered or are considering legislation or regulations that could significantly restrict the ability of companies and individuals to engage in these activities, such as by regulating the level of consumer notice and consent required before a company can employ cookies or other electronic tracking tools or the use of data gathered with such tools. Additionally, some providers of consumer devices and web browsers have implemented, or announced plans to implement, means to make it easier for Internet users to prevent the placement of cookies or to block other tracking technologies, which could if widely adopted result in the use of third-party cookies and other methods of online tracking becoming significantly less effective. The regulation of the use of these cookies and other current online tracking and advertising practices or a loss in our ability to make

effective use of services that employ such technologies could increase our costs of operations and limit our ability to acquire new customers on cost-effective terms and consequently, materially adversely affect our business, financial condition and operating results.

Foreign data protection, privacy and other laws and regulations are often more restrictive than those in the United States. The European Union, for example, traditionally has imposed stricter obligations under its laws and regulations relating to privacy, data protection and consumer protection than the United States. Individual EU member countries have discretion with respect to their interpretation and implementation of these laws and the penalties for breach and have their own regulators with differing attitudes towards enforcement, which results in varying privacy standards and enforcement risk from country to country. Legislation and regulation in the European Union and some EU member states require companies to give specific types of notice and in some cases seek consent from consumers before using their data for certain purposes, including some marketing activities. In the majority of EU member countries, consent must be obtained prior to setting cookies or other tracking technologies. Outside of the European Union, there are many countries with data protections laws, and new countries are adopting data protection legislation with increasing frequency. Many of these laws may require consent from consumers for the use of data for various purposes, including marketing, which may reduce our ability to market our products. There is no harmonized approach to these laws and regulations globally. Consequently, we increase our risk of non-compliance with applicable foreign data protection laws and regulations as we continue our international expansion. We may need to change and limit the way we use consumer information in operating our business and may have difficulty maintaining a single operating model that is compliant. Compliance with such laws and regulations will result in additional costs and may necessitate changes to our business practices and divergent operating models, which may adversely affect our business and financial condition.

In addition, various federal, state and foreign legislative and regulatory bodies, or self-regulatory organizations, may expand current laws or regulations, enact new laws or regulations or issue revised rules or guidance regarding privacy, data protection and consumer protection. For example, the European Union is considering revisions to its current privacy laws. Any such changes may force us to incur substantial costs or require us to change our business practices. This could compromise our ability to pursue our growth strategy effectively and may adversely affect our ability to acquire customers or otherwise harm our business, financial condition and operating results.

Our failure or the failure of third-party service providers to protect our sites, networks and systems against security breaches, or otherwise to protect our confidential information, could damage our reputation and brand and substantially harm our business and operating results.

We collect, maintain, transmit and store data about our customers, suppliers and others, including credit card information and personally identifiable information, as well as other confidential and proprietary information. We also employ third-party service providers that store, process and transmit proprietary, personal and confidential information on our behalf. We rely on encryption and authentication technology licensed from third parties in an effort to securely transmit confidential and sensitive information, including credit card numbers. Advances in computer capabilities, new technological discoveries or other developments may result in the whole or partial failure of this technology to protect transaction data or other confidential and sensitive information from being breached or compromised. Our security measures, and those of our third-party service providers, may not detect or prevent all attempts to hack our systems, denial-of-service attacks, viruses, malicious software, break-ins, phishing attacks, social engineering, security breaches or other attacks and similar disruptions that may jeopardize the security of information stored in or transmitted by our sites, networks and systems or that we or our third-party service providers otherwise maintain, including payment card systems which may subject us to fines or higher

transaction fees or limit or terminate our access to certain payment methods. We and our service providers may not anticipate or prevent all types of attacks until after they have already been launched, and techniques used to obtain unauthorized access to or sabotage systems change frequently and may not be known until launched against us or our third-party service providers. In addition, security breaches can also occur as a result of non-technical issues, including intentional or inadvertent breaches by our employees or by persons with whom we have commercial relationships.

Breaches of our security measures or those of our third-party service providers or cyber security incidents could result in unauthorized access to our sites, networks and systems; unauthorized access to and misappropriation of consumer information, including consumers' personally identifiable information, or other confidential or proprietary information of ourselves or third parties; viruses, worms, spyware or other malware being served from our sites, networks or systems; deletion or modification of content or the display of unauthorized content on our sites; interruption, disruption or malfunction of operations; costs relating to breach remediation, deployment of additional personnel and protection technologies, response to governmental investigations and media inquiries and coverage; engagement of third party experts and consultants; litigation, regulatory action and other potential liabilities. If any of these breaches of security occur, our reputation and brand could be damaged, our business may suffer, we could be required to expend significant capital and other resources to alleviate problems caused by such breaches and we could be exposed to a risk of loss, litigation or regulatory action and possible liability. Actual or anticipated attacks may cause us to incur increasing costs, including costs to deploy additional personnel and protection technologies, train employees and engage third-party experts and consultants. In addition, any party who is able to illicitly obtain a subscriber's password could access the subscriber's transaction data or personal information. Any compromise or breach of our security measures, or those of our third-party service providers, could violate applicable privacy, data security and other laws, and cause significant legal and financial exposure, adverse publicity and a loss of confidence in our security measures, which could have an material adverse effect on our business, financial condition and operating results. Although we maintain privacy, data breach and network security liability insurance, we cannot be certain that our coverage will be adequate for liabilities actually incurred or that insurance will continue to be available to us on economically reasonable terms, or at all. We may need to devote significant resources to protect against security breaches or to address problems caused by breaches, diverting resources from the growth and expansion of our business.

Changes in tax treatment of companies engaged in e-commerce may adversely affect the commercial use of our sites and our financial results.

Due to the global nature of the Internet, it is possible that various states or foreign countries might attempt to impose additional or new regulation on our business or levy additional or new sales, income or other taxes relating to our activities. Tax authorities at the international, federal, state and local levels are currently reviewing the appropriate treatment of companies engaged in e-commerce. New or revised international, federal, state or local tax regulations may subject us or our customers to additional sales, income and other taxes. For example, the U.S. Senate has recently proposed legislation, the "Marketplace Fairness Act," that would require companies engaged in e-commerce to collect sales tax taxes on Internet revenue. The U.S. House of Representatives is currently considering such legislation. We cannot predict the effect of current attempts to impose sales, income or other taxes on e-commerce. New or revised taxes and, in particular, sales taxes, VAT and similar taxes would likely increase the cost of doing business online and decrease the attractiveness of selling products over the Internet. New taxes could also create significant increases in internal costs necessary to capture data and collect and remit taxes. Any of

these events could have a material adverse effect on our business, financial condition and operating results.

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

We do not collect sales and use, commercial activity, VAT or similar taxes in all jurisdictions in which we have sales, based on our belief that such taxes are not applicable. Sales and use, VAT and similar tax laws and rates vary greatly by jurisdiction. Several states have presented us with tax assessments, alleging that we are required to collect and remit sales or other similar taxes. The aggregate amount of claims from these states is approximately $11.7 million. While we do not believe that we are obligated to collect and remit such taxes and intend to vigorously defend our position, we cannot be sure of the outcome of our discussions with these states. We also expect additional jurisdictions may make similar assessments in the future. As a result, we may be required to collect such taxes in additional jurisdictions in the future. Such tax assessments, penalties and interest or future requirements may materially adversely affect our business, financial condition and operating results.

We may experience fluctuations in our tax obligations and effective tax rate, which could materially adversely affect our operating results.

We are subject to taxes in the United States and numerous international jurisdictions. We record tax expense based on current tax payments and our estimates of future tax payments, which may include reserves for estimates of probable settlements of international and domestic tax audits. At any one time, multiple tax years may be subject to audit by various taxing jurisdictions. The results of these audits and negotiations with taxing authorities may affect the ultimate settlement of these issues. As a result, we expect that throughout the year there could be ongoing variability in our quarterly tax rates as taxable events occur and exposures are re-evaluated. Further, our effective tax rate in a given financial statement period may be materially impacted by changes in tax laws, changes in the mix and level of earnings by taxing jurisdiction, changes to existing accounting rules or regulations or by changes to our ownership or capital structures. Fluctuations in our tax obligations and effective tax rate could materially adversely affect our results of business, financial condition and operating results.

We may expend substantial funds in connection with the tax liabilities that arise upon the settlement of restricted stock units in connection with this offering.

We may expend substantial funds to satisfy minimum statutory tax withholding and remittance obligations when we settle a portion of our restricted stock units, or RSUs, that were granted prior to the date of this prospectus. Our RSUs vest upon the satisfaction of both a service condition and an event condition. The service condition for our RSUs is typically satisfied over a period of five years. The event condition will be satisfied on the closing of this offering. On the settlement dates for our RSUs, we plan to withhold shares and remit income taxes on behalf of the holders of our RSUs at the applicable minimum statutory rates based on the then current value of the underlying shares of our common stock as determined by us, which we refer to as a net settlement. We expect the applicable minimum statutory rates to be approximately 35% on average. Based on the number of our RSUs outstanding as of , 2014 for which the service condition has been satisfied on that date, and assuming (i) the event condition has been satisfied on that date and (ii) that the price of our common stock at the time of settlement is equal to $, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus,

we estimate that this tax obligation on the initial settlement date will be approximately $ in the aggregate. The amount of this obligation could be higher or lower, depending on the price of shares of our common stock and the actual number of our RSUs outstanding for which the service condition has been satisfied on the initial settlement date for the RSUs. To net settle these RSUs on the initial settlement date, assuming a 35% tax withholding rate, we expect to deliver an aggregate of approximately shares of our Class B common stock to RSU holders. In connection with these net settlements, we will withhold and remit the tax liabilities on behalf of the RSU holders to the relevant tax authorities in cash.

In order to fund the tax withholding and remittance obligations on behalf of our RSU holders, we expect to use a portion of our cash and cash equivalent balances. Alternatively, we may choose to borrow funds or use a combination of cash and borrowed funds to satisfy these obligations.

We expect to pursue acquisitions, which could have a material adverse effect on our business, as could the integration of the businesses following acquisition.

As part of our business strategy, we may acquire other companies or businesses. Since our inception, we have made two acquisitions, the remainder of the stake of our Australian joint venture in 2011 and DwellStudio in 2013. Acquisitions involve numerous risks, any of which could harm our business, including: difficulties in integrating the technologies, operations, existing contracts and personnel of an acquired company; difficulties in supporting and transitioning suppliers, if any, of an acquired company; diversion of financial and management resources from existing operations or alternative acquisition opportunities; failure to realize the anticipated benefits or synergies of a transaction; failure to identify all of the problems, liabilities or other shortcomings or challenges of an acquired company or technology, including issues related to intellectual property, regulatory compliance practices, revenue recognition or other accounting practices or employee or customer issues; risks of entering new markets in which we have limited or no experience; potential loss of key employees, customers and suppliers from either our current business or an acquired company's business; inability to generate sufficient net revenue to offset acquisition costs; additional costs or equity dilution associated with funding the acquisition; and possible write-offs or impairment charges relating to acquired businesses.

We may also pursue acquisitions in businesses that are complementary to our business but otherwise new to our organization. Pursuing complementary business opportunities would require significant time and resources that may divert management's attention from other business activities. In addition, any complementary businesses we acquire may expose us to additional laws, regulations and risks, including the risk that we may incur ongoing operating expenses in such businesses in excess of revenue, which could harm our results of operations and financial condition. The financial profile of any such new businesses may be different than our current financial profile, which could also materially adversely affect our financial condition.

We rely on the performance of members of management and highly skilled personnel, and if we are unable to attract, develop, motivate and retain well-qualified employees, our business could be harmed.

We believe our success has depended, and continues to depend, on the efforts and talents of Niraj Shah, one of our co-founders, co-chairman of the board of directors and our Chief Executive Officer, Steven Conine, one our co-founders, co-chairman of the board of directors and Chief Technology Officer, and other members of our management team. Our future success depends on our continuing ability to attract, develop, motivate and retain highly qualified and skilled employees, particularly mid-level managers, engineers and merchandising and technology personnel. The market for such positions in the Boston area and other cities in which we operate is competitive. Qualified individuals are in high demand, and we may incur significant costs to attract them. In addition, the loss of any of our senior management or key employees or our inability to recruit and develop mid-level managers could materially adversely affect our ability to execute our business plan, and we may not be able to find adequate replacements. All of our officers and other U.S. employees are at-will employees, meaning that they may terminate their employment relationship with us at any time, and their knowledge of our business and industry would be extremely difficult to replace. If we do not succeed in attracting well-qualified employees or retaining and motivating existing employees, our business, financial condition and operating results may be materially adversely affected.

We may not be able to adequately protect our intellectual property rights.

We regard our subscriber list, trademarks, domain names, copyrights, patent, trade dress, trade secrets, proprietary technology and similar intellectual property as critical to our success, and we rely on trademark, copyright and patent law, trade secret protection, agreements and other methods with our employees and others to protect our proprietary rights. We might not be able to obtain broad protection in the United States or internationally for all of our intellectual property, and we might not be able to obtain effective intellectual property protection in every country in which we sell products. The protection of our intellectual property rights may require the expenditure of significant financial, managerial and operational resources. Moreover, the steps we take to protect our intellectual property may not adequately protect our rights or prevent third parties from infringing or misappropriating our proprietary rights, and we may not be able to broadly enforce all of our trademarks. Any of our patents, marks or other intellectual property rights may be challenged by others or invalidated through administrative process or litigation. Our patent and trademark applications may never be granted. Additionally, the process of obtaining patent protection is expensive and time-consuming, and we may not be able to prosecute all necessary or desirable patent applications at a reasonable cost or in a timely manner. Even if issued, there can be no assurance that these patents will adequately protect our intellectual property, as the legal standards relating to the validity, enforceability and scope of protection of patent and other intellectual property rights are uncertain. We also cannot be certain that others will not independently develop or otherwise acquire equivalent or superior technology or intellectual property rights.

We might be required to spend significant resources to monitor and protect our intellectual property rights. We may not be able to discover or determine the extent of any infringement, misappropriation or other violation of our intellectual property rights and other proprietary rights. We may initiate claims or litigation against others for infringement, misappropriation or violation of our intellectual property rights or proprietary rights or to establish the validity of such rights. Despite our efforts, we may be unable to prevent third parties from infringing upon, misappropriating or otherwise violating our intellectual property rights and other proprietary rights. Any litigation, whether or not it is resolved in our favor, could result in significant expense to us and divert the efforts of our technical and management personnel, which may materially adversely affect our business, financial condition and operating results.

We have been, and may again be, accused of infringing intellectual property rights of third parties.

The e-commerce industry is characterized by vigorous protection and pursuit of intellectual property rights, which has resulted in protracted and expensive litigation for many companies. We are subject to claims and litigation by third parties that we infringe their intellectual property rights, and we expect additional claims and litigation with respect to infringement to occur in the future. The costs of supporting such litigation and disputes are considerable, and there can be no assurances that favorable outcomes will be obtained. As our business expands and the number of competitors in our market increases and overlaps occur, we expect that infringement claims may increase in number and significance. Any claims or proceedings against us, whether meritorious or not, could be time-consuming, result in considerable litigation costs, require significant amounts of management time or result in the diversion of significant operational resources, any of which could materially adversely affect our business, financial condition and operating results.

Legal claims regarding intellectual property rights are subject to inherent uncertainties due to the oftentimes complex issues involved, and we cannot be certain that we will be successful in defending ourselves against such claims. In addition, some of our larger competitors have extensive portfolios of issued patents. Many potential litigants, including patent holding companies, have the ability to dedicate substantially greater resources to enforce their intellectual property rights and to defend claims that may be brought against them. Furthermore, a successful claimant could secure a judgment that requires us to pay substantial damages or prevents us from conducting our business as we have historically done or may desire to do in the future. We might also be required to seek a license and pay royalties for the use of such intellectual property, which may not be available on commercially acceptable terms, or at all. Alternatively, we may be required to develop non-infringing technology or intellectual property, which could require significant effort and expense and may ultimately not be successful.

We have received in the past, and we may receive in the future, communications alleging that certain items posted on or sold through our sites violate third-party copyrights, designs, marks and trade names or other intellectual property rights or other proprietary rights. Brand and content owners and other proprietary rights owners have actively asserted their purported rights against online companies, including Wayfair. In addition to litigation from rights owners, we may be subject to regulatory, civil or criminal proceedings and penalties if governmental authorities believe we have aided and abetted in the sale of counterfeit or infringing products.

Such claims, whether or not meritorious, may result in the expenditure of significant financial, managerial and operational resources, injunctions against us or the payment of damages by us. We may need to obtain licenses from third parties who allege that we have violated their rights, but such licenses may not be available on terms acceptable to us, or at all. These risks have been amplified by the increase in third parties whose sole or primary business is to assert such claims.

The inability to acquire, use or maintain our marks and domain names for our sites could substantially harm our business and operating results.

We currently are the registrant of marks for our brands in numerous jurisdictions and are the registrant of the Internet domain name for the websites of Wayfair.com and our other sites, as well as various related domain names. However, we have not registered our marks or domain names in all major international jurisdictions. Domain names generally are regulated by Internet regulatory bodies. If we do not have or cannot obtain on reasonable terms the ability to use our marks in a particular country, or to use or register our domain name, we could be forced either to incur significant additional expenses to market our products within that country, including the development of a new brand and the creation of new promotional materials and packaging, or to

elect not to sell products in that country. Either result could materially adversely affect our business, financial condition and operating results.

Furthermore, the regulations governing domain names and laws protecting marks and similar proprietary rights could change in ways that block or interfere with our ability to use relevant domains or our current brand. Also, we might not be able to prevent third parties from registering, using or retaining domain names that interfere with our consumer communications or infringe or otherwise decrease the value of our marks, domain names and other proprietary rights. Regulatory bodies also may establish additional generic or country-code top-level domains or may allow modifications of the requirements for registering, holding or using domain names. As a result, we might not be able to register, use or maintain the domain names that utilize the name Wayfair or our other brands in all of the countries in which we currently or intend to conduct business.

Our use of open source software may pose particular risks to our proprietary software and systems.

We use open source software in our software and systems and will use open source software in the future. The licenses applicable to open source software may require that the source code subject to the license be made available to the public and that any modifications or derivative works to certain open source software continue to be licensed under open source licenses. From time to time, we may face claims from third parties claiming infringement of their intellectual property rights, or demanding the release or license of the open source software or derivative works that we developed using such software (which could include our proprietary source code) or otherwise seeking to enforce the terms of the applicable open source license. These claims could result in litigation and could require us to purchase a costly license, publicly release the affected portions of our source code, be limited in or cease using the implicated software unless and until we can re-engineer such software to avoid infringement or change the use of the implicated open source software. In addition to risks related to license requirements, use of certain open source software can lead to greater risks than use of third-party commercial software, as open source licensors generally do not provide warranties, indemnities or other contractual protections with respect to the software (for example, non-infringement or functionality). Our use of open source software may also present additional security risks because the source code for open source software is publicly available, which may make it easier for hackers and other third parties to determine how to breach our sites and systems that rely on open source software. Any of these risks could be difficult to eliminate or manage, and, if not addressed, could have a material adverse effect on our business, financial condition and operating results.

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

There has been no prior market for our Class A common stock. An active market may not develop or be sustainable, and investors may not be able to resell their shares at or above the initial public offering price.

There has been no public market for our Class A common stock prior to this offering. The initial public offering price for our Class A common stock will be determined through negotiations between a representative of the underwriters and us and may vary from the market price of our Class A common stock following the completion of this offering. An active or liquid market in our Class A common stock may not develop upon completion of this offering or, if it does develop, it may not be sustainable. In the absence of an active trading market for our Class A common stock, you may not be able to resell those shares at or above the initial public offering price or at all. We cannot predict the prices at which our Class A common stock will trade.

Although we do not intend to rely on "controlled company" exemptions from certain corporate governance requirements under the New York Stock Exchange, or NYSE, rules, if we use these exemptions in the future, you will not have the same protections afforded to stockholders of companies that are subject to such requirements.

After this offering, our co-founders will continue to control a majority of the voting power of our outstanding common stock. As a result, we will qualify as a "controlled company" within the meaning of the corporate governance standards of the NYSE. Under these rules, a listed company of which more than 50% of the voting power is held by an individual, group or another company is a "controlled company" and may elect not to comply with certain corporate governance requirements, including:

- the requirement that a majority of the board of directors consist of independent directors as defined under the listing rules of the NYSE;
- the requirement that we have a nominating and corporate governance committee that is composed entirely of independent directors with a written charter addressing the committee's purpose and responsibilities;
- the requirement that we have a compensation committee that is composed entirely of independent directors with a written charter addressing the committee's purpose and responsibilities; and
- the requirement for an annual performance evaluation of the nominating and corporate governance and compensation committees.

To the extent we still qualify, we may choose to take advantage of any of these exemptions in the future. As a result, in the future, we may not have a majority of independent directors and we may not have independent director oversight of decisions regarding executive compensation and director nominations.

The dual class structure of our common stock and the existing ownership of capital stock by our executive officers, directors and their affiliates have the effect of concentrating voting control with our co-founders, executive officers, directors and their affiliates for the foreseeable future, which will limit 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 this initial public offering, has one vote per share. Given the greater number of votes per share attributed to our Class B common stock, our existing stockholders, all of which hold shares of Class B common stock, will collectively beneficially own shares representing approximately % of the voting power of our outstanding capital stock following the completion of this offering. Consequently, the holders of Class B common stock collectively will continue to be able to control a majority of the voting power even if their stock holdings represent as few as approximately % of the outstanding number of shares of our common stock. Further, our co-founders will own shares representing approximately % of the economic interest and % of the voting power of our outstanding capital stock following this offering and, together with our other executive officers, directors and their affiliates, will own shares representing approximately % of the economic interest and % of the voting power of our outstanding capital stock following this offering. This concentrated control will limit your ability to influence corporate matters for the foreseeable future. For example, these stockholders will be able to control elections of directors, amendments of our restated certificate of incorporation or bylaws, increases to the number of shares available for issuance under our equity incentive plans or adoption of new equity incentive plans and approval of any merger or sale of assets for the foreseeable future. This control may materially adversely affect the market price of our Class A common stock. Additionally, the

holders of our Class B common stock may cause us to make strategic decisions or pursue acquisitions that could involve risks to you or may not be aligned with your interests. The holders of our Class B common stock will also be entitled to a separate vote in the event we seek to amend our restated certificate of incorporation to increase or decrease the par value of a class of our common stock or in a manner that alters or changes the powers, preferences or special rights of the Class B common stock in a manner that affects its holders adversely.

Future transfers by holders of Class B common stock will generally result in those shares converting on a 1:1 basis to Class A common stock, which 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, which may include our executive officers and directors and their affiliates.

Our stock price may be volatile or may decline regardless of our operating performance, resulting in substantial losses for investors purchasing shares in this offering.

The market price of our Class A common stock may fluctuate significantly in response to numerous factors, many of which are beyond our control, including:

- actual or anticipated fluctuations in our results of operations;
- the financial projections we may provide to the public, any changes in these projections or our failure to meet these projections;
- failure of securities analysts to initiate or maintain coverage of our company, changes in financial estimates or ratings by any securities analysts who follow our company or our failure to meet these estimates or the expectations of investors;
- announcements by us or our competitors of significant technical innovations, acquisitions, strategic partnerships, joint ventures, operating results or capital commitments;
- changes in operating performance and stock market valuations of other technology or retail companies generally, or those in our industry in particular;
- price and volume fluctuations in the overall stock market, including as a result of trends in the economy as a whole;
- changes in our board of directors or management;
- sales of large blocks of our Class A common stock, including sales by our executive officers, directors and significant stockholders;
- lawsuits threatened or filed against us;
- changes in laws or regulations applicable to our business;
- the expiration of contractual lock-up agreements;
- changes in our capital structure, such as future issuances of debt or equity securities;
- short sales, hedging and other derivative transactions involving our capital stock;
- general economic conditions in the United States and abroad;
- other events or factors, including those resulting from war, incidents of terrorism or responses to these events; and
- the other factors described in the sections of the prospectus titled "Risk Factors" and "Special Note Regarding Forward-Looking Statements."

In addition, stock markets have experienced extreme price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many technology companies, including e-commerce companies. Stock prices of many technology companies, including e-commerce companies, have fluctuated in a manner unrelated or disproportionate to the operating performance of those companies. In the past, stockholders have instituted securities class action litigation following periods of market volatility. If we were to become involved in securities litigation, it could subject us to substantial costs, divert resources and the attention of management from our business and materially adversely affect our business, financial condition and operating results.

Substantial future sales of shares of our Class A common stock could cause the market price of our Class A common stock to decline.

Sales of a substantial number of shares of our Class A common stock in the public market following the completion of this offering, or the perception that these sales might occur, could depress the market price of our Class A common stock and could impair our ability to raise capital through the sale of additional equity securities. We are unable to predict the effect that such sales may have on the prevailing market price of our Class A common stock.

All of our executive officers, directors, holders of substantially all of our outstanding capital stock and substantially all of our stock options and restricted stock units are subject to lock-up agreements that restrict their ability to transfer shares of our capital stock for 180 days from the date of this prospectus. Subject to certain exceptions, the lock-up agreements limit the number of shares of capital stock that may be sold immediately following this initial public offering. Subject to certain limitations, as of , 2014, approximately shares (assuming the sale of shares of Class A common stock by the selling stockholders) and shares of Class A common stock issuable upon conversion of outstanding Class B common stock will become eligible for sale upon expiration of the 180-day lock-up period. Goldman, Sachs & Co. may, in its sole discretion, permit our stockholders who are subject to these lock-up agreements to sell shares prior to the expiration of the lock-up agreements.

In addition, as of , 2014, there were shares of Class B common stock subject to outstanding options. We intend to register all of the shares of Class A common stock issuable upon conversion of the shares of Class B common stock issuable upon exercise of outstanding options, and upon exercise of settlement of any options or other equity incentives we may grant in the future, for public resale under the Securities Act of 1933, as amended, or the Securities Act. Accordingly, these shares will be able to be freely sold in the public market upon issuance as permitted by any applicable vesting requirements, subject to the lock-up agreements described above. The shares of Class A common stock issuable upon conversion of these shares will become eligible for sale in the public market to the extent such options are exercised, subject to the lock-up agreements described above and compliance with applicable securities laws.

If securities or industry analysts do not publish research or reports about our business, or publish negative reports about our business, our share price and trading volume could decline.

The trading market for our Class A common stock will depend in part on the research and reports that securities or industry analysts publish about us or our business, our market and our competitors. We do not have any control over these analysts. If one or more of the analysts who cover us downgrade our shares or change their opinion of our shares, our share price would likely decline. If one or more of these analysts cease coverage of our company or fail to regularly publish reports on us, we could lose visibility in the financial markets, which could cause our share price or trading volume to decline.

We may invest or spend the proceeds of this offering in ways with which you may not agree or in ways that may not yield a return.

We currently intend to use the net proceeds to us from this offering primarily for general corporate purposes. We also expect to distribute approximately $ million of the net proceeds to our existing Series A preferred stockholders, including our co-founders and certain of our directors, executive officers and holders of more than 5% of our voting securities, upon conversion to common stock to satisfy the remaining portion of an accrued cash dividend and approximately $ million of the net proceeds to satisfy minimum statutory tax withholding and remittance obligations related to the settlement of outstanding RSUs upon the completion of this offering. We may also use a portion of the net proceeds from this offering for the acquisition of, or investment in, technologies, solutions or businesses that complement our business, although we have no present commitments or agreements to enter into any such acquisition or investment. 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. The net proceeds may be used for purposes that do not increase the value of our business or increase the risks to you, which could cause the price of our stock to decline. Until net proceeds are used, they may be placed in investments that do not produce significant income or that may lose value.

We are an "emerging growth company," and we cannot be certain if the reduced disclosure requirements applicable to "emerging growth companies" will make our Class A common stock less attractive to investors.

We are an "emerging growth company," as defined in the JOBS Act, and we may take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies" including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. We will remain an "emerging growth company" for up to five years, although we will cease to be an "emerging growth company" upon the earliest of (1) the last day of the fiscal year following the fifth anniversary of this offering, (2) the last day of the first fiscal year in which our annual gross revenues are $1.0 billion or more, (3) the date on which we have, during the previous rolling three-year period, issued more than $1.0 billion in non-convertible debt securities and (4) the date on which we are deemed to be a "large accelerated filer" as defined in the Securities Exchange Act of 1934, or the Exchange Act. We cannot predict if investors will find our Class A common stock less attractive or our company less comparable to certain other public companies because we will rely on these exemptions.

The requirements of being a public company may strain our resources, divert management's attention and affect our ability to attract and retain additional executive management and qualified board members.

As a public company, we will be subject to the reporting requirements of the Exchange Act, the Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, the listing requirements of the NYSE and other applicable securities rules and regulations. Compliance with these rules and regulations will increase our legal and financial compliance costs, make some activities more difficult, time-consuming or costly and increase demand on our systems and resources, particularly after we are no longer an "emerging growth company." The Exchange Act requires, among other things, that we file annual, quarterly and current reports with respect to our

business and results of operations. The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. In order to maintain and, if required, improve our disclosure controls and procedures and internal control over financial reporting to meet this standard, significant resources and management oversight may be required. As a result, management's attention may be diverted from other business concerns, which could materially adversely affect our business and results of operations. We will need to hire additional employees or engage outside consultants to comply with these requirements, which will increase our costs and expenses.

In addition, changing laws, regulations and standards relating to corporate governance and public disclosure are creating uncertainty for public companies, increasing legal and financial compliance costs and making some activities more time-consuming. These laws, regulations and standards are subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. We intend to invest resources to comply with evolving laws, regulations and standards, and this investment may result in increased general and administrative expenses and a diversion of management's time and attention from revenue-generating activities to compliance activities. If our efforts to comply with new laws, regulations and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to their application and practice, regulatory authorities may initiate legal proceedings against us, and our business may be materially adversely affected.

We also expect that being a public company will make it more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These factors could also make it more difficult for us to attract and retain qualified members of our board of directors, particularly to serve on our audit committee and compensation committee, and qualified executive officers.

As a result of disclosure of information in this prospectus and in filings required of a public company, our business and financial condition will become more visible, which we believe may result in threatened or actual litigation, including by competitors and other third parties. If such claims are successful, our business and results of operations could be materially adversely affected, and even if the claims do not result in litigation or are resolved in our favor, these claims, and the time and resources necessary to resolve them, could divert the resources of our management and materially adversely affect our business, financial condition and operating results.

Anti-takeover provisions in our charter documents and under Delaware law could make an acquisition of our company more difficult, limit attempts by our stockholders to replace or remove our current management and limit the market price of our Class A common stock.

Provisions in our certificate of incorporation and bylaws, as will be amended and restated upon completion of this offering, may have the effect of delaying or preventing a change of control or changes in our management. Our restated certificate of incorporation and amended and restated bylaws include provisions that:

- permit the board of directors to establish the number of directors and fill any vacancies and newly created directorships;
- provide that directors may only be removed for cause;
- require super-majority voting to amend some provisions in our restated certificate of incorporation and amended and restated bylaws;

- authorize the issuance of "blank check" preferred stock that our board of directors could use to implement a stockholder rights plan;
- eliminate the ability of our stockholders to call special meetings of stockholders;
- prohibit stockholder action by written consent, which requires all stockholder actions to be taken at a meeting of our stockholders;
- provide that the board of directors is expressly authorized to make, alter or repeal our bylaws;
- restrict the forum for certain litigation against us to Delaware;
- reflect the dual class structure of our common stock, as discussed above; and
- establish advance notice requirements for nominations for election to our board of directors or for proposing matters that can be acted upon by stockholders at annual stockholder meetings.

These provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors, which is responsible for appointing the members of our management. In addition, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which generally prohibits a Delaware corporation from engaging in any of a broad range of business combinations with any holder of at least 15% of our capital stock for a period of three years following the date on which the stockholder became a 15% stockholder.

Our restated certificate of incorporation will also provide that the Court of Chancery of the State of Delaware will be the 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 restated certificate of incorporation provides that the Court of Chancery of the State of Delaware is the exclusive forum for any derivative action or proceeding brought on our behalf; any action asserting a breach of fiduciary duty; any action asserting a claim against us arising pursuant to the Delaware General Corporation Law, our restated certificate of incorporation or our bylaws; or any action asserting a claim against us that is 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 restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could materially adversely affect our business and financial condition.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements. All statements other than statements of historical fact contained in this prospectus, including statements regarding our future results of operations and financial position, business strategy and plans and objectives of management for future operations, are forward-looking statements.

In some cases, you can identify forward-looking statements by terms such as "may," "will," "should," "expects," "plans," "anticipates," "could," "intends," "target," "projects," "contemplates," "believes," "estimates," "predicts," "potential" or "continue" or the negative of these terms or other similar expressions. The forward-looking statements in this prospectus are only predictions. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our business, financial condition and results of operations. These forward-looking statements speak only as of the date of this prospectus and are subject to a number of risks, uncertainties and assumptions described in the "Risk Factors" section and elsewhere in this prospectus. Because forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified, you should not rely on these forward-looking statements as predictions of future events. The events and circumstances reflected in our forward-looking statements may not be achieved or occur and actual results could differ materially from those projected in the forward-looking statements. Except as required by applicable law, we undertake no obligation to publicly update or revise any forward-looking statements contained herein, whether as a result of any new information, future events or otherwise.

ORGANIZATIONAL STRUCTURE

Reorganization Transactions

Prior to the completion of this offering, we intend to complete an internal restructuring, which we refer to in this prospectus as the Corporate Reorganization. Pursuant to the Corporate Reorganization, Wayfair LLC will become a wholly-owned subsidiary of Wayfair Inc., and the holders of equity interests in Wayfair LLC will become stockholders of Wayfair Inc.

Wayfair Inc. was incorporated as a Delaware corporation on August 8, 2014. Wayfair Inc. has not engaged in any business or other activities except in connection with its formation and in preparation for this offering. The certificate of incorporation of Wayfair Inc. in effect immediately prior to the completion of the Corporate Reorganization authorizes common stock and three series of preferred stock—Series A-1 convertible preferred stock, Series A-2 convertible preferred stock and Series B convertible preferred stock.

Prior to the Corporate Reorganization, Wayfair LLC is owned by (i) our co-founders, through SK Retail, Inc., which owns common units and preferred units, (ii) outside investors who currently own preferred units via single purpose entities taxable as corporations, which we refer to herein as corporate blockers, (iii) outside investors who directly own preferred units, and (iv) our employees and former employees, advisors and former advisors, managers and certain other individuals and entities who own common units or equity incentives to purchase or otherwise receive common units. We refer to the individuals and entities described in clauses (iii) and (iv) as our direct members. Our outside investors and direct members consist primarily of holders of more than 5% of our voting securities and entities affiliated with our directors.

The sole purposes of SK Retail, Inc. prior to the Corporate Reorganization were to own equity interests in Wayfair LLC and to provide reimbursable management services to Wayfair LLC. Wayfair LLC reimbursed SK Retail for services provided, and these costs have been included in the consolidated financial statements of Wayfair LLC. The sole purpose of the corporate blockers prior to the Corporate Reorganization was to own equity interests in Wayfair LLC.

In connection with the Corporate Reorganization and pursuant to a contribution and exchange agreement we executed on August 15, 2014 with all of the holders of equity interests in Wayfair LLC, the following contributions of interests and entities will be made to Wayfair Inc. by the current owners of Wayfair LLC:

- Our co-founders will contribute all of the outstanding stock of SK Retail, Inc. to Wayfair Inc. in exchange for an aggregate of 40,375,939 shares of common stock and 856,566 shares of Series A-2 convertible preferred stock of Wayfair Inc.;
- Our outside investors who own interests in Wayfair LLC through corporate blockers will contribute all of the outstanding stock of those corporate blockers to Wayfair Inc. in exchange for an aggregate of shares of Series A-1, shares of Series A-2 and shares of Series B convertible preferred stock of Wayfair Inc.;
- Our direct members who own preferred units of Wayfair LLC will contribute all of their outstanding preferred units to Wayfair Inc. in exchange for an aggregate of shares of Series A-1, shares of Series A-2 and shares of Series B convertible preferred stock of Wayfair Inc.; and
- Our direct members who own common units will contribute all of their outstanding common units to Wayfair Inc. in exchange for an aggregate of shares of common stock of Wayfair Inc.

In addition, all outstanding incentive units of Wayfair LLC outstanding immediately prior to the Reorganization will automatically be converted into (i) options to purchase our Class B common stock, (ii) shares of our Class B common stock subject to vesting and repurchase provisions or (iii) restricted stock units for our Class B common stock.

Following the contributions described above, and immediately prior to the completion of this offering, all outstanding shares of common stock of Wayfair Inc. will be reclassified into shares of Class B common stock, and all outstanding shares of convertible preferred stock of Wayfair Inc. will convert into shares of Class B common stock. The terms of the Class B common stock are described in the section titled "Description of Capital Stock."

As a result of the Corporate Reorganization and this offering, including the filing of our restated certificate of incorporation, (i) Wayfair Inc., the issuer of Class A common stock in this offering, will be a holding company with no material assets other than 100% of the equity interests in Wayfair LLC held directly and through one or more wholly-owned corporate subsidiaries, and (ii) the capital stock of Wayfair Inc. will consist of three classes of stock: (i) Class A common stock, entitled to one vote per share on all matters submitted to a vote of stockholders; (ii) Class B common stock, entitled to ten votes per share on all matters submitted to a vote of stockholders and (iii) undesignated and unissued Preferred Stock. See the section titled "Description of Capital Stock" for additional information. All shares sold in this offering will be shares of Class A common stock.

Effect of the Corporate Reorganization and this Offering

As a result of the transactions described above, immediately following this offering, and after giving effect to the sale of shares in this offering, including by the selling stockholders:

- our co-founders will collectively own shares of Class B common stock, representing % of the voting power and % of the economic interest in Wayfair Inc.;
- our current outside investors, who are primarily holders of more than 5% of our voting securities and entities affiliated with our directors, will collectively own shares of Class B common stock, representing % of the voting power and % of the economic interest in Wayfair Inc.;
- our public stockholders will collectively own shares of Class A common stock, representing % of the voting power and % of the economic interest in Wayfair Inc.; and
- SK Retail, Inc. and the corporate blockers will be wholly-owned corporate subsidiaries of Wayfair Inc.

The diagram below depicts our organizational structure immediately following the offering:



We expect to account for the Corporate Reorganization transactions in accordance with guidance provided for entities under common ownership because the holders of our current equity interests in Wayfair LLC are expected to hold the same ownership interests in Wayfair Inc. as they do in Wayfair LLC immediately prior to the Corporate Reorganization.

Holding Company Structure

Following the Corporate Reorganization and this offering, Wayfair Inc. will hold, directly and indirectly, 100% of the membership interests in Wayfair LLC and will operate and control all of the business and affairs of Wayfair LLC. Wayfair Inc. will consolidate the financial results of Wayfair LLC.

Wayfair Inc. and its corporate subsidiaries will incur U.S. federal, state and local income taxes on any net taxable income of Wayfair LLC. Net profits and net losses of Wayfair LLC will be allocated to Wayfair Inc. and its corporate subsidiaries. In addition, Wayfair LLC may make distributions to Wayfair Inc. and its corporate subsidiaries in order to remit taxes and certain other fees and expenses.

USE OF PROCEEDS

We estimate that the net proceeds to us from the sale of the Class A common stock that we are offering will be approximately $ million, assuming an initial public offering price of $ per share, which is the midpoint of the range listed on the cover page of this prospectus, and after deducting the estimated underwriting discount and estimated offering expenses payable by us.

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share, which is the midpoint of the range listed on the cover page of this prospectus, would increase (decrease) the net proceeds to us from this offering by approximately $ million, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discount and estimated offering expenses payable by us. If the underwriters exercise their option to purchase additional shares of Class A common stock from the selling stockholders in full, we will not receive any of the net proceeds. A share increase (decrease) in the number of shares offered by us would increase (decrease) the net proceeds to us from this offering by approximately $ million, assuming no change in the assumed initial public offering price of $ per share, which is the midpoint of the range listed on the cover page of this prospectus, and after deducting the estimated underwriting discount and estimated offering expenses payable by us.

We will not receive any of the net proceeds from the sale of shares of our Class A common stock in this offering by the selling stockholders.

We expect to distribute approximately $24.3 million of the net proceeds, or approximately %, to our existing Series A preferred stockholders upon conversion to common stock in connection with the completion of this offering to satisfy the remaining portion of an accrued cash dividend. Our co-founders and certain of our directors, executive officers and holders of more than 5% of our voting securities hold 85% of our outstanding shares of Series A preferred stock and, as a result of their ownership, will receive 85% of the dividend payment, or approximately $20.6 million. We also expect to distribute approximately $ million of the net proceeds to satisfy minimum statutory tax withholding and remittance obligations related to the settlement of outstanding restricted stock units upon the completion of this offering. We intend to use the remaining net proceeds to us from this offering for working capital and other general corporate purposes. We may also use a portion of the net proceeds from this offering for the acquisition of, or investment in, technologies, solutions or businesses that complement our business.

Pending use of the proceeds as described above, we intend to invest the proceeds in short-term, interest-bearing, investment-grade securities.

DIVIDEND POLICY

We do not expect to pay any dividends on our Class A common stock or Class B common stock in the foreseeable future. Any future determination to pay dividends will be at the sole discretion of our board of directors, subject to applicable laws. Our board of directors may take into account general and economic conditions, our financial condition and operating results, our available cash and current and anticipated cash needs, our capital requirements, contractual, legal, tax and regulatory restrictions, and implications on the payment of dividends by us to our stockholders or by our subsidiaries to us and such other factors as our board of directors may deem relevant.

In the past we have made tax distributions to our existing stockholders to the extent we have had taxable net income attributable to our existing stockholders. Accordingly, we paid distributions to our stockholders in 2011 in the aggregate amount of approximately $6.2 million. In March 2014, we distributed a portion of an accrued cash dividend to our Series A preferred stockholders in the aggregate amount of $15.0 million as further described in the section titled "Certain Relationships and Related Party Transactions — Series A Distributions" on page 113. In addition, following the Corporate Reorganization and upon the completion of this offering, we intend to distribute the remaining portion of the cash dividend accrued as of the date of this offering to our existing Series A preferred stockholders, including our co-founders and certain of our directors, executive officers and holders of more than 5% of our voting securities. Please read the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations — Liquidity and Capital Resources" on page 68 and the section titled "Certain Relationships and Related Party Transactions — Series A Distributions" on page 113 for additional information about our remaining dividend obligations.

CAPITALIZATION

The following table sets forth our cash, cash equivalents and short-term investments and capitalization as of June 30, 2014, as follows:

- on an actual basis;
- on a pro forma basis, giving effect to (i) the consummation of the proposed Corporate Reorganization described in the section titled "Organizational Structure," including a net adjustment of $0.3 million to accumulated (deficit)/retained earnings in connection with deferred income tax liabilities assumed to be recognized in connection with the Corporate Reorganization, all presented as if these events had occurred as of June 30, 2014, (ii) the reclassification of all outstanding shares of common stock and the automatic conversion of all outstanding shares of preferred stock into shares of Class B common stock immediately prior to the completion of this offering, (iii) an adjustment of $13.3 million to reduce the carrying value of the convertible redeemable preferred units to reflect conversion value assuming the security was converted on the balance sheet date, (iv) the distribution of accrued dividend amounts payable to certain holders of our Series A convertible redeemable preferred units upon conversion into shares of Class B common stock equal to the members' distribution payable balance on our consolidated financial statements as of the completion of this offering, which amount was $20.9 million as of June 30, 2014 and (v) gives effect to equity compensation expense of $40.3 million associated with the common option units, deferred units and restricted common units that have satisfied the service condition as of June 30, 2014.
- on a pro forma as adjusted basis, giving effect to the pro forma adjustments set forth above and (i) the receipt of $ million in proceeds from the sale and issuance by us of shares of Class A common stock in this offering, based on the initial public offering price of $ per share, the midpoint of the range listed on the cover page of this prospectus, after deducting the estimated underwriting discount and estimated offering expenses payable by us, and (ii) the payment of approximately $ million in cash to satisfy minimum statutory tax withholding and remittance obligations in connection with the net settlement of deferred units outstanding under our 2010 Plan.

	As of June 30, 2014		
	Actual	Pro Forma	Pro Forma as Adjusted
	(in thousands, except unit/share and per unit/share data)		
Cash and cash equivalents	$ 87,781	$ 66,885	$
Series A convertible redeemable preferred units, no par value per unit: 21,551,801 units authorized, 21,551,801 units outstanding, actual; no units authorized, issued and outstanding, pro forma and pro forma as adjusted	$ 235,486	$ —	
Series B convertible redeemable preferred units, no par value per unit: 5,995,133 units authorized, 5,995,133 units outstanding, actual; no units authorized, issued and outstanding, pro forma and pro forma as adjusted	157,229	—	
Members' (deficit)/Stockholders' equity:			
Common units, no par value per unit: 81,365,954 units authorized, 43,784,060 units issued and outstanding, actual; no units authorized, issued or outstanding, pro forma and pro forma as adjusted	—	—	
Preferred stock, $0.001 par value; no shares authorized, issued or outstanding, actual; shares authorized, no shares issued or outstanding, pro forma or pro forma adjusted	—	—	
Class A common stock, $0.001 par value; no shares authorized, issued or outstanding, actual or pro forma; shares authorized, shares issued and outstanding, pro forma as adjusted	—	—	
Class B common stock, $0.001 par value; no shares authorized, issued or outstanding, actual; shares authorized, shares issued and outstanding, pro forma and pro forma as adjusted	—	71	
Additional paid-in capital	—	121,624	
Accumulated (deficit)/Retained earnings	(277,134)	(27,316)	
Accumulated other comprehensive (loss) income	(321)	(321)	
Total member's (deficit)/stockholders' equity	(277,455)	94,058	
Total capitalization	$ 115,260	$ 94,058	$

The foregoing table excludes:

- 646,413 shares of Class B common stock issuable upon exercise of options to purchase common stock outstanding as of June 30, 2014 under our 2010 Plan, at a weighted-average exercise price of $2.98 per share;
- 6,085,085 shares of Class B common stock issuable from restricted stock units outstanding as of June 30, 2014 under our 2010 Plan; and
- shares of Class A common stock, subject to increase on an annual basis, reserved for future issuance under our 2014 Plan, which will become effective prior to the completion of this offering.

You should read this information in conjunction with our consolidated financial statements and the related notes appearing at the end of this prospectus and the "Management's Discussion and Analysis of Financial Condition and Results of Operations" section and other financial information contained in this prospectus.

Pursuant to our LLC Agreement, we are required to make tax distributions to our stockholders to the extent we have taxable net income attributable to our stockholders. Accordingly we paid distributions to our stockholders in 2011 in an aggregate amount of approximately $6.2 million. In March 2014, we also distributed a portion of an accrued cash dividend to our Series A preferred stockholders in the aggregate amount of $15.0 million as further described in the section titled "Certain Relationships and Related Party Transactions — Series A Distributions." In addition, following our Corporate Reorganization and upon the completion of this offering, we intend to distribute the remaining portion of the cash dividend accrued as of the date of this offering to our existing Series A preferred stockholders, including our co-founders certain of our directors, executive officers and holders of more than 5% of our voting securities. Please read the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources" for additional information about our remaining dividend obligations.

DILUTION

If you invest in our Class A common stock in this offering, your ownership interest will be immediately diluted to the extent of the difference between the initial public offering price per share and the pro forma as adjusted net tangible book value per share of our Class A common stock after this offering. Our pro forma net tangible book value as of was $ million, or $( ) per share of our Class A common stock. Pro forma net tangible book value per share represents our total tangible assets reduced by the amount of our total liabilities, divided by the total number of shares of our Class A common stock outstanding after giving effect to (1) the Corporate Reorganization and (2) the reclassification of all outstanding shares of common stock and the automatic conversion of all outstanding shares of our preferred stock into shares of Class B common stock, which will occur immediately prior to the completion of this offering.

After giving effect to the sale of shares of Class A common stock that we are offering at an assumed initial public offering price of $ per share, which is the midpoint of the range listed on the cover page of this prospectus, and after deducting the estimated underwriting discount and estimated offering expenses payable by us, our pro forma as adjusted net tangible book value as of , 2014 would have been approximately $ million, or approximately $ per share. This amount represents an immediate increase in pro forma net tangible book value of $ per share to our existing stockholders and an immediate dilution in pro forma net tangible book value of approximately $ per share to new investors purchasing shares of Class A common stock in this offering. We determine dilution by subtracting the pro forma as adjusted net tangible book value per share after this offering from the amount of cash that a new investor paid for a share of Class A common stock. The following table illustrates this dilution:

Assumed initial public offering price per share		$
Historical net tangible book value per share as of , 2014	$	
Pro forma net tangible book value per share as of , 2014	$	
Increase in net tangible book value per share attributable to this offering		
Pro forma as adjusted net tangible book value per share after this offering		$
Dilution in net tangible book value per share to new investors		$

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share, which is the midpoint of the range listed on the cover page of this prospectus, would increase (decrease) the pro forma as adjusted net tangible book value per share after this offering by approximately $, and dilution in pro forma net tangible book value per share to new investors by approximately $, 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 discount and estimated offering expenses payable by us.

If the underwriters exercise their option to purchase additional shares of our Class A common stock from the selling stockholders in full in this offering, we will not receive any of the net proceeds and the pro forma as adjusted net tangible book value after the offering would be $ per share, the increase in pro forma net tangible book value per share to existing stockholders would be $ and the dilution per share to new investors would be $ per share, in each case assuming an initial public offering price of $ per share, which is the midpoint of the range listed on the cover page of this prospectus.

The following table summarizes, on a pro forma basis as of , 2014, the differences between the number of shares purchased from us, the total consideration paid to us in cash and

the average price per share that existing owners and new investors paid. The calculation below is based on an assumed initial public offering price of $ per share, which is the midpoint of the range listed on the cover page of this prospectus, before deducting the estimated underwriting discount and estimated offering expenses payable by us.

	Shares Purchased		Total Consideration		Average Price Per Share
	Number	Percent	Amount	Percent	
Existing stockholders		%	$	%	$
New investors					
Total		100%		100%	

The foregoing tables and calculations are based on the number of shares of our Class A common stock outstanding as of , 2014 after giving effect to (1) the Corporate Reorganization described in the section titled "Organizational Structure" and (2) the reclassification of all outstanding shares of common stock and the automatic conversion of all outstanding shares of our preferred stock into shares of Class B common stock upon the closing of this offering, and excludes:

- 646,413 shares of Class B common stock issuable upon exercise of options to purchase common stock outstanding as of June 30, 2014 under our 2010 Plan, at a weighted-average exercise price of $2.98 per share;
- 6,085,085 shares of Class B common stock issuable from restricted stock units outstanding as of June 30, 2014 under our 2010 Plan; and
- shares of Class A common stock, subject to increase on an annual basis, reserved for future issuance under our 2014 Plan, which will become effective prior to the completion of this offering.

To the extent any of these outstanding options are exercised or restricted stock units are converted into shares of Class B common stock, there will be further dilution to new investors. To the extent all of such outstanding options had been exercised and restricted stock units converted into shares of Class B common stock as of , 2014, the pro forma as adjusted net tangible book value per share after this offering would be $, and total dilution per share to new investors would be $.

If the underwriters exercise their option to purchase additional shares of Class A common stock from the selling stockholders in full:

- the percentage of shares of Class B common stock held by existing stockholders will decrease to approximately % of the total number of shares of capital stock outstanding after this offering; and
- the number of shares of Class A common stock held by new investors will increase to , or approximately % of the total number of shares of capital stock outstanding after this offering.

The foregoing table and calculations do not reflect any sales by existing stockholders in this offering. Sales by the selling stockholders in this offering will reduce the number of shares held by existing stockholders to shares, or % of the total number of shares of our capital stock outstanding after this offering and will increase the number of shares of Class A common stock held by new investors to shares, or % of the total number of shares of our capital stock outstanding after this offering, assuming the number of shares offered by the selling stockholders, as set forth on the cover of this prospectus, remains the same. In addition, if the underwriters exercise their option to purchase additional shares from the selling stockholders in full, the number of shares of Class B common stock held by the existing stockholders after this offering would be reduced to , or % of the total number of shares of our capital stock outstanding after this offering, and the number of shares of Class A common stock held by new investors would increase to , or %, of the total number of shares of our capital stock outstanding after this offering.

SELECTED CONSOLIDATED FINANCIAL DATA

You should read the following selected consolidated financial data below in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the consolidated financial statements, related notes and other financial information included in this prospectus. The following consolidated statements of operations data for the six months ended June 30, 2013 and 2014 and the consolidated balance sheet data as of June 30, 2014 are derived from our unaudited consolidated financial statements included elsewhere in this prospectus. The following consolidated statements of operations data for the years ended December 31, 2012 and 2013 and the consolidated balance sheet data as of December 31, 2012 and 2013 are derived from our audited consolidated financial statements included elsewhere in this prospectus. The following consolidated statements of operations data for the year ended December 31, 2011 and the consolidated balance sheet data as of December 31, 2011 are derived from our unaudited consolidated financial statements which are not included elsewhere in this prospectus. Historical results are not necessarily indicative of the results to be expected in the future.

	Years ended December 31,			Six months ended June 30,	
	2011	2012	2013	2013	2014
	(in thousands, except share and per share data)				
Consolidated Statements of Operations:					
Net revenue	$ 517,336	$ 601,028	$ 915,843	$ 383,208	$ 574,144
Cost of goods sold	385,824	455,879	691,602	288,337	440,483
Gross profit	131,512	145,149	224,241	94,871	133,661
Operating expenses:					
Sales and marketing	106,794	113,370	177,475	72,714	138,228
General and administrative	36,772	52,961	62,246	30,014	46,355
Amortization of acquired intangible assets	—	212	539	106	499
Total operating expenses	143,566	166,543	240,260	102,834	185,082
Loss from operations	(12,054)	(21,394)	(16,019)	(7,963)	(51,421)
Interest income, net	157	234	245	124	133
Gain on joint venture acquisition	1,425	—	—	—	—
Other (expense) income, net	(675)	155	294	(504)	(96)
Loss before income taxes	(11,147)	(21,005)	(15,480)	(8,343)	(51,384)
Provision for income taxes	(22)	(50)	(46)	5	(17)
Net loss	$ (11,169)	$ (21,055)	$ (15,526)	$ (8,338)	$ (51,401)
Accretion of convertible redeemable preferred units	(9,337)	(12,154)	(25,388)	(15,948)	(11,755)
Net loss attributable to common unit holders	(20,506)	(33,209)	(40,914)	(24,286)	(63,156)
Net loss attributable to common unit holders per unit — basic and diluted	$ (0.50)	$ (0.80)	$ (0.99)	$ (0.59)	$ (1.55)
Weighted average number of common units outstanding used in computing per unit amounts — basic and diluted	41,271,992	41,271,992	41,331,546	41,271,992	40,828,976
Pro forma net loss per share — basic and diluted (unaudited)			$		$
Pro forma weighted average number of common shares outstanding (unaudited) (1)					

	December 31,			June 30,
	2011	2012	2013	2014
	(in thousands)			
Consolidated Balance Sheet Data:				
Cash and cash equivalents	$ 52,027	$ 77,861	$ 65,289	$ 87,781
Working capital	32,795	42,031	18,118	68,706
Total assets	118,866	163,577	196,300	277,018
Deferred revenue	9,006	12,282	13,397	18,033
Convertible redeemable preferred units	167,480	215,798	241,186	392,715
Total members' deficit	$ (117,736)	$ (150,791)	$ (190,839)	$ (277,455)

(1) The pro forma weighted average number of shares of common stock outstanding gives effect to the automatic conversion of all of our outstanding preferred stock into common stock upon the closing of this offering.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis of our financial condition and results of operations together with the "Selected Consolidated Financial Data" section of this prospectus and our consolidated financial statements and related notes appearing elsewhere in this prospectus. Our consolidated financial statements have been prepared in accordance with generally accepted accounting principles in the United States, or GAAP. This discussion contains forward-looking statements that involve risks and uncertainties. As a result of many factors, such as those set forth under the "Risk Factors" and "Special Note Regarding Forward-Looking Statements" sections and elsewhere in this prospectus, our actual results may differ materially from those anticipated in these forward-looking statements.

Overview

We are transforming the way people shop for their homes. Through our e-commerce business model, we offer visually inspiring browsing, compelling merchandising, easy product discovery and attractive prices for over seven million products from over 7,000 suppliers across five distinct brands — Wayfair.com, Joss & Main, AllModern, DwellStudio and Birch Lane. Our typical Wayfair customer is a 35 to 65 year old woman with an annual household income of $60,000 to $175,000, who we consider to be a mass market consumer and who we believe is underserved by traditional brick and mortar and other online retailers of home goods. Because each of our customers has a different taste, style, purchasing goal and budget when shopping for her home, we have built one of the largest online selections of furniture, home furnishings, décor and goods. We are able to offer this vast selection of products while holding minimal inventory because we typically ship products directly from our suppliers to our customers. This supplier direct fulfillment network is a key component of our custom-built and seamlessly integrated technology and operational platform, which also includes extensive supplier integrations, a proprietary transportation delivery network and superior customer service.

We founded our company in May 2002 and have since delivered over 11.8 million orders. From 2002 through 2011, the company was bootstrapped by our co-founders and operated as hundreds of niche websites, such as bedroomfurniture.com and allbarstools.com. In 2006, we launched AllModern. From 2003 to 2011, we grew our net revenue organically from $7.7 million to $517.3 million, representing a 69.2% CAGR. In late 2011, we made the strategic decision to close and permanently redirect over 240 of our niche websites into Wayfair.com to create a one-stop shop for furniture, home furnishings, décor and goods and to build brand awareness, drive customer loyalty and increase repeat purchasing. We also changed our name from CSN Stores LLC to Wayfair LLC. Additionally, we expanded our multi-brand strategy beyond our then existing brands — Wayfair.com and AllModern — by launching Joss & Main. In 2013, we acquired DwellStudio, and in 2014, we launched Birch Lane. We plan to continue expanding our existing brand portfolio and may opportunistically launch new brands. When launching new brands, we expect to leverage our experiences, insights, customer data, merchandising expertise, technology platform, operational platform and supplier base to create desired brands for our customers with minimal upfront capital. We may also continue to expand our business through opportunistic acquisitions that allow us to enhance our customer offering, build our multi-brand portfolio, enter new geographies or enhance our operational infrastructure.

Our strong customer loyalty and deep supplier relationships have helped us grow our Direct Retail sales, which we define as sales generated primarily through the sites of our five brands. In 2013 and the six months ended June 30, 2014, we generated Direct Retail net revenue of $673.4 million and $469.5 million, respectively, an increase of 73.0% and 75.0%, respectively, over our Direct Retail net revenue of $389.3 million and $268.4 million in 2012 and the six months ended

June 30, 2013, respectively. In 2013, we delivered 3.3 million orders for 2.1 million Direct Retail active customers, representing increases of 85.2% and 61.0%, respectively, over 2012. In the six months ended June 30, 2014, we delivered 2.2 million orders representing an increase of 76.6% over the six months ended June 30, 2013. In the six months ended June 30, 2014, we had 2.6 million Direct Retail active customers representing an increase of 75.0% over the six months ended June 30, 2013.

We have built extensive supplier integrations, management tools and processes that allow us to efficiently onboard and manage suppliers of any size, type and sophistication level. We continue to seek new suppliers with compelling products to add to our selection of home goods. We offer fast and reliable delivery to our customers via our proprietary transportation delivery network for certain large parcels or FedEx, UPS, the U.S. Postal Service and other carriers for smaller parcels and we leverage our scale to reduce shipping costs. In the first six months of 2014, we shipped orders within North America in an average of 2.4 days, despite different handling requirements and complexities for large and small parcel items.

We plan to grow our customer base by attracting more unique visitors to our sites through two main strategies — increasing brand awareness and expanding direct online marketing — and then converting those visitors to active customers. Our online efforts are focused on building brand awareness to drive visitor traffic via direct navigation, search engine optimization and email marketing campaigns. In addition, we have made significant investments to improve the consumer experience on our sites, such as creating highly engaging visual imagery and merchandising, as well as easy-to-use navigation tools and personalization features that enable better product discovery. We plan to continue investing in our infrastructure, including enhancing our merchandising, data, analytics, and technology platform, as well as developing additional logistics and transportation solutions, self-service tools for our suppliers, fulfillment offerings and enhancing our development, testing and deployment systems.

Mobile is an increasingly important part of our business, especially for Joss & Main. We have invested in mobile technology to optimize the shopping experience across our sites for use on the majority of mobile devices. We launched mobile applications for Joss & Main in 2012 and Wayfair.com in 2014. In the first six months of 2014, 43.5% of Joss & Main orders delivered and 27.9% of all Direct Retail orders delivered were placed from a mobile device, up from 35.8% and 21.3%, respectively, in the first six months of 2013.

Until late 2012, we were primarily focused on growing our U.S. business. In 2012, we began laying the groundwork for our international business by building our international infrastructure, developing deeper country-specific knowledge, building international supplier networks and establishing our brand presence in select international regions. We currently deliver products to customers in a number of countries, including the United States, the United Kingdom, Canada, Australia, Germany, Austria, Ireland and New Zealand. We intend to expand in these countries, especially Joss & Main, which we launched in the United Kingdom in 2014. In 2013 and the six months ended June 30, 2014, we generated net revenue outside of North America of $41.5 million and $25.2 million, or 4.5% and 4.4% of our total net revenue, respectively.

In 2013 and the six months ended June 30, 2014, we generated net revenue of $915.8 million and $574.1 million, respectively, up 52.4% and 49.8% over 2012 and the six months ended June 30, 2013, respectively. Our net revenue in 2013 and the six months ended June 30, 2014 included $673.4 million and $469.5 million, respectively, from Direct Retail and $242.4 million and $104.6, respectively, from Other, which we define as net revenue generated primarily online through third parties, which we refer to as our retail partners and net revenue from third-party advertisers. In 2013, we generated a net loss of $15.5 million and Adjusted EBITDA of $(2.9) million, improvements of $5.5 million and $9.1 million, respectively, over 2012. In the six months ended

June 30, 2014, we generated a net loss of $51.4 million and Adjusted EBITDA of $(37.0) million, increases of $43.1 million and $34.9 million, respectively, over the six months ended June 30, 2013. Our net loss and Adjusted EBITDA results were driven primarily by our increased investment in advertising in 2012, 2013, and the six months ended June 30, 2014. See "Key Financial and Operating Metrics" below for further discussion of Adjusted EBITDA, our use of this measure, the limitations of this measure as an analytical tool and the reconciliation of Adjusted EBITDA to net loss, the most directly comparable GAAP financial measure.

Key Financial and Operating Metrics

We measure our business using both financial and operating metrics. Our net revenue, Adjusted EBITDA and free cash flow metrics are measured on a consolidated basis. All other key financial and operating metrics are derived and reported from our Direct Retail sales, which includes sales generated primarily through the sites of our five distinct brands. These metrics do not include net revenue derived from the sites operated by our retail partners. We do not have access to certain customer level information on net revenue derived through our retail partners and therefore cannot measure or disclose it.

We use the following metrics to assess the near-term and longer-term performance of our overall business.

	Years ended December 31,		Six months ended June 30,		% Change December 31,	% Change June 30,
	2012	2013	2013	2014	2012 to 2013	2013 to 2014
	(in thousands, except Average Order Value and LTM Net Revenue Per Active Customer)					
Consolidated Financial Metrics						
Net Revenue	$ 601,028	$ 915,843	$ 383,208	$ 574,144	52.4%	49.8%
Adjusted EBITDA	$ (12,059)	$ (2,928)	$ (2,100)	$ (37,002)	—	—
Free Cash Flow	$ (11,035)	$ 18,643	$ (13,275)	$ (70,250)	—	—
Direct Retail Financial and Operating Metrics						
Direct Retail Net Revenue	$ 389,290	$ 673,446	$ 268,366	$ 469,534	73.0%	75.0%
Active Customers	1,299	2,092	1,506	2,635	61.0%	75.0%
LTM Net Revenue Per Active Customer	$ 300	$ 322	$ 313	$ 332	7.3%	6.1%
Orders Delivered	1,789	3,314	1,258	2,222	85.2%	76.6%
Average Order Value	$ 218	$ 204	$ 213	$ 211	(6.4)%	(0.9)%

Non-GAAP Financial Measures

Adjusted EBITDA

To provide investors with additional information regarding our financial results, we have disclosed here and elsewhere in this prospectus Adjusted EBITDA, a non-GAAP financial measure that we calculate as earnings (loss) before depreciation and amortization, equity-based compensation, interest and other income and expense and taxes. We have provided a reconciliation below of Adjusted EBITDA to net loss, the most directly comparable GAAP financial measure.

We have included Adjusted EBITDA in this prospectus because it is a key measure used by our management and board of managers to evaluate our operating performance, generate future operating plans and make strategic decisions regarding the allocation of capital. In particular, the exclusion of certain expenses in calculating Adjusted EBITDA facilitates operating performance comparisons on a period-to-period basis. 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 managers.

Adjusted EBITDA has limitations as an analytical tool, and you should not consider it in isolation or as a substitute for analysis of our results as reported under GAAP. Some of these limitations are:

- 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 expenditure requirements;
- Adjusted EBITDA does not reflect the compensation charge associated with a tender offer we completed in April 2014 as described in the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations — Liquidity and Capital Resources," or our 2014 Tender Offer;
- Adjusted EBITDA does not reflect changes in our working capital;
- Adjusted EBITDA does not reflect tax payments that may represent a reduction in cash available to us; and
- Other companies, including companies in our industry, may calculate Adjusted EBITDA differently, which reduces its usefulness as a comparative measure.

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

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

	Years ended December 31,		Six months ended June 30,	
	2012	2013	2013	2014
	(in thousands)			
Reconciliation of Adjusted EBITDA				
Net loss	$ (21,055)	$ (15,526)	$ (8,338)	$ (51,401)
Depreciation and amortization	9,335	13,091	5,863	8,891
Equity-based compensation	—	—	—	5,528
Interest income, net	(234)	(245)	(124)	(133)
Other (expense) income, net	(155)	(294)	504	96
Taxes	50	46	(5)	17
Adjusted EBITDA	$ (12,059)	$ (2,928)	$ (2,100)	$ (37,002)

Free Cash Flow

To provide investors with additional information regarding our financial results, we have also disclosed here and elsewhere in this prospectus free cash flow, a non-GAAP financial measure that we calculate as net cash (used in) provided by operating activities less net cash used to purchase property and equipment including leasehold improvements and site and software development costs. We have provided a reconciliation below of free cash flow to net cash (used in) provided by operating activities, the most directly comparable GAAP financial measure.

We have included free cash flow in this prospectus because it is an important indicator of our business performance as it measures the amount of cash we generate. Accordingly, we believe that free cash flow provides useful information to investors and others in understanding and evaluating our operating results in the same manner as our management.

Free cash flow has limitations as an analytical tool, and you should not consider it in isolation or as a substitute for analysis of our results as reported under GAAP. There are limitations to using non-GAAP financial measures, including that other companies, including companies in our industry, may calculate free cash flow differently. Because of these limitations, you should consider free cash flow alongside other financial performance measures, including net cash (used in) provided by operating activities, capital expenditures and our other GAAP results.

The following table presents a reconciliation of free cash flow to net cash provided by operating activities for each of the periods indicated:

	Years ended December 31,		Six months ended June 30,	
	2012	2013	2013	2014
	(in thousands)			
Net cash provided by operating activities, net of acquisition	$ 3,945	$ 34,413	$ (5,907)	$ (39,771)
Purchase of property, equipment, and leasehold improvements	(8,031)	(6,739)	(3,301)	(24,331)
Site and software development costs	(6,949)	(9,040)	(4,067)	(6,148)
Free cash flow	$ (11,035)	$ 18,634	$ (13,275)	$ (70,250)

Key Operating Metrics (Direct Retail)

Active Customers

As of the last date of each reported period, we determine our number of active customers by counting the total number of individual customers who have purchased at least once directly from our sites during the preceding twelve-month period. The change in active customers in a reported period captures both the inflow of new customers as well as the outflow of existing customers who have not made a purchase in the last twelve months. We view the number of active customers as a key indicator of our growth.

LTM Net Revenue Per Active Customer

We define LTM net revenue per active customer as our total net revenue derived from Direct Retail sales in the last twelve months divided by our total number of active customers for the same preceding twelve-month period. We view LTM net revenue per active customer as a key indicator of our customers' purchasing patterns, including their initial and repeat purchase behavior.

Orders Delivered

We define orders delivered as the total Direct Retail orders delivered in any period, inclusive of orders that may eventually be returned. As we ship a large volume of packages through multiple carriers, actual delivery dates may not always be available, and as such we estimate delivery dates based on historical data. We recognize net revenue when an order is delivered and therefore orders delivered, together with average order value, is an indicator of the net revenue we expect to recognize in a given period. We view orders delivered as a key indicator of our growth.

Average Order Value

We define average order value as total Direct Retail net revenue in a given period divided by the orders delivered in that period. We view average order value as a key indicator of the mix of products on our sites, the mix of offers and promotions and the purchasing behavior of our customers.

Factors Affecting our Performance

We believe that our performance and future success depend on a number of factors that present significant opportunities for us but also pose risks and challenges, including those discussed below and in the section titled "Risk Factors" on page 14.

Growth in Brand Awareness and Visitors to our Sites

We intend to continue investing in our brand awareness strategy and direct online marketing efforts. In late 2011, we made a strategic decision to close and permanently redirect over 240 of our niche websites into Wayfair.com. Since late 2011, we have marketed our brands, in particular Wayfair.com, through TV advertising, display advertising, paid search advertising, social media advertising and direct mail, catalog and print advertising. Since the launch of Wayfair.com and our rebranding effort in late 2011, our aided brand awareness has increased to 45% in June 2014, according to Hanover Research, a market research firm. Failure to cost-effectively attract new visitors to our sites and convert them into customers would adversely affect our net revenue growth and operating results.

Growth in Customer Acquisition and Customer Retention

Our goal is to convert visitors into active customers and then encourage repeat purchases. Orders from repeat customers increased from 37.4% of orders delivered in 2012 to 47.2% of orders delivered in 2013, increasing our operating leverage since it costs more to acquire a customer than to retain one. Our continued investments in infrastructure, including enhancing our merchandising, data, analytics, and technology platform, allow us to deliver increasingly tailored and personalized shopping experiences for customers across our sites. We believe our focus on a personalized shopping experience drives sales from new customers as well as repeat customers.

To illustrate how the costs of acquiring customers and their contribution to our operating results have trended over time, we analyzed metrics across two separate periods. We analyzed the amount we spent on advertising to attract new consumers to our sites in North America in the third quarters of 2011 and 2013. Once the consumers provide their email addresses in any given quarter, we track the date each consumer becomes a customer by making a first purchase on one of our sites, as well as each customer's repeat purchasing behavior and the break-even date on our advertising spend.

We chose the third quarter of 2011 and the third quarter of 2013 to illustrate the evolution of our advertising and customer acquisition strategies following our strategic decision in 2011 to close and permanently redirect over 240 of our niche websites into Wayfair.com. Prior to that strategic shift, we targeted a shorter payback period because we were focused on acquiring customers with immediate purchasing needs. Following our strategic shift and the introduction of our flash sales site Joss & Main, we began to focus on acquiring customers with a higher lifetime value, greater

brand loyalty and potential for long-term repeat purchasing, but with a longer payback period. Beginning with the third quarter of 2013, our results reflect the ongoing transition to this strategy.

	Third Quarter of 2011(1)	Third Quarter of 2013(1)
Advertising spend (in thousands)	$8,797	$20,966
Customers activated(2)	244,778	451,750
Acquisition cost per customer	$36	$46
Net revenue per customer	$265	$311
Repeat rate(3)	12.5%	24.0%
Break-even date(4)	September 15, 2011	October 30, 2013

(1) This analysis is based on orders shipped.

(2) Customers activated are consumers who provided their email address during the quarter and made their first purchase on one of our sites during the quarter or the subsequent 180 days.

(3) For this analysis, repeat rate reflects the number of customers in this analysis who have purchased from the same site at least twice during the quarter and the subsequent 180 days.

(4) The break-even date is the date that the contribution generated by our customers equals the amount we spent on advertising within the respective quarter. For the purpose of this analysis, we use an approximation for contribution margin of 20% of net revenue, which is consistent with our historical performance. Contribution margin is a non-GAAP financial measure that we define as gross profit less customer service costs and merchant processing fees.

Revenue Growth Through Mobile Platform

Mobile is an increasingly important part of our business, especially for Joss & Main. We launched our mobile applications for Joss & Main in 2012 and Wayfair.com in 2014. In the first six months of 2014, 43.5% of Joss & Main orders delivered and 27.9% of all Direct Retail orders delivered were placed from a mobile device, up from 35.8% and 21.3%, respectively, in the first six months of 2013. Due to the relative newness of smartphones, tablets, and mobile shopping in general, we do not know if this increase in mobile use will continue.

Investment In Growth

We have aggressively invested in the growth of our business and this investment will continue. We anticipate that our operating expenses will increase substantially as we continue to increase our advertising spending, hire additional personnel primarily in merchandising, technology, operations, customer service and general and administrative functions and continue to develop features on our sites. In 2013, we signed a lease to increase our office space, and in 2014 we further increased the office space to accommodate the anticipated growth of our headcount in our corporate headquarters. These investments are expected to increase our losses near term and yield returns in the long term, but there is no guarantee that we will be able to realize the return on our investments.

Components of Our Results of Operations

Net Revenue

Net revenue consists primarily of sales of product from our sites and through the sites of our online retail partners and includes related shipping fees. We deduct cash discounts, allowances, rewards and estimated returns from gross revenue to determine net revenue. We recognize product revenue upon delivery to our customers. Net revenue is primarily driven by growth of new and active customers and the frequency with which customers purchase. The products offered on our sites are primarily fulfilled with product we ship to our customers directly from our suppliers and, to a lesser extent, from our fulfillment centers.

We also generate net revenue through third-party advertisers that pay us based on the number of advertisement related clicks, actions, or impressions for advertisements placed on our sites. Net revenue earned under these arrangements is included in net revenue and is recognized in the period in which the click, action or impression occurs. This revenue has not been material to date.

We maintain a membership rewards program that allows enrolled customers to earn points which can be redeemed on future purchases. We defer the portion of our revenue associated with rewards which are expected to be redeemed prior to its expiration.

Cost of Goods Sold

Cost of goods sold consists of the cost of product sold to customers, shipping and handling costs and shipping supplies and fulfillment costs. Fulfillment costs include costs incurred in operating and staffing the fulfillment centers, such as costs attributed to receiving, inspecting, picking, packaging and preparing customer orders for shipment. Cost of goods sold also includes direct and indirect labor costs for fulfillment center oversight, including payroll and related benefit costs. The increase in cost of goods sold is primarily driven by growth in orders delivered, the mix of the product available for sale on our sites and transportation costs related to delivering orders to our customers.

We earn rebates on our incentive programs with our suppliers. These rebates are earned upon shipment of goods. Amounts due from suppliers as a result of these rebate programs are included as a receivable and are reflected as a reduction of cost of goods sold on the consolidated statements of operations. We expect cost of goods sold expenses to remain relatively stable as a percentage of net revenue.

Sales and Marketing

Sales and marketing expenses consist primarily of direct response performance marketing costs, such as television advertising, display advertising, paid search advertising, social media advertising, search engine optimization, comparison shopping engine advertising, direct mail, catalog and print advertising. Sales and marketing expenses also include labor-related costs for our employees involved in sales and marketing and customer service activities, merchant processing fees and partner advertising fees. Sales and marketing expenses are primarily driven by investments to grow and retain our customer base. We expect marketing expenses to continue to increase but decrease as a percentage of net revenue over time.

General and Administrative

General and administrative expenses consist primarily of labor-related costs for administrative, engineering, merchandising, human resources, finance and accounting personnel, professional service fees including audit and legal fees, insurance and other corporate expenses, including

depreciation and rent. We anticipate that we will incur additional personnel expenses, professional service fees, including audit and legal, investor relations, costs of compliance with securities laws and regulations, and higher director and officer insurance costs related to operating as a public company. In addition, as we continue to grow as a company, we expect that our general and administrative expenses will continue to increase but decrease as a percentage of net revenue over time.

Amortization of Acquired Intangible Assets

We have recorded identifiable intangible assets in conjunction with our acquisitions and are amortizing those assets over their estimated useful lives. We perform impairment testing of goodwill and intangibles with definite lives annually and whenever events or circumstances indicate that impairment may have occurred.

Interest (Expense) Income, Net

Interest (expense) income, net consists primarily of interest earned on cash, cash equivalents and short-term investments held by us.

Other (Expense) Income, Net

Other (expense) income, net consist primarily foreign currency gains (losses).

Results of Consolidated Operations

The following tables set forth our results of operations for the periods presented and express the relationship of certain line items as a percentage of net revenue for those periods. The period-to-period comparison of financial results is not necessarily indicative of future results.

	Years ended December 31,		Six months ended June 30,	
	2012	2013	2013	2014
	(in thousands)			
Consolidated Statements of Operations:				
Net revenue	$ 601,028	$ 915,843	$$383,208	$$574,144
Cost of goods sold	455,879	691,602	288,337	440,483
Gross profit	145,149	224,241	94,871	133,661
Operating expenses:				
Sales and marketing	113,370	177,475	72,714	138,228
General and administrative	52,961	62,246	30,014	46,355
Amortization of acquired intangible assets	212	539	106	499
Total operating expenses	166,543	240,260	102,834	185,082
Loss from operations	(21,394)	(16,019)	(7,963)	(51,421)
Interest income, net	234	245	124	133
Other (expense) income, net	155	294	(504)	(96)
Loss before income taxes	(21,005)	(15,480)	(8,343)	(51,384)
Provision for income taxes	(50)	(46)	5	(17)
Net loss	$ (21,055)	$ (15,526)	$ (8,338)	$ (51,401)

	Years ended December 31,		Six months ended June 30,	
	2012	2013	2013	2014
Consolidated Statements of Operations:				
Net revenue	100.0%	100.0%	100.0%	100.0%
Cost of goods sold	75.8	75.5	75.2%	76.7%
Gross profit	24.2	24.5	24.8%	23.3%
Operating expenses:				
Sales and marketing	18.9	19.4	19.0%	24.1%
General and administrative	8.8	6.8	7.8%	8.0%
Amortization of acquired intangible assets	0.0	0.0	0.0%	0.1%
Total operating expenses	27.7	26.2	26.8%	32.2%
Loss from operations	(3.6)	(1.7)	(2.1)%	(8.9)%
Interest income, net	0.0	0.0	0.0%	0.0%
Other (expense) income, net	0.0	0.0	(0.1)%	0.0%
Loss before income taxes	(3.5)	(1.7)	(2.2)%	(8.9)%
Provision for income taxes	0.0	0.0	0.0%	0.0%
Net loss	(3.5)%	(1.7)%	(2.2)%	(8.9)%

Comparison of six months ended June 30, 2014 and 2013

Net revenue

	Six months ended June 30,		% Change
	2013	2014	2013 to 2014
	(in thousands)		
Direct Retail	$ 268,366	$ 469,534	75.0%
Other	114,842	104,610	(8.9)%
Net revenue	$ 383,208	$ 574,144	49.8%

In the six months ended June 30, 2014, net revenue increased by $190.9 million, or 49.8% compared to the six months ended June 30, 2013, primarily as a result of an increase in Direct Retail net revenue. In the six months ended June 30, 2014, Direct Retail net revenue increased by $201.2 million, or 75.0% compared to the six months ended June 30, 2013. The increase in Direct Retail net revenue was primarily due to sales to a larger customer base, as the number of active customers increased 75% in the six months ended June 30, 2014 compared to the six months ended June 30, 2013. Additionally, LTM net revenue per active customer increased 6.1% in the six months ended June 30, 2014 compared with the six months ended June 30, 2013. The decrease in Other revenue was primarily due to decreased sales through our retail partners.

Cost of Goods Sold

	Six months ended June 30,		% Change
	2013	2014	2013 to 2014
	(in thousands)		
Cost of goods sold	$ 288,337	$ 440,483	52.8%
As a percentage of net revenue	*75.2 %*	*76.7 %*	

In the six months ended June 30, 2014, costs of goods sold increased by $152.1 million, or 52.8%, compared to the six months ended June 30, 2013. Of the increase in cost of goods sold, $121.0 million was due to the increase in products sold to our larger customer base. In addition, shipping and fulfillment costs increased $31.1 million as a result of the increase in products sold during the period. Costs of goods sold as a percentage of net revenue increased in the six months ended June 30, 2014 compared to the six months ended June 30, 2013 as a result of changes in our pricing and the mix of the products sold.

Operating Expenses

	Six months ended June 30,		% Change
	2013	2014	2013 to 2014
	(in thousands)		
Sales and marketing	$ 72,714	$ 138,228	90.1%
General and administrative	30,014	46,355	54.4%
Amortization of acquired intangible assets	106	499	370.8%
	$ 102,834	$ 185,082	80.0%
As a percentage of net revenue			
Sales and marketing	*19.0 %*	*24.1 %*	
General and administrative	*7.8 %*	*8.0 %*	
Amortization of acquired intangible assets	*0.0 %*	*0.1 %*	
	26.8 %	*32.2 %*	

In the six months ended June 30, 2014, sales and marketing expenses increased by $65.5 million, or 90.1%, compared to the six months ended June 30, 2013. The increase in marketing expenses was primarily to grow and retain our customer base. We increased our advertising expenses by $43.5 million from $43.2 million in the six months ended June 30, 2013 to $86.7 million in the six months ended June 30, 2014, primarily driven by an increase in television and display advertising. Our customer service costs and merchant processing fees increased by $7.8 million from $15.0 million in the six months ended June 30, 2013 to $22.8 million in the six months ended June 30, 2014. We also incurred equity based compensation expense of $4.3 million recorded in sales and marketing in the six months ended June 30, 2014 associated with our 2014 Tender Offer. The remainder of the increase was primarily in sales and marketing labor costs for product development, operations, and marketing personnel.

In the six months ended June 30, 2014, general and administrative expense increased by $16.3 million, or 54.4%, compared to the six months ended June 30, 2013. This increase was primarily attributable to personnel costs, rent, amortization and depreciation expenses.

In the six months ended June 30, 2014, amortization of purchased intangible assets increased by $0.4 million, or 370.8%, compared to the six months ended June 30, 2013. The increase in

amortization expense for the six months ended June 30, 2014 was primarily the result of our acquisition of DwellStudio.

Interest Income, net

In the six months ended June 30, 2014 and the six months ended June 30, 2013, interest income, net, was $0.1 million.

Other (Expense), Income, net

In the six months ended June 30, 2014, other (expense), net, decreased by $0.4 million compared to the six months ended June 30, 2013 primarily attributed to changes in foreign currency.

Comparison of years ended December 31, 2013 and 2012

Net revenue

	Years ended December 31,		% Change
	2012	2013	2012 to 2013
	(in thousands)		
Direct Retail	$ 389,290	$ 673,446	73.0%
Other	211,738	242,397	14.5
Net revenue	$ 601,028	$ 915,843	52.4%

In 2013, net revenue increased by $314.8 million, or 52.4% compared to 2012 primarily as a result of increase in Direct Retail net revenue. In 2013, Direct Retail net revenue increased by $284.2 million, or 73.0% compared to 2012. The increase in Direct Retail net revenue was primarily due to sales to a larger customer base, as the number of active customers increased 61.0% in 2013 compared to the number of active customers in 2012. Additionally, LTM net revenue per active customer increased 7.3% in 2013 compared with 2012. The increase in Other revenue was primarily due to increased sales through our existing and new retail partners.

Cost of Goods Sold

	Years ended December 31,		% Change
	2012	2013	2012 to 2013
	(in thousands)		
Cost of goods sold	$ 455,879	$ 691,602	51.7%
As a percentage of net revenue	*75.8 %*	*75.5 %*	

In 2013, costs of goods sold increased by $235.7 million, or 51.7%, compared to 2012. Of the increase in cost of goods sold, $190.3 million was due to the increase in products sold to our larger customer base. In addition, shipping and fulfillment costs increased $45.4 million as a result of the increase in products sold during the period.

Operating Expenses

	Years ended December 31,		% Change
	2012	2013	2012 to 2013
	(in thousands)		
Sales and marketing	$ 113,370	$ 177,475	56.5%
General and administrative	52,961	62,246	17.5
Amortization of acquired intangible assets	212	539	154.2
	$ 166,543	$ 240,260	44.3%
As a percentage of net revenue			
Sales and marketing	*18.9 %*	*19.4 %*	
General and administrative	*8.8*	*6.8*	
Amortization of acquired intangible assets	*0.0*	*0.1*	
	27.7 %	*26.2 %*	

In 2013, sales and marketing expenses increased by $64.1 million, or 56.5%, compared to 2012. The increase in marketing expenses was primarily to grow and retain our customer base. We increased our advertising expenses by $43.0 million from $65.5 million in 2012 to $108.5 million in 2013, primarily driven by an increase in television and display advertising. Our customer service costs and merchant processing fees increased by $9.8 million from $25.7 million in 2012 to $35.5 million in 2013. The remainder of the increase was primarily in sales and marketing labor costs for product development, operations, and marketing personnel.

In 2013, general and administrative expense increased by $9.3 million, or 17.5%, compared to 2012. This increase was primarily attributable to personnel costs, rent, information technology and amortization and depreciation expenses.

In 2013, amortization of purchased intangible assets increased by $0.3 million, or 154.2%, compared to 2012. The increase in amortization expense for 2013 was primarily the result of our acquisition of DwellStudio.

Interest Income, net

In 2013 and 2012, interest income, net, was $0.2 million.

Other (Expense), Income, net

In 2013, other (expense), income, net, increased by $0.1 million compared to 2012 primarily attributed to changes in foreign currency.

Quarterly Results of Operations and Other Financial and Operations Data

The following tables set forth selected unaudited quarterly results of operations and other financial and operations data for the six quarters ended June 30, 2014, as well as the percentage that each line item represents of net revenue. The information for each of these quarters has been prepared on the same basis as the audited consolidated financial statements included elsewhere in this prospectus and in the opinion of management, reflects all adjustments, consisting of only normal recurring adjustments, necessary for the fair statement of our consolidated results of operations for these periods. This data should be read in conjunction with our consolidated

financial statements and related notes included elsewhere in this prospectus. Historical results are not necessarily indicative of the results to be expected in the future.

	Three months ended					
	March 31, 2013	June 30, 2013	September 30, 2013	December 31, 2013	March 31, 2014	June 30, 2014
	(in thousands)					
Consolidated Statements of Operations:						
Net revenue	$ 179,831	$ 203,377	$ 237,302	$ 295,333	$ 278,707	$ 295,437
Cost of goods sold	135,798	152,539	178,656	224,609	213,500	226,983
Gross profit	44,033	50,838	58,646	70,724	65,207	68,454
Operating expenses:						
Sales and marketing	34,079	38,635	46,602	58,159	70,344	67,884
General and administrative	15,327	14,687	15,530	16,702	22,769	23,586
Amortization of acquired intangible assets	53	53	184	249	249	250
Total operating expenses	49,459	53,375	62,316	75,110	93,362	91,720
Loss from operations	(5,426)	(2,537)	(3,670)	(4,386)	(28,155)	(23,266)
Interest income, net	67	57	61	60	56	77
Other (expense) income, net	(384)	(120)	579	219	88	(184)
Loss before income taxes	(5,743)	(2,600)	(3,030)	(4,107)	(28,011)	(23,373)
Provision for income taxes	—	5	(1)	(50)	(15)	(2)
Net loss	$ (5,743)	$ (2,595)	$ (3,031)	$ (4,157)	$ (28,026)	$ (23,375)

	Three months ended					
	March 31, 2013	June 30, 2013	September 30, 2013	December 31, 2013	March 31, 2014	June 30, 2014
Consolidated Statements of Operations:						
Net revenue	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Cost of goods sold	75.5	75.0	75.3	76.1	76.6	76.8
Gross profit	24.5	25.0	24.7	23.9	23.4	23.2
Operating expenses:						
Sales and marketing	19.0	19.0	19.6	19.7	25.2	23.0
General and administrative	8.5	7.2	6.5	5.6	8.2	7.9
Amortization of acquired intangible assets	0.0	0.0	0.1	0.1	0.1	0.1
Total operating expenses	27.5	26.2	26.2	25.4	33.5	31.0
Loss from operations	(3.0)	(1.2)	(1.5)	(1.5)	(10.1)	(7.8)
Interest income, net	0.0	0.0	0.0	0.0	0.0	0.0
Other (expense) income, net	(0.2)	(0.1)	0.2	0.1	0.0	(0.1)
Loss before income taxes	(3.2)	(1.3)	(1.3)	(1.4)	(10.1)	(7.9)
Provision for income taxes	0.0	0.0	0.0	0.0	0.0	(0.0)
Net loss	(3.2)%	(1.3)%	(1.3)%	(1.4)%	(10.1)%	(7.9)%

	Three months ended					
	March 31, 2013	June 30, 2013	September 30, 2013	December 31, 2013	March 31, 2014	June 30, 2014
	(in thousands, except Average Order Value and LTM Net Revenue Per Active Customer)					
Consolidated Financial Metrics						
Net Revenue	$ 179,831	$ 203,377	$ 237,302	$ 295,333	$ 278,707	$ 295,437
Adjusted EBITDA(1)	$ (2,542)	$ 442	$ (181)	$ (647)	$ (19,403)	$ (17,599)
Free Cash Flow(2)	$ (24,683)	$ 11,409	$ (3,982)	$ 35,890	$ (38,506)	$ (31,744)
Direct Retail Financial and Operating Metrics						
Direct Retail Net Revenue	$ 120,617	$ 147,748	$ 181,693	$ 223,388	$ 226,000	$ 243,534
Active Customers	1,366	1,506	1,775	2,092	2,409	2,635
LTM Net Revenue Per Active Customer	$ 305	$ 313	$ 315	$ 322	$ 323	$ 332
Orders Delivered	555	703	884	1,172	1,138	1,084
Average Order Value	$ 217	$ 210	$ 206	$ 191	$ 199	$ 225

(1) Adjusted EBITDA is a non-GAAP financial measure that we calculate as earnings (loss) before depreciation and amortization, equity-based compensation, interest and other income and expense and taxes. Refer to the section of this prospectus captioned "Management's Discussion and Analysis of Financial Condition and Results of Operations — Non-GAAP Financial Measures — Adjusted EBITDA" for more information.

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

	Three months ended					
	March 31, 2013	June 30, 2013	September 30, 2013	December 31, 2013	March 31, 2014	June 30, 2014
	(in thousands)					
Reconciliation of Adjusted EBITDA						
Net loss	$ (5,743)	$ (2,595)	$ (3,031)	$ (4,157)	$ (28,026)	$ (23,375)
Depreciation and amortization	2,884	2,979	3,489	3,739	4,198	4,693
Equity-based compensation	—	—	—	—	4,554	974
Interest income, net	(67)	(57)	(61)	(60)	(56)	(77)
Other (expense) income, net	384	120	(579)	(219)	(88)	184
Taxes	—	(5)	1	50	15	2
Adjusted EBITDA	$ (2,542)	$ 442	$ (181)	$ (647)	$ (19,403)	$ (17,599)

(2) Free cash flow is a non-GAAP financial measure that we calculate as net cash (used in) provided by operating activities less net cash used to purchase property and equipment including leasehold improvements and site and software development costs. Refer to the section of this prospectus captioned "Management's Discussion and Analysis of Financial Condition and Results of Operations — Non-GAAP Financial Measures — Free Cash Flow" for more information.

The following table presents a reconciliation of free cash flow to net cash provided by operating activities for each of the periods indicated:

	Three months ended					
	March 31, 2013	June 30, 2013	September 30, 2013	December 31, 2013	March 31, 2014	June 30, 2014
	(in thousands)					
Net cash provided by operating activities, net of acquisition	$ (20,451)	$ 14,545	$ (517)	$ 40,836	$ (24,432)	$ (15,339)
Purchase of property, equipment, and leasehold improvements	(2,236)	(1,065)	(1,120)	$ (2,318)	(11,357)	(12,974)
Site and software development costs	(1,996)	(2,071)	(2,345)	$ (2,628)	(2,717)	(3,431)
Free cash flow	$ (24,683)	$ 11,409	$ (3,982)	$ 35,890	$ (38,506)	$ (31,744)

Seasonality and Quarterly Trends

Net revenue

Quarterly net revenue increased sequentially quarter-to-quarter for all periods presented, except for the first quarter of 2014. Over the quarters presented our customer base increased as the number of active customers increased each quarter. Additionally, our LTM net revenue per active customer increased in each quarter presented, except for the first quarter of 2014.

The first quarter of each year is usually our lowest net revenue quarter during the year and net revenue typically declines from the prior fourth quarter. We believe that the holiday shopping season has resulted in increased sales during a portion of the third quarter and the fourth quarter each fiscal year and comparisons of our year-over-year quarterly revenue are more meaningful than comparisons of our sequential quarterly revenue due to the seasonality in net revenue.

Cost of Goods Sold

Quarterly cost of goods sold increased sequentially quarter-to-quarter for all periods presented, except for the first quarter 2014, due to the increase in products sold to our larger customer base. In addition, shipping and fulfillment costs increased as a result of the increase in products sold.

Operating Expenses

Sales and marketing expenses increased sequentially quarter-to-quarter for all periods presented. The increase in marketing expenses was primarily to grow and retain our customer base. Our advertising expenses increased in each quarter primarily driven by an increase in television and display advertising. Quarterly merchant processing fees increased sequentially quarter-to-quarter for all periods presented, except for the first quarter 2014, due to the increase in products sold to our larger customer base. The remainder of the increase was primarily in customer service and sales and marketing labor costs for product development, operations, and marketing personnel.

General and administrative expense increased sequentially quarter-to-quarter for all periods presented, except for the second quarter 2013, primarily attributed to personnel costs, rent, information technology and amortization and depreciation expenses.

Amortization of purchased intangible assets increased in the third and fourth quarters 2013 primarily as a result of our acquisition of DwellStudio.

Liquidity and Capital Resources

Sources of Liquidity

	December 31,		June 30,
	2012	2013	2014
	(in thousands)		
Cash and cash equivalents	$ 77,861	$ 65,289	$ 87,781
Short-term investments	23,017	50,019	65,017
Accounts receivable, net	15,766	7,689	6,647
Working capital	$ 42,031	$ 18,118	$ 68,706

Historical Cash Flows

	Years ended December 31,		Six months ended June 30,	
	2012	2013	2013	2014
	(in thousands)			
Net loss	$ (21,055)	$ (15,526)	$ (8,338)	$ (51,401)
Net cash provided by (used in) operating activities	3,945	34,413	(5,907)	(39,771)
Net cash used in investing activities	(23,080)	(46,991)	(24,371)	(48,489)
Net cash provided by financing activities	44,944	—	—	110,746

Since our inception, we have financed our operations, capital expenditures and acquisitions primarily through cash flows generated by operations and, since 2011, also through private sales of convertible redeemable preferred units and common units. Since inception through June 30, 2014, we have raised a total of approximately $363.1 million from the sale of preferred stock, net of costs and expenses associated with such financings, or approximately $195.4 million, net of repurchases of our securities. We believe that our existing cash and cash equivalents, together with cash generated from operations, will be sufficient to meet our anticipated cash needs for at least the next 12 months. However, our liquidity assumptions may prove to be incorrect, and we could exhaust our available financial resources sooner than we currently expect. In addition, we may elect to raise additional funds at any time through equity, equity-linked or debt financing arrangements. Our future capital requirements and the adequacy of available funds will depend on many factors, including those described in the section titled "Risk Factors" on page 14. We may not be able to secure additional financing to meet our operating requirements on acceptable terms, or at all.

As of June 30, 2014, 21.6 million Series A and 6.0 million Series B convertible redeemable preferred units were outstanding with accrued dividend amounts of $17.6 million payable upon conversion into shares of Class B common stock which is included in carrying value of Series A convertible redeemable preferred units. The accrued dividend amounts are payable upon conversion of the units into common stock, which will occur following the Corporate Reorganization and upon the closing of this offering. Following the conversion of the units into common stock, no further dividends will accrue with respect to this equity. We expect to use a portion of our cash and cash equivalent balances, or, alternatively, we may choose to borrow funds or use a combination of cash and borrowed funds to satisfy these dividend obligations.

In March 2014, we issued approximately 6.0 million Series B convertible redeemable preferred units, resulting in gross proceeds of approximately $157.2 million. Upon the closing of this transaction, we distributed $15.0 million, which is a portion of the aforementioned accrued dividends, to Series A preferred unit holders. We also repurchased 896,052 common units from SK Retail, Inc. at a price of $26.23 per unit, for an aggregate purchase price of approximately $23.5 million. In addition, in April 2014, we closed a tender offer to repurchase provisionally vested (defined as service time completed) common unit options and restricted common units from certain employees at a price of $26.23. A total of 9,028 common unit options and 202,757 restricted common units were tendered for approximately $5.5 million in net cash. Our net proceeds from the sale of Series B convertible redeemable preferred units, net of costs and expenses associated with the financing, the distribution to our Series A preferred unit holders and the repurchase of our securities, was approximately $110.8 million.

As part of our employee equity compensation plan, our employees receive deferred units. These deferred units vest upon the satisfaction of both a service condition and a performance condition. The service condition for the majority of the deferred units is satisfied over a period of five years. The performance condition in connection with these grants will be satisfied on the date of a change in control or an initial public offering. On the settlement dates for the deferred units, we may choose to undertake a net settlement and withhold shares and remit income taxes on behalf of the holders of such units at the applicable minimum statutory rates. As of June 30, 2014, 1,454,251 deferred units had provisionally vested for which the service condition had been satisfied on that date. Assuming (i) the performance condition had been satisfied on that date and (ii) that the price of our common stock at the time of settlement was equal to $, based on the initial public offering price of per share, the midpoint of the range listed on the cover page of this prospectus, we estimate that this tax obligation on the initial settlement date would be approximately $ million in the aggregate.

If we choose to undertake a net settlement of our deferred unit holders, then to fund the tax withholding and remittance obligations on behalf of such unit holders and employer taxes, we

would expect to use a portion of our cash and cash equivalent balances, or, alternatively, we may choose to borrow funds or a combination of cash and borrowed funds to satisfy these obligations.

Operating Activities

Cash provided by operating activities consisted of net loss adjusted for certain non-cash items including depreciation and amortization, and certain other non-cash expenses, as well as the effect of changes in working capital and other activities.

Cash used in operating activities in the six months ended June 30, 2014 was $39.8 million, an increase in cash outflow of $33.9 million compared to the six months ended June 30, 2013. Cash used in operating activities was driven primarily by net loss of $51.4 million, adjusted for certain non-cash items including depreciation and amortization expense of $8.9 million, equity based compensation of $5.5 million and other non-cash items of $0.1 million and cash used in operating assets and liabilities of $2.9 million. Operating cash flows can be volatile and are sensitive to many factors, including changes in working capital and our net (loss) income.

Cash provided by operating activities in 2013 was $34.4 million and was driven by a net loss of $15.5 million, adjusted for certain non-cash items including depreciation and amortization expense of $13.1 million and other non-cash items of $0.1 million offset by cash provided by operating assets and liabilities of $36.7 million.

Cash provided by operating activities in 2012 was $3.9 million and was driven by a net loss of $21.1 million, adjusted for certain non-cash items including depreciation and amortization expense of $9.3 million and other non-cash items of $0.1 million offset by cash provided by operating assets and liabilities of $15.6 million.

Investing Activities

Our primary investing activities consisted of purchases of property and equipment, particularly purchases of servers and networking equipment, investment in our sites and software development, purchases and disposal of marketable securities, leasehold improvements for our facilities and acquisitions of businesses.

Cash used in investing activities in the six months ended June 30, 2014 was $48.5 million, an increase in cash outflow of $24.1 million compared to the six months ended June 30, 2013. The increase in cash outflow was primarily driven by purchases of property and equipment of $24.3 million, site and software development costs of $6.1 million and net increase in restricted cash of $3.0 million. The purchases of property and equipment includes $5.8 million, primarily related to leasehold improvements, for which cash has not been paid as of June 30, 2014.

Cash used in investing activities in 2013 was $47.0 million and was driven by net purchases of short-term investments of $27.0 million, purchases of property and equipment of $6.7 million, cash paid for the acquisition of DwellStudio of $3.7 million, site and software development costs of $9.0 million and other net investing activities of $0.5 million.

Cash used in investing activities in 2012 was $23.1 million and was driven by net purchases of short-term investments of $8.0 million, purchases of property and equipment of $8.0 million, site and software development costs of $6.9 million and other net investing activities of $0.1 million.

Financing Activities

Our primary financing activities consisted of private sales of convertible redeemable preferred units in 2014 and 2012. Cash provided by financing activities in the six months ended June 30, 2014 was $110.7 million and was primarily due to net proceeds from issuance of Series B

convertible redeemable preferred units partially offset by the dividend distribution to our Series A preferred unit holders, the repurchase of our securities and the 2014 Tender Offer. There were no financing activities in the six months ended June 30, 2013 and the year ended December 31, 2013. Cash provided by financing activities in the year ended December 31, 2012 was $44.9 million and was primarily due to net proceeds from issuance of Series A convertible redeemable preferred units.

Credit Agreement

We have a credit agreement with a lender which provides us with a line of credit for up to $25.0 million, with the committed amounts of $10.0 million to be used for a revolving line of credit and $15.0 million to be used to support our corporate credit card program. We are required to maintain certain covenants, including debt service coverage, tangible net worth, and unencumbered liquid assets. As of December 31, 2013 and June 30, 2014, we did not have any borrowings outstanding and were in full compliance with the credit agreement. The credit agreement is renewable on an annual basis, and the next renewal date is October 28, 2014.

Off-Balance Sheet Arrangements

We do not engage in any off-balance sheet activities. We do not have any off-balance sheet interest in variable interest entities, which include special purpose entities and other structured finance entities.

Contractual Obligations

The following table summarizes our contractual obligations as of December 31, 2013:

		Payment Due by Period			
	Total	Less than 1 year	1 - 3 Years	3 - 5 Years	More than 5 Years
		(in thousands)			
Operating Lease Obligations	$ 62,906	6,988	15,231	14,151	$ 26,536

We lease office space under non-cancelable operating leases. These leases expire at various dates through 2024 and include discounted rental periods and fixed escalation clauses, which are amortized straight-line over the terms of the lease. We recognize rent expense on a straight-line basis over the lease periods. We do not have any debt or material capital lease obligations and all of our property, equipment and software have been purchased with cash. Future operating lease payments have not been reduced by minimum sublease rentals of $1.6 million due to us in the future under noncancelable subleases.

In March 2014, we expanded our lease of office space in Boston, MA, to a total of approximately 275,000 square feet in order to accommodate the growth of our new corporate headquarters which we have occupied since June 2014 with the expansion occurring in June 2015. This additional lease space will result in additional operating lease obligations of $52.1 million payable through 2024.

Critical Accounting Policies

Our financial statements are prepared in accordance with accounting principles generally accepted in the United States. The preparation of our financial statements and related disclosures requires us to make estimates, assumptions and judgments that affect the reported amount of assets, liabilities, net revenue, costs and expenses and related disclosures. We believe that the

estimates, assumptions and judgments involved in the accounting policies described below have the greatest potential impact on our financial statements and, therefore, we consider these to be our critical accounting policies. Accordingly, we evaluate our estimates and assumptions on an ongoing basis. Our actual results may differ from these estimates under different assumptions and conditions. See Note 2 to our consolidated financial statements included elsewhere in this prospectus for information about these critical accounting policies, as well as a description of our other significant accounting policies.

Revenue Recognition

We recognize revenue only when the following four criteria are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred; (3) the selling price is fixed or determinable; and (4) collectability is reasonably assured.

We recognize net revenue from sales of our products upon delivery to the customer. As we ship a large volume of packages through multiple carriers, actual delivery dates may not always be available and as such we estimate delivery dates based on historical data. We record our product revenue at the gross amount as we are the primary obligor with the customer and provide the primary customer service for all products sold on our sites, have latitude in establishing price and selecting products sold on our sites, have discretion in selecting suppliers of products sold on our sites, maintain inventory risk from shipment through delivery date and upon accepting returns, and have credit risk. Net revenue includes shipping costs charged to the customer and are recorded net of taxes collected from customers, which are remitted to governmental authorities. Cash discounts, estimated returns and rebates are deducted from gross revenue in determining net revenue. We record an allowance for returns based on current period revenue and historical returns experience. We defer revenue when cash is collected from our customer prior to the satisfaction of the revenue recognition criteria.

We maintain a rewards program that allows enrolled customers to earn points which can be redeemed for future purchases. We defer the portion of our revenue associated with rewards that are ultimately expected to be redeemed prior to expiration.

We also earn revenue through third-party advertisers that pay us based on the number of advertisement related clicks, actions, or impressions for ads placed on our sites. Revenue earned under these arrangements is included in net revenue and is recognized in the period in which the click, action, or impression occurs.

Site and Software Development Costs

We capitalize certain external costs and internal labor-related costs associated with the development of our sites and internal-use software products after the preliminary project stage is complete and until the software is ready for its intended use. Initial costs are charged to operating expenses prior to the selection of a vendor and determination of performance requirements. Costs incurred after the software is ready for use are charged to operating expenses as incurred. Abandoned projects previously capitalized are charged to operating expenses in the period of abandonment. The company expenses site development costs that manage, monitor, and operate the company's sites, except for costs that provide additional functionality, which are capitalized. Capitalized software costs are included in property and equipment within our consolidated balance sheets and are amortized over a two-year period.

Stock-Based Compensation

We issue equity awards to employees and non-employees, generally in the form of common unit options, common units and deferred units. We account for our equity awards in accordance

with Financial Accounting Standards Board, or FASB, Accounting Standard Codification Topic 718, *Compensation — Stock Compensation* , or ASC 718, which requires all equity-based payments to employees, including grants of employee unit options and deferred units and modifications to existing unit options, to be recognized in the consolidated statements of operations and comprehensive loss based on their fair values. We account for equity awards to non-employees in accordance with FASB ASC Topic 505-50, *Equity-Based Payments to Non-Employees* , which requires the fair value of an award to non-employees be remeasured at fair value as the award vests. Our equity awards are subject to two vesting triggers: a service period (typically five years) and a performance condition (a liquidity event in the form of either a change of control or an initial public offering, each as defined in the Amended Plan). Employees are able to retain provisionally vested units upon departure. We determined that a liquidity event was not probable at June 30, 2014, and as such, no expense has been recognized. Since April 2011, we have only granted deferred units and have not granted any common unit options or common units. Following the consummation of this offering, deferred unit values will be determined based on the quoted market price of our common stock.

As there has been no public market for our common units to date, the estimated fair value of our common units has been determined by our board of managers. We have periodically determined for financial reporting purposes the estimated fair value of our common units at various dates using contemporaneous valuations performed in accordance with the guidance outlined in the American Institute of Certified Public Accountants Practice Aid, Valuation of Privately-Held Company Equity Securities Issued as Compensation, also known as the Practice Aid. We generally use the income and market approaches prescribed in the Practice Aid, in particular the income approach's discounted cash flow method, which was based on our projections and estimated discount rate and the guideline public company, guideline transactions and precedent transaction methodologies, based on inputs from comparable public companies' equity valuations, comparable acquisition transactions and transactions in our own equity securities, to estimate the enterprise value of our company. We performed these contemporaneous valuations as of December 31, 2011, June 30, 2012, December 31, 2012, June 30, 2013, September 30, 2013, December 31, 2013, March 31, 2014, and June 30, 2014. The assumptions underlying these valuations represent management's best estimates, which involve inherent uncertainties and the application of management judgment. As a result, if factors or expected outcomes change and we use significantly different assumptions or estimates, our equity-based compensation could be materially different.

In connection with the preparation of the financial statements for the year ended December 31, 2013 we undertook a retrospective reassessment of the fair market value of our common stock for certain of our 2013 grants for financial reporting purposes. As part of that reassessment, we determined that the grant date fair values of our May, August and November 2013 grants to be $6.46, $10.88 and $20.87 respectively. Our fair value previously determined at various valuation dates increased substantially in 2013 and there was no particular transaction or event that caused this increase. The grants made in May, August and November 2013 were between the dates when we performed our valuation. Accordingly, we calculated grant date fair value for these grants on a linear basis between each valuation date and believe it to be a reasonable method.

In connection with the Corporate Reorganization, all of our outstanding common units will be exchanged for, and all of our incentive units will convert into, shares of Class B common stock. In addition, all of outstanding preferred units will convert into shares of Series A and Series B convertible preferred stock. Immediately prior to the completion of this offering, all of our outstanding shares of Series A and Series B convertible preferred stock will convert into shares of Class B common stock.

Goodwill

We test goodwill for impairment on the last day of each fiscal year and whenever events or changes in circumstances indicate that the carrying amount of this asset may exceed its fair value. The assessment is performed at the reporting unit level using the two-step goodwill impairment test to identify potential goodwill impairment. The first step is to compare the fair value of the reporting unit to the book value, including goodwill. If the fair value of the reporting unit exceeds the book value, goodwill is not impaired. If the book value exceeds the fair value, the second step of the process is performed to measure the amount of impairment.

The fair value of the reporting unit is determined by using the income and the market approaches. The income approach uses a discounted cash flow analysis, which involves applying appropriate discount rates to estimated cash flows, including the terminal value based on forecasts of revenue, costs and capital requirements. We estimate future revenue growth based on a number of key assumptions, including customer and order growth by acquisition channel, average order value, advertising spend, e-commerce growth rates and our experience in growth of our more mature markets and categories. Our cost structure assumptions are based on historic trends in product cost and freight, advertising costs, growth in headcount, and merchant processing fees. We deem the discount rate used in our analysis to be commensurate with the underlying uncertainties associated with achieving the estimated cash flows we projected. The terminal value is calculated using the two-stage growth model. The market approach includes the guideline public company method and guideline transaction method. The guideline public company method uses the fair value of comparable publicly-traded companies in the industry group. The companies used for comparison under the guideline public company method are selected based on a number of factors, including, but not limited to, the similarity of their industry, growth rate and stage of development, business model, and financial risk. The guideline transaction method involves determining a fair value using recent mergers and acquisitions transactions in the industry group in the recent years.

Based on our 2013 analysis, we determined that the fair value of the reporting unit carrying the goodwill balance significantly exceeded its carrying value including goodwill and management has concluded that the reporting units are not at risk of failing step one of the goodwill impairment analysis. We evaluated our goodwill for impairment at June 30, 2014 and noted no changes in events or circumstances that indicated it is more likely than not that the fair value of our reporting units had fallen below the carrying value since December 31, 2013.

Inventory

Inventories consisting of finished goods are stated at the lower of cost or market, determined by the first-in, first-out (FIFO) method, and consist of merchandise for resale. This valuation requires us to make judgments based on currently-available information about the likely method of disposition, such as through sales to individual customers, returns to product suppliers, or liquidations, and expected recoverable values of each disposition category.

Recent Accounting Pronouncements

In May 2013, the FASB issued new accounting guidance regarding revenue recognition under GAAP. This new guidance will supersede nearly all existing revenue recognition guidance, and is effective for public entities for annual and interim periods beginning after December 31, 2016. Early adoption is not permitted. We are currently evaluating the impact of this new guidance on our consolidated financial statements.

Pro Forma Income Tax Accounting Related to the Corporate Reorganization

Prior to the transition to a corporate structure, we were generally not subject to U.S. federal income taxes. Since U.S. federal taxes related to income earned by the members of Wayfair LLC were the responsibility of the individual members, our members reported and paid U.S. federal taxes on their share of Wayfair LLC's income on their individual tax returns. In other countries, however, we operated in the form of a corporation or were otherwise subject to entity-level taxes on income and withholding taxes. As a result, prior to transitioning to a corporate structure, we paid some entity-level taxes with the amount varying from year to year depending on the mix of earning among the countries. Where applicable, we accounted for these taxes under the asset and liability method. Therefore, historical financial statements with respect to periods ended on or prior to December 31, 2013 do not reflect the income tax liability that we would have paid as a corporation. Following the transition to a corporate structure, we will be subject to corporate tax on income.

We prepared and provided our unaudited pro forma consolidated balance sheet as if our reorganization from a limited liability company to a corporation in connection with this offering occurred on December 31, 2013. Pro forma deferred income taxes reflect the net tax effects of temporary differences between the pro forma carrying amounts of our tax assets and liabilities calculated for financial reporting purposes and the amounts that would have been calculated for our income tax returns in accordance with tax regulations and the net pro forma tax effects of operating loss and tax credit carryforwards if we had been a taxable entity.

The ultimate realization of deferred tax assets depends on the generation of sufficient taxable income of the appropriate character and in the appropriate taxing jurisdictions during the future periods in which the related temporary differences become deductible. We determined the valuation allowance on pro forma deferred tax assets is in accordance with the accounting standard for income taxes, which require weight of both positive and negative evidence in order to ascertain whether it is more likely than not that the pro forma deferred tax assets would be realized. We evaluated all significant available positive and negative evidence, including the existence of cumulative net income, benefits that could be realized from available tax strategies and forecasts of future taxable income, in determining the need for a valuation allowance on pro forma deferred tax assets. After applying the evaluation guidance of the accounting standard for income taxes we determined that it was more likely than not that $23.3 million of the pro forma deferred tax assets will not be realized, and as such, a valuation allowance of $23.3 million was required.

As of December 31, 2013, pro forma tax-effected deferred tax assets, net of valuation allowance, and deferred tax liabilities were $6.6 million and $6.8 million respectively. Accordingly the pro forma net deferred tax liability as of December 31, 2013 was determined to be $0.2 million.

Quantitative and Qualitative Disclosures about Market Risk

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

Interest Rate Sensitivity

Cash and cash equivalents and short-term investments were held primarily in cash deposits, certificates of deposit 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. Interest on the revolving line of credit incurred pursuant to the credit agreement described above would accrue at a floating rate based on a formula tied to certain market rates at the time of incurrence; however, we do not

expect that any change in prevailing interest rates will have a material impact on our results of operations.

Foreign Currency Risk

Most of our sales are denominated in U.S. dollars, and therefore, our revenue is not currently subject to significant foreign currency risk. Our operating expenses 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 British Pound, Australian Dollar and Euro. Fluctuations in foreign currency exchange rates may cause us to recognize transaction gains and losses in our statement of operations. To date, foreign currency transaction gains and losses have not been material to our financial statements, and we have not engaged in any foreign currency hedging transactions.

Inflation

We do not believe that inflation has had a material effect on our business, financial condition or results of operations. We continue to monitor the impact of inflation in order to minimize its effects through pricing strategies, productivity improvements and cost reductions. If our costs were to become subject to significant inflationary pressures, we may not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our business, financial condition and results of operations.

Emerging Growth Company Status

Section 107 of the JOBS Act provides that an "emerging growth company" can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act for complying with new or revised accounting standards. In other words, an "emerging growth company" can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. However, we are choosing to "opt out" of such extended transition period, and as a result, we will comply with new or revised accounting standards on the relevant dates on which adoption of such standards is required for non-emerging growth companies. Section 107 of the JOBS Act provides that our decision to opt out of the extended transition period for complying with new or revised accounting standards is irrevocable.

BUSINESS

Overview

Wayfair is transforming the way people shop for their homes.

Our homes are the center of our lives, where we raise families, create our fondest memories and spend most of our time. Our homes are very personal expressions of self and identity, which is why many of us seek uniqueness, crave originality and enjoy the feeling created by home design, furniture and décor. We built Wayfair to meet this emotional need for mass market consumers by creating one of the world's largest online destinations for the home.

Through our e-commerce business model, we offer visually inspiring browsing, compelling merchandising, easy product discovery and attractive prices for over seven million products from over 7,000 suppliers across our five distinct brands — Wayfair.com, Joss & Main, AllModern, DwellStudio and Birch Lane. Our typical Wayfair customer is a 35 to 65 year old woman with an annual household income of $60,000 to $175,000, who we consider to be a mass market consumer and who we believe is underserved by traditional brick and mortar and other online retailers of home goods. Because each of our customers has a different taste, style, purchasing goal and budget when shopping for her home, we have built one of the largest online selections of furniture, home furnishings, décor and goods. We are able to offer this vast selection of products while holding minimal inventory because we typically ship products directly from our suppliers to our customers. This supplier direct fulfillment network is a key component of our custom-built and seamlessly integrated technology and operational platform, which also includes extensive supplier integrations, a proprietary transportation delivery network and superior customer service.

Our co-founders are lifetime tech innovators who have worked together in the consumer internet sector since 1995 and have created a company culture deeply rooted in technology. We employ over 300 engineers and data scientists who continue to improve and enhance our technology platform. Our success reflects a deep culture of data-driven decision making, operational discipline and an unwavering focus on customer service. Our technology and data focus also facilitates critical e-commerce capabilities such as tailored shopping experiences across our five brands, consumer targeting and personalization, as well as "anytime, anywhere" shopping across our websites, mobile-optimized websites and mobile applications, which we collectively refer to as our sites.

We founded our company in May 2002 and have since delivered over 11.8 million orders. From 2002 through 2011, the company was bootstrapped by our co-founders and operated as hundreds of niche websites, such as bedroomfurniture.com and allbarstools.com. In 2006, we launched AllModern. From 2003 to 2011, we grew our net revenue organically from $7.7 million to $517.3 million, representing a 69.2% compound annual growth rate, or CAGR. In late 2011, we made the strategic decision to close and permanently redirect over 240 of our niche websites into Wayfair.com to create a one-stop shop for furniture, home furnishings, décor and goods and to build brand awareness, drive customer loyalty and increase repeat purchasing. We also changed our name from CSN Stores LLC to Wayfair LLC. Additionally, we expanded our multi-brand strategy beyond our then existing brands — Wayfair.com and AllModern — by launching Joss & Main. In 2013, we acquired DwellStudio, and in 2014, we launched Birch Lane.



Since our strategic shift was fully implemented in 2012, we have experienced significant and accelerating growth. To drive further growth we intend to:

- build our existing brands:
- acquire more customers;
- continue to invest in the consumer experience;
- increase repeat purchasing through merchandising, data, analytics and technology;
- add new suppliers and deepen relationships with our existing suppliers;
- continue to invest in our technology and operational platform, including our mobile platform;
- opportunistically launch new retail home brands;
- expand internationally; and
- opportunistically pursue strategic acquisitions.

Our strong customer loyalty and deep supplier relationships have helped us grow our Direct Retail sales, which we define as generated primarily through the sites of our five brands. In 2013 and the six months ended June 30, 2014, we generated Direct Retail net revenue of $673.4 million and $469.5 million, respectively, an increase of 73.0% and 75.0% over 2012 and the six months ended June 30, 2013, respectively. In 2013, we delivered 3.3 million orders for 2.1 million Direct Retail active customers, representing increases of 85.2% and 61.0%, respectively, over 2012. In the six months ended June 30, 2014, we delivered 2.2 million orders, representing an increase of 76.6%, over the six months ended June 30, 2013. In the six months ended June 30, 2014, we had 2.6 million Direct Retail active customers, representing an increase of 75.0% over the six months ended June 30, 2013. In 2013 and the six months ended June 30, 2014, net revenue per active customer was $322 and $332, respectively, an increase of 7.3% and 6.1% over 2012 and the six months ended June 30, 2013, respectively. In 2013 and the six months ended June 30, 2014, 47.2% and 51.2% of orders delivered, respectively, were from repeat customers, up from 37.4% and 47.7% in 2012 and the six months ended June 30, 2013, respectively. Additionally, our mobile platform drives growth by engaging and reengaging customers where and when they want to shop; in the first six months of 2014, 27.9% of all Direct Retail orders delivered were placed from a mobile device, up from 21.3% in the first six months of 2013. See the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations — Key Financial and Operating Metrics" on page 55 for further detail.

In 2013 and the six months ended June 30, 2014, we generated net revenue of $915.8 million and $574.1 million, respectively, up 52.4% and 49.8% over 2012 and the six months ended

June 30, 2013, respectively. Net revenue in 2013 and the six months ended June 30, 2014 included $673.4 million and $469.5, respectively, from Direct Retail and $242.4 million and $104.6, respectively, from Other, net revenue generated primarily online through third parties, which we refer to as our retail partners. In 2013, we generated a net loss of $15.5 million and Adjusted EBITDA of $(2.9) million, improvements of $5.5 million and $9.1 million, respectively, over 2012. In the six months ended June 30, 2014, we generated a net loss of $51.4 million and Adjusted EBITDA of $(37.0) million, increases of $43.1 million and $34.9 million, respectively, over the six months ended June 30, 2013. Our net loss and Adjusted EBITDA results were driven primarily by our increased investment in advertising in 2012, 2013, and the six months ended June 30, 2014. Because we hold minimal inventory and a majority of our customers pay us before we pay our suppliers, we have an attractive net working capital dynamic which typically allows us to generate more cash than our Adjusted EBITDA on an annual basis. See "Management's Discussion and Analysis of Financial Condition and Results of Operations — Non-GAAP Financial Measures" on page 55 for more information and for a reconciliation of Adjusted EBITDA.

Our Industry

The home goods market is large and characterized by specific consumer trends, structural challenges and market dynamics that are shaping the future of our industry.

Addressable Market Size and Growth

Large and Growing Home Goods Market with Significant Online Potential: The home goods market is large, global and growing.

According to Euromonitor International, Ltd., a market research firm:

- Our addressable home goods market, which we define as the U.S. furniture and home décor markets, was $233 billion in 2013.
- The U.S. home goods market can be expected to grow at a 2.5% CAGR in real terms from 2013 to 2023, reaching $297 billion in 2023.
- The total market size for home goods in Western Europe was $292 billion in 2013.

Based on the above and online market size industry data obtained from comScore, Inc., an internet analytics company, we believe:

- The online penetration of the U.S. home goods market in 2013 was approximately 7%.
- The online penetration of the U.S. apparel and consumer electronics markets in 2013 were approximately 15% and 54%, respectively, which are significantly higher than the online penetration of the U.S. home goods market.

Based on these online penetration rates and the adoption rates of other retail categories, we believe the online penetration of the U.S. home goods market will accelerate significantly from 2013 to 2023, driving outsized growth in the online home goods market. Assuming a $297 billion U.S. market for home goods in 2023 and online penetration of 15%, we believe the online market for home goods would be approximately $45 billion in 2023.

Mass Market for Home Goods is Large and Underserved: The home goods market can be split into three segments: the lower-end, mass and higher-end markets. We believe the mass market for home goods represents the largest addressable opportunity within the home goods sector and that the mass market consumer is underserved due to structural limitations of brick and mortar and other online retailers. These limitations include limited product selection due to high inventory carrying costs and restricted showroom and warehouse space. While there are home goods retailers that serve the mass consumer in various capacities, there are many challenges to providing a one-stop shop for the consumer to easily browse, discover and purchase a large

selection of mass market home goods at affordable prices. For example, the lighting market and the paper towel market in the United States are each $7 billion annually according to The Freedonia Group, Inc., Euromonitor and Fisher International, Inc.; however, we believe that while the paper towel market has a limited number of unique products (less than a hundred), we believe the lighting market has a vast number of products (hundreds of thousands).

Women Control an Outsized Share of Spending within the Household: In 2013, women represented 70% of our customers. According to a report released by the U.S. Census Bureau in 2013, there are 158 million women in the United States, of which 63 million are between the ages of 35 and 65. We believe these women control an outsized share of spending, particularly spending related to furniture, home furnishings, décor and goods.

Beneficial Effects of the Millennial Generation Aging and Maturing into the Home Category: We believe there are approximately 73 million millennials (which we define as individuals currently between the ages of 18 to 31) in the United States, many of whom are accustomed to purchasing goods online. According to a survey by Jeffries Group and AlixPartners, as cited by eMarketer, Inc., a market research firm, 29% of millennials buy essential goods online as compared to 12% of baby boomers (which we define as individuals currently between the ages of 48 to 66). As millennials age, start new families and move into new homes, we expect online sales of home goods to increase. In addition, we believe the online home goods market will further grow as older generations of consumers become increasingly comfortable purchasing online.

Mobile Commerce is Growing Rapidly and Only Just Beginning in Home Goods: The proliferation of smartphones and tablets has made mobile commerce one of the fastest growing online channels. Since consumers have access to their mobile devices virtually anytime and anywhere, they have the opportunity to browse, discover and shop throughout the day. According to eMarketer U.S. retail mobile e-commerce from smartphones is projected to grow from $15 billion in 2013 to $35 billion in 2018, and mobile e-commerce from tablets is expected to grow from $26 billion in 2013 to $96 billion in 2018, representing 18.5% and 29.9% CAGRs, respectively. Additionally, from 2013 to 2018, mobile e-commerce as a percentage of overall e-commerce is projected to increase from 15% to 30%.

Why Home is Different

Home is Shopped Differently than Other Retail Verticals: Homes are very personal expressions of self and identity, which is why many consumers seek uniqueness, crave originality and enjoy the feeling created by home design, furniture and décor. As a result, many consumers desire inspiration and attractive visual merchandising when searching for the perfect item. Consumers shopping for home goods often cannot articulate what they are looking for other than to describe a feeling or visual image that they want to capture in their home. For example:

- ***Emotion:*** "I'd love my home to look and feel like this..."
- ***Inspiration:*** "I'm always browsing for my home, and asking my friend for ideas..."
- ***Discovery:*** "It's hard to describe what I'm looking for... I'll know it when I see it."

In addition, while consumers typically know the names of big box and specialty retailers that offer various home products, they rarely know the names of the product brands or suppliers. We believe traditional search-based sites that rely on directed product search (e.g. "running sneakers") or brand name search (e.g. "Samsung 32-inch LCD television") have difficulty serving customers shopping for home products in this more emotional, visual and inspiration manner.

Home Shoppers Desire Uniqueness, which Requires Vast Selection: In the mass market for home goods, consumers with different tastes, styles, purchasing goals and budgets require a broad selection of products and choices. This need for selection applies across many home

categories, including furniture, décor, lighting, kitchen, bed & bath, outdoor, home improvement and baby & kids, each of which has dozens of sub-categories with hundreds to tens of thousands of products. Brick and mortar home goods retailers must balance a consumer's desire for uniqueness, which requires massive selection, with the challenges of high inventory carrying costs and limited showroom and storage space. These challenges often result in low inventory turns. Furniture Today, an industry trade publication, estimated that in 2013 U.S. furniture retailers turned their inventory a median of only 4.4 times per year. We believe traditional online retailers of home goods face similar challenges meeting a home shopper's desire for uniqueness due to high inventory carrying costs and limited storage space.

Time Consuming and Inconvenient for Consumers to Shop across Brick and Mortar Home Retailers: To browse a vast selection of products across highly-fragmented brick and mortar retailers, consumers must shop multiple stores. For example, if a furniture retailer has 20 bedroom sets on its showroom floor, a consumer may feel she must visit multiple stores to see a wide enough selection to make an informed purchase decision that satisfies her style and budget needs. Often this effort requires a consumer to spend an entire day or weekend shopping for a specific item. Product selection at brick and mortar retailers is limited, may not be relevant to a given consumer who lives nearby and may be out of stock. We believe the lack of an easy-to-browse, one-stop shopping experience with massive selection has led to dissatisfaction with brick and mortar home goods shopping. In contrast, Wayfair.com offers over 900 bedroom sets across many styles and prices, which mitigates the need for a consumer to visit multiple stores to find the perfect item at a price she can afford.

Difficult to Browse, Value Shop and Price Compare: Mass market home goods shoppers frequently seek a wide variety of information from disparate online and offline sources to research home goods products. Because this information is not easily comparable, it is more difficult for consumers to make informed home décor and design-related decisions. In addition, consumers may struggle to mix and match different home goods items they are considering buying from multiple traditional brick and mortar retailers. For example, retailers carrying dining room tables and chairs may not also carry lighting.

Challenging Logistics for Consumers and Retailers: Logistics, fulfillment and customer service for home goods products are challenging given the various categories, shapes, sizes, weights and price points in the home market. Large bulky items, such as living room sofas, dining room tables and bed frames, are particularly challenging and costly to warehouse, ship and deliver. Many consumers seek first-rate customer service so they are not burdened with managing delivery, shipping and return logistics on their own. However, we believe big box retailers that serve the mass market for home goods are often unable or unwilling to provide this level of customer service. In addition, many regional retailers do not ship nationally, which we believe is because they lack the required scalable technology, operations and distribution infrastructure.

Our Solution

Key Benefits for Our Customers

We offer our consumers vast selection, easy access and value, inspirational content, personalized and mobile shopping experiences and superior customer service to help them find the perfect item at a price they can afford.

Broad Selection and Choice: We offer one of the largest online selections of furniture, home furnishings, décor and goods with over seven million products from over 7,000 suppliers. Our customers shop across different use cases, ranging from practical everyday purchases to inspired and spontaneous shopping. To address the different tastes, styles, purchasing goals and budgets

of our target consumers, we offer five distinct brands tailored to meet their specific needs: Wayfair.com, Joss & Main, AllModern, DwellStudio and Birch Lane.

Easy Access and Value: We offer consumers a one-stop shop with home goods pricing designed to be on par with big box retailers and a merchandising experience designed to be on par with specialty retailers. With easy online access to millions of affordable home products across over a thousand sub-categories, we believe consumers no longer need to shop across multiple online and offline retailers to find what they want at affordable price points.

Inspirational Photography and Editorial Content: To inspire customers, we produce beautiful imagery and highly-tailored editorial content both in house and through third parties. We often present and merchandise our home products around an idea, creative content or contextual imagery to drive customer inspiration and sales. We also have relationships with media outlets such as HGTV that allow us to create integrated media campaigns for our brands.

Personalized and Mobile Shopping Experiences: Our purpose-built technology platform, which is fully integrated across all of our sites, including our mobile applications, is designed to provide consumers with a compelling user experience as they browse, discover and purchase our products. We use personalization, based on past browsing and shopping patterns and personal preferences, as well as inspirational imagery, to create a more engaging consumer experience. Our investment in mobile allows us to deliver value, convenience and inspiration to our customers who are browsing and shopping anytime and anywhere, often during spare minutes throughout the day. Our custom-built platform is designed to provide us with detailed and real-time insight into our suppliers' inventory in order to ensure our customers are browsing current information and rarely experience stock-outs.

Superior Customer Service: Our customer service organization has over 440 representatives based in Ogden, UT, Boston, MA, Galway, Ireland and Sydney, Australia. Our representatives are available 7 days a week by phone, email and live chat. By helping consumers navigate our sites, answering their questions and helping to complete their orders, this team helps us build trust with consumers, build our brand awareness, enhance our reputation and drive sales. We are regularly highly ranked by StellaService, a third-party provider of customer service ratings for online retailers.

We grew our active customers from 1.3 million in 2012 to 2.1 million in 2013, representing an increase of 61.0%. We grew our active customers from 1.5 million to 2.6 million in the six months ended June 30, 2013 and 2014, respectively, representing an increase of 75.0%. We delivered 1.8 million orders in 2012 and 3.3 million orders in 2013, representing an increase of 85.2%. We delivered 1.3 million orders and 2.2 million orders in the six months ended June 30, 2013 and 2014, respectively, representing an increase of 76.6%. Of our orders delivered, orders from repeat customers grew from 37.4% to 47.2% from 2012 to 2013 and from 47.7% to 51.2% from the six months ended June 30, 2013 to the six months ended June 30, 2014. Through a mix of increased purchase frequency and average order value, we grew our net revenue per active customer from $300 in 2012 to $322 in 2013 and from $313 to $332 in the six months ended June 30, 2013 and 2014, respectively, representing an increase of 7.3% and 6.1%, respectively. See "Management's Discussion and Analysis of Financial Condition and Results of Operation — Key Financial and Operating Metrics" on page 55 for further detail.

Key Benefits for Our Suppliers

Through our technology platform, we offer our suppliers a cost-effective channel, the ability to leverage our technological expertise, a real-time view of our demand and proven logistics capabilities to help sell their products.

Cost-Effective Access to Our Large Customer Base: We sell products from over 7,000 suppliers, many of which are small, family-run operations without well-known product brands

and without easy retail access to a large customer base. We buy products from our suppliers to sell to our large customer base of 2.6 million active customers. This enables suppliers to increase their sales and access the growing e-commerce market.

Ability to Leverage Our Technological Expertise to Drive Sales: Over the past decade, we have purpose-built our technology platform for selling home goods to consumers. Our technology platform is designed to allow suppliers to easily provide us with their full product selection. We offer this vast selection to acquire more customers and drive greater sales. Through our technology platform, we believe many of our suppliers have increased their sales, which has strengthened their loyalty to us. Of the suppliers whose products we sold in 2008, we are still doing business with 72% of them today, and the sales we have generated from their products have increased by 88% from 2008 to 2013.

Real-Time View of Our Demand and Inventory Needs via Data and Analytics: We offer our suppliers a real-time view of our demand and inventory needs via powerful data and analytics. This proprietary information is designed to allow our suppliers to optimize their manufacturing and merchandising strategies to better match supply and demand on our sites, enabling them to turn their inventory faster. We believe our suppliers are better able to anticipate demand than those suppliers whose products are only placed on retailers' showroom floors or warehouses until they are sold.

Proven Logistics Capabilities: Our logistics infrastructure allows us to ship directly from our suppliers to our customers. This supplier direct fulfillment network is a key component of our custom-built and seamlessly integrated technology and operational platform, which also includes extensive supplier integrations, a proprietary transportation delivery network and superior customer service. Once a product is purchased on one of our sites, we notify our supplier and the supplier packages the item for us to ship directly from their facilities to our customer. We offer fast and reliable delivery to our customers via our proprietary transportation delivery network for certain large parcels or FedEx, UPS, the U.S. Postal Service and other carriers for smaller parcels, and we leverage our scale to reduce shipping costs. We also offer a full suite of supplier management tools designed to make it easier for our suppliers to do business with us, including a convenient way to provide us with information about the millions of products that we sell — such as description, classification and attribution tools, dynamic wholesale pricing tools and end-to-end customer order monitoring and exception management tools — via our supplier extranet.

Our technology allows us to work with suppliers of all sizes, types and levels of sophistication. We grew our supplier base from 5,190 in 2011 to 7,052 in 2013.

Our Strengths

We offer one of the largest online selections of furniture, home furnishings, décor and goods among with over seven million products from over 7,000 suppliers. Through our e-commerce business model, we are transforming the way people shop for their homes by offering visually inspiring browsing, compelling merchandising, easy product discovery and attractive prices. We believe we have achieved this due to our following key strengths:

Our Large Scale Drives Powerful Network Effects: Our large scale and breadth and depth of product selection has attracted a large and growing customer base. The larger our customer base, the greater and more compelling the opportunity for our suppliers; and, the larger our supplier base and product catalog, the more selection there is for our customers, creating powerful network effects. These network effects are further enhanced by our data and analytics capabilities. With each transaction, we learn more about our customers through data analysis which helps us to acquire customers more economically and personalize their shopping experiences, driving repeat purchases. For our suppliers, our data and analytics capabilities are designed to improve inventory

management and logistics. These network effects are fundamental to our business and allow us to grow and to continue investing in advertising, merchandising, product selection, technology and our operations.

Superior Logistics Infrastructure and Supplier Direct Fulfillment Network Require Minimal Inventory and Capital Expenditures: Because we typically ship products directly from our suppliers to our customers, we offer our customers millions of home goods while holding minimal inventory. Through our supplier direct fulfillment network, Direct Retail orders delivered in 2013 were 3.3 million, which generated $673.4 million of net revenue with only $11.4 million in inventory on average in 2013. Direct Retail orders delivered in the six months ended June 30, 2014 were 2.2 million, which generated $469.5 million of net revenue with only $17.4 million in inventory on average in the six months ended June 30, 2014. Our extensive supplier integrations, management tools and processes are designed to allow us to onboard and manage suppliers of any size, type and sophistication level. As a result, we can work with thousands of suppliers to provide a vast selection of home goods for our customers, while buying and holding only select inventory. Additionally, we have required relatively modest capital expenditures to support our operations. In 2013, our property and equipment expenditures were $6.7 million, and our site and software development costs were $9.0 million, an aggregate of only 1.7% of net revenue. In the six months ended June 30, 2014, our property and equipment expenditures were $20.6 million, and our site and software development costs were $6.1 million, an aggregate of only 4.7% of net revenue. Our capital efficiency has allowed us the flexibility to further invest in growing our business.

Trusted Brand with Rapidly Growing Awareness: We offer five distinct brands tailored for customers with different tastes, styles, purchasing goals and budgets. Since the launch of Wayfair.com and our rebranding efforts in 2011, our aided brand awareness has increased to 45% in June 2014, according to Hanover Research. As part of our rebranding efforts, we also focused on driving inspirational buying, including via recently-launched features such as "Ideas & Advice" buying guides, "Shop the Look" rooms by designers and "Editor's Picks," designed to allow consumers to explore different home décor ideas and discover their unique styles. As we grow, our brands are increasingly becoming a significant point of differentiation with both our customers and suppliers.

Personalized Shopping Experiences and Differentiated Use of Data, Analytics and Technology Drive High Customer Repeat Rates: We built our large information database to analyze our sources of visitor traffic and consumers' browsing and shopping patterns across our sites. We apply rigorous analytics to this data in order to generate personalized and relevant shopping experiences for each of our customers in order to improve their shopping experience. We believe this personalization allows us to offer a vast selection of home products without overwhelming individual customers with endless options or less relevant product offerings. Our powerful search is designed to ensure ease-of-use and convenience for our customers, and our sophisticated pricing algorithms are designed to deliver pricing that is competitive with real-time prices in the market. Orders delivered from repeat customers increased from 37.4% in 2012 to 47.2% in 2013 and from 47.7% to 51.2% from the six months ended June 30, 2013 to the six months ended June 30, 2014.

Powerful and Custom-Built Technology Platform: Our co-founders are lifetime tech innovators and have created a company culture deeply rooted in technology. We employ over 300 engineers and data scientists who continue to optimize our technology platform. Our success has been built on a culture of data-driven decision making, operational discipline and an unwavering focus on customer service. Our technology and data focus also facilitates critical e-commerce capabilities such as tailored shopping experiences via multiple brands, customer targeting and personalization, as well as "anytime, anywhere" mobile shopping across our sites. We also provide suppliers with data, analytics and technology to help them grow their sales to us. Our extensive supplier integrations, management tools and processes, which we built specifically for the unique complexities in the home goods market, allow us to onboard and manage suppliers of any size, type and sophistication level, which, we believe, provides a significant competitive advantage.

Well-Positioned to Benefit from Platform Shift to Mobile: Mobile is an increasingly important part of our business, especially for Joss & Main. Our Joss & Main consumers are able to browse our daily flash sales events whenever they have a few minutes of spare time throughout the day, regardless of their location. We launched our mobile applications for Joss & Main in 2012 and Wayfair.com in 2014. In the first six months of 2014, 43.5% of Joss & Main orders delivered and 27.9% of all Direct Retail orders delivered were placed from a mobile device, up from 35.8% and 21.3%, respectively, in the first six months of 2013.

We expect the number of orders delivered that are placed from a mobile device to grow with the launch of our Wayfair.com mobile application and our AllModern, Wayfair.co.uk and Wayfair.com.au mobile-optimized sites in 2014. We have invested in mobile technology to optimize the shopping experience across our sites for use on the majority of mobile devices. We believe that our ability to anticipate and react to significant platform shifts by our consumer audience will continue to drive growth in our business.

Proven and Operationally Disciplined Management Team: Our company was founded in 2002 and bootstrapped by our co-founders from 2002 until June 2011, when we raised our first outside capital for use in our business. Between 2003 and 2011, we grew our net revenue from $7.7 million to $517.3 million, representing a 69.2% CAGR. Over more than a decade, our founder-led management team has developed deep and broad experience in the home goods market and across all facets of e-commerce, including marketing, merchandising, technology and operations. Our success has been built on a culture of data-driven decision making, operational discipline and an unwavering focus on customer service.

Our Growth Strategy

Our goal is to further improve our leadership in the home goods market by pursuing the following key strategies:

Continue Building Leading Retail Home Brands: We currently offer five distinct brands — Wayfair.com, Joss & Main, AllModern, DwellStudio and Birch Lane. We plan to continue expanding our existing brand portfolio and may opportunistically launch new brands. When launching new brands, we expect to leverage our experiences, insights, customer data, merchandising expertise, technology and operational platform and supplier base to create desired brands for our customers with minimal upfront capital.

Acquire More Customers: We believe there is significant opportunity to further grow our customer base. As of June 30, 2014, we had 2.6 million active customers. We plan to grow our

customer base by attracting more unique visitors to our sites through two main strategies and then converting those visitors to active customers:

- *Increase Brand Awareness* . We intend to continue investing in our brand awareness strategy. In connection with our rebranding efforts that began in 2011, we launched a brand marketing campaign focused on TV and online advertising for Wayfair.com. We launched national TV campaigns for Wayfair.com in September 2012 and for Joss & Main in October 2013. We have achieved 45% aided brand awareness in June 2014, according to Hanover Research. Our online efforts are focused on building brand awareness to drive visitor traffic via direct navigation, search engine optimization and email marketing campaigns.

- *Expand Direct Online Marketing* . We plan to continue to expand our direct online marketing efforts through paid campaigns including display advertising, search engine marketing, comparison shopping engines, affiliate networks and social advertising.

Continue to Invest in the Consumer Experience: We have made significant investments to improve the consumer experience on our sites, such as creating highly engaging visual imagery and merchandising, as well as easy-to-use navigation tools and personalization features that enable better product discovery. For example, we recently launched features such as "Ideas & Advice" buying guides, "Shop the Look" rooms by designers and "Editor's Picks." We plan to continue to develop features to enhance the consumer experience on our sites.

Increase Repeat Purchasing through Merchandising, Data, Analytics and Technology: Our continued investments in merchandising, data, analytics and technology allow us to deliver increasingly tailored and personalized shopping experiences for consumers across our sites. For example, by analyzing the past browsing and purchasing history of consumers that visit our sites, we are able to show them a tailored selection of products when they visit Wayfair.com or JossandMain.com. We believe our focus on a personalized shopping experience drives sales from new customers as well as repeat customers. In 2013, our Direct Retail sales consisted of over 3.3 million orders delivered for 2.1 million customers, representing 85.2% and 61.0% year-over-year growth, respectively. In 2013, 47.2% of orders delivered were placed by repeat customers, up from 37.4% in 2012, and net revenue per active customer was $322, up 7.3% over 2012.

Add New Suppliers and Deepen Relationships with our Existing Suppliers: We continue to seek new suppliers with compelling products to add to our selection of home goods. We leverage our significant scale and the structural advantages in our business model to build, maintain and deepen long-term relationships with our suppliers. Our platform creates a large scale marketing, technology and distribution advantage to help our suppliers efficiently and cost-effectively drive sales. Our supplier management tools — including wholesale price management, self-service product addition and fulfillment performance monitoring — are designed to allow our suppliers to sell more of, and have greater visibility into our sales of, their products on our sites.

Continue to Invest in Our Technology and Operational Platform, Including Our Mobile Platform: We intend to continue to enhance the systems our consumers use to interact with our sites in order to facilitate better product discovery and to provide customer inspiration and idea generation tools through personalized interactions and high-speed, reliable site performance. We also plan to continue investing in our infrastructure, including enhancing our merchandising, data, analytics and technology platform, as well as developing additional logistics and transportation solutions, self-service tools for our suppliers, fulfillment offerings and enhancing our development, testing and deployment systems. Finally, we plan to continue to launch additional mobile capabilities. Following the successful launch of our Joss & Main mobile application in 2012, in 2014

we launched the Wayfair.com mobile application and the AllModern, Wayfair.co.uk and Wayfair.com.au mobile-optimized sites.

Expand Internationally: Until late 2012, we were primarily focused on growing our U.S. business. We currently deliver products to customers in a number of countries, including the United States, the United Kingdom, Canada, Australia, Germany, Austria, Ireland and New Zealand. We are investing in our international business by building our international infrastructure, developing deeper country-specific knowledge, building international supplier networks and establishing our brand presence in select international regions. We intend to expand in these countries, especially Joss & Main, which we launched in the United Kingdom in 2014. In 2013, we generated net revenue outside of North America of $41.5 million, or 4.5% of our total net revenue.

Opportunistically Pursue Strategic Acquisitions: Since our inception, we have made two acquisitions, the remainder of the stake of our Australian joint venture in 2011 and DwellStudio in 2013. We may continue to expand our business through opportunistic acquisitions that allow us to enhance our customer offering, build our multi-brand portfolio, enter new geographies or enhance our operational infrastructure.

Our Customers

Our typical customer is a 35 to 65 year old woman with an annual household income of $60,000 to $175,000, who we consider to be a mass market consumer and who we believe is underserved by traditional brick and mortar and other online retailers of home goods. Historically, she has had three primary ways to shop for home goods: (1) affordable mass market alternatives such as big box retailers, (2) higher-end, more curated alternatives such as specialty retailers and (3) regional home décor and furniture retailers. Mass market retailers may be cost-effective but typically do not have aspirational and inspirational merchandising. They also tend to have limited product selection in home goods. Higher-end specialty retailers tend to be more inspirational with beautifully curated merchandise, but the home products they offer often exceed the mass consumer's budget. Regional home décor and furniture retailers often have a regionally inspired selection that is limited and typically not beautifully merchandised. Consumers often must visit multiple stores to make an informed purchase decision, requiring a larger time commitment. We believe none of these alternatives fully serves the mass consumer's home goods needs, which is why we built Wayfair. We have created an e-commerce model that offers vast selection, visually inspiring browsing, compelling merchandising, easy product discovery and attractive prices.

We have a significant opportunity to serve additional mass market consumers shopping for their homes. According to a report released by the U.S. Census Bureau in 2013, there are 63 million women in the United States between the ages of 35 and 65. In 2013, 2.1 million active customers made Direct Retail purchases from us.

We also believe the aging of the millennial generation provides a growing population of target customers. According to a survey by Jeffries Group and AlixPartners as cited by eMarketer, a market research firm, 29% of millennials buy essential goods online as compared to 12% of baby boomers. As millennials age, start new families, and move into homes, we expect this generation to represent an increasing percentage of our customer base.

Our Brands and Websites

Each of our customers has a different taste, style, purchasing goal and budget when shopping for her home. To help her find the right products for her home, we offer five distinct brands: Wayfair.com, Joss & Main, AllModern, DwellStudio and Birch Lane. Each brand has a unique identity that offers a tailored shopping experience and rich product selection to a different target audience.

Wayfair.com: Wayfair.com is our flagship mass market brand that focuses on offering the largest selection of home furnishings and décor, from low- to high-end and across all styles. Customers browse our vast selection and can discover and purchase products in one convenient and affordable place online. Paired with curated daily sales events and inspirational content, we believe Wayfair.com meets a broad range of consumers' home shopping needs.

Joss & Main: Joss & Main is our online flash sales site that combines inspiring home design with significant savings. Joss & Main is designed to bring a compelling editorialized shopping experience to our loyal customer base every day. We believe Joss & Main provides a stylish lifestyle within reach for our customers.

Unlike our other brands, Joss & Main operates exclusively as a flash sales site, which means we launch various online sale events daily featuring images of styled rooms created to provide the consumer with design inspiration. We typically notify our customers of these daily sale events via "push" notifications to their desktop and mobile devices. These events are available for a limited time, and often have limited inventory, which we believe creates a sense of urgency and excitement for customers.

AllModern: AllModern is an online destination for original design for modern home enthusiasts. From beloved icons to emerging brands, AllModern offers a comprehensive online collection of modern design at a range of price points. The AllModern shopping experience combines product discovery and modern design principles. AllModern also offers daily sale events for certain products.

DwellStudio: DwellStudio is an online design studio for modern, fashion-forward home furnishings. The collection — including furniture, bedding, home accessories and a line of baby and children's furniture — features sophisticated style and high quality. Founded by Christiane Lemieux in 2000, the studio's philosophy is to design pieces with classic elements for a modern setting.

Birch Lane: Birch Lane is a new destination for classic style and timeless home designs. We believe Birch Lane's traditionally-styled furniture and décor collections, shoppable online or through a print catalog, inspire customers to bring home the looks they love at affordable prices.

In addition to our five brands, we also generate net revenue through two other sources:

Retail Partners: A portion of our net revenue is generated online by retail partners. These relationships allow consumers to purchase Wayfair products through the retail partners' sites. Our retail partners enable us to reach a broader consumer base, help us build our brand and drive incremental net revenue.

Wayfair Media Solutions: Wayfair helps selected manufacturers, retailers and other advertisers market to our large consumer audience. For example, regional and national furniture stores often advertise with us to geo-target local consumers. National stores and consumer brands across industries can display advertisements on our sites, as well as engage our consumer audience with integrated marketing campaigns, sponsored stories or buying guides.

Our Operations

Category Management: Our category management team is responsible for deepening our relationships with existing suppliers as well as sourcing new suppliers so that we continue broadening our product selection for consumers. Our largest product categories include furniture, décor, lighting, kitchen, bed & bath, outdoor, home improvement and baby & kids. Within each of these product categories, there are also numerous product sub-categories. Our category managers work with suppliers to negotiate discounts and promotions on an ongoing basis. Category managers and buyers also seek to identify and fill any gaps in our product selection. In 2013, we added over 800 new suppliers.

Categories	Shopable Categories		
Furniture:	Bedroom Kitchen & Dining Living Room	Bathroom Office Baby & Kids	Entry & Hall
Décor:	Home Accents Mirrors Wall Décor	Window Treatments Lamps Rugs	Pillows & Throws Accent Furniture
Lighting:	Ceiling Lights Lamps Wall lights	Outdoor Lighting Track Lighting Ceiling Fans	Bulbs, Shades & Components
Ktichen:	Cookware Small Appliances Tableware	Kitchen Tools & Accessories Bakeware Kitchen Appliances	Kitchen Storage & Organization
Bed & Bath:	Bedding Bedding Basics	Bathroom Accessories Bathroom & Laundry Storage	Bath Linens Bathroom Fixtures
Outdoor:	Patio Furniture Lawn & Garden	Outdoor Cooking Outdoor Heating & Lighting	Outdoor Décor Outdoor Recreation
Home Improvement:	Bathroom Fixtures Ktichen Fixtures Flooring	Appliances Heating & Cooling Power Equipment	Storage & Organizations
Baby & Kids:	Nursery Furniture Kids Bedroom Furniture Playroom	Baby Gear Baby & Kids Bedding Baby & Kids Décor	Toys
Other:	Pets Travel & Bags Exercise & Fitness	Home Health & Mobility Housekeeping Office Supplies & Equipment	Sports Fan Shop

48,005 Pillows*
28,815 Table Lamps*

* Numbers represent individual products, not including option variations within a product (e.g., finish, color).

Supplier Management: Our supplier management team seeks to optimize the performance of the suppliers in our network. We have built extensive supplier integrations, management tools and processes that allow us to efficiently onboard and manage suppliers of any size, type and sophistication level. Our supplier management tools include wholesale price management, self-service product addition and fulfillment performance monitoring.

Site Merchandising: Our site merchandising team manages the presentation of products across all our sites, as well as the customer shopping experience. Our enhanced product imagery,

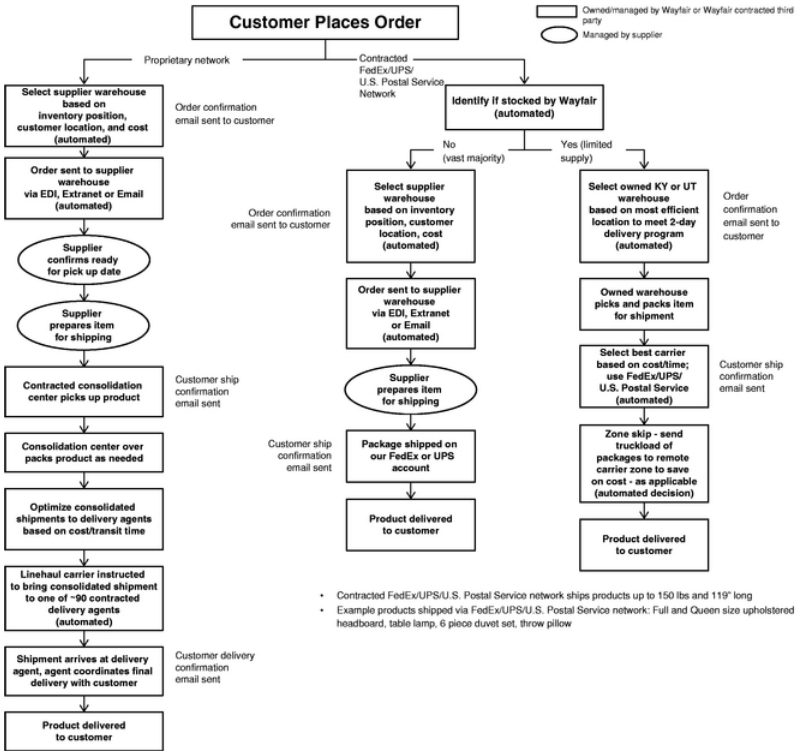
presentation standards specific to and appropriate for individual product categories and detailed and intuitive site navigation are designed to provide a relevant, seamless shopping experience across our catalog. The merchandising team seeks to continually enhance the customer experience by providing regularly updated, detailed information for each of the products we sell to offer the customer a data rich shopping experience.

Inspiration, Editorial Content and Photography: We seek to provide our consumers with a visually appealing and inspiring online shopping experience. While we increasingly style and photograph more of our product displays at our in-house studios, we also utilize third party studios. As part of our rebranding efforts in 2011, we launched editorial features such as "Ideas & Advice" buying guides, "Shop the Look" rooms by designers and "Editor's Picks," which are designed to allow consumers to explore different home décor ideas and discover their unique styles. We also manage blogger contributed content and work with media partners such as Coastal Living, Country Living, This Old House, Sunset and HGTV to bring their content to our site. We believe our editorial content and visual imagery provide an engaging and inspiring experience for consumers.

Pricing Strategy: Our pricing team approaches pricing scientifically and algorithmically, by applying data and analytics to optimize our pricing on a real-time basis. Our goal is to maintain competitive pricing that delivers good value to our customers. Therefore, we dynamically price and re-price our products across all of our sites on a regular basis. We believe our technological skills and capabilities enable us to understand our competitors' pricing and dynamically adjust to offer competitive prices on any given day. Because we focus only on the home, we also focus on attributes that are uncommon to most categories but relevant for the home market. For instance, in the home market, customers frequently pick products based upon pricing relative to the immediately available alternative options. In addition, we believe the fact that we are an online home goods retailer that takes minimal inventory gives us greater pricing flexibility relative to brick and mortar home goods retailers who purchase and hold inventory.

Fulfillment and Logistics: Our logistics infrastructure allows us to ship directly from our suppliers to our customers. This supplier direct fulfillment network is a key component of our custom-built and seamlessly integrated technology and operational platform, which also includes extensive supplier integrations, a proprietary transportation delivery network and superior customer service. Once a product is purchased on one of our sites, we notify the appropriate supplier, and that supplier packages the item for us to ship directly from its facility to our customer. We offer fast and reliable delivery to our customers via our proprietary transportation delivery network for certain large parcels or FedEx, UPS, the U.S. Postal Service and other carriers for smaller parcels and we leverage our scale to reduce shipping costs. In the first six months of 2014, we shipped orders within North America out on an average of 2.4 days, different handling requirements and complexities for large and small parcel items. We have scaled our business from 1.8 million orders delivered in 2012 to 3.3 million orders delivered in 2013.

Order Fulfillment and Logistics Flow



Customer Service. Our customer service organization has over 440 customer service representatives based in Ogden, UT, Boston, MA, Galway, Ireland and Sydney, Australia. Our representatives are available seven days a week by phone, email and live chat. By helping consumers navigate our sites, answering their questions and completing their orders, this team helps us build trust with consumers, build our brand awareness, enhance our reputation and drive sales. We are regularly highly ranked by StellaService, a third-party provider of customer service ratings for online retailers.

Our Technology

We are a technology company first and foremost. Technology is infused in everything we do, not just the consumer facing sites. Over the past 12 years, we have custom-built our proprietary technology and operational platform to deliver the best experience for both our customers and suppliers. Our success has been built on a culture of data-driven decision-making, operational

discipline and an unwavering focus on the customer. We employ over 300 engineers and data scientists and believe we are able to attract and retain some of the best technological minds. Our engineering department is organized into four operating groups (storefront, operations, infrastructure and corporate IT) that have built a full set of technology solutions specific for the home goods market.

Storefront: We offer a large set of tools and systems with which our customers directly interact, which we refer to as our storefront system. Our storefront team develops an experience specifically tuned for shopping the home goods category. The major areas this group works on are:

- Product Discovery and Site Search
- Merchandising Systems
- Content Publishing Systems
- Multi-Device Delivery (e.g. mobile)
- User Generated Content (e.g. reviews)
- Online Flash Sales Systems
- Checkout Systems
- Customer Account Self-Service Tools

Operations: A majority of the software we have written is designed to deliver the reliable and consistent experience consumers desire, but is not consumer facing. Our engineering operations group is responsible for these areas, including:

- Email Marketing Platform
- Data Science and Clickstream Analysis
- Product Catalog Management Systems
- Product Pricing Systems
- Partner Automation
- Product Feed Tools that enable marketing on third party sites
- Marketing Program Support and Automation
- Fulfillment Center Management Systems
- Transportation Selection Algorithms
- Domestic and International Logistics Automation
- Fulfillment Services
- Supplier Self-Service Systems (our supplier extranet platform)
- Order Processing Algorithms
- Payment Processing Systems
- Supplier Management Systems
- Financial Systems
- Global Inventory Visibility

Infrastructure: We have developed a variety of tools and systems that enable us to move quickly and efficiently as we scale our organization. Our infrastructure group supports a variety of proprietary, purchased as well as open source systems. Many of our systems run in multiple data centers. Our infrastructure group is primarily focused on the tools, processes, systems and platforms that provide the technical infrastructure that drives our business, including:

- Deployment Infrastructure
- Server, Storage, Communication and Datacenter Infrastructure
- Monitoring and Alerting
- Issue Identification, Tracking and Resolution
- Human Resource Systems
- Project Management Systems
- Project Tracker System (our internal collaboration tool)
- SQL Databases
- No-SQL Data Storage and Retrieval Systems
- Big Data Analytics and Reporting Platforms
- Performance Improvement
- Security
- Testing and Quality Assurance
- Source Code Control and Revision Management

Corporate IT: In addition to developing a large amount of software that is specific to our business, we run systems common across multiple industries. Our Corporate IT group is primarily focused on these parts of our business, including:

- Internal Messaging Infrastructure
- File Sharing and Collaboration Systems
- Internal Knowledge Bases
- Electronic Data Interchange and External Data Exchange Systems
- Employee Support and Help Desk Services
- Call Center Systems and Corporate Phone Systems
- Customer Communication Systems

Our Competition

The market for online home goods and furniture is highly competitive, fragmented and rapidly changing. While we are primarily focused on the mass market, we compete across all segments of the home goods market. Our competition includes furniture stores, big box retailers, department stores, specialty retailers and online home goods retailers and marketplaces:

- ***Furniture Stores:*** Ashley Furniture, Bob's Discount Furniture, Havertys, Raymour & Flanigan and Rooms To Go;
- ***Big Box Retailers:*** Bed Bath & Beyond, Home Depot, IKEA, Lowe's, Target and Walmart;

- ***Department Stores:*** JCPenney and Macy's;
- ***Specialty Retailers:*** Crate and Barrel, Ethan Allen, HomeGoods, Pottery Barn and Restoration Hardware; and
- ***Online Home Goods Retailers and Marketplaces:*** Amazon, eBay and One Kings Lane.

We believe that the primary competitive factors in the mass market are vast selection, visually inspiring browsing, compelling merchandising, ease of product discovery, price, convenience, reliability, speed of fulfillment and customer service. We believe our technological and operational expertise allows us to provide our customers with a vast selection of goods, attractive price points, reliable and timely fulfillment, plus superior customer service, and that the combination of these capabilities is what provides us with a sustainable competitive advantage.

Sales and Marketing

Our sales and marketing efforts bring new and repeat customers to our sites and help us acquire their email addresses through various paid and non-paid advertising methods. Our paid advertising efforts include search engine marketing, display advertising, paid social media, catalog and television advertisements. Our non-paid advertising efforts include search engine optimization, non-paid social media, mobile "push" notifications and email. Upon acquiring a customer or a potential customer's email address, we seek to increase their engagement with our sites and drive repeat purchases. This effort to increase engagement and repeat purchasing is primarily accomplished via unpaid mobile "push" notifications and email marketing efforts.

We rigorously manage our paid marketing efforts, to ensure that each new spending initiative is cost-effective with a measurable return on investment within a short period of time. This disciplined approach of required investment payback periods ensures that we only pursue sales and marketing strategies with the best return profiles.

Our Culture

We believe a critical component of our success has been our corporate culture that influences the way we incorporate technology solutions, the way we serve our customers, our daily focus on execution and a constant desire to innovate further. We have nurtured this culture to ensure we are providing our customers with a "zillion" options while providing a transparent transaction process for all parties involved. We believe our culture and focus has fostered accountability by nurturing the type of "go to" employees that are never done improving Wayfair for our customers and suppliers. To help new employees orient to our culture we call out five specific values:

1. ***We Love a "Zillion" Options.*** Delivering options across styles and price points for our customers is what we do. With more styles and more choice, there is more chance of finding the perfect item for your home.

2. ***We Use Our Brains.*** We trust and empower our employees to build solutions and systems for complex problems. We reward brains with more responsibility and experience.

3. ***We Like Transparency.*** We gather and share information openly and transparently because it enables us to figure things out, build relationships and make shopping easier.

4. ***We're Never Done.*** We're passionate about continually making things better and faster through open minds and teamwork, measuring results, then adjusting. Some call it a learning mindset, some call it flexibility. We call it another day at the office.

5. ***We Are "Go-To" People.*** We are a company full of "go-to" people who help each other, our customers and our communities by being active, accountable and accessible.

Facilities

Our corporate headquarters are in Boston, MA, where we currently occupy approximately 133,000 square feet of office space pursuant to a lease that expires in June 2024. In 2015, we will expand our headquarters to occupy approximately 142,000 additional square feet of office space. Prior to the expansion of our headquarters in 2015, we will also occupy additional office space in two locations near our headquarters. We also lease approximately 795,000 square feet of fulfillment center space in Hebron, KY and Ogden, UT. We lease additional office space in Ogden, UT, Orem, UT and New York, NY, a photography studio in Framingham, MA and retail space in New York, NY for DwellStudio.

Our European headquarters are located in Galway, Ireland, where we currently lease approximately 6,200 square feet of office space. We also lease additional office space in Sydney, Australia, London, England and Berlin, Germany for our international operations.

We believe that our facilities are sufficient to meet our current needs. We intend to add new facilities or to expand our existing facilities as we add employees and expand our operations. We believe that additional space that is suitable for our needs will be available as needed to accommodate any such expansion of our operations.

Employees

As of July 31, 2014, we had 2,090 full-time equivalent employees. Additionally, we rely on independent contractors and temporary personnel to supplement our workforce, primarily in our fulfillment centers. None of our employees is represented by a labor union or covered by a collective bargaining agreement. We consider our relationship with our employees to be good.

Legal Matters

From time to time we may be involved in claims that arise during the ordinary course of business. Although the results of litigation and claims cannot be predicted with certainty, we do not currently have any pending litigation to which we are a party or to which our property is subject that we believe to be material. Regardless of the outcome, litigation can be costly and time consuming, as it can divert management's attention from important business matters and initiatives, negatively impacting our overall operations. In addition, we may also find ourselves at greater risk to outside party claims as we increase our operations in jurisdictions where the laws with respect to the potential liability of online retailers are uncertain, unfavorable, or unclear.

Intellectual Property

Our intellectual property, including any trademarks, copyrights, domain names, patents, trade dress, trade secrets and proprietary technologies, is an important part of our business. To protect our intellectual property, we rely on a combination of laws and regulations, as well as contractual restrictions.

We pursue the registration of our trademarks, including "Wayfair" and certain variations thereon, copyrights and domain names in the United States and certain foreign locations. As of August 1, 2014, we had 70 trademark registrations and 28 trademark applications pending. In addition, we had 84 copyright registrations, primarily covering the content we create for our sites, including our proprietary designs. We also rely on the protection of laws regarding unregistered copyrights for our proprietary software and certain other content we create. We will continue to evaluate the merits applying for copyright registrations in the future. We have registered numerous domain names, including "Wayfair.com," "AllModern.com" and "JossandMain.com."

We have an issued patent regarding our proprietary technology and we are evaluating additional patent applications. We expect to consider filing patent applications for future technology inventions. We also rely on trade secret laws to protect our proprietary technology and other intellectual property.

To further protect our intellectual property, we enter into confidentiality and assignment of invention assignment agreements with employees and certain contractors and confidentiality agreements with other third parties, such as suppliers.

Government Regulation

Our business is subject to foreign and domestic laws and regulations applicable to companies conducting business on the Internet. Jurisdictions vary as to how, or whether, existing laws governing areas such as personal privacy and data security, consumer protection or sales and other taxes, among other areas, apply to the Internet and e-commerce, and these laws are continually evolving. For example, certain applicable privacy laws and regulations require us to provide customers with our policies on sharing information with third parties, and advance notice of any changes to these policies. Related laws may govern the manner in which we store or transfer sensitive information, or impose obligations on us in the event of a security breach or inadvertent disclosure of such information. International jurisdictions impose different, and sometimes more stringent, consumer and privacy protections. Additionally, tax regulations in jurisdictions where we do not currently collect state or local taxes may subject us to the obligation to collect and remit such taxes, or to additional taxes, or to requirements intended to assist jurisdictions with their tax collection efforts. New legislation or regulation, the application of laws from jurisdictions whose laws do not currently apply to our business, or the application of existing laws and regulations to the Internet and e-commerce generally could result in significant additional taxes on our business. Further, we could be subject to fines or other payments for any past failures to comply with these requirements. The continued growth and demand for e-commerce is likely to result in more laws and regulations that impose additional compliance burdens on e-commerce companies.

MANAGEMENT

Executive Officers and Directors

The following table sets forth the name, age and position of each of our executive officers and directors as of August 1, 2014.

Name	Age	Position(s)
Niraj Shah	40	Co-Founder, Chief Executive Officer, Director (Co-Chairman)
Steven Conine	41	Co-Founder, Chief Technology Officer, Director (Co-Chairman)
Michael Fleisher	49	Chief Financial Officer
Edmond Macri	42	Senior Vice President, Marketing and Analytics
Nicholas Malone	49	Chief Administrative Officer
John Mulliken	42	Senior Vice President, Strategic Initiatives
Steve Oblak	41	Senior Vice President, General Manager, Wayfair.com
James Savarese	48	Chief Operating Officer
Neeraj Agrawal(1)	41	Director
Julie Bradley(1)(3)	45	Director
Alex Finkelstein(2)	38	Director
Michael Kumin(2)(3)	42	Director
Ian Lane(1)	37	Director
Romero Rodrigues	36	Director

(1) Member of our audit committee.

(2) Member of our compensation committee.

(3) Member of our nominating and corporate governance committee.

Niraj Shah is our co-founder and has served as our Chief Executive Officer and a director since 2002. Prior to founding Wayfair, Mr. Shah served as Chief Executive Officer for Simplify Mobile Corporation, an enterprise software company he co-founded in 2001, and Entrepreneur-in-Residence at Greylock Partners, a venture capital firm, in 2001. Mr. Shah served in various roles at iXL Enterprises, Inc., including as Chief Operating Officer and a director, from 1998 to 2000, and as Chief Executive Officer of Spinners Incorporated, an IT consulting company he co-founded, from 1995 to 1998. Mr. Shah received a B.S. from Cornell University. We believe Mr. Shah is qualified to serve on our board of directors due to the leadership and operational experience he brings as our Chief Executive Officer, as well as the vision and continuity he brings as our co-founder.

Steven Conine is our co-founder and has served as our Chief Technology Officer and a director since 2002. Prior to founding Wayfair, Mr. Conine served as Chief Technology officer for Simplify Mobile Corporation, an enterprise software company he co-founded in 2001, Chief Operating Officer for the London office of iXL Enterprises, Inc. from 1999 to 2000, and Chief Technology Officer of Spinners Incorporated, an IT consulting company he co-founded, from 1995 to 1998. Mr. Conine received a B.S. from Cornell University. We believe Mr. Conine is qualified to serve on our board of directors due to the technological and operational experience he brings as our Chief Technology Officer, as well as the vision and continuity he brings as our co-founder.

Michael Fleisher has served as our Chief Financial Officer since October 2013. Prior to joining Wayfair, Mr. Fleisher served at Warner Music Group as the Vice Chairman, Strategy and Operations

from 2008 to 2011 and also served as Executive Vice President and Chief Financial Officer from 2005 to 2008. Mr. Fleisher's responsibilities for Warner Music Group included overseeing its global corporate strategy and operations. He was previously the Chief Executive Officer of Gartner, Inc. from 1999 to 2005 and its Chairman from 2001 to 2005. Mr. Fleisher serves on the board of directors of Vistage International. Mr. Fleisher received a B.S. from the University of Pennsylvania's Wharton School of Business.

Edmond Macri has served as our Senior Vice President, Marketing and Analytics since March 2013 and previously served as our Vice President, Marketing and Business Intelligence from March 2009 to March 2013 and our Director, Business Intelligence from March 2007 to March 2009. Prior to joining Wayfair, Mr. Macri served as Product Marketing Manager at Emptoris, Inc. from 2005 to 2007, Marketing Manager at DigitasLBi from 2001 to 2005 and as a Software Product Manager and Programmer and Analyst at Bain & Company from 1994 to 1999. Mr. Macri received a B.A. from Dartmouth College and an M.B.A from the Massachusetts Institute of Technology's Sloan School of Management.

Nicholas Malone has served as our Chief Administrative Officer since October 2013 and previously served as our Chief Financial Officer from August 2005 to October 2013. Prior to joining Wayfair, Mr. Malone served as Director of Finance for Siemens Information Systems Ltd. from 2003 to 2005, Vice President of Finance for Mercator Software, Inc. from 2001 to 2003 and Vice President of Finance and Assistant Treasurer for Enhance Financial Services Group (now known as Radian Group Inc.) from 1993 to 1998. He received a B.S.B.A. from American University's Kogod School of Business and an M.B.A from Fordham University.

John Mulliken has served as our Senior Vice President, Strategic Initiatives since July 2013 and previously as our Vice President, Strategic Initiatives from February 2010 to June 2013. Mr. Mulliken launched Joss & Main, our online flash sales site, and Birch Lane, our newest brand. Prior to joining Wayfair, he served at Boston Consulting Group as a Principal, Project Leader and Consultant from 2004 to 2010. Mr. Mulliken's responsibilities for Boston Consulting Group included leading the multi-channel retail group and serving on the leadership team of the Global Center for Consumer Insight. Mr. Mulliken received a B.A. from Reed College and an M.B.A. from the London Business School.

Stephen Oblak has served as our Senior Vice President, General Manager of Wayfair.com since March 2014 and previously as our Vice President, Category Management from July 2011 to March 2014 and as our Director, Category Management from October 2009 to July 2011. Prior to joining Wayfair, Mr. Oblak served as Vice President of River West Brands, a brand acquisition and enterprise development company focused on acquiring and re-commercializing dormant consumer brands, from 2007 to 2009. Mr. Oblak's responsibilities for River West Brands included conducting strategic due diligence on brand investment opportunities in the beverage, personal care and entertainment categories. He previously served as Senior Director of the Strategy Consulting Group of FutureBrand Worldwide from 2003 to 2007, as a consultant to Peppers & Rogers Group from 2002 to 2003 and as a Senior Manager of the International Financial Services practice of the Corporate Executive Board from 1995 to 1999. He received a B.A. from Hamilton College and an M.B.A. from Northwestern University's Kellogg School of Management.

James Savarese has served as our Chief Operating Officer since February 2014 and previously as our Senior Vice President, Operations from September 2008 to February 2014. Prior to joining Wayfair, Mr. Savarese served as a founding member and Senior Vice President, Products & Services of ArrowStream, Inc. from 2001 to 2008, as a Global Client Partner at iXL Enterprises, Inc. from 1999 to 2001 and as a Senior Manager at Deloitte Consulting from 1993 to 1999. He received a B.A. from Dartmouth College and an M.B.A. from the University of Chicago's Booth School of Business.

Neeraj Agrawal has served as a member of our board of directors since June 2011. Since 2007, Mr. Agrawal has served as a General Partner of Battery Ventures, a venture capital firm that he joined in 2000. He previously served as Operations Director for Sky TV Latin America, a News Corp. subsidiary, from 1996 to 1998. Mr. Agrawal serves on the board of directors of Bazaarvoice, Inc., Marketo, Inc. and several private companies. He received a B.S. from Cornell University and an M.B.A. from Harvard Business School. We believe Mr. Agrawal is qualified to serve on our board of directors due to his experience in the e-commerce industry as a venture capitalist and his service on the board of directors of other technology companies.

Julie Bradley has served as a member of our board of directors since September 2012. Ms. Bradley has served as the Chief Financial Officer of TripAdvisor, Inc., an online travel planning site, since October 2011. She previously served as the Chief Financial Officer of Art Technology Group, Inc., an e-commerce software company, from 2005 to 2011, the Vice President of Finance for Akamai Technologies, Inc. from 2000 to 2005 and an accountant at Deloitte & Touche LLP from 1993 to 2000. Ms. Bradley served on the board of directors of ExactTarget, Inc. from September 2012 to July 2013. Ms. Bradley received a B.A. from Wheaton College. We believe Ms. Bradley is qualified to serve on our board of directors due to her financial expertise and her experience in corporate development.

Alex Finkelstein has served as a member of our board of directors since June 2011. Mr. Finkelstein has served as a General Partner at Spark Capital, a venture capital firm, since 2009, and joined the firm at its inception in 2005 as a Principal. He previously served as a Principal at Seed Capital Partners from 2003 to 2005 and as an associate at GrandBanks Capital, a venture capital firm, from 2000 to 2003. Mr. Finkelstein serves on the board of directors of a number of private companies. Mr. Finkelstein received a B.A. from Middlebury College. We believe Mr. Finkelstein is qualified to serve on our board of directors due to his experience in the e-commerce industry as a venture capitalist and his service on the board of directors of other technology companies.

Michael Kumin has served as a member of our board of directors since June 2011. Mr. Kumin has worked as an investment professional at Great Hill Partners, a private equity investment firm, since 2002 where he currently serves as a Managing Partner. Mr. Kumin also currently serves on the board of directors of Vitacost.com, Inc. and a number of private companies. He also served on the board of directors of Spark Networks, Inc. from June 2006 to December 2013. Mr. Kumin received a B.A. from Princeton University's Woodrow Wilson School of Public & International Affairs. We believe Mr. Kumin is qualified to serve on our board of directors due to his experience in the e-commerce industry as a private equity investor and his service on the board of directors of other technology companies.

Ian Lane has served as a member of our board of directors since June 2011. Mr. Lane has worked as an investment professional at HarbourVest Partners, LLC, a private equity investment firm, since 2003, where he currently serves as a Principal. He previously served as an analyst in the mergers and acquisitions group of J.P. Morgan Securities, Inc. Mr. Lane serves on the board of directors of a number of private companies. Mr. Lane received a B.S. from the University of Florida, a M.S. from the University of Florida and an M.B.A. from Harvard Business School. We believe Mr. Lane is qualified to serve on our board of directors due to his experience in the e-commerce industry as a venture capitalist and his service on the board of directors of other technology companies.

Romero Rodrigues has served as a member of our board of directors since July 2014. Mr. Rodrigues has served as Global CEO Comparison Shopping at Naspers Limited since September 2009. He previously served as Chief Executive Officer of BuscaPé Company, a comparison shopping e-commerce company which he co-founded in 1998, until it was acquired by

Naspers Limited in September 2009. Mr. Rodrigues currently serves on the board of directors Endeavor Global, Brazil. Mr. Rodrigues has a B.S. from the University of São Paulo. We believe Mr. Rodrigues is qualified to serve on our board of directors due to his experience in the e-commerce industry as a founder and executive.

Composition of the Board of Directors

Our board of directors currently consists of eight members. The members of our board of directors were elected in compliance with the provisions of our LLC Agreement and our second amended and restated voting agreement, dated as of March 5, 2014, with certain of our stockholders, or Voting Agreement. Upon the Corporate Reorganization, in the case of our LLC Agreement, and upon the closing of this offering in the case of our Voting Agreement, our LLC Agreement and our Voting Agreement will terminate and there will be no further contractual obligations regarding the election of our directors. Our directors hold office until their successors have been elected and qualified or until the earlier of their resignation or removal. After this offering, our co-founders will own more than 50% of our outstanding common stock, and as such, we qualify as a controlled company under the NYSE rules. We do not intend to rely on the controlled company exemptions that would otherwise allow us to elect not to comply with certain corporate governance requirements.

Our restated certificate of incorporation that will become effective upon the closing of this offering provides that the authorized number of directors may be changed only by resolution of the board of directors. Our restated certificate of incorporation and amended and restated bylaws that will become effective upon the closing of this offering also provide that our directors may be removed only for cause by the affirmative vote of the holders of at least 66 $^{2}/_{3}$% of the votes that all of our stockholders would be entitled to cast in an annual election of directors. Upon the expiration of the term of a director, that director will be eligible to be elected for a new one-year term at the annual meeting of stockholders in the year in which their term expires. An election of our directors by our stockholders will be determined by a plurality of the votes cast by the stockholders entitled to vote on the election.

Role of Board in Risk Oversight Process

Risk assessment and oversight are an integral part of our governance and management processes. Our board of directors encourages management to promote a culture that incorporates risk management into our corporate strategy and day-to-day business operations. Management discusses strategic and operational risks at regular management meetings, and conducts specific strategic planning and review sessions during the year that include a focused discussion and analysis of the risks facing us. Throughout the year, senior management reviews these risks with the board of directors at regular board meetings as part of management presentations that focus on particular business functions, operations or strategies, and presents the steps taken by management to mitigate or eliminate such risks. Our board of directors does not have a standing risk management committee, but rather administers this oversight function directly through our board of directors as a whole, as well as through various standing committees of our board of directors that address risks inherent in their respective areas of oversight. In particular, our board of directors is responsible for monitoring and assessing strategic risk exposure. Following completion of this offering, our audit committee will be responsible for overseeing our major financial risk exposures and the steps our management has taken to monitor and control these exposures. The audit committee will also monitor compliance with legal and regulatory requirements. Following completion of this offering, our compensation committee will assess and monitor whether any of our compensation policies and programs has the potential to encourage excessive risk-taking. In addition, following completion of this offering, our nominating and governance committee will

monitor the effectiveness of our corporate governance guidelines and consider and approve or disapprove any related party transactions.

Leadership Structure of the Board

Our board of directors is currently co-chaired by Niraj Shah, our Chief Executive Officer, and Steven Conine, our Chief Technology Officer. Prior to the closing of this offering, we expect our board will establish the position of lead independent director and will elect Mr. Kumin our lead independent director effective upon the completion of this offering. Our amended and restated bylaws and corporate governance guidelines, in each case effective upon the closing of this offering, will provide our board of directors with flexibility to combine or separate the positions of chairman of the board and Chief Executive Officer and/or utilize a lead director in accordance with its determination that one or the other structure would be in the best interests of our company. Our board of directors has concluded that our proposed leadership structure following the closing of this offering is appropriate at this time. However, our board of directors will continue to periodically review our leadership structure and may make such changes in the future as it deems appropriate.

Director Independence

Our board of directors has determined that all of our directors, other than Messrs. Shah and Conine, qualify as "independent" directors in accordance with the listing requirements of the NYSE. Each of Messrs. Shah and Conine is not considered independent because he is an employee of the company.

Board Committees

Our board has established three standing committees — audit, compensation, and nominating and corporate governance — each of which, upon the closing of this offering, will operate under a charter that has been approved by our board and that will satisfy the applicable standards of the Securities and Exchange Commission, or the SEC, and NYSE. Following the consummation of this offering, copies of each committee's charter will be posted on the Corporate Governance section of our website, Wayfair.com. Information included on or accessible through our website is not incorporated by reference herein.

Audit Committee

Our audit committee oversees our corporate accounting and financial reporting process. Among other matters, the audit committee:

- appoints and determines the compensation and retention of our independent registered public accounting firm;
- evaluates the independent registered public accounting firm's qualifications, independence and performance;
- determines the engagement of the independent registered public accounting firm;
- reviews and approves the scope of the annual audit and the audit fee;
- discusses with management and the independent registered public accounting firm the results of the annual audit and the review of our quarterly financial statements;
- approves the retention of the independent registered public accounting firm to perform any proposed permissible non-audit services;

- monitors the rotation of partners of the independent registered public accounting firm on our engagement team as required by law;
- reviews our financial statements and our management's discussion and analysis of financial condition and results of operations to be included in our annual and quarterly reports to be filed with the SEC;
- reviews our critical accounting policies and estimates;
- is responsible for investigating any reports received by the company's ethics helpline; and
- reviews, at least annually, the audit committee charter and the committee's performance.

The members of our audit committee are Messrs. Agrawal and Lane and Ms. Bradley. Our board of directors has determined that each of Messrs. Agrawal and Lane and Ms. Bradley is an independent director under NYSE rules and under Rule 10A-3 under the Securities Exchange Act of 1934, as amended, or the Exchange Act. All members of our audit committee meet the requirements for financial literacy under the applicable rules and regulations of the SEC and the NYSE. Our board of directors has determined that Ms. Bradley is an "audit committee financial expert" as defined by applicable SEC rules and has the requisite financial sophistication as defined under the applicable NYSE rules and regulations.

Compensation Committee

The compensation committee's responsibilities include:

- reviewing and recommending policies relating to compensation and benefits of our officers and employees;
- reviewing and recommending corporate goals and objectives relevant to compensation of our Chief Executive Officer and other executive officers and evaluating the performance of these officers in light of those goals and objectives;
- recommending to our board of directors the compensation of our Chief Executive Officer and other executive officers based on the compensation committee's evaluation;
- recommending to our board of directors the issuance of stock options and other awards under our stock plans;
- appointing, compensating and overseeing the work of any compensation consultant or other advisor retained by the committee;
- preparing the Compensation Committee report on executive officer compensation as required by the SEC to be included in our annual proxy statement or annual report on Form 10-K and, to the extent we are required to include a Compensation Discussion and Analysis, or CD&A, in our annual proxy statement or annual report on Form 10-K, review and discuss CD&A with our management and consider whether to recommend to our board of directors that CD&A be included in the appropriate filing; and
- reviewing and evaluating, at least annually, the performance of the compensation committee and its members, including compliance by the compensation committee with its charter.

The members of our compensation committee are Messrs. Finkelstein and Kumin. Each of these individuals is independent under the applicable rules and regulations of the NYSE, is a "non-employee director" as defined in Rule 16b-3 under the Exchange Act and is an "outside director" as that term is defined in Section 162(m) of the U.S. Internal Revenue Code of 1986, as amended.

Nominating and Corporate Governance Committee

The nominating and corporate governance committee's responsibilities include:

- identifying individuals qualified to become board members;
- recommending to our board the persons to be nominated for election as directors and to each of our board's committees;
- reviewing and making recommendations to our board with respect to management succession planning;
- developing and recommending to our board a set of corporate governance guidelines and principles; and
- overseeing the evaluation of our board and its various committees.

The members of our nominating and corporate governance committee are Ms. Bradley and Mr. Kumin. Each of these individuals is an independent director under the applicable rules and regulations of the NYSE relating to nominating and corporate governance committee independence.

Compensation Committee Interlocks and Insider Participation

The members of our compensation committee are Messrs. Finkelstein and Kumin. Neither of these individuals is a current or former officer or employee of Wayfair LLC or had any related party transaction involving Wayfair LLC.

Code of Ethics and Code of Conduct

Prior to completion of this offering, our Board will adopt a written code of business conduct and ethics that applies to our directors, officers and employees, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. Prior to completion of this offering, we will post a copy of the code on the Corporate Governance section of our website, Wayfair.com. In addition, we intend to post on the Corporate Governance section of our website all disclosures that are required by law or the NYSE listing standards concerning any amendments to, or waivers from, any provision of the code. Information included on or accessible through our website is not incorporated by reference herein.

EXECUTIVE COMPENSATION

This section "Executive Compensation," intended to comply with the reduced disclosure requirements provided under the JOBS Act, provides an overview of the 2013 executive compensation program offered to our three named executive officers identified below. For 2013, our named executive officers, or NEOs, were:

- Niraj Shah, Co-Chairman and Chief Executive Officer;
- Steven Conine, Co-Chairman and Chief Technology Officer; and
- Michael Fleisher, Chief Financial Officer.

Summary Compensation Table

The following summarizes the total compensation awarded to, earned by or paid to our NEOs for their service to us in 2013:

Name and Principal Position	Year	Salary ($)	Bonus ($)	Stock Awards ($)(3)	All Other Compensation ($)	Total ($)
Niraj Shah *Co-Chairman and Chief Executive Officer*	2013	480,000	—	3,130,500	11,000(5)	3,621,500
Steven Conine *Co-Chairman and Chief Technology Officer*	2013	480,000	—	3,130,500	11,000(5)	3,621,500
Michael Fleisher(1) *Chief Financial Officer*	2013	69,271	10,938(2)	11,854,160(4)	20,491(6)	11,954,860

(1) Amounts shown for Mr. Fleisher reflect amounts paid for services provided by him in 2013 beginning on October 21, 2013, his hire date.

(2) Represents the discretionary cash bonus paid to Mr. Fleisher under our annual cash incentive plan for 2013.

(3) Represent the fair value on the grant date of restricted stock units granted on November 12, 2013, without regard to forfeitures, calculated in accordance with ASC Topic 718. The valuation assumptions used in calculating the grant date fair value of these restricted stock units are set forth in "Management's Discussion and Analysis of Financial Condition and Results of Operations — Critical Accounting Policies — Stock-Based Compensation."

(4) Represents an award granted to Mr. Fleisher upon commencing employment as our Chief Financial Officer.

(5) Represent employer contributions under our 401(k) plan during 2013.

(6) Represents certain expenses related to housing and travel to company headquarters, including tax gross-ups.

Narrative Disclosure to Summary Compensation Table

The primary elements of compensation for our NEOs are base salary, cash bonuses and long-term equity-based compensation awards. The NEOs also participate in employee benefit plans and programs that we offer to our other full-time employees.

Base Salary: The base salary payable to each NEO is intended to provide a fixed component of compensation reflecting the executive's skill set, experience, role and responsibilities. Base salaries for our NEOs have generally been set at levels deemed necessary to attract and retain individuals with superior talent. In 2013, base salary for each of Messrs. Shah and Conine was $480,000. For 2014, each base salary was reduced to $80,000 at the request of Messrs. Shah and Conine.

Cash Bonuses: Mr. Fleisher is eligible to participate in a discretionary annual cash incentive program, which provides him with an opportunity to earn a cash bonus award that ranges from 0-25% of his base salary. As a result of Mr. Fleisher's performance in 2013 with respect to the finance department generally and his leadership in connection with the preparation for this offering, Mr. Fleisher was awarded a bonus equal to $10,938, which amount represented 20% of his pro-rated base salary. Messrs. Shah and Conine did not participate in the bonus plan in 2013. No changes to the bonus plan are anticipated in connection with this offering.

Long-Term Equity-Based Compensation Awards: Prior to this offering, we maintained the Wayfair LLC Second Amended and Restated 2010 Incentive Plan, or the 2010 Plan, under which we made periodic grants of equity and equity-based awards to our NEOs and other key employees. In connection with this offering, we plan to adopt the 2014 Incentive Award Plan, or 2014 Plan, and no future grants will be made under the 2010 Plan. For additional information, please read the section titled "— 2014 Incentive Award Plan" below.

In 2013, our NEOs received an award of restricted stock units granted under our 2010 Plan as set forth in the table below. Mr. Fleisher received his award in connection with his commencement of employment with us in 2013.

Name	Total Number of Restricted Stock Units
Niraj Shah	150,000
Steven Conine	150,000
Michael Fleisher	568,000

The restricted stock unit awards vest upon the satisfaction of a service condition and an event condition. The service condition will be satisfied as to 20% of the shares underlying the restricted stock units upon completion of one year of service measured from the vesting commencement date, subject to continued service through such date. Thereafter, but prior to satisfaction of the event condition, an additional 1/60th of the total number of shares underlying the restricted stock units will vest in monthly installments, subject to continued service through each such vesting date. After satisfaction of the event condition, an additional 1/60th of the total number of shares underlying the restricted stock units will vest in monthly installments, subject to continued service through each such vesting date. The event condition will be satisfied on the earlier of (i) the time immediately prior to the consummation of a change in control and (ii) the closing of this offering.

For more information on the vesting provisions of the restricted stock units upon certain terminations or a change in control, please see the section titled "— Severance and Change in Control Provisions" below.

Outstanding Equity Awards as of December 31, 2013

The outstanding equity awards held by our NEOs as of December 31, 2013 were as follows:

		Stock Awards(1)	
Name	Grant Date	Number of Stock or Units of Stock That Have Not Vested	Market Value of Stock or Units of Stock That Have Not Vested
Niraj Shah	11/12/2013	150,000	3,130,500
Steven Conine	11/12/2013	150,000	3,130,500
Michael Fleisher	11/12/2013	568,000	11,854,160

(1) The awards vest in monthly installments beginning on the one year anniversary of the grant date. However, full vesting is subject to the occurrence of a change in control or the closing of an initial public offering prior to the seventh anniversary of the grant date.

Severance and Change in Control Provisions

Employment Agreements

Messrs. Shah and Conine: We entered into amended and restated employment letter agreements with Messrs. Shah and Conine on May 6, 2014, which entitled each of Messrs. Shah and Conine to receive an annual base salary, subject to periodic increases (but not decreases) at the discretion of the board of directors. In 2013, base salary for each of Messrs. Shah and Conine was $480,000. For 2014, each base salary was reduced to $80,000 at the request of Messrs. Shah and Conine. The letter agreements also entitle them to participate in the employee benefit plans and programs that we offer to our other full-time employees. Messrs. Shah's and Conine's employment letter agreements contain restrictive covenants which prohibit them from competing with us or soliciting our employees, consultants or suppliers for twenty-four months following termination of employment. Pursuant to Messrs. Shah's and Conine's employment letter agreements, if we terminate their employment without cause (as defined in the employment letter agreements) or if they resign for good reason (as defined in the employment letter agreements) they will receive healthcare benefit continuation until the earlier of (i) the last day of the applicable COBRA period and (ii) twenty-four months following termination. In addition, pursuant to the terms of their restricted stock unit award grants, in the event Messrs. Shah or Conine is terminated for any reason other than for cause within twelve months following a change in control, 50% of their unvested restricted stock units will vest.

Mr. Fleisher: We entered into an employment letter agreement with Mr. Fleisher on October 2, 2013, which was amended on May 5, 2014 and which entitles him to an initial annual base salary of $350,000, subject to periodic review and adjustment. The employment letter agreement also provides Mr. Fleisher with an equity award under the 2010 Plan (which award is reflected in the "Stock Awards" column of the Summary Compensation Table above), an annual bonus between 0-20% of his annual salary under our annual cash incentive program and the opportunity to participate in the employee benefit plans and programs that we offer to our other full-time employees. For 2014, the annual bonus Mr. Fleisher is eligible to receive under our annual cash incentive program ranges between 0-25% of his annual salary. Mr. Fleisher's employment letter agreement also contains a provision requiring him to sign the company's non-compete,

non-solicitation, non-disclosure and invention agreement designed for all employees, which agreement generally provides that he will not disclose confidential information of the company nor solicit any employee, contractor, customer or supplier of the company. In 2014, we memorialized Mr. Fleisher's right to receive reimbursement for his commuting-related expenses, which includes a gross-up for applicable taxes.

Pursuant to Mr. Fleisher's employment letter agreement, if his employment is terminated for any reason other than for cause (as defined in his employment letter agreement) within twelve months of his hiring date of October 21, 2013, he is entitled to receive severance pay equal to six months of his base salary. In addition, in the event Mr. Fleisher is terminated for any reason other than for cause within twelve months following a change in control (as defined in his employment letter agreement), 100% of Mr. Fleisher's unvested units will vest.

Restricted Stock Unit Vesting

In the event any of the NEOs are terminated prior to the occurrence of a change in control or the closing of an initial public offering, all those restricted stock units whose vesting remained contingent solely on the occurrence of a change in control or the closing of an initial public offering will vest upon such change in control or initial public offering occurring prior to the fifth or seventh anniversary of the restricted stock units' grant date, as applicable. The restricted stock units are described in more detail above in the section titled "— Long-Term Equity-Based Compensation Awards."

Executive Compensation Plans

The following summarizes the material terms of the long-term incentive compensation plan in which our NEOs will be eligible to participate following the consummation of this offering and the 2010 Plan under which we have previously made periodic grants of equity and equity-based awards to our NEOs and other key employees.

2014 Incentive Award Plan

In connection with this offering, we intend to adopt the 2014 Plan, subject to approval by our stockholders, under which we may grant cash and equity incentive awards to eligible service providers in order to attract, motivate and retain the talent for which we compete. The material terms of the 2014 Plan, as it is currently contemplated, are summarized below. Our board of directors is still in the process of developing, approving and implementing the 2014 Plan and, accordingly, this summary is subject to change.

Eligibility and Administration: Our employees, consultants and directors, and employees, consultants and directors of our subsidiaries will be eligible to receive awards under the 2014 Plan. Following our initial public offering, the 2014 Plan will be administered by our board of directors with respect to awards to non-employee directors and by our compensation committee with respect to other participants, each of which may delegate its duties and responsibilities to committees of our directors and/or officers (referred to collectively as the plan administrator below), subject to certain limitations that may be imposed under Section 16 of the Securities Exchange Act of 1934, as amended, or the Exchange Act, and/or stock exchange rules, as applicable. The plan administrator will have the authority to make all determinations and interpretations under, prescribe all forms for use with, and adopt rules for the administration of, the 2014 Plan, subject to its express terms and conditions. The plan administrator will also set the terms and conditions of all awards under the 2014 Plan, including any vesting and vesting acceleration conditions.

Limitation on Awards and Shares Available: An aggregate of shares of our Class A common stock will initially be available for issuance under awards granted pursuant to the 2014

Plan. The number of shares initially available for issuance will be increased by (i) the number of shares of Class B common stock represented by awards outstanding under our 2010 Plan that are forfeited, lapse unexercised and which following the effective date of the 2014 Plan are not issued under the 2010 Plan and (ii) an annual increase on January 1 of each calendar year beginning in 2015 and ending in 2024, equal to the lesser of (A) shares of Class A common stock, (B) percent of the shares of common stock outstanding (on an as converted basis) on the final day of the immediately preceding calendar year and (C) such smaller number of shares as determined by our board of directors. No more than shares of common stock may be issued upon the exercise of incentive stock options. Shares issued under the 2014 Plan may be authorized but unissued shares, or shares purchased in the open market.

If an award under the 2014 Plan is forfeited, expires or is settled for cash, any shares subject to such award may, to the extent of such forfeiture, expiration or cash settlement, be used again for new grants under the 2014 Plan. Awards granted under the 2014 Plan upon the assumption of, or in substitution for, awards authorized or outstanding under a qualifying equity plan maintained by an entity with which we enter into a merger or similar corporate transaction will not reduce the shares available for grant under the 2014 Plan. The maximum number of shares of our common stock that may be subject to one or more awards granted to any non-employee director for services as a director pursuant to the 2014 Plan during any calendar year will be , provided that that a non-employee director may be granted awards under the 2014 Plan for services as a director for any one year in excess of such amount if the total awards granted to the director under the 2014 Plan for services as a director in the year do not have a grant date fair value, as determined in accordance with ASC Topic 718 (or any successor thereto) in excess of $.

Awards: The 2014 Plan provides for the grant of stock options, including incentive stock options, or ISOs, and nonqualified stock options, or NSOs, restricted stock, dividend equivalents, stock payments, restricted stock units, or RSUs, performance shares, other incentive awards, stock appreciation rights, or SARs, and cash awards. No determination has been made as to the types or amounts of awards that will be granted to specific individuals pursuant to the 2014 Plan. Certain awards under the 2014 Plan may constitute or provide for a deferral of compensation, subject to Section 409A of the Internal Revenue Code, which may impose additional requirements on the terms and conditions of such awards. All awards under the 2014 Plan will be set forth in award agreements, which will detail the terms and conditions of the awards, including any applicable vesting and payment terms and post-termination exercise limitations. Awards other than cash awards generally will be settled in shares of our common stock, but the plan administrator may provide for cash settlement of any award. A brief description of each award type follows.

- *Stock Options.* Stock options provide for the purchase of shares of our common stock in the future at an exercise price set on the grant date. ISOs, by contrast to NSOs, may provide tax deferral beyond exercise and favorable capital gains tax treatment to their holders if certain holding period and other requirements of the Internal Revenue Code are satisfied. The exercise price of a stock option may not be less than 100% of the fair market value of the underlying share on the date of grant (or 110% in the case of ISOs granted to certain significant stockholders), except with respect to certain substitute options granted in connection with a corporate transaction. The term of a stock option may not be longer than ten years (or five years in the case of ISOs granted to certain significant stockholders). Vesting conditions determined by the plan administrator may apply to stock options and may include continued service, performance and/or other conditions.

- *SARs.* SARs entitle their holder, upon exercise, to receive from us an amount equal to the appreciation of the shares subject to the award between the grant date and the exercise date. The exercise price of a SAR will generally not be less than 100% of the fair market value of the underlying share on the date of grant (except with respect to certain substitute

SARs granted in connection with a corporate transaction) and the term of a SAR may not be longer than ten years. Vesting conditions determined by the plan administrator may apply to SARs and may include continued service, performance and/or other conditions.

- *Restricted Stock, RSUs and Performance Shares.* Restricted stock is an award of nontransferable shares of our common stock that remain forfeitable unless and until specified conditions are met, and which may be subject to a purchase price. RSUs are contractual promises to deliver shares of our common stock in the future, which may also remain forfeitable unless and until specified conditions are met. Delivery of the shares underlying RSUs may be deferred under the terms of the award or at the election of the participant, if the plan administrator permits such a deferral. Performance shares are contractual rights to receive a range of shares of our common stock in the future based on the attainment of specified performance goals, in addition to other conditions which may apply to these awards. Conditions applicable to restricted stock, RSUs and performance shares may be based on continuing service, the attainment of performance goals and/or such other conditions as the plan administrator may determine.

- *Stock Payments, Other Incentive Awards and Cash Awards.* Stock payments are awards of fully vested shares of our common stock that may, but need not, be made in lieu of base salary, bonus, fees or other cash compensation otherwise payable to any individual who is eligible to receive awards. Other incentive awards are awards other than those enumerated in this summary that are denominated in, linked to or derived from shares of our common stock or value metrics related to our shares, and may remain forfeitable unless and until specified conditions are met. Cash awards are cash incentive bonuses subject to performance goals.

- *Dividend Equivalents.* Dividend equivalents represent the right to receive the equivalent value of dividends paid on shares of our common stock and may be granted alone or in tandem with awards. Dividend equivalents are credited as of dividend record dates during the period between the date an award is granted and the date such award vests, is exercised, is distributed or expires, as determined by the plan administrator.

Performance Awards: Performance awards include any of the foregoing awards that are granted subject to vesting and/or payment based on the attainment of specified performance goals or other criteria the plan administrator may determine, which may or may not be objectively determinable. Performance criteria upon which performance goals are established by the plan administrator may include but are not limited to: (i) net earnings (either before or after one or more of (A) interest, (B) taxes, (C) depreciation and (D) amortization); (ii) gross or net sales or revenue; (iii) net income (either before or after taxes); (iv) adjusted net income; (v) operating earnings or profit; (vi) cash flow (including, but not limited to, operating cash flow and free cash flow); (vii) return on assets; (viii) return on capital; (ix) return on stockholders' equity; (x) total stockholder return; (xi) return on sales; (xii) gross or net profit or operating margin; (xiii) costs; (xiv) expenses; (xv) working capital; (xvi) earnings per share; (xvii) adjusted earnings per share; (xviii) price per share; (xix) regulatory body approval for commercialization of a product; (xx) implementation, completion or attainment of objectives relating to research, development, regulatory, commercial, or strategic milestones or developments; (xxi) market share; (xxii) economic value; (xxiii) revenue and (xxiv) revenue growth.

Certain Transactions: The plan administrator has broad discretion to take action under the 2014 Plan, as well as make adjustments to the terms and conditions of existing and future awards, to prevent the dilution or enlargement of intended benefits and facilitate necessary or desirable changes in the event of certain transactions and events affecting our common stock, such as stock dividends, stock splits, mergers, acquisitions, consolidations and other corporate transactions. In

addition, in the event of certain non-reciprocal transactions with our stockholders known as "equity restructurings," the plan administrator will make equitable adjustments to the 2014 Plan and outstanding awards. In the event of a change in control of our company (as defined in the 2014 Plan), to the extent that the surviving entity declines to continue, convert, assume or replace outstanding awards, then all such awards may become fully vested and exercisable in connection with the transaction. Upon or in anticipation of a change of control, the plan administrator may cause any outstanding awards to terminate at a specified time in the future and give the participant the right to exercise such awards during a period of time determined by the plan administrator in its sole discretion. Individual award agreements may provide for additional accelerated vesting and payment provisions.

Foreign Participants, Claw-Back Provisions, Transferability, and Participant Payments: The plan administrator may modify award terms, establish subplans and/or adjust other terms and conditions of awards, subject to the share limits described above. All awards will be subject to the provisions of any claw-back policy implemented by our company to the extent set forth in such claw-back policy and/or in the applicable award agreement. With limited exceptions for estate planning, domestic relations orders, certain beneficiary designations and the laws of descent and distribution, awards under the 2014 Plan are generally non-transferable prior to vesting, and are exercisable only by the participant. With regard to tax withholding, exercise price and purchase price obligations arising in connection with awards under the 2014 Plan, the plan administrator may, in its discretion, accept cash or check, shares of our common stock that meet specified conditions, a "market sell order" or such other consideration as it deems suitable.

Plan Amendment and Termination: Our board of directors may amend or terminate the 2014 Plan at any time. However, except in connection with certain changes in our capital structure, stockholder approval will be required for any amendment that increases the number of shares available under the 2014 Plan. The plan administrator will have the authority, without the approval of our stockholders, to amend any outstanding stock option or SAR to reduce its price per share. No award may be granted pursuant to the 2014 Plan after the tenth anniversary of the date on which our board of directors adopts the 2014 Plan.

Second Amended and Restated 2010 Incentive Plan

We currently maintain the 2010 Plan, under which we may grant stock options and other stock-based awards to employees, consultants and managers of our company or its affiliates. We have reserved a total of 10,405,879 shares of our common stock for issuance under the 2010 Plan.

Following the effectiveness of the 2014 Plan, we will not make any further grants under the 2010 Plan. However, the 2010 Plan will continue to govern the terms and conditions of the outstanding awards granted under it. As discussed above, we anticipate that shares of our common stock subject to awards granted under the 2010 Plan that are forfeited, lapse unexercised or are settled in cash and which following the effective date of the 2014 Plan are not issued under the 2010 Plan will be available for issuance under the 2014 Plan.

Administration: Our board of directors administers the 2010 Plan and has the authority to determine recipients of awards and the terms of awards granted under the 2010 Plan, to interpret the 2010 Plan and awards outstanding thereunder and to make changes to awards outstanding under the 2010 Plan, provided that such changes may not have a materially adverse effect on a participant's rights under the plan without the participant's consent. Following the effectiveness of this offering, we anticipate that the board of directors will delegate its general administrative authority under the 2010 Plan to the compensation committee of the board of directors.

Types of Awards: The 2010 Plan provides for the grant of stock options, restricted stock and restricted stock units to employees, consultants and managers of the company or its affiliates. As of the date of this prospectus, awards of restricted stock units, options for common stock and shares of restricted stock are outstanding under the 2010 Plan.

Certain Transactions: If certain changes are made in, or events occur with respect to, our common stock, adjustments shall be made as the board of directors determines appropriate in order to prevent dilution or enlargement of participants' rights under the plan, including adjusting the number, kind, exercise price and/or vesting conditions, providing for substitute awards, accelerating exercisability and/or vesting, effecting the lapse of restrictions and termination of awards, providing for a period of time to exercise the awards and/or cancelling outstanding awards. In the event of a change in control of our company, the acquiring entity assuming obligations under the 2010 Plan may assume or continue the company's rights and obligations under each or any award or portion thereof outstanding immediately prior to the change in control, or substitute for each or any such outstanding award or portion thereof a substantially equivalent award with respect to the acquiror's securities. Any award or portion thereof which is neither assumed or continued by the acquiror in connection with the change in control, nor exercised or settled as of the time of consummation of the change in control, shall terminate and cease to be outstanding. The board of directors may determine that, upon the occurrence of a change in control, each or any award or portion thereof outstanding immediately prior to the change in control and not previously exercised or settled shall be cancelled in exchange for a payment with respect to each vested award, and each unvested award as determined by the board of directors, in cash, securities or other property in an amount equal to the fair market value of the consideration to be paid per share in the change in control, reduced (but not below zero) by the exercise price under such award. The exercisability, vesting and/or settlement of awards may accelerate in connection with such change in control, either by action of the board of directors or under the terms of the applicable award agreement.

Amendment and Termination: The board of directors may terminate, modify or amend the 2010 Plan from time to time, provided that any amendment or modification may not materially adversely affect a participant's rights under the 2010 Plan without the participant's consent. Any amendment the board of directors determines is of a scope that requires stockholder approval will be subject to approval by the company's stockholders. The 2010 Plan will continue in effect until its termination by the board of directors.

Director Compensation

Our officers, employees, consultants or advisors who also serve as directors do not receive additional compensation for their service as directors. In addition, our directors who are not our officers, employees, consultants or advisors, who we refer to as our non-employee directors, have not generally received cash or equity based compensation for their services as directors and no cash or equity based compensation was provided to our non-employee directors in 2013. However, Julie Bradley received 20,000 restricted stock units in November 2012 in connection with her election to our board of directors.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

Since January 1, 2011, we have engaged in the following transactions with our directors, executive officers, holders of more than 5% of our voting securities and affiliates of our directors, executive officers and holders of more than 5% of our voting securities. We believe that all of the transactions described below were made on terms no less favorable to us than could have been obtained from unaffiliated third parties.

Corporate Reorganization

We are currently a Delaware limited liability company. Prior to the issuance of our shares of Class A common stock in this offering, we intend to complete an internal restructuring, which we refer to in this prospectus as the Corporate Reorganization. Pursuant to the Corporate Reorganization, Wayfair LLC will become a wholly-owned subsidiary of Wayfair Inc., and the holders of equity interests in Wayfair LLC will become stockholders of Wayfair Inc. Please read the section titled "Organizational Structure" for additional information.

Issuances of Preferred Stock

Series B Preferred Stock Financing

In March 2014, we issued an aggregate of 5,995,133 shares of Series B preferred stock to 23 accredited investors at a price per share of $26.2261 for aggregate gross consideration of approximately $157.2 million. In 2014, we used approximately $29.0 million of these proceeds to repurchase equity securities as described below under the section titled "— Repurchases of Stock." Julie Bradley, a member of our board of directors, purchased 76,260 shares of Series B preferred stock in this transaction for an aggregate purchase price of approximately $2.0 million.

Series A Preferred Stock Financings

In November 2012, we issued an aggregate of 3,885,137 shares of Series A preferred stock to 10 accredited investors at a price per share of $9.339624 for aggregate gross consideration of approximately $36.3 million. The following table sets forth the shares of Series A preferred stock sold to each of our executive officers, directors, holders of more than 5% of our voting securities:

Name	Shares of Series A Preferred Stock	Aggregate Purchase Price
Entities affiliated with Battery Ventures(1)	642,424	$ 5,999,999
Steven Conine(2)	428,283	$ 4,000,002
Entities affiliated with Great Hill Partners(3)	1,193,073	$ 11,142,853
Entities affiliated with HarbourVest Partners(4)	734,200	$ 6,857,152
Niraj Shah(2)	428,283	$ 4,000,002

(1) Consists of (a) 636,065 shares sold to Battery Ventures IX (AIV I), L.P. and (b) 6,359 shares sold to Battery Investment Partners IX, LLC. Neeraj Agrawal, a managing member of Battery Partners IX (AIV I), LLC and Battery Partners IX, LLC and an officer of Battery Management Corp., is a member of our board of directors.

(2) Messrs. Conine and Shah are members of our board of directors and our executive officers and also holders of more than 5% of our voting securities.

(3) Consists of (a) 1,189,828 shares sold to Great Hill Equity Partners IV, L.P. (through a wholly-owned entity, CSN Great Hill, Inc.) and (b) 3,245 shares sold to Great Hill

Investors, LLC. Michael Kumin, a manager of GHP IV, LLC and Great Hill Investors, LLC, is a member of our board of directors.

(4) Consists of (a) 550,650 shares sold to HarbourVest CSN LLC and (b) 183,550 shares sold to HarbourVest/NYSTRS Co-invest Fund L.P. Ian Lane, a Principal of HarbourVest Partners, LLC, is a member of our board of directors.

In June 2011, we issued an aggregate of 17,666,664 shares of Series A preferred stock to 8 accredited investors at a price per share of $9.339624 for aggregate gross consideration of $165.0 million. We used approximately $87.7 million of these proceeds to repurchase equity securities as described below under the section titled "— Repurchases of Stock." The following table sets forth the shares of Series A preferred stock sold to each of our executive officers, directors, holders of more than 5% of our voting securities:

Name	Shares of Series A Preferred Stock	Aggregate Purchase Price
Entities affiliated with Battery Ventures(1)	3,747,474	$ 35,000,000
Entities affiliated with Great Hill Partners(2)	6,959,595	$ 65,000,000
Entities affiliates with HarbourVest Partners(3)	4,282,828	$ 40,000,000

(1) Consists of (a) 3,710,374 shares sold to CSN Battery, Inc., which are currently held by Battery Ventures IX (AIV I), L.P., and (b) 37,100 shares sold to Battery Investment Partners IX, LLC. Neeraj Agrawal, a managing member of Battery Partners IX (AIV I), LLC and Battery Partners IX, LLC and an officer of Battery Management Corp., is a member of our board of directors.

(2) Consists of (a) 6,940,665 shares sold to Great Hill Equity Partners IV, L.P. (through a wholly-owned entity, CSN Great Hill, Inc.) and (b) 18,930 shares sold to Great Hill Investors, LLC. Michael Kumin, a manager of GHP IV, LLC and Great Hill Investors, LLC, is a member of our board of directors.

(3) Consists of (a) 3,212,121 shares sold to HarbourVest CSN LLC and (b) 1,070,707 shares sold to HarbourVest/NYSTRS Co-invest Fund L.P. Ian Lane, a Principal of HarbourVest Partners, LLC, is a member of our board of directors.

Series A Distributions

In March 2014, we distributed a portion of an accrued cash dividend to our Series A preferred stockholders in the aggregate amount of $15.0 million. The following table sets forth the cash distributions made to each of our executive officers, directors, and holders of more than 5% of our voting securities:

Name	Cash Distribution
Entities affiliated with Battery Ventures(1)	$ 3,055,358
Steven Conine(2)	$ 298,084
Entities affiliated with Great Hill Partners(3)	$ 5,674,236
Entities affiliates with HarbourVest Partners(4)	$ 3,491,839
Niraj Shah(2)	$ 298,084

(1) Consists of (a) $3,025,111 distributed to Battery Ventures IX (AIV I), L.P. and (b) $30,247 distributed to Battery Investment Partners IX, LLC. Neeraj Agrawal, a

managing member of Battery Partners IX (AIV I), LLC and Battery Partners IX, LLC and an officer of Battery Management Corp, is a member of our board of directors.

(2) Messrs. Conine and Shah are members of our board of directors and our executive officers and also holders of more than 5% of our voting securities.

(3) Consists of (a) $5,658,803 distributed to Great Hill Equity Partners IV, L.P. (through a wholly-owned entity, CSN Great Hill, Inc.) and (b) $15,433 distributed to Great Hill Investors, LLC. Michael Kumin, a manager of GHP IV, LLC and Great Hill Investors, LLC, is a member of our board of directors.

(4) Consists of (a) $2,618,879 distributed to HarbourVest CSN LLC and (b) $872,960 distributed to HarbourVest/NYSTRS Co-invest Fund L.P. Ian Lane, a Principal of HarbourVest Partners, LLC, is a member of our board of directors.

Upon the completion of this offering, we expect to distribute approximately $24.3 million of the net proceeds, or approximately %, to our existing Series A preferred stockholders to satisfy the remaining portion of an accrued cash dividend. Our co-founders and certain of our directors, executive officers and holders of more than 5% of our voting securities hold 85% of our outstanding shares of Series A preferred stock and, as a result of their ownership, will receive 85% of the dividend payment, or approximately $20.6 million.

Repurchases of Stock

In our 2014 Tender Offer, we repurchased equity securities convertible or exercisable into 211,785 shares of common stock for an aggregate purchase price of approximately $5.5 million. The following table sets forth the equity we repurchased from our executive officers:

Name	Shares Repurchased	Total Purchase Price
Edmond Macri	30,000	$ 786,783
Nicholas Malone	17,500	$ 458,957
Steven Oblak	6,000	$ 157,357
James Savarese	10,000	$ 262,261

In April 2014, we repurchased 896,052 shares of common stock from SK Retail, Inc., a holder of more than 5% of our voting securities prior to our Corporate Reorganization, for an aggregate purchase price of approximately $23.5 million. Messrs. Conine and Shah, members of our board of directors and our executive officers, are the owners of SK Retail, Inc. and, following our Corporate Reorganization, will be holders of more than 5% of our voting securities.

In August 2011, we repurchased equity securities convertible into 746,322 shares of common stock for an aggregate purchase price of approximately $6.9 million. The following table sets forth the equity we repurchased from our executive officers:

Name	Shares Repurchased	Total Purchase Price
Nicholas Malone	39,033	$ 364,554
John Mulliken	21,500	$ 200,802
James Savarese	223,046	$ 2,083,166

In June 2011, we repurchased 9,101,009 shares of common stock from SK Retail, Inc., a holder of more than 5% of our voting securities prior to our Corporate Reorganization, for an aggregate purchase price of approximately $80.8 million. Messrs. Conine and Shah, members of

our board of directors and our executive officers, are the owners of SK Retail, Inc. and, following our Corporate Reorganization, will be holders of more than 5% of our voting securities.

Reimbursements

Since our restructuring transactions in March 2008, which are described in the section titled "Prospectus Summary — Company Information and Reorganization," SK Retail, Inc. has continued to incur certain of our general and administrative expenses. For the years ending December 31, 2011, 2012 and 2013, we reimbursed SK Retail, Inc. aggregate amounts of approximately $12.2 million, $11.2 million and $12.0 million, respectively, for the payments it made on our behalf to employees for salary, benefits and certain overhead costs. Messrs. Conine and Shah, members of our board of directors and our executive officers, are the owners of SK Retail, Inc., a holder of more than 5% of our voting securities before the Corporate Reorganization, and will be holders of more than 5% of our voting securities following the Corporate Reorganization.

Agreements with Stockholders

Limited Liability Company Operating Agreement

Our fourth amended and restated limited liability company operating agreement, dated as of March 5, 2014, as amended, or LLC Agreement, governs our operations and the rights and preferences of our stockholders. In connection with the Corporate Reorganization, the LLC Agreement will be terminated and will no longer govern our operations and will not govern the rights of our existing stockholders or future stockholders, other than certain provisions relating to certain pre-termination tax matters and liabilities.

Investors' Rights Agreement

We have entered into a second amended and restated investors' rights agreement, dated as of March 5, 2014, or Investors' Rights Agreement, with holders of our preferred stock, including some of our holders of more than 5% of our voting securities and their affiliates. The Investors' Rights Agreement contains a right of first offer provision that provides that we shall not make certain issuances of our securities unless we first offer such securities to holders of our preferred stock in accordance with the terms of the agreement. The right of first offer provision does not apply to and will terminate upon the closing of this offering. The Investors' Rights Agreement also provides that (i) certain holders of our preferred stock have the right to demand that we file a registration statement, subject to certain limitations, and (ii) the holders of our preferred stock will have the right to request that their shares be covered by a registration statement that we are otherwise filing. For a more detailed description of these registration rights, please read the section titled "Description of Capital Stock — Registration Rights" on page 122.

Right of First Refusal and Co-Sale Agreement

We have entered into a second amended and restated right of first refusal and co-sale agreement, dated as of March 5, 2014, with certain holders of our preferred stock and certain holders of our common stock, including some of our directors, executive officers and holders of more than 5% of our voting securities and their affiliates, pursuant to which such holders of preferred stock have a right of purchase and co-sale in respect of sales of securities by our founders and common stockholders party to the agreement. These purchase and co-sale rights do not apply to shares sold pursuant to this offering, and this agreement will terminate upon the closing of this offering.

Voting Agreement

Our Voting Agreement provides, among other things, that each of the parties thereto agrees to vote all of the shares of our capital stock they hold in the manner described therein with respect to the size and composition of our board of directors and acquisitions of the company, subject to certain specified exceptions. This agreement will terminate upon the closing of this offering.

Indemnification Agreements

Our LLC Agreement provides that we will indemnify our directors and officers to the fullest extent permitted by law. In addition, we expect to enter into indemnification agreements with all of our directors and executive officers prior to the completion of this offering.

Executive Compensation and Employment Arrangements

For a description of the compensation arrangements we have with our executive officers, please read the section titled "Executive Compensation."

Policies and Procedures for Related Party Transactions

Prior to the completion of this offering, our board of directors will adopt written policies and procedures for the review of any transaction, arrangement or relationship (or any series of similar transactions, arrangements or relationships) in which Wayfair (including any of its subsidiaries) was, is or will be, a participant, the amount involved exceeds $120,000 in any one fiscal year, and one of our executive officers, directors, director nominees or 5% stockholders (or their immediate family members), each of whom we refer to as a "related party," had, has or will have a direct or indirect material interest.

If a related party proposes to enter into such a transaction, arrangement or relationship, which we refer to as a "related party transaction," the related party will be required to report the proposed related party transaction to our general counsel. The policy will call for the proposed related party transaction to be reviewed and, if deemed appropriate, approved by our audit committee. Whenever practicable, the reporting, review and approval will occur prior to entry into the transaction. If advance approval of a related party transaction requiring the audit committee's approval is not feasible, then the transaction may be preliminarily entered into by management upon prior approval of the transaction by the chairperson of the audit committee subject to ratification of the transaction by the audit committee at the committee's next regularly scheduled meeting. If the transaction is not so ratified, the policy will require management to make all reasonable efforts to cancel or annul such transaction. Any related party transactions that are ongoing in nature will be reviewed annually.

A related party transaction reviewed under the policy will be considered approved or ratified if it is authorized by the audit committee after full disclosure of the related party's interest in the transaction. In reviewing and approving any such transactions, the audit committee will be tasked to consider all relevant facts and circumstances, including, but not limited to, whether the transaction is on terms comparable to those that could be obtained in an arm's length transaction and the extent of the related party's interest in the transaction.

All of the transactions described in this section occurred prior to the adoption of the policy.

PRINCIPAL AND SELLING STOCKHOLDERS

The following table sets forth information with respect to the beneficial ownership of our Class A common stock and Class B common stock, as of June 30, 2014, after giving effect to (1) the consummation of the Corporate Reorganization described in the section titled "Organizational Structure," and (2) the reclassification of all outstanding shares of common stock and the automatic conversion of all outstanding shares of our preferred stock into shares of Class B common stock immediately prior to the completion of this offering, for:

- each of our named executive officers;
- each of our directors;
- all of our directors and executive officers as a group;
- each holder of more than 5% of our Class A common stock or Class B common stock; and
- each of the selling stockholders.

The number of shares beneficially owned by each stockholder is determined under rules issued by the Securities and Exchange Commission and includes any shares as to which the individual or entity has sole or shared voting power or investment power. Each of the stockholders listed has sole voting and investment power with respect to the shares beneficially owned by the stockholder unless noted otherwise, subject to community property laws where applicable.

Our calculation of the percentage ownership prior to this offering is based on no shares of our Class A common stock and 71,330,993 shares of our Class B common stock (including preferred stock on an as-converted basis) outstanding as of June 30, 2014. We have based our calculation of the percentage of beneficial ownership after this offering on shares of our Class A common stock and shares of our Class B common stock outstanding immediately after the closing of this offering (assuming no exercise of the underwriters' option to purchase additional shares of Class A common stock and the sale of shares of our Class A common stock by the selling stockholders). In computing the number of shares beneficially owned by a stockholder and the percentage ownership of that stockholder, shares of common stock subject to options that are currently exercisable or will become exercisable within 60 days after June 30, 2014 or issuable pursuant to restricted stock units which are subject to vesting conditions expected to occur within 60 days after June 30, 2014 are considered outstanding, although these shares are not considered outstanding for purposes of computing the percentage ownership of any other stockholder.

Unless otherwise indicated, the address of all listed stockholders is c/o Wayfair LLC, 4 Copley Place, 7th Floor, Boston, MA 02116.

	Shares beneficially owned prior to this offering					Shares being sold(12)	Shares beneficially owned following this offering				
	Class A		Class B		% total voting power		Class A		Class B		% total voting power
Name and address of beneficial owner	Shares	%	Shares	%			Shares	%	Shares	%	
5% stockholders:											
Entities affiliated with Battery Ventures(1) One Marina Park Drive Suite 1100 Boston, MA 02210	0	0%	4,389,898	6.15%	6.15%			%		%	
Entities affiliated with Great Hill Partners(2) One Liberty Square Boston, MA 02109	0	0%	8,152,668	11.43%	11.43%			%		%	
Entities affiliated with HarbourVest Partners(3) One Financial Center 44 th Floor Boston, MA 02111	0	0%	5,017,028	7.03%	7.03%			%		%	
Directors and Named Executive Officers											
Niraj Shah(4)	0	0%	20,616,253	28.90%	28.90%			%		%	
Steven Conine(5)	0	0%	20,616,252	28.90%	28.90%			%		%	
Michael Fleisher	0	0%	0	*	*			%		%	
Neeraj Agrawal(6)	0	0%	4,389,898	6.15%	6.15%			%		%	
Julie Bradley(7)	0	0%	76,260	*	*			%		%	
Alex Finkelstein(8)	0	0%	3,135,641	4.40%	4.40%			%		%	
Michael Kumin(9)	0	0%	8,152,668	11.43%	11.43%			%		%	
Ian Lane(10)	0	0%	5,017,028	7.03%	7.03%			%		%	
Romero Rodrigues	0	0%	0	*	*						
All executive officers and directors as a group (persons)(11)	0	0%	63,162,482	88.55%	88.55%			%		%	

* Represents beneficial ownership of less than 1% of our outstanding capital stock.

(1) Consists of (a) 4,346,439 shares of Series A preferred stock held by Battery Ventures IX (AIV I), L.P. and (b) 43,459 shares of Series A preferred stock held by Battery Investment Partners IX, LLC. The sole general partner of Battery Ventures IX (AIV I), L.P. is Battery Partners IX (AIV I), LLC. The sole managing member of Battery Investment Partners IX, LLC is Battery Partners IX, LLC. Battery Partners IX (AIV I), LLC's and Battery Partners IX, LLC's investment advisor is Battery Management Corp., which we refer to together with Battery Partners IX (AIV I), LLC and Battery Partners IX, LLC as the Battery Companies. The managing members and officers of the Battery Companies who share voting and dispositive power with respect to these shares are Neeraj Agrawal, Michael Brown, Thomas J. Crotty, Jesse Feldman, Richard D. Frisbie, Kenneth P. Lawler, Roger H. Lee, R. David Tabors and Scott R. Tobin. Each of the foregoing persons disclaims beneficial ownership of these shares except to the extent of his pecuniary interest therein.

(2) Consists of (a) 8,130,493 shares of Series A preferred stock held by Great Hill Equity Partners IV, L.P., and (b) 22,175 shares of Series A preferred stock held by Great Hill Investors, LLC. Great Hill Partners GP IV, L.P. is the sole general partner of Great Hill Equity Partners IV, L.P. and GHP IV, LLC is the sole general partner of Great Hill Partners GP IV, L.P. GHP IV, LLC is controlled by Christopher S. Gaffney, John G. Hayes, Michael A. Kumin, Mark D. Taber and Matthew T. Vettel and, as such, they may be deemed to indirectly beneficially own the shares beneficially owned by Great Hill Equity Partners IV, L.P. Great Hill Investors, LLC is controlled by Christopher S. Gaffney, John G. Hayes, Michael A. Kumin, Mark D. Taber and Matthew T. Vettel and, as such, they may be deemed to indirectly beneficially own the shares beneficially owned by Great Hill Investors, LLC. Each of Messrs. Gaffney, Hayes, Kumin, Taber and Vettel disclaims beneficial ownership of these shares except to the extent of his pecuniary interest therein.

(3) Consists of (a) 3,762,771 shares of Series A preferred stock held by HarbourVest CSN LLC and (b) 1,254,257 shares of Series A preferred stock held by HarbourVest/NYSTRS Co-invest Fund L.P. The manager of HarbourVest CSN LLC is HarbourVest Partners, LLC. The general partner of HarbourVest/NYSTRS Co-invest Fund L.P. is HIPEP VI Select Associates L.P., the general partner of HIPEP VI Select Associates L.P. is HIPEP VI Select Associates LLC and the managing member of HIPEP VI Select Associates LLC is HarbourVest Partners, LLC. The members of the investment committee of HarbourVest Partners, LLC consists of John M. Toomey, William A. Johnston, Gregory V. Stento, D. Brooks Zug and Kathleen M. Bacon and, as such, they may be deemed to indirectly beneficially own the common stock beneficially owned by HarbourVest CSN LLC and HarbourVest/NYSTRS Co-invest Fund L.P. Each of HarbourVest Partners, LLC, Messrs. Toomey, Johnston, Stento and Zug and Ms. Bacon disclaims beneficial ownership of these shares except to the extent of its, his or her pecuniary interest therein.

(4) Consists of (a) 428,283 shares of Series A preferred stock held by Mr. Shah and (b) 20,187,970 shares of common stock held as follows:

(5) Consists of (a) 428,283 shares of Series A preferred stock held by Mr. Conine and (b) 20,187,969 shares of common stock held as follows:

(6) Consists of shares described in Note (1) above, which are held by entities affiliated with Battery Ventures. Mr. Agrawal is a managing member and officer of the Battery Companies.

(7) Consists of 76,260 shares of Series B preferred stock.

(8) Consists of (a) 3,104,911 shares of Series A preferred stock held by Spark Capital III (AIV), L.P. and (b) 30,730 shares of Series A preferred stock held by Spark Capital Founders' Fund III, L.P. Mr. Finkelstein is a general partner of Spark Capital and, as such, may be deemed to have beneficial ownership of these shares.

(9) Consists of shares described in Note (2) above, which are held by entities affiliated with Great Hill Partners. Mr. Kumin is a manager of GHP IV, LLC and Great Hill Investors, LLC, and, as such, may be deemed to have beneficial ownership of these shares.

(10) Consists of shares described in Note (3) above, which are held by entities affiliated with HarbourVest Partners, LLC. Mr. Lane is a Principal of HarbourVest Partners, LLC and, as such, may be deemed to have beneficial ownership of these shares.

(11) Consists of 63,162,482 shares of common stock.

(12) The shares of Class A common stock being registered in this offering by the selling stockholders were received by them as follows: . If the underwriters exercise the option to purchase additional shares in full, an additional shares in the aggregate would be sold by the selling stockholders proportionate to the initial amounts sold by the selling stockholders.

DESCRIPTION OF CAPITAL STOCK

General

As of the closing of this offering, our authorized capital stock will consist of shares of common stock, par value $0.001 per share, and shares of preferred stock, par value $0.001 per share. Our common stock will be divided into two classes, Class A common stock and Class B common stock. Following this offering, our authorized Class A common stock will consist of shares and our authorized Class B common stock will consist of shares.

The following description of our capital stock and provisions of our restated certificate of incorporation and amended and restated bylaws are summaries and are qualified by reference to the restated certificate of incorporation and amended and restated bylaws that will become effective upon the closing of this offering. Copies of these documents will be filed with the Securities and Exchange Commission as exhibits to our registration statement, of which this prospectus forms a part. The description of our capital stock reflects changes to our capital structure that will occur upon the closing of this offering.

Class A Common Stock and Class B Common Stock

As of June 30, 2014, there were no shares of our Class A common stock outstanding and 71,330,993 shares of Class B common stock outstanding and held of record by stockholders, assuming (1) the consummation of the Corporate Reorganization, including the conversion of all outstanding shares of common stock and preferred stock, described in the section titled "Organizational Structure" prior to the completion of this offering and (2) the reclassification of all outstanding shares of common stock and the automatic conversion of all outstanding shares of our preferred stock into shares of Class B common stock immediately prior to the completion of this offering.

Voting Rights

Holders of our Class A common stock and Class B common stock have identical rights, provided that, except as otherwise expressly provided in our restated certificate of incorporation or required by applicable law, on any matter that is submitted to a vote of our stockholders, holders of our Class A common stock are entitled to one vote per share of Class A common stock and holders of our Class B common stock are entitled to ten votes per share of Class B common stock. Holders of shares of Class A common stock and Class B common stock will vote together as a single class on all matters (including the election of directors) submitted to a vote of stockholders, except that there will be a separate vote of our Class A common stock and Class B common stock in the following circumstances:

- if we were to seek to amend our restated certificate of incorporation to increase or decrease the par value of a class of our common stock, then that class would be required to vote separately to approve the proposed amendment; and
- if we were to seek to amend our restated certificate of incorporation in a manner that alters or changes the powers, preferences or special rights of a class of our common stock in a manner that affected its holders adversely, then that class would be required to vote separately to approve the proposed amendment.

Upon the completion of this offering, under our restated certificate of incorporation, we may not increase or decrease the authorized number of shares of Class A common stock or Class B common stock without the affirmative vote of the holders of a majority of the combined voting power of the outstanding shares of Class A common stock and Class B common stock, voting together as a single class. In addition, we may not issue any shares of Class B common stock,

unless that issuance is approved by the affirmative vote of the holders of a majority of the outstanding shares of Class B common stock.

We have not provided for cumulative voting for the election of directors in our restated certificate of incorporation.

Economic Rights

Except as otherwise expressly provided in our restated certificate of incorporation or required by applicable law, shares of Class A common stock and Class B common stock will have the same rights and privileges and rank equally, share ratably and be identical in all respects as to all matters, including, without limitation, those described below.

Dividends. Any dividend or distributions paid or payable to the holders of shares of Class A common stock and Class B common stock shall be paid pro rata, on an equal priority, pari passu basis, 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 the applicable class of stock treated adversely, voting separately as a class; provided, however, that if a dividend or distribution is paid in the form of Class A common stock or Class B common stock (or rights to acquire shares of Class A common stock or Class B common stock), then the holders of the Class A common stock shall receive Class A common stock (or rights to acquire shares of Class A common stock) and holders of Class B common stock shall receive Class B common stock (or rights to acquire shares of Class B common stock).

Liquidation. In the event of our liquidation, dissolution or winding-up, upon the completion of the distributions required with respect to any series of preferred stock that may then be outstanding, our remaining assets legally available for distribution to stockholders shall be distributed on an equal priority, pro rata basis to the holders of Class A common stock and Class B common stock.

Subdivisions and Combinations. If we subdivide or combine in any manner outstanding shares of Class A common stock or Class B common stock, then the outstanding shares of all common stock will be subdivided or combined in the same proportion and manner.

Change of Control Transaction. In connection with any change of control, the holders of Class A common stock and Class B common stock will be treated equally and identically with respect to shares of Class A common stock or Class B common stock owned by them, unless different treatment of the shares of each class is approved by the affirmative vote of the holders of a majority of the outstanding shares of Class A common stock and Class B common stock, each voting separately as a class.

Conversion

Each share of Class B common stock is convertible at any time at the option of the holder into one share of Class A common stock. In addition, each share of Class B common stock will convert automatically into one share of Class A common stock upon any transfer, whether or not for value and whether voluntary or involuntary or by operation of law, except for certain transfers described in our restated certificate of incorporation, including, without limitation, certain transfers for tax and estate planning purposes. In addition, upon the earlier of (i) the date on which there are fewer than shares of Class B common stock outstanding (as adjusted for stock splits), which represents approximately % of the outstanding shares of Class A common stock (assuming the conversion of all shares of Class B common stock) upon the completion of this offering, or (ii) the affirmative vote or written consent of the holders of at least 66 $^{2}/_{3}$% of the outstanding shares of

Class B common stock, all outstanding shares of Class B common stock shall convert automatically into Class A common stock, and no additional shares of Class B common stock will be issued.

Preferred Stock

Under the terms of our restated certificate of incorporation that will become effective upon the closing of this offering, our board of directors is authorized to direct us to issue shares of preferred stock in one or more series without stockholder approval. Our board of directors has the discretion to determine the rights, preferences, privileges and restrictions, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences, of each series of preferred stock.

The purpose of authorizing our board of directors to issue preferred stock and determine its rights and preferences is to eliminate delays associated with a stockholder vote on specific issuances. The issuance of preferred stock could adversely affect the voting power of holders of our common stock and the likelihood that such holders will receive dividend payments and payments upon liquidation. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions, future financings and other corporate purposes, could have the effect of making it more difficult for a third party to acquire, or could discourage a third party from seeking to acquire, a majority of our outstanding voting stock. Upon the closing of this offering, there will be no shares of preferred stock outstanding, and we have no present plans to issue any shares of preferred stock.

Options

As of June 30, 2014, we had outstanding options to purchase an aggregate of 646,413 shares of our Series B common stock under our 2010 Plan, at a weighted-average exercise price of $2.98 per share.

Restricted Stock Units

As of June 30, 2014, we had outstanding restricted stock units for 6,085,085 shares of our Series B common stock under our 2010 Plan, at a weighted-average grant date fair value of $12.15 per share.

Registration Rights

We entered into our Investors' Rights Agreement with the holders of shares of our common stock issuable upon conversion of the shares of our preferred stock, which we refer to as registrable shares. Under the Investors' Rights Agreement, certain holders of registrable shares can demand that we file a registration statement and all holders of registrable shares can request that their registrable shares be covered by a registration statement that we are otherwise filing, as described below.

Demand Registration Rights. At any time after 180 days after the closing of this offering, the holders of registrable shares entitled to demand registration rights may request that we register all or a portion of their registrable shares for sale under the Securities Act of 1933, as amended, or Securities Act, so long as the request for such registration is for at least 20% of all registrable shares then outstanding (or a lesser percentage if the anticipated aggregate offering price would exceed $10 million). We will effect the registration as requested unless, in the good faith judgment of our board of directors, such registration should be delayed. We may be required to effect two of these registrations. In addition, when we are eligible for the use of Form S-3, or any successor form, holders of registrable shares entitled to demand registration rights may make unlimited requests that we register all or a portion of their registrable shares for sale under the Securities Act

on Form S-3, or any successor form, so long as the request for registration is for at least 10% of all registrable shares then outstanding (or a lesser percentage if the anticipated aggregate offering price would exceed $1.0 million).

Incidental Registration Rights. In addition, if at any time after this offering we register any shares of our common stock, the holders of all registrable shares are entitled to notice of the registration and to include all or a portion of their registrable shares in the registration.

Other Provisions. In the event that any registration in which the holders of registrable shares participate pursuant to the second amended and restated investors' rights agreement is an underwritten public offering, the number of registrable shares to be included may, in specified circumstances, be limited due to market conditions.

We will pay all registration expenses related to any demand or incidental registration, other than underwriting discounts, selling commissions and the fees and expenses of the selling stockholders' own counsel, other than the reasonable fees and disbursements of one counsel for the selling stockholders. Our Investors' Rights Agreement contains customary cross-indemnification provisions, pursuant to which we are obligated to indemnify the selling stockholders in the event of material misstatements or omissions in the registration statement attributable to us, and they are obligated to indemnify us for material misstatements or omissions in the registration statement attributable to them.

Anti-Takeover Provisions

Upon the closing of this offering, we will be subject to Section 203 of the Delaware General Corporation Law. Subject to certain exceptions, Section 203 prevents a publicly held Delaware corporation from engaging in a "business combination" with any "interested stockholder" for three years following the date that the person became an interested stockholder, unless the interested stockholder attained such status with the approval of our board of directors or unless the business combination is approved in a prescribed manner. A "business combination" includes, among other things, a merger or consolidation involving us and the "interested stockholder" and the sale of more than 10% of our assets. In general, an "interested stockholder" is any entity or person beneficially owning 15% or more of our outstanding voting stock and any entity or person affiliated with or controlling or controlled by such entity or person.

Removal of Directors

Our restated certificate of incorporation and our amended and restated bylaws provide that a director may be removed only for cause and only by the affirmative vote of the holders of at least 66 $^{2}/_{3}$% of the votes that all of our stockholders would be entitled to cast in an annual election of directors. Any vacancy on our board of directors, including a vacancy resulting from an enlargement of our board of directors, may be filled only by vote of a majority of our directors then in office.

The limitations on the removal of directors and filling of vacancies could make it more difficult for a third party to acquire, or discourage a third party from seeking to acquire, control of our company.

Super-Majority Voting

The Delaware General Corporation Law provides generally that the affirmative vote of a majority of the shares entitled to vote on any matter is required to amend a corporation's certificate of incorporation or bylaws, unless a corporation's certificate of incorporation or bylaws, as the case may be, requires a greater percentage. Our amended and restated bylaws may be amended or

repealed by a majority vote of our board of directors or the affirmative vote of the holders of at least 66 2/3% of the votes that all of our stockholders would be entitled to cast in an annual election of directors. In addition, the affirmative vote of the holders of at least 66 2/3% of the votes which all our stockholders would be entitled to cast in an election of directors is required to amend or repeal or to adopt any provisions inconsistent with any of the provisions of our restated certificate of incorporation described in this paragraph and the prior two paragraphs.

Stockholder Action; Special Meeting of Stockholders

Our restated certificate of incorporation provides that any action required or permitted to be taken by our stockholders must be effected at a duly called annual or special meeting of such stockholders and may not be effected by any consent in writing by such stockholders. Our restated certificate of incorporation and our amended and restated bylaws also provide that, except as otherwise required by law, special meetings of our stockholders can only be called by our chairman of the board, our Chief Executive Officer or our board of directors.

Authorized But Unissued Shares

The authorized but unissued shares of our common stock and preferred stock are available for future issuance without stockholder approval, subject to any limitations imposed by the listing standards of the NYSE. These additional shares may be used for a variety of corporate finance transactions, acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved common stock and preferred stock could make more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock will be Computershare Trust Company, N.A.

New York Stock Exchange

We have applied to list our common stock on the NYSE under the symbol "W."

SHARES ELIGIBLE FOR FUTURE SALE

Immediately prior to this offering, there was no public market for our Class A common stock. Future sales of substantial amounts of Class A common stock in the public market, or the perception that such sales may occur, could adversely affect the market price of our common stock. Although we intend to apply to have our common stock listed on the NYSE, we cannot assure you that there will be an active public market for our common stock.

Upon the closing of this offering, and after giving effect to the Corporate Reorganization, the reclassification of all outstanding shares of common stock and the automatic conversion of all outstanding shares of our preferred stock into shares of Class B common stock and the conversion of shares sold by the selling stockholders in this offering into shares of Class A common stock, based on the number of shares of our capital stock outstanding as of April 30, 2014, we will have outstanding an aggregate of shares of Class A common stock, assuming the issuance of shares of Class A common stock offered by us in this offering and the sale of shares by the selling stockholders, shares of Class B common stock and no shares of preferred stock. Of these shares, all shares sold in this offering will be freely tradable without restriction or further registration under the Securities Act, except for any shares purchased by our "affiliates," as that term is defined in Rule 144 under the Securities Act, whose sales would be subject to the Rule 144 resale restrictions described below, other than the holding period requirement.

The remaining shares of common stock will be "restricted securities," as that term is defined in Rule 144 under the Securities Act. These restricted securities are eligible for public sale only if they are registered under the Securities Act or if they qualify for an exemption from registration under the Securities Act, including pursuant to Rules 144 and 701, which are summarized below.

Subject to the lock-up agreements described below and the provisions of Rules 144 and 701 under the Securities Act, these restricted securities will be available for sale in the public market as follows:

Date	Number of Shares
On the date of this prospectus	
90 days after the date of this prospectus	
180 days after the date of this prospectus	

In addition, of the 646,413 shares of our Class B common stock that were subject to stock options outstanding as of June 30, 2014 under our 2010 Plan, options to purchase 555,018 shares of Class B common stock were vested as of June 30, 2014 and, upon exercise, these shares will be eligible for sale subject to the lock-up agreements described below and Rules 144 and 701 under the Securities Act.

Lock-Up Agreements

We and each of our directors and executive officers, holders of substantially all of our outstanding capital stock and holders of substantially all of our stock options and restricted stock units, have agreed that, without the prior written consent of Goldman, Sachs & Co. on behalf of the underwriters, we and they will not, subject to limited exceptions, during the period ending 180 days after the date of this prospectus, subject to extension in specified circumstances, offer, sell, contract to sell or otherwise dispose of, directly or indirectly, our Class A common stock or securities convertible into or exchangeable for or exercisable for our Class A common stock. Please read the section titled "Underwriting" for additional information. Upon the expiration of the applicable lock-up periods, substantially all of the shares subject to such lock-up restrictions will become eligible for sale, subject to the limitations discussed above.

Rule 144

Affiliate Resales of Restricted Securities

In general, under Rule 144, beginning 90 days after the effective date of the registration statement of which this prospectus is a part, a person who is an affiliate of ours, or who was an affiliate at any time during the 90 days before a sale, who has beneficially owned shares of our common stock for at least six months would be entitled to sell in "broker's transactions" or certain "riskless principal transactions" or to market makers, a number of shares within any three-month period that does not exceed the greater of:

- 1% of the number of shares of our common stock then outstanding, which will equal approximately shares immediately after this offering; or
- the average weekly trading volume in our common stock on the NYSE during the four calendar weeks preceding the filing of a notice on Form 144 with respect to such sale.

Affiliate resales under Rule 144 are also subject to the availability of current public information about us. In addition, if the number of shares being sold under Rule 144 by an affiliate during any three-month period exceeds 5,000 shares or has an aggregate sale price in excess of $50,000, the seller must file a notice on Form 144 with the Securities and Exchange Commission, or SEC, and the NYSE concurrently with either the placing of a sale order with the broker or the execution directly with a market maker.

Non-Affiliate Resales of Restricted Securities

In general, beginning 90 days after the effective date of the registration statement of which this prospectus is a part, a person who is not an affiliate of ours at the time of sale, and has not been an affiliate at any time during the three months preceding a sale, and who has beneficially owned shares of our common stock for at least six months but less than a year, is entitled to sell such shares subject only to the availability of current public information about us. If such person has held our shares for at least one year, such person can resell under Rule 144(b)(1) without regard to any Rule 144 restrictions, including the 90-day public company requirement and the current public information requirement.

Non-affiliate resales are not subject to the manner of sale, volume limitation or notice filing provisions of Rule 144.

Rule 701

In general, under Rule 701, any of our employees, directors, officers, consultants or advisors who purchase shares from the us in connection with a compensatory stock or option plan or other written agreement before the effective date of a registration statement under the Securities Act is entitled to sell such shares 90 days after such effective date in reliance on Rule 144. An affiliate of ours can resell shares in reliance on Rule 144 without having to comply with the holding period requirement, and non-affiliates of ours can resell shares in reliance on Rule 144 without having to comply with the current public information and holding period requirements.

The SEC has indicated that Rule 701 will apply to typical stock options granted by an issuer before it becomes subject to the reporting requirements of the Exchange Act, along with the shares acquired upon exercise of such options, including exercises after an issuer becomes subject to the reporting requirements of the Exchange Act.

Equity Plans

We intend to file one or more registration statements on Form S-8 under the Securities Act to register all shares of common stock subject to outstanding stock options and common stock issued or issuable under our stock plans. We expect to file the registration statement covering shares offered pursuant to our stock plans shortly after the date of this prospectus, permitting the resale of such shares by nonaffiliates in the public market without restriction under the Securities Act and the sale by affiliates in the public market, subject to compliance with the resale provisions of Rule 144 and subject in each case to applicable lock-up restrictions. Please read the section titled "Underwriting" for additional information.

Registration Rights

Upon the closing of this offering, the holders of shares of our Class B common stock or their transferees will be entitled to various rights with respect to the registration of these shares under the Securities Act. Registration of these shares under the Securities Act would result in these shares becoming fully tradable without restriction under the Securities Act immediately upon the effectiveness of the registration, except for shares purchased by affiliates. Please read the section titled "Description of Capital Stock — Registration Rights" for additional information. Shares covered by a registration statement will be eligible for sale in the public market upon the expiration or release from the terms of the lock-up agreement.

MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES TO NON-U.S. HOLDERS OF CLASS A COMMON STOCK

The following discussion is a summary of the material U.S. federal income tax consequences to non-U.S. holders (as defined below) of the purchase, ownership and disposition of our Class A common stock issued pursuant to this offering, but it is not a complete analysis of all potential tax consequences. The consequences of other U.S. federal tax laws, such as estate and gift tax laws, and any applicable state, local or foreign tax laws are not discussed. This discussion is based on the Internal Revenue Code of 1986, as amended, or the Code, Treasury Regulations promulgated thereunder, judicial decisions, and published rulings and administrative pronouncements of the U.S. Internal Revenue Service, or the IRS, in effect as of the date of this offering. These authorities may change or be subject to differing interpretations. Any such change may be applied retroactively in a manner that could adversely affect a non-U.S. holder of our Class A common stock. We have not sought and will not seek any rulings from the IRS regarding the matters discussed below. There can be no assurance the IRS or a court will not take a contrary position regarding the tax consequences of the purchase, ownership and disposition of our Class A common stock.

This discussion is limited to non-U.S. holders that hold 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 U.S. federal income tax consequences relevant to a non-U.S. holder's particular circumstances, including the impact of the unearned income Medicare contribution tax or the alternative minimum tax. In addition, it does not address consequences relevant to non-U.S. holders subject to particular rules, including, without limitation:

- U.S. expatriates and certain former citizens or long-term residents of the United States;
- persons holding our Class A common stock as part of a hedge, straddle or other risk reduction strategy or as part of a conversion transaction or other integrated investment;
- banks, insurance companies, and other financial institutions;
- real estate investment trusts or regulated investment companies;
- brokers, dealers or traders in securities or currencies;
- "controlled foreign corporations," "passive foreign investment companies," and corporations that accumulate earnings to avoid U.S. federal income tax;
- S corporations, partnerships or other entities or arrangements treated as partnerships for U.S. federal income tax purposes;
- tax-exempt organizations or governmental organizations;
- persons deemed to sell our Class A common stock under the constructive sale provisions of the Code;
- persons who hold or receive our Class A common stock pursuant to the exercise of any employee stock option or otherwise as compensation;
- tax-qualified retirement plans;
- foreign governments; and
- persons whose "functional currency" is not the U.S. dollar.

If a partnership (or other entity treated as a partnership for U.S. federal income tax purposes) holds our Class A common stock, the tax treatment of a partner in the partnership will depend on the status of the partner, the activities of the partnership and certain determinations made at the partner level. Accordingly, partnerships holding our Class A common stock and the partners in such

partnerships should consult their tax advisors regarding the U.S. federal income tax consequences to them of the purchase, ownership and disposition of our Class A common stock.

THIS DISCUSSION IS FOR INFORMATION PURPOSES ONLY AND IS NOT, AND IS NOT INTENDED AS, LEGAL OR TAX ADVICE. INVESTORS SHOULD CONSULT THEIR TAX ADVISORS WITH RESPECT TO THE APPLICATION OF THE U.S. FEDERAL INCOME TAX LAWS TO THEIR PARTICULAR SITUATIONS AS WELL AS ANY TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF OUR CLASS A COMMON STOCK ARISING UNDER THE U.S. FEDERAL ESTATE OR GIFT TAX LAWS OR UNDER THE LAWS OF ANY STATE, LOCAL OR NON-U.S. TAXING JURISDICTION OR UNDER ANY APPLICABLE INCOME TAX TREATY.

Definition of a Non-U.S. Holder

For purposes of this discussion, a "non-U.S. holder" is any beneficial owner of our Class A common stock that is not a "U.S. person," a partnership, or an entity disregarded from its owner, each for United States federal income tax purposes. A U.S. person for such purposes is any of the following:

- an individual who is 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 under the laws of the United States, any state thereof, or the District of Columbia;
- a partnership (or other entity taxable as a partnership for U.S. federal income tax purposes) created or organized under the laws of the United States, any state thereof, or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income tax regardless of its source; or
- a trust that (1) is subject to the primary supervision of a U.S. court and the control of one or more United States persons (within the meaning of Section 7701(a)(30) of the Code), or (2) has made a valid election under applicable Treasury Regulations to continue to be treated as a United States person.

Distributions

As described in the section titled "Dividend Policy," we do not anticipate declaring or paying dividends to holders of our Class A common stock in the foreseeable future. However, if we do make distributions on our Class A common stock, such distributions of cash or property on our Class A common stock will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. Amounts not treated as dividends for U.S. federal income tax purposes will constitute a return of capital and first be applied against and reduce a non-U.S. holder's adjusted tax basis in its Class A common stock, but not below zero. Any excess will be treated as capital gain and will be treated as described below in the section relating to the sale or disposition of our Class A common stock.

Subject to the discussion below on backup withholding and foreign accounts, dividends paid to a non-U.S. holder of our Class A common stock that are not effectively connected with the non-U.S. holder's conduct of a trade or business within the United States (or, if required by an applicable income tax treaty, that are not attributable to a permanent establishment in the United States maintained by the non-U.S. holder) will be subject to U.S. federal withholding tax at a rate of

30% of the gross amount of the dividends (or such lower rate specified by an applicable income tax treaty).

Non-U.S. holders will be entitled to a reduction in or an exemption from withholding on dividends as a result of either (a) an applicable income tax treaty or (b) the non-U.S. holder holding our Class A common stock in connection with the conduct of a trade or business within the United States and dividends being paid in connection with that trade or business. To claim such a reduction in or exemption from withholding, the non-U.S. holder must provide the applicable withholding agent with a properly executed (a) IRS Form W-8BEN claiming an exemption from or reduction of the withholding tax under the benefit of an income tax treaty between the United States and the country in which the non-U.S. holder resides or is established, or (b) IRS Form W-8ECI stating that the dividends are not subject to withholding tax because they are effectively connected with the conduct by the non-U.S. holder of a trade or business within the United States, as may be applicable. These certifications must be provided to the applicable withholding agent prior to the payment of dividends and must be updated periodically. Non-U.S. holders that do not timely provide the applicable withholding agent with the required certification, but that qualify for a reduced rate under an applicable income tax treaty, may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS.

Subject to the discussion below on backup withholding and foreign accounts, if dividends paid to a non-U.S. holder are effectively connected with the non-U.S. holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, the non-U.S. holder maintains a permanent establishment in the United States to which such dividends are attributable), then, although exempt from U.S. federal withholding tax (provided the non-U.S. holder provides appropriate certification, as described above), the non-U.S. holder will be subject to U.S. federal income tax on such dividends on a net income basis at the regular graduated U.S. federal income tax rates. In addition, a non-U.S. holder that is a corporation may be subject to a branch profits tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on its effectively connected earnings and profits for the taxable year that are attributable to such dividends, as adjusted for certain items. Non-U.S. holders should consult their tax advisors regarding their entitlement to benefits under any applicable income tax treaty.

Sale or Other Taxable Disposition

Subject to the discussions below on backup withholding and foreign accounts, a non-U.S. holder will not be subject to U.S. federal income tax on any gain realized upon the sale or other disposition of our Class A common stock unless:

- the gain is effectively connected with the non-U.S. holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, the non-U.S. holder maintains a permanent establishment in the United States to which such gain is attributable);
- the non-U.S. holder is a nonresident alien individual present in the United States for 183 days or more during the taxable year of the disposition and certain other requirements are met; or
- our Class A common stock constitutes a U.S. real property interest, or USRPI, by reason of our status as a U.S. real property holding corporation, or a USRPHC, for U.S. federal income tax purposes.

Gain described in the first bullet point above will generally be subject to U.S. federal income tax on a net income basis at the regular graduated U.S. federal income tax rates. A non-U.S. holder that is a foreign corporation also may be subject to a branch profits tax at a rate of 30% (or such

lower rate specified by an applicable income tax treaty) of a portion of its effectively connected earnings and profits for the taxable year, as adjusted for certain items.

A non-U.S. holder described in the second bullet point above will be subject to U.S. federal income tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on any gain derived from the disposition, which may be offset by certain U.S. source capital losses of the non-U.S. holder (even though the individual is not considered a resident of the United States) provided the non-U.S. holder has timely filed U.S. federal income tax returns with respect to such losses.

With respect to the third bullet point above, we believe we are not currently and do not anticipate becoming a USRPHC. Because the determination of whether we are a USRPHC depends on the fair market value of our USRPIs relative to the fair market value of our other business assets and our non-U.S. real property interests, however, there can be no assurance we are not a USRPHC or will not become one in the future. Even if we are or were to become a USRPHC, gain arising from the sale or other taxable disposition by a non-U.S. holder of our Class A common stock will not be subject to U.S. federal income tax if (i) such class of stock is "regularly traded," as defined by applicable Treasury Regulations, on an established securities market, and (ii) such non-U.S. holder owned, actually or constructively, 5% or less of such class of our stock throughout the shorter of the five-year period ending on the date of the sale or other disposition or the non-U.S. holder's holding period for such stock. If we are a USRPHC and the conditions described in clauses (i) and (ii) of the preceding sentence are not met, gain on the disposition of shares of our common stock generally will be taxed in the same manner as gain that is effectively connected with the conduct of a U.S. trade or business, except that the branch profits tax generally will not apply.

Non-U.S. holders should consult their tax advisors regarding potentially applicable income tax treaties that may provide for different rules.

Information Reporting and Backup Withholding

Subject to the discussion below on foreign accounts, a non-U.S. holder will not be subject to backup withholding with respect to payments of dividends on our Class A common stock we make to the non-U.S. holder, provided the applicable withholding agent does not have actual knowledge or reason to know such holder is a United States person and the holder certifies its non-U.S. status, such as by providing a valid IRS Form W-8BEN or W-8ECI, or other applicable certification. However, information returns will be filed with the IRS in connection with any dividends on our Class A common stock paid to the non-U.S. holder, regardless of whether any tax was actually withheld. Copies of these information returns may also be made available under the provisions of a specific treaty or agreement to the tax authorities of the country in which the non-U.S. holder resides or is established.

Information reporting and backup withholding may apply to the proceeds of a sale of our Class A common stock within the United States, and information reporting may (although backup withholding generally will not) apply to the proceeds of a sale of our Class A common stock outside the United States conducted through certain U.S.-related financial intermediaries, in each case, unless the beneficial owner certifies under penalty of perjury that it is a non-U.S. holder on IRS Form W-8BEN or other applicable form (and the payor does not have actual knowledge or reason to know that the beneficial owner is a U.S. person) or such owner otherwise establishes an exemption.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against a non-U.S. holder's U.S. federal income tax liability, provided the required information is timely furnished to the IRS.

Additional Withholding Tax on Payments Made to Foreign Accounts

Withholding taxes may be imposed under the Foreign Account Tax Compliance Act, or FATCA, on certain types of payments made to non-U.S. financial institutions and certain other non-U.S. entities. Specifically, a 30% withholding tax may be imposed on dividends on, or gross proceeds from the sale or other disposition of, our Class A common stock paid to a "foreign financial institution" or a "non-financial foreign entity" (each as defined in the Code), unless (1) the foreign financial institution undertakes certain diligence and reporting obligations, (2) the non-financial foreign entity either certifies it does not have any "substantial United States owners" (as defined in the Code) or furnishes identifying information regarding each substantial United States owner, or (3) the foreign financial institution or non-financial foreign entity otherwise qualifies for an exemption from these rules. If the payee is a foreign financial institution and is subject to the diligence and reporting requirements in (1) above, it must enter into an agreement with the U.S. Department of the Treasury requiring, among other things, that it undertake to identify accounts held by certain "specified United States persons" or "United States-owned foreign entities" (each as defined in the Code), annually report certain information about such accounts, and withhold 30% on payments to non-compliant foreign financial institutions and certain other account holders. Foreign governments may enter into an agreement with the IRS to implement FATCA in a different manner. Under current IRS guidance, FATCA withholding currently applies to payments of dividends on our Class A common stock made on or after July 1, 2014, and will apply to payments of gross proceeds from the sale or other disposition of such stock on or after January 1, 2017. Because we may not know the extent to which a distribution is a dividend for U.S. federal income tax purposes at the time it is made, for purposes of these withholding rules we may treat the entire distribution as a dividend. Prospective investors should consult their tax advisors regarding these withholding provisions.

UNDERWRITING

The company, the selling stockholders and the underwriters named below have entered into an underwriting agreement with respect to the shares of Class A common stock 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. is the representative of the underwriters.

Underwriters	Number of Shares
Goldman, Sachs & Co.	
Merrill Lynch, Pierce, Fenner & Smith Incorporated	
Citigroup Global Markets Inc.	
Allen & Company LLC	
Pacific Crest Securities LLC	
Piper Jaffray & Co	
Wells Fargo Securities, LLC	
Canaccord Genuity Inc.	
Cowen and Company, LLC	
Raymond James & Associates, Inc.	
Total	

The underwriters are committed to take and pay for all of the shares being offered, if any are taken, other than the shares covered by the option described below unless and until this option is exercised.

The underwriters have an option to buy up to an additional shares of Class A common stock from the company and from the selling stockholders. 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 discount to be paid to the underwriters by the company and the selling stockholders. Such amounts are shown assuming both no exercise and full exercise of the underwriters' option to purchase additional shares.

Paid by the Company	No Exercise	Full Exercise
Per Share	$	$
Total	$	$

Paid by the Selling Stockholders	No Exercise	Full Exercise
Per Share	$	$
Total	$	$

Shares of Class A common stock 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 representative 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.

The company estimates that its share of the total expenses of the offering, excluding the underwriting discount, will be approximately $. The underwriters have agreed to reimburse the Company for certain expenses incurred in connection with this offering.

The company and its officers, directors, and holders of substantially all of the company's common stock, including the selling stockholders, have agreed with the underwriters, subject to certain exceptions, not to dispose of or hedge any of their common stock or securities convertible into or exchangeable for shares of common stock during the period from the date of this prospectus continuing through the date 180 days after the date of this prospectus, except with the prior written consent of Goldman, Sachs & Co. Please read the section titled "Shares Eligible for Future Sale" for a discussion of certain transfer restrictions.

Prior to the offering, there has been no public market for the shares of Class A common stock. The initial public offering price will be negotiated among the company and the underwriters. Among the factors to be considered in determining the initial public offering price of the shares, in addition to prevailing market conditions, will be the company's historical performance, estimates of the business potential and earnings prospects of the company, an assessment of the company's management and the consideration of the above factors in relation to market valuation of companies in related businesses.

We have applied to have our Class A common stock listed on the NYSE under the symbol "W."

In connection with the offering, the underwriters may purchase and sell shares of Class A common stock in the open market. These transactions may include short sales, stabilizing transactions and purchases to cover positions created by short sales. Short sales involve the sale by the underwriters of a greater number of shares than they are required to purchase in the offering, and a short position represents the amount of such sales that have not been covered by subsequent purchases. A "covered short position" is a short position that is not greater than the amount of additional shares for which the underwriters' option described above may be exercised. The underwriters may cover any covered short position by either exercising their option to purchase additional shares or purchasing shares in the open market. In determining the source of shares to cover the covered short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase additional shares pursuant to the option described above. "Naked" short sales are any short sales that create a short position greater than the amount of additional shares for which the option described above may be exercised. The underwriters must cover any such naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the Class A 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 Class A 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 Goldman, Sachs & Co. has 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 the company's stock, and together with the imposition of the penalty bid, may stabilize, maintain or otherwise affect the market price of the Class A 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 NYSE, in the over-the-counter market or otherwise.

Notice to Prospective Investors in the European Economic Area

In relation to each Member State of the European Economic Area (each, a "Relevant Member State"), no offer of shares 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 100 or, if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150, natural or legal persons (other than qualified investors as defined in the Prospectus Directive), as permitted under the Prospectus Directive, subject to obtaining the prior consent of the representative; or

C. in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of shares shall require the Company or the representative to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

Each person in a Relevant Member State who initially acquires any shares or to whom any offer is made will be deemed to have represented, acknowledged and agreed 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. In the case of any shares being offered to a financial intermediary as that term is used in Article 3(2) of the Prospectus Directive, each such financial intermediary will be deemed to have represented, acknowledged and agreed that the shares acquired by it in the offer have not been acquired on a non-discretionary basis on behalf of, nor have they been acquired with a view to their offer or resale to, persons in circumstances which may give rise to an offer of any shares to the public other than their offer or resale in a Relevant Member State to qualified investors as so defined or in circumstances in which the prior consent of the representative has been obtained to each such proposed offer or resale.

The company, the representative and their affiliates will rely upon the truth and accuracy of the foregoing representations, acknowledgements and agreements.

This prospectus has been prepared on the basis that any offer of shares in any Relevant Member State will be made pursuant to an exemption under the Prospectus Directive from the requirement to publish a prospectus for offers of shares. Accordingly any person making or intending to make an offer in that Relevant Member State of shares which are the subject of the offering contemplated in this prospectus may only do so in circumstances in which no obligation arises for the company or any of the underwriters to publish a prospectus pursuant to Article 3 of the Prospectus Directive in relation to such offer. Neither the Company nor the underwriters have authorized, nor do they authorize, the making of any offer of shares in circumstances in which an obligation arises for the Company or the underwriters to publish a prospectus for such offer.

For the purpose of the above provisions, the expression "an offer 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 the shares, as the same may be varied in the Relevant Member State by any measure implementing the Prospectus Directive in the Relevant Member State and the expression "Prospectus Directive" means Directive 2003/71/EC (including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member States) and includes any relevant implementing measure in the Relevant Member State and the expression "2010 PD Amending Directive" means Directive 2010/73/EU.

Notice to Prospective Investors in the United Kingdom

In addition, in the United Kingdom, this document is being distributed only to, and is directed only at, and any offer subsequently made may only be directed at persons who are "qualified investors" (as defined in the Prospectus Directive) (i) who have professional experience in matters relating to investments falling within Article 19 (5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended (the "Order") and/or (ii) who are high net worth companies (or persons to whom it may otherwise be lawfully communicated) falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as "relevant persons"). This document must not be acted on or relied on in the United Kingdom by persons who are not relevant persons. In the United Kingdom, any investment or investment activity to which this document relates is only available to, and will be engaged in with, relevant persons.

Notice to Prospective Investors in Switzerland

The shares may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange (SIX) or on any other stock exchange or regulated trading facility in Switzerland. This document has been prepared without regard to the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this document nor any other offering or marketing material relating to the shares or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, the Company, the shares have been or will be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of shares will not be supervised by, the Swiss Financial Market Supervisory Authority FINMA (FINMA), and the offer of shares has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes (CISA). The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of shares.

Notice to Prospective Investors in the Dubai International Financial Centre

This prospectus relates to an Exempt Offer in accordance with the Offered Securities Rules of the Dubai Financial Services Authority (DFSA). This prospectus is intended for distribution only to persons of a type specified in the Offered Securities Rules of the DFSA. It must not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The DFSA has not approved this prospectus nor taken steps to verify the information set forth herein and has no responsibility for the prospectus. The shares to which this prospectus relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the shares offered should conduct their own due diligence on the shares. If you do not understand the contents of this prospectus you should consult an authorized financial advisor.

Notice to Prospective Investors in Australia

No placement document, prospectus, product disclosure statement or other disclosure document has been lodged with the Australian Securities and Investments Commission (ASIC), in relation to the offering. This prospectus does not constitute a prospectus, product disclosure statement or other disclosure document under the Corporations Act 2001 (Corporations Act), and does not purport to include the information required for a prospectus, product disclosure statement or other disclosure document under the Corporations Act.

Any offer in Australia of the shares may only be made to persons (the "Exempt Investors") who are "sophisticated investors" (within the meaning of section 708(8) of the Corporations Act), "professional investors" (within the meaning of section 708(11) of the Corporations Act) or otherwise pursuant to one or more exemptions contained in section 708 of the Corporations Act so that it is lawful to offer the shares without disclosure to investors under Chapter 6D of the Corporations Act.

The shares applied for by Exempt Investors in Australia must not be offered for sale in Australia in the period of 12 months after the date of allotment under the offering, except in circumstances where disclosure to investors under Chapter 6D of the Corporations Act would not be required pursuant to an exemption under section 708 of the Corporations Act or otherwise or where the offer is pursuant to a disclosure document which complies with Chapter 6D of the Corporations Act. Any person acquiring shares must observe such Australian on-sale restrictions.

This prospectus contains general information only and does not take account of the investment objectives, financial situation or particular needs of any particular person. It does not contain any securities recommendations or financial product advice. Before making an investment decision, investors need to consider whether the information in this prospectus is appropriate to their needs, objectives and circumstances, and, if necessary, seek expert advice on those matters.

Notice to Prospective Investors in Hong Kong

The shares have not been offered or sold and will not be offered or sold in Hong Kong, by means of any document, other than (a) to "professional investors" as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that Ordinance; or (b) in other circumstances which do not result in the document being a "prospectus" as defined in the Companies Ordinance (Cap. 32) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance. No advertisement, invitation or document relating to the shares has been or may be issued or has been or may be in the possession of any person for the purposes of issue, 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 of Hong Kong (except if permitted to do so under the securities 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" as defined in the Securities and Futures Ordinance and any rules made under that Ordinance.

Notice to Prospective Investors in Japan

The shares have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948, as amended) and, accordingly, will not be offered or sold, directly or indirectly, in Japan, or for the benefit of any Japanese Person or to others for re-offering or resale, directly or indirectly, in Japan or to any Japanese Person, except in compliance with all applicable laws, regulations and ministerial guidelines promulgated by relevant Japanese governmental or regulatory authorities in effect at the relevant time. For the purposes of this paragraph, "Japanese Person" shall mean any person resident in Japan, including any corporation or other entity organized under the laws of Japan.

Notice to Prospective Investors in 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 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 pursuant to Section 275(1), 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 of the SFA by a relevant person which is:

(a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA) 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

a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the shares pursuant to an offer made under Section 275 of the SFA except:

(a) to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;

where no consideration is or will be given for the transfer;

where the transfer is by operation of law;

as specified in Section 276(7) of the SFA; or

as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore.

The underwriters do not expect sales to discretionary accounts to exceed five percent of the total number of shares offered.

The company and the selling stockholders estimate that their share of the total expenses of the offering, excluding underwriting discount, will be approximately $.

The company and the selling stockholders 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 us and to persons and entities with relationships with us, for which they received or will receive customary fees and expenses. We have previously paid aggregate fees of approximately $7.4 million to Allen & Company, an underwriter in this offering, for services provided to us in connection with our sale and issuance of shares of our Series B preferred stock in March 2014 and shares of our Series A preferred stock in November 2011 and July 2011. In addition, Bank of America, N.A., an affiliate of Merrill Lynch, Pierce, Fenner & Smith Incorporated, an underwriter in this offering, is a lender under our credit agreement.

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 company (directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with the company. 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.

LEGAL MATTERS

The validity of the shares of common stock offered hereby will be passed upon for us by Latham & Watkins LLP, Waltham, Massachusetts. Ropes & Gray LLP is acting as counsel for the underwriters in connection with certain legal matters related to this offering.

EXPERTS

The consolidated financial statements of Wayfair LLC at December 31, 2012 and 2013, and for the years then ended, appearing in this prospectus and registration statement have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their report thereon appearing elsewhere herein, and are included in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of Class A common stock offered hereby. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement or the exhibits and schedules filed therewith. For further information about us and the Class A common stock offered hereby, we refer you to the registration statement and the exhibits and schedules filed thereto. Statements contained in this prospectus regarding the contents of any contract or any other document that is filed as an exhibit to the registration statement are not necessarily complete, and each such statement is qualified in all respects by reference to the full text of such contract or other document filed as an exhibit to the registration statement. Upon completion of this offering, we will be required to file periodic reports, proxy statements, and other information with the SEC pursuant to the Securities Exchange Act of 1934. You may read and copy this information without charge at the Securities and Exchange Commission, 100 F Street, N.E., Room 1580, Washington, D.C. 20549, and copies of all or any part of the registration statement may be obtained from such offices upon the payment of the fees prescribed by the SEC. You may obtain information on the hours of operation by calling the SEC at 1-800-SEC-0330. The SEC also maintains an Internet website that contains reports, proxy statements and other information about registrants, like us, that file electronically with SEC. The address of that site is www.sec.gov.

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Report of Independent Registered Public Accounting Firm

The Board of Managers and Members of Wayfair LLC

We have audited the accompanying consolidated balance sheets of Wayfair LLC (the Company) as of December 31, 2012 and 2013, and the related consolidated statements of operations, comprehensive loss, changes in convertible redeemable preferred units and members' deficit, and cash flows for the years then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Wayfair LLC at December 31, 2012 and 2013, and the consolidated results of its operations and its cash flows for the years then ended, in conformity with U.S. generally accepted accounting principles.

/s/ Ernst & Young LLP

Boston, Massachusetts

May 7, 2014

Wayfair LLC

Consolidated Balance Sheets

	December 31, 2012	December 31, 2013	June 30, 2014	June 30, 2014 Pro Forma
	(in thousands, except share and per unit/share data)			(unaudited)
Consolidated Balance Sheets:				
Assets				
Current assets				
Cash and cash equivalents	$ 77,861	$ 65,289	$ 87,781	$ 66,885
Short-term investments	23,017	50,019	65,017	65,017
Accounts receivable, net of allowance for doubtful accounts of $754, $1,183 and $2,084 as of December 31, 2012 and 2013 and June 30, 2014, respectively	15,766	7,689	6,647	6,647
Inventories	7,909	14,963	19,803	19,803
Prepaid expenses and other current assets	15,571	25,167	38,327	38,327
Total current assets	140,124	163,127	217,575	196,679
Property and equipment, net	18,370	22,088	44,141	44,141
Intangible assets, net	780	3,919	3,416	3,416
Goodwill	3,420	5,165	5,165	5,165
Restricted cash	268	826	3,844	3,844
Other noncurrent assets	615	1,175	2,877	2,877
Total assets	$ 163,577	$ 196,300	$ 277,018	$ 256,122
Liabilities, Convertible Redeemable Preferred Units and Members' (Deficit)/Stockholders' Equity				
Current liabilities				
Accounts payable	$ 66,603	$ 102,153	$ 81,124	$ 81,124
Accrued expenses	12,596	19,239	36,972	38,457
Deferred revenue	12,282	13,397	18,033	18,033
Due to related party	1,390	1,878	1,485	—
Other current liabilities	5,222	8,342	11,255	11,255
Total current liabilities	98,093	145,009	148,869	148,869
Other liabilities	477	944	12,889	13,195
Total liabilities	98,570	145,953	161,758	162,064
Commitments and contingencies (Note 7)				
Series A convertible redeemable preferred units, no par value per unit: 21,551,801 units authorized at December 31, 2012 and 2013 and June 30, 2014; 21,551,801 units issued at December 31, 2012 and 2013 and June 30, 2014, respectively; no units authorized, issued and outstanding, pro forma (unaudited); liquidation preference of $235.5 million at June 30, 2014.	215,798	241,186	235,486	—
Series B convertible redeemable preferred units, no par value per unit: no units authorized and issued at December 31, 2012 and 2013, respectively; 5,995,133 units authorized and issued at June 30, 2014; no units authorized, issued and outstanding, pro forma (unaudited); liquidation preference of $157.2 million at June 30, 2014	—	—	157,229	—
Members' (deficit)/Stockholders' equity:				
Common units, no par value per unit: 71,194,852, 74,328,124 and 81,365,954 units authorized at December 31, 2012, and 2013 and June 30, 2014, respectively; 44,818,934, 44,904,110 and 43,784,060 units issued and outstanding at December 31, 2012 and 2013 and June 30, 2014, respectively; no units authorized, issued and outstanding, pro forma (unaudited)				
Series A convertible preferred stock, $0.001 par value; no shares authorized, issued or outstanding, actual; shares authorized, no shares issued or outstanding, pro forma				
Series B convertible preferred stock, $0.001 par value; no shares authorized, issued or outstanding, actual; shares authorized, no shares issued or outstanding, pro forma				
Class A common stock, $0.001 par value; no shares authorized, issued or outstanding, actual; shares authorized, shares issued and outstanding, pro forma	—	—	—	—
Class B common stock, $0.001 par value; no shares authorized, issued or outstanding, actual; shares authorized, shares issued and outstanding, pro forma	—	—	—	71
Additional paid-in capital	—	—	—	121,624
Common members' (deficit)/Retained earnings	(150,853)	(190,511)	(277,134)	(27,316)
Accumulated other comprehensive income (loss)	62	(328)	(321)	(321)
Total members' (deficit)/stockholders' equity	(150,791)	(190,839)	(277,455)	94,058
Total liabilities, convertible redeemable preferred units and members' (deficit)/stockholders' equity	$ 163,577	$ 196,300	$ 277,018	$ 256,122

See notes to consolidated financial statements.

Wayfair LLC

Consolidated Statements of Operations

	Years ended December 31,		Six months ended June 30,	
	2012	2013	2013	2014
	(in thousands, except share and per unit/share data)		(unaudited)	
Consolidated Statements of Operations:				
Net revenue	$ 601,028	$ 915,843	$ 383,208	$ 574,144
Cost of goods sold	455,879	691,602	288,337	440,483
Gross profit	145,149	224,241	94,871	133,661
Operating expenses:				
Sales and marketing	113,370	177,475	72,714	138,228
General and administrative	52,961	62,246	30,014	46,355
Amortization of acquired intangible assets	212	539	106	499
Total operating expenses	166,543	240,260	102,834	185,082
Loss from operations	(21,394)	(16,019)	(7,963)	(51,421)
Interest income, net	234	245	124	133
Other (expense) income, net	155	294	(504)	(96)
Loss before income taxes	(21,005)	(15,480)	(8,343)	(51,384)
Provision for income taxes	(50)	(46)	5	(17)
Net loss	$ (21,055)	$ (15,526)	$ (8,338)	$ (51,401)
Accretion of convertible redeemable preferred units	(12,154)	(25,388)	(15,948)	(11,755)
Net loss attributable to common unit holders	(33,209)	(40,914)	(24,286)	(63,156)
Net loss attributable to common unit holders per unit — basic and diluted	$ (0.80)	$ (0.99)	$ (0.59)	$ (1.55)
Weighted average number of common units outstanding used in computing per unit amounts — basic and diluted	41,271,992	41,331,546	41,271,992	40,828,976
Pro forma net loss per share — basic and diluted (Note 15) (unaudited)		$		$
Pro forma weighted average number of common shares outstanding (Note 15) (unaudited)				

See notes to consolidated financial statements.

Wayfair LLC

Consolidated Statements of Comprehensive Loss

	Years ended December 31,		Six months ended June 30,	
	2012	2013	2013	2014
	(in thousands)		(unaudited)	
Net loss	$ (21,055)	$ (15,526)	$ (8,338)	$ (51,401)
Other comprehensive loss:				
Foreign currency translation adjustments	(392)	(390)	583	7
Comprehensive loss	$ (21,447)	$ (15,916)	$ (7,755)	$ (51,394)

See notes to consolidated financial statements.

Wayfair LLC

Consolidated Statements of Changes in Convertible Redeemable Preferred Units and Members' Deficit

(in thousands, except unit data)	Series A Convertible Redeemable Preferred Units	Series A Convertible Redeemable Members' Equity	Series B Convertible Redeemable Preferred Units	Series B Convertible Redeemable Members' Equity	Common Units	Common Members' Deficit	Accumulated Other Comprehensive Income (Loss)	Total Members' Deficit
Balance at December 31, 2011	17,666,664	$ 167,480	—	$ —	45,002,043	$ (118,190)	$ 454	$ (117,736)
Net loss	—	—	—	—	—	(21,055)	—	(21,055)
Cumulative translation adjustment	—	—	—	—	—	—	(392)	(392)
Due to common unit holders	—	—	—	—	—	(154)	—	(154)
Return of excess distribution	—	—	—	—	—	700	—	700
Forfeiture of unvested units	—	—	—	—	(183,109)	—	—	—
Accretion of Series A convertible redeemable preferred units	—	12,154	—	—	—	(12,154)	—	(12,154)
Issuance of Series A convertible redeemable preferred units	3,885,137	36,164	—	—	—	—	—	—
Balance at December 31, 2012	21,551,801	215,798	—	—	44,818,934	(150,853)	62	(150,791)
Net loss	—	—	—	—	—	(15,526)	—	(15,526)
Cumulative translation adjustment	—	—	—	—	—	—	(390)	(390)
Accretion of Series A convertible redeemable preferred units	—	25,388	—	—	—	(25,388)	—	(25,388)
Forfeiture of unvested units	—	—	—	—	(55,974)	—	—	—
Equity issued as part of acquisition, net	—	—	—	—	141,150	1,194	—	1,194
Equity compensation expense	—	—	—	—	—	62	—	62
Balance at December 31, 2013	21,551,801	241,186	—	—	44,904,110	(190,511)	(328)	(190,839)
Net loss (unaudited)	—	—	—	—	—	(51,401)	—	(51,401)
Cumulative translation adjustment (unaudited)	—	—	—	—	—	—	7	7
Accretion of convertible redeemable preferred units (unaudited)	—	9,300	—	2,455	—	(11,755)	—	(11,755)
Forfeiture of unvested units (unaudited)	—	—	—	—	(16,695)	—	—	—
Repurchase of vested common units (unaudited)	—	—	—	—	(202,757)	—	—	—
Issuance of Series B convertible redeemable preferred units, net of issuance costs (unaudited)	—	—	5,995,133	154,774	—	—	—	—
Dividends paid to Series A convertible redeemable preferred unitholders (unaudited)	—	(15,000)	—	—	—	—	—	—
Repurchase of common units (unaudited)	—	—	—	—	(896,052)	(23,500)	—	(23,500)
Return of equity held in escrow as part of acquisition (unaudited)	—	—	—	—	(4,546)	(49)	—	(49)
Equity compensation expense (unaudited)	—	—	—	—	—	82	—	82
Balance at June 30, 2014 (unaudited)	21,551,801	$ 235,486	5,995,133	$ 157,229	43,784,060	$ (277,134)	$ (321)	$ (277,455)

See notes to consolidated financial statements.

Wayfair LLC

Consolidated Statements of Cash Flows

	Years ended December 31,		Six months ended June 30,	
	2012	2013	2013	2014
	(in thousands)		(unaudited)	
Cash flows from operating activities				
Net loss	$ (21,055)	$ (15,526)	$ (8,338)	$ (51,401)
Adjustments to reconcile net loss to net cash provided by operating activities, net of acquisition:				
Depreciation and amortization	9,335	13,091	5,863	8,891
Equity-based compensation	—	—	—	5,528
Other non-cash adjustments	110	121	11	119
Changes in operating assets and liabilities:				
Accounts receivable and customer refunds payable	(8,234)	8,112	4,476	1,040
Inventories	(2,497)	(6,630)	(4,238)	(4,840)
Prepaid expenses and other current assets	(2,431)	(9,159)	(3,168)	(13,203)
Due to related party	(6,978)	92	216	(388)
Accounts payable and accrued expenses	32,917	40,761	(3,186)	(3,306)
Deferred revenue and other liabilities	3,041	4,195	2,408	19,487
Other assets	(263)	(644)	49	(1,698)
Net cash provided by (used in) operating activities	3,945	34,413	(5,907)	(39,771)
Cash flows from investing activities				
Purchase of short-term investments	(66,065)	(93,000)	(40,000)	(65,000)
Sale and maturities of short-term investments	58,065	65,998	22,997	50,002
Purchase of property and equipment	(8,031)	(6,739)	(3,301)	(24,331)
Site and software development costs	(6,949)	(9,040)	(4,067)	(6,148)
Cash paid for acquisition	—	(3,741)	—	—
Other investing activities, net	(100)	(469)	—	(3,012)
Net cash used in investing activities	(23,080)	(46,991)	(24,371)	(48,489)
Cash flows from financing activities				
Net proceeds from issuance of Series A convertible redeemable preferred units	36,164	—	—	—
Escrow proceeds from the issuance of Series A convertible redeemable preferred units in 2011	8,080	—	—	—
Net proceeds from issuance of Series B convertible redeemable preferred units	—	—	—	154,774
Repurchase of common units	—	—	—	(23,500)
Dividends paid to Series A convertible redeemable preferred	—	—	—	(15,000)
Purchase of employee equity	—	—	—	(5,528)
Additional paid-in capital	700	—	—	—
Net cash provided by financing activities	44,944	—	—	110,746
Effect of exchange rate changes on cash and cash equivalents	25	6	(65)	6
Net increase (decrease) in cash and cash equivalents	25,834	(12,572)	(30,343)	22,492
Cash and cash equivalents				
Beginning of period	52,027	77,861	77,861	65,289
End of period	$ 77,861	$ 65,289	$ 47,518	$ 87,781
Supplemental disclosure of cash flow information				
Income tax payments	$ 17	$ 3	$ 2	$ 6
Tax distribution receivable	154	—		
Supplemental disclosure of non-cash investing activities				
Issuance of common units in connection with acquisition	$ —	$ 1,194	—	—
Purchase of property and equipment included in accounts payable and accrued expenses and in other liabilities	—	—	677	5,787
Supplemental disclosure of non-cash financing activities				
Accretion of preferred units	$ 12,154	$ 25,388	$ 15,948	$ 11,755

See notes to consolidated financial statements.

Notes to Consolidated Financial Statements

1. Summary of Business Operations

Wayfair LLC (formerly CSN Stores LLC), a Delaware limited liability company, is an e-commerce business offering visually inspiring browsing, compelling merchandising, easy product discovery and attractive prices for over seven million products from over 7,000 suppliers across distinct brands — Wayfair.com, Joss & Main, AllModern, DwellStudio, and Birch Lane. In addition to generating net revenue through Direct Retail sales, which includes all sales generated primarily through Wayfair LLC's websites, mobile-optimized websites, and mobile applications (sites), net revenue is also generated through sites operated by third parties and through third-party advertising distribution providers that pay Wayfair LLC based on the number of advertisement related clicks, actions, or impressions for advertisements placed on Wayfair LLC sites.

Unaudited Interim Financial Information

The accompanying consolidated balance sheet as of June 30, 2014, the consolidated statements of operations, consolidated statements of comprehensive loss, and consolidated statements of cash flows for the six months ended June 30, 2013 and 2014, and the consolidated statement of changes in convertible redeemable preferred units and members' deficit for the six months ended June 30, 2014 are unaudited. The unaudited interim financial statements have been prepared on the same basis as the audited consolidated financial statements and in the opinion of management, reflect all adjustments, consisting of only normal recurring adjustments, necessary for the fair statement of the Company's financial position as of June 30, 2014 and results of operations and cash flows for the six months ended June 30, 2013 and 2014. The financial data and the other information disclosed in these notes to the consolidated financial statements related to these six month periods are unaudited.

Unaudited Pro Forma Financial Information

The unaudited pro forma balance sheet as of June 30, 2014 reflects the reorganization of Wayfair LLC into a Delaware corporation. Pursuant to this reorganization, Wayfair LLC will become a wholly-owned subsidiary of Wayfair Inc., and holders of the equity interests in Wayfair LLC will become stockholders of Wayfair Inc. In connection with the reorganization, all outstanding common units will convert into shares of Class B common stock of Wayfair Inc. All outstanding preferred units will first convert into shares of Series A and Series B convertible preferred stock of Wayfair Inc. and then, immediately prior to the completion of Wayfair LLC's proposed initial public offering, into shares of Class B common stock of Wayfair Inc. The unaudited pro forma balance sheet as of June 30, 2014 reflects the conversion of all then outstanding Series A and Series B convertible preferred stock into 27,546,934 shares of Class B common stock. See Note 10 for further details.

The unaudited pro forma weighted average number of shares of common stock outstanding disclosed in the consolidated statements of operations gives effect to the automatic conversion of all of Wayfair LLC's outstanding convertible preferred stock into Class B common stock upon the closing of Wayfair LLC's proposed initial public offering. See Note 15 for further details.

2. Summary of Significant Accounting Policies

Principles of Consolidation

The accompanying consolidated financial statements include the accounts of Wayfair LLC and its wholly owned subsidiaries (collectively the Company or Wayfair). All intercompany accounts and

Notes to Consolidated Financial Statements (Continued)

2. Summary of Significant Accounting Policies (Continued)

transactions have been eliminated. Below is a summary of the wholly-owned subsidiaries of the Company:

Subsidiary	Location
Wayfair Stores Limited	Republic of Ireland
Wayfair (UK) Limited	United Kingdom
Wayfair GmbH	Germany
Wayfair (BVI) Ltd.	British Virgin Islands
Wayfair Australia Pty Limited	Australia

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America (US GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, and disclosure of contingent assets and liabilities, at the date of the financial statements, and the reported amounts of revenue and expenses during the reported period. On an ongoing basis, management evaluates these estimates and judgments, including those related to revenue recognition, capitalization of site and software development costs, stock-based compensation, and inventory. Actual results could differ from those estimates.

Cash and Cash Equivalents

The Company considers all highly liquid investments purchased with an original maturity (at the date of purchase) of three months or less to be the equivalent of cash for the purpose of consolidated balance sheets and statements of cash flows presentation. Cash equivalents, which consist primarily of money market accounts, are carried at cost, which approximates market value.

Restricted Cash

As of December 31, 2012 and 2013 and June 30, 2014, there was $0.3 million, $0.8 million, and $3.8 million, respectively, of cash that was restricted from withdrawal and held by banks to guarantee the Company's letters of credit issued principally to secure certain property leases.

Short-Term Investments

Short-term investments consist of certificates of deposits with original maturities in less than twelve months.

Accounts Receivable

Accounts receivable are stated at the amount management expects to collect from outstanding balances. The Company estimates the allowance for doubtful accounts based on historical losses, existing economic conditions, and other information available at the consolidated balance sheets dates. Uncollectible amounts are written off against the allowance after all collection efforts have been exhausted.

Notes to Consolidated Financial Statements (Continued)

2. Summary of Significant Accounting Policies (Continued)

Fair Value of Financial Instruments

The Company's financial assets and liabilities are measured at fair value, which is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (exit price). The three levels of inputs used to measure fair value are as follows:

- Level 1 — Unadjusted quoted prices in active markets for identical assets or liabilities
- Level 2 — Unadjusted quoted prices in active markets for similar assets or liabilities, unadjusted quoted prices for identical or similar assets or liabilities in markets that are not active, or inputs other than quoted prices that are observable or can be corroborated by observable market data for substantially the full-term of the asset or liability
- Level 3 — Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the asset or liability

This hierarchy requires the Company to use observable market data, when available, and to minimize the use of unobservable inputs when determining fair value. The Company measures its cash equivalents and short-term investments at fair value. The Company classifies its cash equivalents and short-term investments within Level 1 because the Company values these investments using quoted market prices. The fair value of the Company's Level 1 financial assets is based on quoted market prices of the identical underlying security. The Company does not have any assets or liabilities classified as Level 2 or Level 3 financial assets. See Note 3 for further details.

Concentrations of Credit Risk

Financial instruments that subject the Company to credit risk consist of cash and cash equivalents, short-term investments, and accounts receivable. The risk with respect to cash and cash equivalents and short-term investments is minimized by the Company's policy of investing in financial instruments (i.e., cash equivalents) with short-term maturities issued by highly rated financial institutions. At times, these balances may exceed federally insured limits; however, to date, the Company has not incurred any losses on these investments. The risk with respect to accounts receivable is managed by the Company through its policy of monitoring the creditworthiness of its customers to which it grants credit terms in the normal course of business. As of December 31, 2012 and 2013 and June 30, 2014, the Company had $1.0 million, $2.6 million and $1.4 million, respectively, in banks located outside the United States.

Foreign Currency Translation

The functional currency of the Company is the United States dollar, while its subsidiaries' functional currencies are as follows:

Subsidiary	Currency
Wayfair Stores Limited	Euro
Wayfair (UK) Limited	Pound sterling
Wayfair GmbH	Euro
Wayfair (BVI) Ltd.	Euro
Wayfair Australia Pty Limited	Australian dollar

Notes to Consolidated Financial Statements (Continued)

2. Summary of Significant Accounting Policies (Continued)

The financial statements of the Company are translated to United States dollars using year-end exchange rates as to assets and liabilities and average exchange rates as to revenue and expenses. Capital accounts are translated at their historical exchange rates when the capital transaction occurred. The effects of foreign currency translation are included in other comprehensive loss in the consolidated statements of comprehensive loss. Transaction gains and losses are included in the Company's consolidated statements of operations. Translation adjustments arising from the use of differing exchange rates from period to period are included in accumulated other comprehensive loss within members' deficit.

Inventories

Inventories consisting of finished goods are stated at the lower of cost or market, determined by the first-in, first-out (FIFO) method, and consist of product for resale. Inventory costs consist of cost of product and inbound shipping and handling costs. Inventory costs also include direct and indirect labor costs, rents and depreciation expenses associated with the Company's fulfillment centers. Inventory valuation requires the Company to make judgments, based on currently-available information, about the likely method of disposition, such as through sales to individual customers, returns to product suppliers, or liquidations, and expected recoverable values of each disposition category.

Goods In-Transit

Goods in-transit directly from suppliers to customers are recorded in prepaid expenses and other current assets. Risk of loss and the transfer of title from the supplier to the Company occurs at freight on board shipping point. As of December 31, 2012 and 2013 and June 30, 2014, goods in-transit amounted to $6.7 million, $9.7 million and $13.9 million, respectively.

Property and Equipment

Property and equipment are stated at cost, net of depreciation and amortization. Depreciation and amortization on property and equipment is calculated on the straight-line method over the estimated useful lives of the assets as follows:

Class	Range of Life (In Years)
Furniture and computer equipment	3 to 7
Site and software development costs	2
Leasehold improvements	The lesser of useful life or lease term

Site and Software Development Costs

The Company capitalizes costs associated with the development of its sites and internal-use software products after the preliminary project stage is complete and until the software is ready for its intended use. The capitalized costs are amortized over a two-year period. Costs incurred in the preliminary stages of development, after the software is ready for its intended use and for maintenance of internal-use software are expensed as incurred. Upgrade and enhancements are capitalized to the extent they will result in added functionality.

Notes to Consolidated Financial Statements (Continued)

2. Summary of Significant Accounting Policies (Continued)

Total costs capitalized, net of accumulated amortization, totaled $6.5 million, $8.6 million, and $10.3 million as of December 31, 2012 and 2013 and June 30, 2014, respectively, and are included in property and equipment, net in the accompanying consolidated balance sheets. Amortization expense for the years ended December 31, 2012 and 2013 and the six months ended June 30, 2013 and 2014 were $4.8 million, $7.0 million, $3.2 million, and $4.4 million, respectively. Capitalized software costs are included in property and equipment within our consolidated balance sheets.

Goodwill

Goodwill represents the excess of cost over the fair value of tangible and identifiable intangible assets acquired and liabilities assumed. Goodwill is not amortized, but is subject to an annual impairment test, or more frequently as impairment indicators arise.

The Company tests goodwill for impairment at least annually. The Company reviews goodwill for impairment on the last day of its fiscal year and whenever events or changes in circumstances indicate that the carrying amount of this asset may exceed its fair value. The assessment is performed at the reporting unit level. The Company performs the two-step goodwill impairment test to identify potential goodwill impairment. The first step is to compare the fair value of the reporting unit to the book value including goodwill. If the fair value of the reporting unit exceeds the book value, goodwill is not impaired. If the book value exceeds the fair value, the second step of the process is performed to measure the amount of impairment. For the years ended December 31, 2012 and 2013 and the six months ended June 30, 2014, no impairment of goodwill had been indicated.

Long-Lived Assets

The Company reviews long-lived assets for impairment whenever events or changes in circumstances, such as service discontinuance or technological obsolescence, indicate that the carrying amount of the long-lived asset may not be recoverable. When such events occur, the Company compares the carrying amount of the asset to the undiscounted expected future cash flows related to the asset. If the comparison indicates that an impairment exists, the amount of the impairment is calculated as the difference between the excess of the carrying amount over the fair value of the asset. If a readily determinable market price does not exist, fair value is estimated using discounted expected cash flows attributable to the asset. For the years ended December 31, 2012 and 2013 and the six months ended June 30, 2014, no impairment of long-lived assets or identifiable intangibles had been indicated.

Revenue Recognition

The Company generates net revenue through product sales generated primarily through the sites of the Company's four distinct brands and through sites operated by third parties.

The Company recognizes revenue only when the following four criteria are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred; (3) the selling price is fixed or determinable; and (4) collectability is reasonably assured. The Company recognizes net revenue from sales of its products, upon delivery to the customer. The Company records product revenue at the gross amount as the Company is the primary obligor with the customer and provides the primary customer service for all products sold on its sites, has latitude in establishing price and selecting products sold on its sites, has discretion in selecting suppliers of products sold on its

Notes to Consolidated Financial Statements (Continued)

2. Summary of Significant Accounting Policies (Continued)

sites, maintains inventory risk from shipment through delivery date and upon accepting returns, and has credit risk. Net revenue includes shipping costs charged to the customer and is recorded net of taxes collected from customers, which are remitted to governmental authorities. Cash discounts, returns and rebates are deducted from gross revenue in determining net revenue. In addition, the Company defers revenue when cash is collected from its customer prior to the satisfaction of the revenue recognition criteria.

The Company maintains a membership rewards program that allows enrolled customers to earn points which can be redeemed for future purchases. The Company defers a portion of its revenue associated with rewards that are ultimately expected to be redeemed prior to expiration.

The Company also earns revenue through third-party advertisers that pay based on the number of advertisement related clicks, actions, or impressions for advertisements placed on the Company's sites. Revenue earned under these arrangements is included in net revenue and is recognized in the period in which the click, action, or impression occurs.

Vendor Rebates

The Company earns rebates under a volume incentive programs with its suppliers. These rebates are earned upon shipment of goods. Amounts earned and due from suppliers under these rebate programs are included in other current assets on the consolidated balance sheets and are reflected as a reduction of cost of goods sold on the consolidated statements of operations. Vendor allowances received by the Company reduce the carrying cost of inventory and are recognized in cost of goods sold when the related inventory is sold.

Costs of Goods Sold

Cost of goods sold consists of the cost of product sold to customers, shipping and handling costs and shipping supplies and fulfillment costs. Fulfillment costs include costs incurred in operating and staffing the fulfillment centers, such as costs attributed to receiving, inspecting, picking, packaging and preparing customer orders for shipment. Cost of goods sold also includes direct and indirect labor costs for fulfillment center oversight, including payroll and related benefit costs.

Advertising Costs

Expenditures for advertising are expensed in the period that the advertising first takes place. Advertising expense amounted to approximately $65.5 million, $108.5 million, $43.2 million, and $86.7 million in the years ended December 31, 2012 and 2013 and the six months ended June 30, 2013 and 2014, respectively. Included in prepaid expenses at December 31, 2012 and 2013 and June 30, 2014, are approximately $0.9 million, $0.5 million, and $0.8 million, respectively, of prepaid advertising costs.

Merchant Processing Fees

Merchant processing fees totaling $13.3 million, $19.4 million, $8.1 million, and $12.3 million in the years ended December 31, 2012 and 2013 and the six months ended June 30, 2013 and 2014, respectively, are included in selling and marketing expense in the accompanying consolidated statements of operations. These fees are charged by third parties that provide merchant processing services for credit cards and debit cards.

Notes to Consolidated Financial Statements (Continued)

2. Summary of Significant Accounting Policies (Continued)

Retail Partner Fees

The Company sells its products through sites owned and operated by third-party online retailers, or retail partners. The Company pays a fee for sales generated through these sites and records them as merchant processing fees and advertising costs. Retail partner fees included in merchant processing fees are $4.3 million, $4.3 million, $2.1 million, and $2.2 million for the years ended December 31, 2012 and 2013 and the six months ended June 30, 2013 and 2014, respectively. Retail partner fees included in advertising costs are $22.0 million, $25.2 million, $13.3 million, and $11.7 million for the years ended December 31, 2012 and 2013 and the six months ended June 30, 2013 and 2014, respectively.

Equity-Based Compensation

The Company accounts for its equity-based compensation awards in accordance with ASC Topic 718, *Compensation — Stock Compensation* (ASC 718). ASC 718 requires all equity-based payments to employees, including grants of employee unit options, to be recognized as expense in the statements of operations based on their grant date fair values. The Company has granted option units, deferred units, and restricted units (all common units).

The Company estimated the grant date fair value of each common unit option award using the Black-Scholes option-pricing model. The use of the Black-Scholes option-pricing model required management to make assumptions with respect to the expected term of the option, the expected volatility of the common unit consistent with the expected life of the option, risk-free interest rates and expected dividend yields of the common unit. The fair value of restricted common units on the date of grant was determined by taking into account the most recently available valuation of common units.

The fair value of deferred units on the date of grant is determined by taking into account the most recently available valuation of deferred units. The fair value of a unit award is determined in accordance with the guidance outlined in the American Institute of Certified Public Accountants Practice Aid, Valuation of Privately-Held Company Equity Securities Issued as Compensation, also known as the Practice Aid, which prescribes several valuation approaches for setting the value of an enterprise, such as the cost, market and income approaches, and various methodologies for allocating the value of an enterprise to its common equity. The Company generally used the income and market approaches, in particular the discounted cash flow method under the income approach which was based on its projections and the guideline public company, guideline transactions and precedent transaction methodologies, based on inputs from comparable public companies' equity valuations, comparable acquisition transactions and transactions in its own equity securities, to estimate the enterprise value of the Company.

All awards granted by the Company are subject to service-based vesting conditions and a performance-based vesting condition based on a liquidity event, defined as either a change of control or an initial public offering. The Company will record the expense for these equity-awards using the accelerated attribution method over the remaining service period when management determines that achievement of the liquidity event is probable. The Company has determined that a liquidity event was not probable at December 31, 2012 or 2013 or June 30, 2014, and as such, no expense has been recognized in the years ended December 31, 2012 and 2013 and the six months ended June 30, 2014.

Notes to Consolidated Financial Statements (Continued)

2. Summary of Significant Accounting Policies (Continued)

Income Taxes

The Company accounts for income taxes using the asset and liability method, pursuant to which deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which temporary differences are expected to be recovered or settled. Valuation allowances are provided if based upon the weight of available evidence, it is more likely than not that some or all of the deferred tax assets will not be realized. The Company considers future taxable income and ongoing prudent and feasible tax planning strategies in assessing the need for the valuation allowance. The Company recognizes the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized in the financial statements from these positions are measured based on the largest benefit that has a greater-than-50% likelihood of being realized upon ultimate resolution. Interest costs and penalties related to uncertain tax positions are classified as part of income tax expense.

Net Loss Attributable to Common Unit Holders Per Unit

The Company follows the two-class method when computing net loss attributable to common unit holders per unit as the Company has issued units that meet the definition of participating securities. The Company's convertible redeemable preferred units contractually entitle the holders of such units to participate in dividends, but do not contractually require the holders of such units to participate in losses of the Company. Accordingly, in periods in which the Company reports a net loss or a net loss attributable to common unit holders resulting from preferred unit dividends or accretion, net losses are not allocated to participating securities.

Basic net income (loss) attributable to common unit holders per unit is computed by dividing the net income (loss) attributable to common unit holders by the weighted average number of common units outstanding for the period. For periods in which the Company has reported net losses, diluted net loss per unit attributable to common unit holders is the same as basic net loss per unit attributable to common unit holders, since dilutive common units are not assumed to have been issued if their effect is anti-dilutive.

Recent Accounting Pronouncements

In February 2013, the FASB issued Accounting Standards Update (ASU) No. 2013-02 "Reporting of Amounts Reclassified Out of Accumulated Other Comprehensive Income." ASU No. 2013-02 requires an entity to disaggregate the total change of each component of other comprehensive income either on the face of the income statement or as a separate disclosure in the notes. The new guidance became effective for reporting periods beginning after December 15, 2012 and is applied prospectively. The Company adopted this guidance for the fiscal year ended December 31, 2013, and the adoption did not have any impact on its financial position, results of operations or cash flows as the amounts reclassified out of accumulated other comprehensive loss are not significant.

In July 2013, the FASB issued a new accounting standard update that requires the presentation of certain unrecognized tax benefits as reductions to deferred tax assets rather than as liabilities in the consolidated balance sheets when a net operating loss carryforward, a similar tax loss, or a tax credit carryforward exists. The Company adopted this new standard on a prospective basis in the first quarter of fiscal 2014, and the adoption of this accounting standard update did not have a material impact on the Company's consolidated financial statements.

Notes to Consolidated Financial Statements (Continued)

2. Summary of Significant Accounting Policies (Continued)

In May 2014, the FASB issued new accounting guidance regarding revenue recognition under GAAP. This new guidance will supersede nearly all existing revenue recognition guidance, and is effective for public entities for annual and interim periods beginning after December 31, 2016. Early adoption is not permitted. The Company is currently evaluating the impact of this new guidance on the Company's consolidated financial statements.

3. Fair Value Measurements

The following tables set forth the fair value of the Company's financial assets measured at fair value on a recurring basis as of December 31, 2012 and 2013 and June 30, 2014 based on the three-tier value hierarchy:

	December 31, 2012			
	Total	Level 1	Level 2	Level 3
	(in thousands)			
Cash equivalents				
Money market funds	$ 37,050	$ 37,050	—	—
Short-term investments:				
Certificates of deposit	23,017	23,017	—	—
Restricted cash				
Money market funds	268	268	—	—
Total	$ 60,335	$ 60,335	$ —	$ —

	December 31, 2013			
	Total	Level 1	Level 2	Level 3
	(in thousands)			
Cash equivalents				
Money market funds	$ 32,560	$ 32,560	—	—
Short-term investments:				
Certificates of deposit	50,019	50,019	—	—
Restricted cash				
Money market funds	346	346	—	—
Total	$ 82,925	$ 82,925	$ —	$ —

Notes to Consolidated Financial Statements (Continued)

3. Fair Value Measurements (Continued)

	June 30, 2014			
	Total	Level 1	Level 2	Level 3
		(in thousands) (unaudited)		
Cash equivalents				
Money market funds	$ 22,518	$ 22,518	—	—
Certificates of deposit	35,056	35,056	—	—
Short-term investments:				
Certificates of deposit	65,017	65,017	—	—
Restricted cash				
Money market funds	3,844	3,844	—	—
Total	$ 126,435	$ 126,435	$ —	$ —

4. Acquisition, Intangible assets and Goodwill

On July 31, 2013, Wayfair LLC acquired substantially all of the assets of DwellStudio Holdings LLC, a private company that operated DwellStudio, a home lifestyle brand, for $6.4 million in cash, common units, and additional consideration for assumed liabilities. The acquisition was made to further strengthen the Company's leadership position in home retail by adding a popular lifestyle brand with core competencies in original design and product development. The assets acquired and liabilities assumed were recorded at their fair values and operating results were included in the financial statements from the date of acquisition. All accounting has been completed for the acquisition, which resulted in goodwill of $1.7 million and intangible assets, including trademarks, customer relationships and other, of $3.7 million recorded on the date of acquisition, which will be amortized over 3 to 5 years. The acquisition was not material to the Company's consolidated financial statements.

Approximately $0.8 million of the goodwill resulting from this acquisition is deductible for tax purposes.

Intangible assets consisted of the following as of December 31, 2012 and 2013 and June 30, 2014 (in thousands):

	Weighted-Average Amortization Period (Years)	December 31, 2012			December 31, 2013			June 30, 2014		
		Gross Carrying Value	Accumulated Amortization	Net Book Value	Gross Carrying Value	Accumulated Amortization	Net Book Value	Gross Carrying Value	Accumulated Amortization (unaudited)	Net Book Value
Trademarks	5	$ 130	$ (35)	$ 95	$ 2,030	$ (219)	$ 1,811	$ 2,030	$ (422)	$ 1,608
Customer relationships	5	—	—	—	1,300	(108)	1,192	1,300	(238)	1,062
Non-compete agreements	3 - 5	10	(3)	7	110	(19)	91	110	(36)	74
Technology	5	920	(245)	675	920	(430)	490	920	(523)	397
Other intangibles	3	—	—	—	373	(47)	326	373	(103)	270
Domain names	5	3,016	(3,013)	3	2,695	(2,686)	9	2,688	(2,683)	5
Total		$ 4,076	$ (3,296)	$ 780	$ 7,428	$ (3,509)	$ 3,919	$ 7,421	$ (4,005)	$ 3,416

Notes to Consolidated Financial Statements (Continued)

4. Acquisition, Intangible assets and Goodwill (Continued)

The following is a summary of the estimated aggregate amortization expense in future years at December 31, 2013 (in thousands):

2014	$ 1,006
2015	998
2016	903
2017	640
2018 and thereafter	372
	$ 3,919

5. Property and Equipment, net

Property and equipment, net consists of the following:

	December 31,		June 30,
	2012	2013	2014
		(in thousands)	(unaudited)
Furniture and computer equipment	$ 19,812	$ 26,218	$ 38,389
Site and software development costs	17,529	23,715	28,533
Leasehold improvements	1,330	1,912	13,279
Construction in progress	—	184	—
	38,671	52,029	80,201
Less accumulated depreciation and amortization	(20,301)	(29,941)	(36,060)
Property and equipment, net	$ 18,370	$ 22,088	$ 44,141

Property and equipment depreciation and amortization expense was $8.6 million, $12.5 million, $5.8 million, and $8.3 million for the years ended December 31, 2012 and 2013 and the six month ended June 30, 2013 and 2014, respectively.

6. Accrued Expenses

Accrued expenses consist of the following:

	December 31,		June 30,
	2012	2013	2014
		(in thousands)	(unaudited)
Employee compensation and related benefits	$ 5,118	$ 7,470	$ 9,106
Marketing	2,020	5,329	4,530
Credit card	2,906	2,173	12,067
Audit, legal and professional fees	126	377	1,092
Accrued property, plant and equipment	—	—	5,143
Other accrued expenses	2,426	3,890	5,034
	$ 12,596	$ 19,239	$ 36,972

Notes to Consolidated Financial Statements (Continued)

7. Commitments and Contingencies

Operating Leases

The Company leases office space under non-cancelable operating leases. These leases expire at various dates through 2024 and include discounted rental periods and fixed escalation clauses, which are amortized straight-line over the terms of the lease. Rental expense under operating leases was $3.0 million, $4.6 million, $1.9 million, and $6.1 million in the years ended December 31, 2012 and 2013 and the six months ended June 30, 2013 and 2014, respectively. The Company has issued letters of credit for approximately $1.7 million as security for these lease agreements.

Future lease payments under non-cancelable operating leases are as follows as of December 31, 2013:

Fiscal Years Ending	Amount (in thousands)
2014	$ 6,988
2015	7,844
2016	7,387
2017	6,981
2018	7,170
Thereafter	26,536
	$ 62,906

Future operating lease payments have not been reduced by minimum sublease rentals of $1.6 million due to the Company in the future under noncancelable subleases.

In March 2014, the Company expanded the lease of office space in Boston, MA to a total of approximately 275,000 square feet in order to accommodate the expansion of the Company's headquarters which commenced in June 2014. This additional lease space will result in additional operating lease obligations of $52.1 million payable through 2024. The Company has an option to extend the lease for two successive 5 year periods.

Collection of Sales or Other Similar Taxes

Based on the location of the Company's current operations, it collects and remits sales tax in Kentucky, Massachusetts, New York and Utah. The Company does not currently collect sales or other similar taxes for the sale of goods in states where no obligation to collect these taxes is required under applicable law. Several states have presented the Company with assessments, alleging that it is required to collect and remit sales or other similar taxes. The aggregate amount of claims from these states is approximately $11.7 million. The Company does not believe that it was obligated to collect and remit such taxes, and intends to vigorously defend its position. At this time, the Company believes a loss is not probable hence a liability has not been recorded, however, no assurance can be given as to the outcome of this situation.

Legal Matters

The Company is subject to legal proceedings and claims in the ordinary course of business. However, the Company is not currently aware of any legal proceedings or claims that it believes will have, individually or in the aggregate, a material adverse effect on the Company's financial position, results of operations or cash flows.

Notes to Consolidated Financial Statements (Continued)

8. Employee Benefit Plans

The Company has a defined-contribution, incentive savings plan pursuant to Section 401(k) of the Internal Revenue Code. The plan covers all full-time employees who have reached the age of 21 years. Employees may elect to defer compensation up to a dollar limit (as allowable by the Internal Revenue Code), of which up to 4% of an employee's salary will be matched by the Company. The amounts deferred by the employee and the matching amounts contributed by the Company both vest immediately. The amount expensed under the plan totaled approximately $1.1 million, $1.5 million, $0.6 million, and $1.0 million in the years ended December 31, 2012 and 2013 and the six months ended June 30, 2013 and 2014, respectively.

9. Equity-Based Compensation

In July 2010, the Company established the CSN Stores LLC 2010 Common Unit Plan (the Plan). Effective July 1, 2011, the Plan was amended and restated as the Wayfair LLC Amended and Restated 2010 Common Unit Plan (the Amended Plan). The Amended Plan is administered by the Board of Managers of Wayfair and provides for the issuance of option units, deferred units, and restricted units (all common units), which represent an equity interest in Wayfair LLC. The Amended Plan authorizes up to 12,405,879 units to be issued, of which 1,206,547 units and 1,444,758 units were available for issuance at December 31, 2013 and June 30, 2014, respectively.

The deferred units, common unit options, and restricted common units are subject to two vesting triggers: a service period (typically five years) and the occurrence of a liquidity event, which is defined in the Amended Plan as either a change of control or an initial public offering. Employees are able to retain provisionally vested units (defined as service period completed) upon departure. The Company has made a policy election to consider the liquidity event a performance condition. The Company has determined that a liquidity event was not probable at December 31, 2012 or 2013 or June 30, 2013 or 2014, and as such, no expense has been recognized in the years ended December 31, 2012 and 2013 and the six months ended June 30, 2013 and 2014. The common unit options have a contractual life of ten years from the date of issuance, and deferred units have a seven-year life. The restricted common units have no contractual life.

The Company did not grant common unit options and restricted common units in 2012, 2013, and the six months ended June 30, 2014 and has granted only deferred units in 2012, 2013, and the six months ended June 30, 2014. The fair value of deferred units on the date of grant is determined by taking into account the most recently available valuation of deferred units. The Company has the estimated fair value of its deferred units at various dates using contemporaneous valuations performed in accordance with the guidance outlined in the Practice Aid, which prescribes several valuation approaches for setting the value of an enterprise, such as the cost, market and income approaches, and various methodologies for allocating the value of an enterprise to its common units. The Company generally used the income and market approaches, in particular the discounted cash flow method under the income approach which was based on its projections and the guideline public company, guideline transactions and precedent transaction methodologies, based on inputs from comparable public companies' equity valuations, comparable acquisition transactions and transactions in its own equity securities, to estimate the enterprise value of the Company.

In connection with the preparation of the financial statements for the year ended December 31, 2013, the Company undertook a retrospective reassessment of the fair market value of its common units for certain of its 2013 grants for financial reporting purposes. In connection with that reassessment, the Company determined that the grant date fair value of its May, August and November 2013 grants to be $6.46, $10.88 and $20.87 respectively. The Company's fair value

Notes to Consolidated Financial Statements (Continued)

9. Equity-Based Compensation (Continued)

previously determined increased substantially in 2013 at each of the valuation dates and there was no particular transaction or event that caused this increase. Accordingly, the Company calculated grant date fair value on a linear basis for grants between each valuation date and believes it to be a reasonable method.

In April 2014, the Company completed a tender offer to repurchase provisionally vested (defined as service period completed) common unit options and restricted common units from certain employees at a price of $26.23 per unit. A total of 202,757 restricted common units and 9,028 common unit options were tendered for an aggregate of approximately $5.5 million in net cash after adjusting for the exercise prices associated with the common unit options. This tender offer is accounted for as a modification resulting in a $5.5 million compensation charge when accepted by the employee. The Company recorded an expense of $5.5 million in the six months ended June 30, 2014. The Company recorded the compensation charge as $4.3 million in sales and marketing and $1.2 million in general and administrative in the accompanying consolidated statement of operations for the six months ended June 30, 2014.

A summary of the status and activity for awards of common option units for the year ended December 31, 2013 and the six months ended June 30, 2014, is as follows:

	Common Option Units	Weighted-Average Exericse Price	Weighted-Average Remaining Contractual Term (Years)
Outstanding at January 1, 2013	711,307	$ 2.99	
Forfeited/cancelled	(47,075)	$ 3.03	
Outstanding at December 31, 2013	664,232	$ 2.99	6.7
Repurchased (unaudited)	(9,028)	$ 2.93	
Forfeited/cancelled (unaudited)	(8,791)	$ 3.21	
Outstanding at June 30, 2014 (unaudited)	646,413	$ 2.98	6.4
Provisionally vested at December 31, 2013	514,152	$ 2.97	6.7
Provisionally vested at June 30, 2014 (unaudited)	555,018	$ 2.97	6.4

As of December 31, 2013 and June 30, 2014, unrecognized share-based compensation related to common option units was approximately $1.2 million and $1.2 million, respectively. The total aggregate intrinsic value of common option units outstanding and provisionally vested as of December 31, 2013 was $14.2 million and $11.0 million, respectively, and as of June 30, 2014 was $19.8 million and $17.0 million, respectively.

Notes to Consolidated Financial Statements (Continued)

9. Equity-Based Compensation (Continued)

A summary of the status and activity for awards of restricted common units for the year ended December 31, 2013 and the six months ended June 30, 2014, is as follows:

	Restricted Common Units	Weighted-Average Grant Date Fair Value
Outstanding at January 1, 2013	3,546,942	$ 4.75
Forfeited/cancelled	(55,974)	$ 4.75
Outstanding at December 31, 2013	3,490,968	$ 4.75
Repurchased (unaudited)	(202,757)	$ 4.75
Forfeited/cancelled (unaudited)	(16,695)	$ 4.75
Outstanding at June 30, 2014 (unaudited)	3,271,516	$ 4.75
Provisionally vested at December 31, 2013	2,485,197	$ 4.75
Provisionally vested at June 30, 2014 (unaudited)	2,673,594	$ 4.75

As of December 31, 2013 and June 30, 2014, unrecognized share-based compensation related to restricted common units was approximately $19.7 million and $15.4 million, respectively. The total aggregate intrinsic value of restricted common units outstanding and provisionally vested as of December 31, 2013 was $84.9 million and $60.4 million, respectively and as of June 30, 2014 was $110.2 million and $90.0 million, respectively.

A summary of the status and activity for awards of deferred units for the year ended December 31, 2013 and the six months ended June 30, 2014, is as follows:

	Deferred Common Units	Weighted-Average Grant Date Fair Value	Weighted-Average Remaining Contractual Term (Years)
Outstanding at January 1, 2013	1,979,763	$ 4.30	
Granted	3,546,042	$ 9.75	
Forfeited/cancelled	(270,692)	$ 4.85	
Outstanding at December 31, 2013	5,255,113	$ 7.95	6.0
Granted (unaudited)	1,037,332	$ 24.66	
Forfeited/cancelled (unaudited)	(207,360)	$ 10.20	
Outstanding at June 30, 2014 (unaudited)	6,085,085	$ 12.15	5.7
Provisionally vested at December 31, 2013	828,008	$ 4.29	4.9
Provisionally vested at June 30, 2014 (unaudited)	1,454,251	$ 5.09	4.9

As of December 31, 2013 and June 30, 2014, unrecognized share-based compensation related to deferred units was approximately $37.4 million and $55.2 million, respectively. The total aggregate intrinsic value of deferred units outstanding and provisionally vested as of December 31, 2013 was $127.8 million and $20.1 million, respectively and as of June 30, 2014 was $204.9 million and $49.0 million, respectively.

Notes to Consolidated Financial Statements (Continued)

10. Members' Deficit

At June 30, 2014, the Company's equity structure consists of Series A convertible redeemable preferred units (Series A units), Series B convertible redeemable preferred units (Series B units), common unit options, deferred units and restricted common units.

Series A and Series B Convertible Redeemable Preferred Units

In November 2012, the Company issued 3.9 million Series A units, resulting in net proceeds of $36.2 million to the Company.

In March 2014, the Company issued approximately 6.0 million Series B units at a price of $26.23 per unit, resulting in net proceeds of approximately $154.8 million. This transaction did not result in a change in control due to the Company's majority ownership remaining the same.

Upon the issuance of Series B units, the Company distributed $15.0 million in accrued dividends to Series A unit holders and repurchased 896,052 common units from SK Retail Inc. (SK Retail) at a price of $26.23 per unit for an aggregate purchase price of approximately $23.5 million. The excess of purchase price above the common unit fair value of $1.3 million has been accounted for in members' deficit as the transaction was not the result of a compensatory arrangement or the receipt of stated or unstated rights, privileges or agreements in addition to the capital stock.

The Series A and Series B unit holders are allocated profits and losses in proportion to their ownership percentage with the exception of losses that would cause their basis to go below their original purchase price. The Series A and Series B unit holders also have certain protective provisions that limit the Company's ability to issue securities, make distributions (other than tax distributions), issue debt, appoint Board members, and other rights defined in the Fourth Amended and Restated Limited Liability Company Operating Agreement.

As of June 30, 2014, the Company had issued 21.6 million Series A units that were outstanding with accrued dividend amounts of $20.9 million payable which was included in carrying value. The accrued dividend amounts are payable upon conversion of the units into common stock, which will occur following the reorganization of the Company and upon the closing of this offering.

Liquidation — In a liquidation or sale of the Company, the holders of Series A units would be paid an amount per unit equal to the greater of the original issue price of $9.34 per unit plus the applicable dividend rate, or an amount per unit as would have been payable had each unit been converted into common units prior to the liquidation or sale of the Company.

The holders of Series B units would be paid an amount per unit equal to the greater of the original issue price of $26.23 per unit, or an amount per unit as would have been payable had each unit been converted into common units prior to the liquidation or sale of the Company.

Conversion — Each Series A and Series B unit is convertible into fully paid common units at a one-for-one exchange, adjustable for subdivisions or combinations of common units, reclassification, exchange and substitution and dilutive issuances. Conversion is at the option of the holder of a Series A or Series B unit, although conversion is automatic upon the earlier of (A) a qualified public offering or (B) the consent of at least the majority of the holders of the then outstanding Series A units and at least two-thirds of the holders of the then outstanding Series B units.

With respect to the Series A units that were issued in 2011, if a conversion were to occur on or prior to the four-year anniversary of the issuance (June 21, 2015), a dividend would be paid upon a conversion equal to 43% per annum from November 30, 2012 through February 28, 2013,

Notes to Consolidated Financial Statements (Continued)

10. Members' Deficit (Continued)

plus a dividend of 6% per annum paid from March 1, 2013 through the date of conversion. If a conversion were to occur after June 21, 2015, a dividend would be paid equal to 43% per annum from November 30, 2012 through February 28, 2013, plus an amount of 8% per annum from March 1, 2013 through the date of the conversion.

With respect to the Series A units that were issued in 2012, if a conversion were to occur on or prior to the four-year anniversary of the issuance (November 30, 2016), a dividend would be paid upon a conversion equal to 6% per annum from the issuance date through the time of conversion. If a conversion were to occur after November 30, 2016, a dividend would be paid equal to 8% per annum from November 30, 2012 through the date of the conversion.

Redemption — After April 21, 2019, the Series A units that were issued in June 2011 can be redeemed at the option of the holder at no less than the face value of $165.0 million plus a dividend of 58.2% per annum accrued from November 30, 2012 through February 28, 2013, plus a dividend of 8% per annum accrued from March 1, 2013 through the redemption date. In addition, after April 21, 2019, the Series A units that were issued in November 2012 can be redeemed at no less than the face value of $36.3 million plus a dividend of 8% per annum accrued from November 30, 2012 through the redemption date. Prior to the issuance of Series B units, the redemption date was April 21, 2018.

After April 21, 2019, the Series B units can be redeemed at the option of the holder at no less than the face value of $157.2 million.

The Company recognizes changes in the redemption value of the convertible redeemable preferred units immediately as they occur by adjusting the carrying amount of the redeemable security to what would be the redemption amount assuming the security was redeemable at the balance sheet date. Accordingly, the Company recorded accretion of the Series A units of $12.2 million, $25.4 million, $15.9 million and $9.3 million for the years ended December 31, 2012 and 2013 and the six months ended June 30, 2013 and 2014, respectively. The Company recorded accretion of the Series B units of $2.5 million for the six months ended June 30, 2014.

Common Units

Holders of common units are entitled to dividends when, as and if, declared by the Company's board of managers, subject to the rights of the holders Series A units having rights to dividends pursuant to the Company's Fourth Amended and Restated Limited Liability Company Operating Agreement. As of June 30, 2014, the Company had not declared any dividends. After payment to the Series A unit holders, the remaining assets are required to be distributed pro-rata to all common unit holders. The holder of each common unit is entitled to one vote.

Pro Forma (Unaudited)

The Company is currently a Delaware limited liability company. Prior to the issuance of the Company's shares of Class A common stock in its initial public offering, the Company will reorganize into a Delaware corporation. Pursuant to this reorganization, Wayfair LLC will become a wholly-owned subsidiary of Wayfair, Inc., and holders of the equity interests in Wayfair LLC will become stockholders of Wayfair Inc. with the expectation that the stockholders will hold the same ownership interests in Wayfair Inc. as they do in Wayfair LLC immediately prior to the reorganization. In connection with the reorganization, all outstanding common units will convert into shares of Class B common stock and all outstanding preferred units will convert into shares of Series A and Series B convertible preferred stock of Wayfair Inc. In addition, the holders of

Notes to Consolidated Financial Statements (Continued)

10. Members' Deficit (Continued)

outstanding options to purchase common units of Wayfair LLC will receive options to purchase Class B common stock of Wayfair Inc. in exchange for such options and the holders of outstanding deferred units for common units of Wayfair LLC will receive restricted stock units for Class B common stock of Wayfair Inc. in exchange for such deferred units. Upon completion of the Company's proposed initial public offering, all outstanding Series A and Series B convertible preferred stock will automatically convert into shares of Class B common stock. In addition, the Company will record (i) a net adjustment to deferred income tax liabilities of $0.3 million in connection with the Company's reorganization from a Delaware limited liability company to a Delaware corporation, with a resulting net adjustment of $0.3 million to common members' (deficit)/retained earnings, (ii) an adjustment of $13.3 million to reduce the carrying value of the participating preferred units to reflect conversion value assuming the security was converted on the balance sheet date, (iii) a distribution of $20.9 million of cash to the Company's Series A convertible preferred stockholders in connection with the reorganization equal to the members' distribution payable balance, (iv) an adjustment of $40.3 million to give effect to equity-based compensation expense associated with common option units, deferred units and restricted common units that have satisfied the service condition. All of the aforementioned adjustments have been reflected in the pro forma consolidated balance sheet as if these events all occurred on June 30, 2014 and (vi) the reclassification of $1.5 million from due to related party to accrued expenses to reflect the effect of consolidation of SK Retail.

11. Segment and Geographic Information

The Company considers operating segments to be components of the Company in which separate financial information is available that is evaluated regularly by our chief operating decision maker (CODM) in managing and accessing the business. The CODM for the Company is the Chief Executive Officer. The CODM reviews financial information presented on a consolidated basis for purposes of making operating decisions, allocating resources and evaluating financial performance. Accordingly, the Company has determined that it has one operating and reportable segment. No country outside of the United States provided greater than 10% of total revenue.

The Company generates net revenue from Direct Retail sales derived through the Company's sites and Other sales derived through sites operated by third parties and fees from third-party advertising distribution providers as set forth below:

	Years ended December 31,		Six months ended June 30,	
	2012	2013	2013	2014
	(in thousands)		(unaudited)	
Net revenue				
Direct Retail	$ 389,290	$ 673,446	$ 268,366	$ 469,534
Other	211,738	242,397	114,842	104,610
Net revenue	$ 601,028	$ 915,843	$ 383,208	$ 574,144

Revenue from external customers for each group of similar products and services are not reported to the CODM. Separate identification of this information for purposes of segment disclosure is impractical, as it is not readily available and the cost to develop it would be excessive.

Notes to Consolidated Financial Statements (Continued)

11. Segment and Geographic Information (Continued)

The following table sets forth revenue and long-lived assets by geographic area:

	Years ended December 31,		Six months ended June 30,	
	2012	2013	2013	2014
	(in thousands)		(unaudited)	
Geographic net revenue:				
United States	$ 542,736	$ 857,001	$ 359,652	$ 536,829
International	58,292	58,842	23,556	37,315
Total	$ 601,028	$ 915,843	$ 383,208	$ 574,144

	December 31,		June 30,
	2012	2013	2014
	(in thousands)		(unaudited)
Geographic long-lived assets:			
United States	$ 18,038	$ 21,451	$ 43,497
International	332	637	644
Total	$ 18,370	$ 22,088	$ 44,141

12. Income Taxes

The Company is organized as a limited liability company and taxed as a partnership under the Internal Revenue Code, and accordingly, no provision for federal or state and local income taxes is made on income since the members are individually liable for federal and state and local income taxes on their share of the Company's earnings. However, the Company is responsible for distributing monies to pay tax liabilities to its members if due, including SK Retail, its majority member. In addition, the Company is responsible for making distributions to SK Retail for corporate taxes imposed by the Commonwealth of Massachusetts. Due to the Company incurring a taxable loss during the year ended December 31, 2013, the Company would not have been subject to additional income tax had it paid federal income taxes at the corporate level.

The Company's foreign subsidiaries are subject to income tax in those jurisdictions.

The components of loss before provision for (benefit from) income taxes for the years ended December 31, 2012 and 2013, respectively, consisted of the following:

	Years ended December 31,	
	2012	2013
	(in thousands)	
United States	$ (13,299)	$ (9,889)
Foreign	(7,706)	(5,591)
Loss before provision for (benefit from) income taxes	$ (21,005)	$ (15,480)

Notes to Consolidated Financial Statements (Continued)

12. Income Taxes (Continued)

The difference in the Company's "expected" tax provision (benefit) for the years ended December 31, 2012 and 2013, respectively, as computed by applying the U.S. federal corporate rate of 35% to loss before provision for (benefit from) income taxes, and actual tax is reconciled as follows:

	Years ended December 31,	
	2012	2013
	(in thousands)	
Loss before provision for (benefit from) income taxes	$ (21,005)	$ (15,480)
Expected tax benefit	(7,352)	(5,418)
Partnership loss not subject to tax	4,620	3,449
Valuation allowance	1,199	1,149
Foreign tax rate differential	1,500	1,090
Non-deductible expenses and other	83	(224)
Total	$ 50	$ 46

The tax effects of temporary differences that give rise to significant portions of deferred tax assets and liabilities for the periods presented are as follows:

	December 31,	
	2012	2013
	(in thousands)	
Deferred tax asset:		
Operating loss carryforwards	$ 5,423	$ 6,129
Gross deferred tax asset	5,423	6,129
Less: Valuation allowance	(5,419)	(6,129)
Net deferred tax asset	$ 4	$ —

At December 31, 2013, the Company had gross foreign country net operating loss carryforwards of approximately $33.1 million that do not expire. Future realization depends on the existence of sufficient taxable income available under the tax law. The Company is currently unable to forecast when there will be sufficient taxable income to utilize these carryforwards and, as such, has recorded a tax-effected valuation allowance of $6.1 million against the deferred tax asset relating to net operating losses of $6.1 million at December 31, 2013. The valuation allowance increased by $0.7 million from December 31, 2012 to December 31, 2013 primarily due to an increase in net operating losses. Of that change, $1.1 million is reflected in income tax expense for the year, and $(0.4) million is related to currency fluctuation.

The provision amounted to $50,000 and $46,000 in 2012 and 2013, respectively and related to various minimum foreign income tax assessments. SK Retail has a potential future income tax liability based on uncertain tax positions taken by SK Retail over the years for which the Company would be liable under the terms of its Fourth Amended and Restated Limited Liability Company Operating Agreement. At December 31, 2013, the total potential liability was $0.3 million, including accrued interest and penalties, and has been reflected as due to related party.

Notes to Consolidated Financial Statements (Continued)

12. Income Taxes (Continued)

The tax years that remain subject to examination by major taxing jurisdictions are those for the years ended December 31, 2013, 2012, 2011, and 2010.

Pro Forma Income Tax Accounting Related to the Reorganization (Unaudited)

Prior to the transition to a corporate structure, the Company was generally not subject to U.S. federal income taxes. Since U.S. federal taxes related to income earned by the members of the Company were the responsibility of the individual members, the Company's members reported and paid U.S. federal taxes on their share of the Company's income on their individual tax returns. In other countries, however, the Company operated in the form of a corporation or were otherwise subject to entity-level taxes on income and withholding taxes. As a result, prior to transitioning to a corporate structure, the Company paid some entity-level taxes with the amount varying from year to year depending on the mix of earning among the countries. Where applicable, the Company accounted for these taxes under the asset and liability method. Therefore, historical financial statements with respect to periods ended on or prior to June 30, 2014 do not reflect the income tax liability that the Company would have paid as a corporation. Following the transition to a corporate structure, the Company will be subject to corporate tax on income.

The Company prepared and provided the unaudited pro forma consolidated balance sheet as if the reorganization from a limited liability company to a corporation in connection with this offering occurred on June 30, 2014. Pro forma deferred income taxes reflect the net tax effects of temporary differences between the pro forma carrying amounts of our tax assets and liabilities calculated for financial reporting purposes and the amounts that would have been calculated for our income tax returns in accordance with tax regulations and the net pro forma tax effects of operating loss and tax credit carryforwards if we had been a taxable entity.

The ultimate realization of deferred tax assets depends on the generation of sufficient taxable income of the appropriate character and in the appropriate taxing jurisdictions during the future periods in which the related temporary differences become deductible. The Company determined the valuation allowance on pro forma deferred tax assets is in accordance with the accounting standard for income taxes, which require weight of both positive and negative evidence in order to ascertain whether it is more likely than not that the pro forma deferred tax assets would be realized. The Company evaluated all significant available positive and negative evidence, including the existence of cumulative net income, benefits that could be realized from available tax strategies and forecasts of future taxable income, in determining the need for a valuation allowance on pro forma deferred tax assets. After applying the evaluation guidance of the accounting standard for income taxes the Company determined that it was more likely than not that $28.5 million of the pro forma deferred tax assets will not be realized, and as such, a valuation allowance of $28.5 million was required.

As of June 30, 2014, pro forma tax-effected deferred tax assets, net of valuation allowance, and deferred tax liabilities were $7.2 million and $7.5 million respectively. Accordingly the pro forma net deferred tax liability as of June 30, 2014 was determined to be $0.3 million.

13. Credit Agreement

The Company has a credit agreement with Bank of America, which provides the Company with a line of credit for up to $25.0 million, with the committed amounts of $10.0 million to be used for a revolving line of credit and $15.0 million to be used to support the Company's credit card

Notes to Consolidated Financial Statements (Continued)

13. Credit Agreement (Continued)

program. The Company is required to maintain certain covenants, including debt service coverage, tangible net worth, and unencumbered liquid assets. The Company did not borrow any amounts under the credit agreement during the years ended December 31, 2012 and 2013 and the six months ended June 30, 2013 and 2014. The credit agreement is renewable on an annual basis, and the next renewal date is October 28, 2014.

14. Related-Party Transactions

The Company has done business with a company owned by a family member of one of the Company's members. During the year ended December 31, 2012, the Company paid this related party $2,000 as part of a revenue-sharing agreement. In addition, the Company paid this related party and its affiliates $21,000, $4,000, $2,000 and $0 in the years ended December 31, 2012 and 2013 and the six months ended June 30, 2013 and 2014, respectively, in conjunction with a supplier relationship.

Due to Member

Included in the accompanying consolidated balance sheets is approximately $1.4 million, $1.9 million, and $1.5 million due to SK Retail at December 31, 2012 and 2013 and June 30, 2014, respectively. SK Retail holds a majority ownership interest in the Company at June 30, 2014.

During the years ended December 31, 2012 and 2013 and the six months ended June 30, 2013 and 2014, the Company was cross charged $11.2 million, $12.0 million, $6.3 million, and $6.1 million, respectively, by SK Retail. Accordingly these amounts have been included in general and administrative expense in the accompanying consolidated statements of operations and represent salaries, benefits, and other administrative costs incurred by SK Retail on behalf of the Company.

15. Net Income (Loss) per Common Unit and Unaudited Pro Forma Net Income (Loss) per Common Share

Basic and diluted net (loss) income per common unit is presented using the two-class method required for participating securities. Holders of the Series A units are entitled to receive cumulative dividends payable prior and in preference to any dividends on any of the Company's common units. The Company considers its Series A units to be participating securities and, in accordance with the two-class method, earnings allocated to Series A units and the related number of outstanding participating securities would be excluded from the computation of basic and diluted net income (loss) per common unit.

Under the two-class method, net (loss) income attributable to common unit holders is determined by allocating undistributed earnings between common units and participating securities. Undistributed earnings are calculated as net income (loss) less distributed earnings and accretion of Series A units. As holders of Series A units do not have a contractual obligation to share in the losses of the Company, the net loss attributable to common unit holders for each period is not allocated between common units and participating securities. Accordingly, Series A units are excluded from the calculation of basic and diluted net loss per common unit. The Company's basic and diluted net loss per common unit are the same because the Company has generated net loss to common unit holders and common unit equivalents are excluded from diluted net loss per share because they have an antidilutive impact.

Notes to Consolidated Financial Statements (Continued)

15. Net Income (Loss) per Common Unit and Unaudited Pro Forma Net Income (Loss) per Common Share (Continued)

Net Income (Loss) per Common Unit

The following table presents the calculation of basic and diluted net loss per common unit:

	Years ended December 31,		Six months ended June 30,	
	2012	2013	2013	2014
	(in thousands, except share amount)		(unaudited)	
Numerator:				
Net loss	$ (21,055)	$ (15,526)	$ (8,338)	$ (51,401)
Accretion of preferred units to redemption value	(12,154)	(25,388)	(15,948)	(11,755)
Net loss attributable to common unit holders per unit — basic and diluted	$ (33,209)	$ (40,914)	$ (24,286)	$ (63,156)
Denominator:				
Weighted average units used for basic and diluted net loss per unit computation	41,271,992	41,331,546	41,271,992	40,828,976
Net loss per common unit attributable to common unit holders:				
Basic and Diluted	$ (0.80)	$ (0.99)	$ (0.59)	$ (1.55)

The following have been excluded from the computation of basic and diluted net loss per share attributable to common stockholders as their effect would have been antidilutive:

	Years ended December 31,		Six months ended June 30,	
	2012	2013	2013	2014
			(unaudited)	
Series A convertible redeemable preferred units	21,551,801	21,551,801	21,551,801	21,551,801
Series B convertible redeemable preferred units	—	—	—	5,995,133
Common option units	711,307	664,232	687,792	646,413
Restricted common units	3,546,942	3,490,968	3,520,452	3,271,516
Deferred common units	1,979,763	5,255,113	3,729,207	6,085,085
	27,789,813	30,962,114	29,489,252	37,549,948

Unaudited Pro Forma Net Income (Loss) Per Common Share

Pro forma basic and diluted net loss per common share have been computed to give effect to the automatic conversion of all of the Company's convertible preferred stock into Class B common stock using the if-converted method as though the conversion had occurred as of the beginning of

Notes to Consolidated Financial Statements (Continued)

15. Net Income (Loss) per Common Unit and Unaudited Pro Forma Net Income (Loss) per Common Share (Continued)

the period or the original date of issuance. In addition, the pro forma share amounts give effect to the common option units, deferred units and restricted common units that have satisfied the service condition as of December 31, 2013 and June 30, 2014. These awards will vest and will be settled upon the occurrence of a liquidity event, as previously defined. Equity-based compensation expense associated with the common option units, deferred units and restricted common units that have satisfied the service condition as of December 31, 2013 and June 30, 2014 are included in the pro forma net loss.

Additionally, the pro forma net loss applied in computing the pro forma basic and diluted net loss per share is based upon the Company's historical net loss as adjusted to reflect the intended reorganization of the Company from a Delaware limited liability company into a Delaware corporation as of January 1, 2013. The pro forma net loss, therefore, includes adjustments for income tax benefit of $0.4 million for the year ended December 31, 2013 and income tax expense of less than $0.1 million for the six months ended June 30, 2014, as if the Company had been a corporation and subject to income taxes at an assumed combined federal, state, and local income tax rate of 39.7%.

Notes to Consolidated Financial Statements (Continued)

15. Net Income (Loss) per Common Unit and Unaudited Pro Forma Net Income (Loss) per Common Share (Continued)

The following table presents the calculation of unaudited pro forma net income (loss) per common share — basic and diluted for the year ended December 31, 2013 and the six months ended June 30, 2014 (in thousands, except per share data):

	Year ended December 31, 2013	Six months ended June 30, 2014
	(unaudited)	
Numerator:		
Net loss attributable to common unit holders per unit — basic and diluted	$ (40,914)	$ (63,156)
Adjustment for pro forma income tax (expense) benefit	375	(54)
Pro forma equity-based compensation expense for settlement of provisionally vested common option units, deferred units and restricted common units upon the occurrence of a liquidity event	$ (27,827)	$ (12,487)
Pro forma net loss	(68,366)	(75,697)
Pro forma adjustment to reverse previously recognized changes in the carrying value of the participating preferred units	39,900	34,200
Pro forma adjustment to reflect assumed dividends distributed on participating preferred units	(29,265)	(20,896)
Pro forma net loss attributable to common unit holders per unit — basic and diluted	(57,731)	(62,393)
Weighted average shares used to compute pro forma net income (loss) per share, basic and diluted:		
Weighted average shares used to compute basic net loss per share	41,331,546	40,828,976
Pro forma adjustment to reflect assumed conversion of redeemable preferred units	21,551,801	25,460,230
Pro forma adjustment to reflect settlement of provisionally vested deferred units and restricted common units upon the occurrence of a liquidity event	2,591,047	3,763,171
Pro forma adjustment to reflect number of shares issued at mid-range price per share to settle convertible redeemable preferred units dividend obligations		
Weighted average shares used to compute pro forma net income (loss) per share, basic and diluted:		
Pro forma net income (loss) per share attributable to common stockholders:		
Basic and Diluted		

Notes to Consolidated Financial Statements (Continued)

16. Subsequent Events

We evaluated subsequent events after the audited balance sheet date of December 31, 2013 and after the unaudited balance sheet as of June 30, 2014 through August 15, 2014, the date these financial statements were submitted to the Securities and Exchange Commission, and determined that there were no material recognized or unrecognized subsequent events.

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Shares

Class A Common Stock

Prospectus

Goldman, Sachs & Co.	**BofA Merrill Lynch**	**Citigroup**
	Allen & Company LLC	
Pacific Crest Securities **Canaccord Genuity**	**Piper Jaffray** **Cowen and Company**	**Wells Fargo Securities** **Raymond James**

Through and including , 2014 (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.

Part II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution.

The following table indicates the expenses to be incurred in connection with the offering described in this registration statement, other than underwriting discount, all of which will be paid by us. All amounts are estimated except the Securities and Exchange Commission registration fee, the Financial Industry Regulatory Authority, Inc., or FINRA, filing fee and the New York Stock Exchange, or NYSE, listing fee.

	Amount
SEC registration fee	$ 45,080
FINRA filing fee	$ 60,875
NYSE listing fee	*
Accountants' fees and expenses	*
Legal fees and expenses	*
Blue Sky fees and expenses	*
Transfer Agent's fees and expenses	*
Printing and engraving expenses	*
Miscellaneous	*
Total expenses	$ *

* To be filed by amendment.

Item 14. Indemnification of Directors and Officers.

Section 102 of the General Corporation Law of the State of Delaware permits a corporation to eliminate the personal liability of directors of a corporation to the corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director, except where the director breached his duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit. Our restated certificate of incorporation provides that no director of the Registrant shall be personally liable to it or its stockholders for monetary damages for any breach of fiduciary duty as a director, notwithstanding any provision of law imposing such liability, except to the extent that the General Corporation Law of the State of Delaware prohibits the elimination or limitation of liability of directors for breaches of fiduciary duty.

Section 145 of the General Corporation Law of the State of Delaware provides that a corporation has the power to indemnify a director, officer, employee, or agent of the corporation, or a person serving at the request of the corporation for another corporation, partnership, joint venture, trust or other enterprise in related capacities against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he was or is a party or is threatened to be made a party to any threatened, ending or completed action, suit or proceeding by reason of such position, if such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, in any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except that, in the case of actions brought by or in the right of the corporation, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or other adjudicating court determines

that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Our restated certificate of incorporation provides that we will indemnify each person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in our right) by reason of the fact that he or she is or was, or has agreed to become, a director or officer of the company, or is or was serving, or has agreed to serve, at our request, as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (including any employee benefit plan) (all such persons being referred to hereafter as an "Indemnitee"), or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by or on behalf of Indemnitee in connection with such action, suit or proceeding and any appeal therefrom, if Indemnitee acted in good faith and in a manner which Indemnitee reasonably believed to be in, or not opposed to, our best interests, 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 action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in, or not opposed to, our best interests, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

Our restated certificate of incorporation also provides that we will indemnify any Indemnitee who was or is a party to or threatened to be made a party to any threatened, pending or completed action or suit by or in our right to procure a judgment in our favor by reason of the fact that Indemnitee is or was, or has agreed to become, a director or officer of the company, or is or was serving, or has agreed to serve, at our request, as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (including any employee benefit plan), or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees) and, to the extent permitted by law, amounts paid in settlement actually and reasonably incurred by or on behalf of Indemnitee in connection with such action, suit or proceeding and any appeal therefrom, if Indemnitee acted in good faith and in a manner which Indemnitee reasonably believed to be in, or not opposed to, our best interests, except that no indemnification shall be made with respect of any claim, issue or matter as to which Indemnitee shall have been adjudged to be liable to us, unless, and only to the extent, that the Court of Chancery of Delaware shall determine upon application that, despite the adjudication of such liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnity tor such expenses (including attorneys' fees) which the Court of Chancery of Delaware shall deem proper.

Notwithstanding any other provisions of our restated certificate of incorporation, to the extent that an Indemnitee has been successful, on the merits or otherwise, in defense of any action, suit or proceeding referred to above, or in defense of any claim, issue or matter therein, or on appeal from any such action, suit or proceeding, Indemnitee shall be indemnified against all expenses (including attorneys' fees) actually and reasonably incurred by or on behalf of Indemnitee in connection therewith.

We expect to enter into indemnification agreements with each of our directors and executive officers prior to the completion of this offering. We expect that these agreements will provide that we will indemnify the director or executive officer to the fullest extent permitted by law for claims

arising in his or her capacity as a director or executive officer of the company or in connection with his or her service at our request for another corporation or entity.

We maintain a general liability insurance policy that covers certain liabilities of directors and officers of our corporation arising out of claims based on acts or omissions in their capacities as directors or officers.

In any underwriting agreement we enter into in connection with the sale of common stock being registered hereby, the underwriters will agree to indemnify, under certain conditions, us, our directors, our officers and persons who control us within the meaning of the Securities Act of 1933, as amended, or the Securities Act, against certain liabilities.

Item 15. Recent Sales of Unregistered Securities.

Set forth below is information regarding shares of capital stock issued by us since January 1, 2011. Also included is the consideration received by us for such shares and information relating to the section of the Securities Act, or rule of the SEC, under which exemption from registration was claimed.

(a) Issuances of preferred stock

- In March 2014, we sold an aggregate of 5,995,133 shares of our Series B preferred stock at a price per share of $26.2261 for aggregate gross consideration of approximately $157 million.
- In November 2012, we sold an aggregate of 3,885,137 shares of our Series A preferred stock at a price per share of $9.339624 for aggregate gross consideration of approximately $36 million.
- In June 2011, we sold an aggregate of 17,666,664 shares of our Series A preferred stock at a price per share of $9.339624 for aggregate gross consideration of approximately $165 million.

(b) Acquisitions

- In July 2013, we issued an aggregate of 141,150 shares of our common stock to DwellStudio Holdings LLC, as partial consideration for the purchase of substantially all of its assets.

The securities described in paragraphs (a) and (b) of this Item 15 were issued to accredited investors in reliance upon the exemption from the registration requirements of the Securities Act, as set forth in Section 4(a)(2) under the Securities Act, relative to transactions by an issuer not involving any public offering, to the extent an exemption from such registration was required.

(c) Equity Grants and Exercises:

- From the period beginning January 1, 2011 through June 30, 2014, we issued 171,000 profits interests with respect to Class B common stock, to our employees, consultants, advisors and directors pursuant to our Second Amended and Restated 2010 Incentive Plan, or 2010 Plan, which in June 2011 were converted into 109,689 restricted common units.
- From the period beginning January 1, 2011 through June 30, 2014, we granted options to purchase an aggregate of 158,700 shares of our Class B common stock with exercise prices ranging from $2.89 to $3.42 per share, to our employees, consultants, advisors and directors pursuant to our 2010 Plan. During this same period, no shares of our Class B common stock were issued upon the exercise of options.

- From the period beginning January 1, 2011 and through June 30, 2014, we granted 6,859,619 restricted stock units for 6,859,619 shares of our Class B common stock for no consideration upon completion of the vesting schedule to our employees, consultants, advisors and directors pursuant to our 2010 Plan. The grant date fair value of these issues restricted stock units ranges from $4.20 to $24.73. During this same period, no shares of our Class B common stock have been issued from restricted stock units.

The issuances of shares of restricted Class B common stock, options, shares of our Class B common stock issuable upon the exercise of the options and restricted stock units for our Class B common stock described in paragraph (c) of this Item 15 were issued pursuant to written compensatory plans or arrangements with our employees, consultants, advisors and directors, in reliance on the exemption provided by Rule 701 promulgated under the Securities Act, or pursuant to Section 4(a)(2) under the Securities Act, relative to transactions by an issuer not involving any public offering, to the extent an exemption from such registration was required.

No underwriters were involved in the foregoing issuances of securities. All of the foregoing securities are deemed restricted securities for purposes of the Securities Act. All certificates representing the issued shares of capital stock described in this Item 15 included appropriate legends setting forth that the securities have not been registered and the applicable restrictions on transfer.

Item 16. Exhibits and Financial Statement Schedules.

(a) Exhibits. See the Exhibit Index attached to this registration statement, which is incorporated by reference herein.

(b) Financial Statement Schedules. Schedules not listed above have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or notes thereto.

Item 17. Undertakings.

The undersigned registrant hereby undertakes to provide to the underwriter, at the closing specified in the underwriting agreement, certificates in such denominations and registered in such names as required by the underwriter to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities 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 Securities Act and will be governed by the final adjudication of such issue.

The undersigned hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, 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, 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.

(3) For the purpose of determining liability under the Securities Act to any purchaser, each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(4) In a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Boston, Commonwealth of Massachusetts, on this 15th day of August, 2014.

WAYFAIR INC.

By: /s/ NIRAJ SHAH

Niraj Shah
Chief Executive Officer

SIGNATURES AND POWER OF ATTORNEY

We, the undersigned officers and directors of Wayfair Inc, hereby severally constitute and appoint Niraj Shah, Michael Fleisher, and Nicholas Malone, and each of them singly (with full power to each of them to act alone), our true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution in each of them for him and in his name, place and stead, and in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement (or any other registration statement for the same offering that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as full to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities held on the dates indicated.

Signature	Title	Date
/s/ NIRAJ SHAH Niraj Shah	Chief Executive Officer and Director (Principal Executive Officer)	August 15, 2014
/s/ MICHAEL FLEISHER Michael Fleisher	Chief Financial Officer (Principal Financial Officer)	August 15, 2014
/s/ NICHOLAS MALONE Nicholas Malone	Chief Administrative Officer (Principal Accounting Officer)	August 15, 2014
/s/ STEVEN CONINE Steven Conine	Chief Technology Officer and Director	August 15, 2014
/s/ NEERAJ AGRAWAL Neeraj Agrawal	Director	August 15, 2014
/s/ JULIE BRADLEY Julie Bradley	Director	August 15, 2014
/s/ ALEX FINKELSTEIN Alex Finkelstein	Director	August 15, 2014
/s/ MICHAEL KUMIN Michael Kumin	Director	August 15, 2014
/s/ IAN LANE Ian Lane	Director	August 15, 2014
/s/ ROMERO RODRIGUES Romero Rodrigues	Director	August 15, 2014

EXHIBIT INDEX

Exhibit Number	Description of Exhibit
1.1*	Underwriting Agreement
2.1	Contribution and Exchange Agreement dated as of August 15, 2014 between the Registrant and the other parties thereto
3.1	Certificate of Incorporation of the Registrant, as currently in effect
3.2*	Form of Restated Certificate of Incorporation of the Registrant, to be in effect immediately prior to the consummation of this offering
3.3	Bylaws of the Registrant, as currently in effect
3.4*	Form of Amended and Restated Bylaws, to be in effect immediately prior to the consummation of this offering
4.1*	Specimen stock certificate evidencing the shares of Class A common stock of the Registrant
5.1*	Opinion of Latham & Watkins LLP
10.1#	Second Amended and Restated 2010 Incentive Plan
10.2#	Form of Deferred Unit Agreement under the Second Amended and Restated 2010 Incentive Plan
10.3*#	2014 Incentive Award Plan, to be effective upon the consummation of this offering
10.4*#	Form of Option Agreement under the 2014 Incentive Award Plan
10.5*#	Form of Restricted Stock Unit Agreement under the 2014 Incentive Award Plan
10.6*#	Form of Restricted Stock Award Agreement under the 2014 Incentive Award Plan
10.7	Form of Investors' Rights Agreement by and among the Registrant and the other parties thereto, to be in effect upon the reorganization of the Registrant
10.8#	Form of Indemnification Agreement for Directors and Officers
10.9	Office Lease dated April 18, 2013 between Copley Place Associates, LLC and the Registrant
10.10	Agreement of Lease dated December 31, 2013 between Distribution I Patent Tenant LLC and the Registrant
10.11#	Form of Amended and Restated Letter Agreement dated May 6, 2014 between the Registrant and each of Niraj Shah and Steven Conine
10.12#	Letter Agreement dated October 2, 2013 between the Registrant and Michael Fleisher, as amended May 5, 2014
10.13	Loan Agreement dated October 29, 2012 between Bank of America, N.A. and the Registrant, as amended by Amendment No. 1 to Loan Agreement dated October 29, 2013
21.1	Subsidiaries of the Registrant
23.1	Consent of Ernst & Young LLP
23.2*	Consent of Latham & Watkins LLP (included in Exhibit 5.1)
24.1	Power of Attorney (included on signature page)

* To be filed by amendment.

** Previously submitted.

# Indicates management contract or compensatory plan.

Exhibit 2.1

WAYFAIR INC.

CONTRIBUTION AND EXCHANGE AGREEMENT

This CONTRIBUTION AND EXCHANGE AGREEMENT, dated as of August 15, 2014, is entered into by and among (i) the holders of Common Units, Series A Convertible Preferred Units and Series B Convertible Preferred Units (collectively " ***Units*** ") of Wayfair LLC, a Delaware limited liability company (the " ***Operating Company*** ") listed on the signature pages hereto (the " ***Unit Holders*** " and individually a " ***Unit Holder*** "), (ii) the equity holders (the " ***Corporate Shareholders*** " and Individually a " ***Corporate Shareholder*** ") of corporate entities that are Unit Holders, all as set forth opposite such Corporate Shareholder's name on the signature pages hereto and Schedule A attached hereto and (iii) Wayfair Inc., a Delaware corporation (the " ***IPO Co.*** "). This Agreement shall only become effective immediately prior to the effectiveness of the IPO Co's first registration statement on Form S-1 filed with the Securities and Exchange Commission (as defined below) (the " ***Effective Time*** ").

Recitals:

A. Pursuant to that certain Fourth Amended and Restated Limited Liability Company Operating Agreement, dated as of March 5, 2014 (the " ***Operating Agreement*** "), of the Operating Company, the Board of Managers, in connection with a Qualified Public Offering (as defined in the Operating Agreement) has the right to require the Operating Company to be converted into or otherwise reorganized as a corporation (a " ***Corporate Conversion*** "). The Operating Agreement further provides that, upon request by the Board of Managers, each member shall take all necessary or desirable actions requested by the Board of Managers in connection with a Corporate Conversion; provided that to the extent practicable and subject to the terms of the Operating Agreement in the case of a Corporate Conversion, each member shall receive securities in the Corporate Conversion which in the aggregate have the same preferences, rights, and value as the membership interests in the Operating Company held by such member prior to the Corporate Conversion.

B. On August 12, 2014, the Board of Managers determined, in connection with an anticipated Qualified Public Offering, that the Operating Company undergo a Corporate Conversion in the form of the reorganization described herein.

C. Each of the Unit Holders is currently a member of the Operating Company and holds the Units set forth under such Unit Holder's name on the signature pages hereto (the " ***Transferred Units*** ") and each of the Corporate Shareholders holds the equity (such equity, the " ***Corporate Shareholder Interests*** ") of the Unit Holder set forth opposite such Corporate Shareholder's name on Schedule A and the signature pages hereto (each, a " ***Related Corporate Unitholder*** "). Each Corporate Shareholder whose Related Corporate Unitholder will exchange its Units for Reorganization Shares rather than such Corporate Shareholder exchanging its Corporate Shareholder Interests for Reorganization Shares is hereinafter referred to as a " ***Non-Participating Corporate Shareholder*** " and (i) such

Related Corporate Unitholder shall be treated for all purposes under this Agreement as a Unit Holder that is not a Related Corporate Unitholder and (ii) such Corporate Shareholder shall be deemed to make no representations, warranties or covenants under this Agreement with respect to its Related Corporate Unitholder or Corporate Shareholder Interests. Notwithstanding the above, Non-Participating Corporate Shareholders shall not be included on Schedule A .

D. Immediately prior to the Effective Time, the IPO Co. has a total authorized capitalization consisting of (i) 100,000,000 shares of Common Stock; (ii) 17,666,664 shares of Series A-1 Convertible Preferred Stock; (iii) 3,885,137 shares of Series A-2 Convertible Preferred Stock and (iv) 5,995,133 shares of Series B Convertible Preferred Stock, all as further described in the Restated Certificate of Incorporation of the IPO Co. (the " ***IPO Co. Charter*** ").

E. Each of the Unit Holders that is not a Related Corporate Unitholder desires to comply with its obligations under the Operating Agreement and to contribute to IPO Co. the Transferred Units, in exchange for the number of shares of Common Stock, Series A-1 Convertible Preferred Stock, Series A-2 Convertible Preferred Stock and/or Series B Convertible Preferred Stock of IPO Co. set forth under such Unit Holder's name on the signature pages hereto. Each of the Corporate Shareholders desires to cause its Related Corporate Unitholder to comply with its obligation under the Operating Agreement and desires to contribute to the IPO Co. the Corporate Shareholder Interests in exchange for the number of shares of Common Stock, Series A-1 Convertible Preferred Stock, Series A-2 Convertible Preferred Stock and/or Series B Convertible Preferred Stock of IPO Co. set forth under such Corporate Shareholder's name on Schedule A and the signature pages hereto. All such shares of IPO Co. issued hereunder to the Unit Holders and the Corporate Shareholders are referred to herein as " ***Reorganization Shares*** ".

F. The Board of Directors of IPO Co. has consented to the issuance of the Reorganization Shares to the Unit Holders and Corporate Shareholders as contemplated by this Agreement.

NOW, THEREFORE, the parties hereby agree as follows:

1. Definitions.

" Pre-Closing Tax Period " means any Tax period ending on or before the day on which the Effective Time occurs and that portion of any Straddle Period ending on (and including) the day on which the Effective Time occurs.

" Pre-Closing Tax Reserves " means cash amounts held by a Related Corporate Unitholder which have been set aside or reserved on the books of such Related Corporate Unitholder for the payment of Taxes.

" Property Taxes " means all real property Taxes, personal property Taxes and similar ad valorem Taxes.

" Straddle Period " means any Tax period beginning before or on and ending after the day on which the Effective Time occurs.

" Tax " or " Taxes " means any federal, state, local or foreign income, gross receipts, branch profits, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, escheat, environmental, customs duties, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, sales, use, transfer, registration, ad valorem, value added, alternative or add-on minimum or estimated tax or other tax of any kind whatsoever, including any interest, penalty or addition thereto, whether disputed or not and including any obligation to indemnify or otherwise assume or succeed to the Tax liability of any other person by law, by contract or otherwise.

" Tax Authority " shall mean any governmental agency, board, bureau, body, department or authority of any United States federal, state or local jurisdiction or any foreign jurisdiction, having or purporting to exercise jurisdiction with respect to any Tax.

" Tax Return " shall mean any return, declaration, report, claim for refund or information return or statement of any kind relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof, filed or required to be filed with any Tax Authority.

2. **Tax Treatment.** The parties intend, acknowledge and agree to treat the LLC Transfer (as defined below) for Tax purposes as a transaction qualifying for tax-free treatment under Section 351(a) of the Internal Revenue Code of 1986, as amended (the "Code") and the Treasury Regulations promulgated thereunder, to the greatest extent permitted by applicable law and will take no actions inconsistent with that intended treatment. Any party believing a contrary position is necessitated by applicable law shall, before taking such position, provide reasonable advance notice to the IPO Co., and work together in good faith with the IPO Co. to alleviate or resolve such concerns.

3. **Representations and Warranties**

(a) Each Unit Holder hereby represents and warrants to the IPO Co. that such Unit Holder is the sole record and beneficial owner of such Unit Holder's Transferred Units; that such Transferred Units are not subject to any lien, charge, pledge, claim, restrictions on transfer, mortgage, security interest, or title defect or other encumbrance of any sort (collectively "Liens"), or to any rights of first refusal of any kind that have not or will not have been waived prior to the Effective Time; that such Unit Holder has not granted any rights to purchase such Transferred Units to any other person or entity, other than Liens pursuant to obligations under one or more agreements between the Unit Holder and the Operating Company or Liens that have been created by the Operating Company. Each Unit Holder that is not a Related Corporate Unitholder hereby represents and warrants to the IPO Co. that such Unit Holder has the sole right to transfer, contribute and exchange such Transferred Units to IPO Co.; that, at the Effective Time, the IPO Co. will receive good title to such Transferred Units, subject to no Liens retained, granted or permitted by such Unit Holder; that such Unit Holder has all requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby; that this Agreement has been duly executed and delivered by such Unit Holder and, assuming the

due authorization, execution and delivery by the IPO Co., constitutes the valid and binding obligation of such Unit Holder enforceable in accordance with its terms; and that no material consent, waiver, approval, order or authorization of, or registration, declaration or filing with, any governmental entity or any third party, including a party to any agreement with such Unit Holder, is required by or with respect to such Unit Holder in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby that has not already been obtained or waived.

(b) Each Corporate Shareholder hereby represents and warrants to the IPO Co. that such Corporate Shareholder is the sole record and beneficial owner of such Corporate Shareholder's Corporate Shareholder Interest; that such Corporate Shareholder Interest is not subject to any Lien, or to any rights of first refusal of any kind that have not or will not have been waived prior to the Effective Time, and such Corporate Shareholder has not granted any rights to purchase such Corporate Shareholder Interest to any other person or entity, other than Liens pursuant to obligations under one or more agreements between such Corporate Shareholder and the Operating Company or Liens that have been created by the Operating Company; that such Corporate Shareholder has the sole right to transfer, contribute and exchange such Corporate Shareholder Interest to IPO Co.; that at the Effective Time, the IPO Co. will receive good title to such Corporate Shareholder Interest, subject to no Liens retained, granted or permitted by such Corporate Shareholder; that such Corporate Shareholder has all requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby; that this Agreement has been duly executed and delivered by such Corporate Shareholder and, assuming the due authorization, execution and delivery by the IPO Co., constitutes the valid and binding obligation of such Corporate Shareholder enforceable in accordance with its terms; and that no material consent, waiver, approval, order or authorization of, or registration, declaration or filing with, any governmental entity or any third party, including a party to any agreement with such Corporate Shareholder, is required by or with respect to such Corporate Shareholder in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby that has not already been obtained or waived. Each Corporate Shareholder hereby represents to IPO Co., that as of the Effective Time, that its Related Corporate Unitholder owns no material assets other than membership interests in the Operating Company or cash or cash equivalents, holds no liabilities other than those arising out of such Related Corporate Unitholder's interest in the Operating Company, and has never had any employees.

(c) The IPO Co. hereby represents and warrants to the Unit Holders and the Corporate Shareholders that the IPO Co. has all requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby; that this Agreement has been duly executed and delivered by the IPO Co. and, assuming the due authorization, execution and delivery by each of the Unit Holders and Corporate Shareholders, constitutes the valid and binding obligation of the IPO Co. enforceable in accordance with its terms; that no material consent, waiver, approval, order or authorization of, or registration, declaration or filing with, any governmental entity or any third party, including a party to any agreement with the IPO Co., is required by or with respect to the IPO Co. in connection with the execution and delivery of this Agreement or

the consummation of the transactions contemplated hereby that has not been obtained or waived prior to the Effective Time; that the Reorganization Shares, when issued and delivered in accordance with the terms set forth in this Agreement, will be validly issued and fully paid and free of restrictions on transfer other than restrictions on transfer under agreements with the IPO Co., applicable state and federal securities laws and liens or encumbrances created by or imposed by a Unit Holder or Corporate Shareholder.

4. Tax Matters.

The representations made in this Section 4 by each Corporate Shareholder are made by such Corporate Shareholder only with respect to such Corporate Shareholder's Related Corporate Unitholder(s) set forth opposite such Corporate Shareholder's name on Schedule A hereto. For purposes of this Section 4, the term "Corporate Shareholder" shall exclude any Corporate Shareholder that is listed as an "Investor Parent" in the Operating Agreement if such Corporate Shareholder's Related Corporate Unitholder only holds Series B Preferred Units. Each Corporate Shareholder hereby represents to the IPO Co. that except to the extent that one of the following representations would be breached by filing Tax Returns, or paying or withholding Taxes, in a manner that is consistent with Schedule K-1 or other Tax information reporting materials provided by the Operating Company:

(1) Each Related Corporate Unitholder has duly and timely filed or caused to be timely filed with the appropriate Tax Authority all Tax Returns required to be filed by, or with respect to, such entity. To the best knowledge of such Corporate Shareholder, all such Tax Returns are true, complete and accurate in all respects. No Related Corporate Unitholder is currently the beneficiary of any extension of time within which to file any Tax Return. No claim has ever been made by a Tax Authority in a jurisdiction where any Related Corporate Unitholder does not file a Tax Return that such Related Corporate Unitholder is or may be subject to taxation by that jurisdiction in respect of Taxes that would be covered by or the subject of such Tax Return. To the best knowledge of such Corporate Shareholder, all Taxes due and owing by a Related Corporate Unitholder (whether or not shown on any Tax Returns) have been timely paid.

(2) No deficiencies for Taxes with respect to any Related Corporate Unitholder have been claimed, proposed or assessed by any Tax Authority. To the best knowledge of such Corporate Shareholder, there are no pending or threatened audits, assessments or other actions for or relating to any liability in respect of Taxes of any Related Corporate Unitholder. No Related Corporate Unitholder (nor any predecessor of a Related Corporate Unitholder) has waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency, nor has any request been made in writing for any such extension or waiver.

(3) The Related Corporate Unitholders have withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or

owing to any employee, independent contractor, creditor, stockholders of any Related Corporate Unitholder or other person.

(4) There are no Liens for Taxes upon any property or asset of any Related Corporate Unitholder (other than statutory Liens for current Taxes not yet due and payable).

(5) No Related Corporate Unitholder has ever been a member of an affiliated group filing a consolidated federal income Tax Return or any similar group for federal, state, local or foreign Tax purposes. No Related Corporate Unitholder has any liability for the Taxes of any person (other than Taxes of the Related Corporate Unitholder) (i) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), (ii) as a transferee or successor, (iii) by contract or (iv) otherwise.

(6) No Related Corporate Unitholder is, or has ever been, a party to or bound by any Tax indemnity agreement, Tax sharing agreement, Tax allocation agreement or similar contract.

(7) Other than as a result of the Related Corporate Unitholder's interest in the Operating Company, no Related Corporate Unitholder has, since its formation, engaged in any trade or business, or undertaken any other significant activity other than acquiring and holding Units.

(8) No Related Corporate Unitholder has distributed stock of another person, or has had its stock distributed by another person, in a transaction that was purported or intended to be governed in whole or in part by Section 355 or 361 of the Code.

(9) Other than as a result of the Related Corporate Unitholder's interest in the Operating Company, no Related Corporate Unitholder (i) has (or has had) a permanent establishment within the meaning of any applicable Tax treaty or convention or (ii) has otherwise become subject to Tax jurisdiction, in each case in any country other than the country of its formation.

(10) Other than as a result of the Related Corporate Unitholder's interest in the Operating Company and to the best knowledge of such Corporate Shareholder, no Related Corporate Unitholder has been a party to any transaction that could give rise to (i) a reporting obligation under Section 6111 of the Code or the regulations thereunder, (ii) a list maintenance obligation under Section 6112 of the Code or the regulations thereunder, (iii) a disclosure obligation of a "reportable transaction" under Section 6011 of the Code and the regulations thereunder, or (iv) any similar obligation under any predecessor or successor Law or regulation or comparable provision of state, local or foreign Law.

5. Tax Covenants

a) Tax Indemnity .

(1) Each Corporate Shareholder agrees to indemnify, save and hold IPO Co. harmless from and against any and all losses incurred in connection with, arising out of, resulting from or incident to any breach or inaccuracy of any representation by such Corporate Shareholder in Section 3.b) above. Each Corporate Shareholder that is not an Investor Parent (as defined in the Operating Agreement, provided that for purposes of this Agreement, Spark Capital III (AIV), L.P. shall be considered an "Investor Parent" in lieu of Spark Capital III, L.P.) further agrees to indemnify, save and hold IPO Co. harmless from and against any and all losses incurred in connection with, arising out of, resulting from or incident to (i) any Taxes in excess of any Pre-Closing Tax Reserves of such Corporate Shareholder's Related Corporate Unitholder with respect to any Pre-Closing Tax Period, except for interest or penalties or additions to Tax imposed as a result of filing Tax Returns, or paying or withholding Taxes, in a manner that is consistent with Schedule K-1 or other Tax information reporting materials provided by the Operating Company, (ii) Taxes attributable to any breach or inaccuracy of any representation by such Corporate Shareholder in Section 4 above or any failure to comply with any covenant or agreement of such Corporate Shareholder (including any obligation to cause its Related Corporate Unitholder to take, or refrain from taking, any action under this Agreement); (iii) Taxes for which any such Related Corporate Unitholder (or any predecessor of the foregoing) is held liable under Section 1.1502-6 of the United States Treasury Regulations (or any similar provision of state, local or foreign Law) by reason of such entity being included in any consolidated, affiliated, combined or unitary group at any time on or before the Effective Time; (iv) Taxes of such Corporate Shareholder or any of its affiliates for any Tax period; and (v) Taxes imposed on or payable by third parties with respect to which such Related Corporate Unitholder has an obligation to indemnify such third party pursuant to a transaction consummated on or prior to the Effective Time, provided , that , each Corporate Shareholder shall not be required to indemnify, save and hold IPO Co. harmless from any losses arising under Sections 5.a)(i), 5.a)(ii) or 5.a)(iii) above (a) relating to Taxes for a taxable period other than a Pre-Closing Tax Period, (b) resulting from any action taken by IPO Co., the Operating Company, or any of their affiliates on or after the Effective Time, or (c) attributable to a Related Corporate Unitholder's share of any Taxes payable by the Operating Company or its subsidiaries.

(2) Payment in full of any amount due from a Corporate Shareholder under this Section 5 shall be made to IPO Co. (as directed by IPO Co.) in immediately available funds at least two (2) business days before the date payment of the Taxes to which such payment relates is due, or, if no Tax is payable, within fifteen (15) days after written demand is made for such payment.

(3) IPO Co. shall indemnify and hold harmless the Corporate Shareholders that are Investor Parents and the Related Corporate Unitholders that are

Investor Blockers (as defined in the Operating Agreement) for any federal or state and local corporate income tax liability (including solely with respect to (ii) below, reasonable audit, accounting and other expenses related thereto) incurred by such entity (i) as an equity owner of a Related Corporate Unitholder, (ii) as a result of any breach by IPO Co. or Operating Company of Section 2 or Section 7 or any action authorized by IPO Co. or Operating Company related to a Related Corporate Unitholder after the LLC Transfer that would be prohibited by Section 2 or Section 7 if IPO Co. or Operating Company took such action itself or (iii) in connection with the transactions contemplated hereby. Indemnification of a Corporate Shareholder as an equity owner of a Related Corporate Unitholder prior to the LLC Transfer shall not be required to the extent that (x) all relevant Tax Distributions were timely made to a Related Corporate Unitholder and (y) sufficient information to file the relevant Tax Return was delivered to the Related Corporate Unitholder by the Operating Company but the Related Corporate Unitholder failed to file required Tax Returns based on the information delivered to it or failed to pay the Taxes set forth on the applicable Tax Returns. IPO Co. shall have no obligation to indemnify a Non-Participating Corporate Shareholder or its Related Corporate Unitholder pursuant to this Section 5.a)(3) with respect to the LLC Transfer. IPO Co. shall have no obligation to indemnify a Corporate Shareholder that is intended to qualify as a registered investment company for any Tax or penalty assessed against such Corporate Shareholder solely because such Corporate Shareholder fails to be, or had such Tax or penalty not been paid, such Corporate Shareholder would have failed to be, a regulated investment company under Subchapter M of Chapter 1 of the Code.

(4) Any claim for indemnity under this Section 5.a) may only be made at a time no later than sixty (60) days after the expiration of the applicable Tax statute of limitations with respect to the relevant taxable period (including all periods of extension, whether automatic or permissive).

b) Tax Returns

(1) Each Corporate Shareholder shall prepare and timely file, or shall cause to be prepared and timely filed, all Tax Returns in respect of its Related Corporate Unitholder that are required to be filed (taking into account any extension) on or before the day on which the Effective Time occurs, and shall pay, or cause to be paid, all Taxes of such Related Corporate Unitholder due on or before the day on which the Effective Time occurs. However, to the extent that any Tax Distributions (as defined in Section 5.1(a) of the Operating Agreement) have not been made by the Operating Company to the applicable Related Corporate Unitholder in order to pay such Taxes or information sufficient to file such Tax Returns has not been distributed to the applicable Related Corporate Unitholder, then IPO Co.

shall or shall cause such Tax Returns and Taxes to be filed or paid, as applicable.

(2) Each Corporate Shareholder with a Related Corporate Unitholder that holds Common Units or Series A Preferred Units (the " ***Related Common/A Holders*** ") shall prepare and timely file, or shall cause to be prepared and timely filed, all Tax Returns in respect of its Related Corporate Unitholder that relate to taxable periods ending on or before the day on which the Effective Time occurs but that are required to be filed after the day on which the Effective Time occurs, and such Corporate Shareholder shall pay, or cause to be paid, all Taxes due with respect to such Tax Returns. Such Tax Returns shall be prepared in a manner consistent with most recent past practice, except as required by applicable law. At least ten (10) days prior to filing any such Tax Return, such Corporate Shareholder shall submit a copy of such Tax Return to IPO Co. for IPO Co.'s review and approval, which approval shall not be unreasonably withheld.

(3) IPO Co. shall prepare and timely file, or shall cause to be prepared and timely filed, all Tax Returns in respect of any Related Corporate Unitholder that holds Series B Preferred Units (the " ***Related B Holders*** ") that relate to taxable periods ending on or before the day on which the Effective Time occurs but that are required to be filed after the day on which the Effective Time occurs, and the Operating Company shall pay, or cause to be paid, all Taxes due with respect to such Tax Returns, but only to the extent that Tax Distributions have not been made to applicable Related Corporate Unitholder in respect of such Tax Returns. If a Tax Distribution in respect of Taxes payable pursuant to such Tax Returns has been made to such Corporate Shareholders in respect of the Tax Returns described in this Section 5.b)(3), each Corporate Shareholder shall return the amount of such Tax Distribution distributed to it to the Operating Company within ten (10) business days of a request therefor.

(4) IPO Co. shall prepare and timely file, or cause to be prepared and timely filed, any Tax Return (a "Straddle Period Tax Return") required to be filed by any Related Corporate Unitholder for a Straddle Period. Such Tax Returns shall be prepared in a manner consistent with most recent past practice except as required by applicable law. At least ten (10) days prior to filing any such Tax Return, IPO Co. shall submit a copy of such Tax Return to the applicable Corporate Shareholder for such Corporate Shareholder's review and approval, which approval shall not be unreasonably withheld.

(5) With respect to Taxes of a Related Common/A Holder relating to a Straddle Period, the portion of any Tax that is allocable to the Pre-Closing Tax Period will be: (i) in the case of Property Taxes, deemed to be the amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of

which is the number of calendar days of such Straddle Period in the Pre-Closing Tax Period and the denominator of which is the number of calendar days in the entire Straddle Period, and (ii) in the case of all other Taxes, determined as though the taxable year of the Related Corporate Unitholder terminated at the close of business on the day the Effective Time occurs.

(6) Neither IPO Co. nor any Corporate Shareholder shall (i) make an election for U.S. federal income Tax purposes after the date hereof with respect to any Related Corporate Unitholder that will be effective for or relate to any portion of a Pre-Closing Tax Period, or (ii) amend any Tax Return of a Related Corporate Unitholder for a Pre-Closing Tax Period without the applicable Corporate Shareholder's consent, which shall not be unreasonably withheld.

(7) With respect to Taxes of a Related B Holder relating to a Straddle Period, IPO Co. shall pay or cause to be paid all such Taxes.

c) Cooperation . IPO Co. and Corporate Shareholders agree to use commercially reasonable efforts to furnish or cause to be furnished to the other, upon request, as promptly as practicable, such information and assistance relating to Taxes, including, without limitation, access to books and records, as is reasonably necessary for the filing of all Tax Returns by IPO Co. or Corporate Shareholders, the making of any election relating to Taxes, the preparation for any audit by any Tax Authority and the prosecution or defense of any claim, suit or proceeding relating to any Tax, provided that nothing in this Section 5.c) shall require any Corporate Shareholder to take any action that would unreasonably interfere with conduct of its business. Each of IPO Co. and the Corporate Shareholders shall retain all books and records with respect to Taxes for a period of at least seven (7) years following the day on which the Effective Time occurs.

d) Tax Contests .

(1) IPO Co. and the Related Corporate Unitholders, on the one hand, and the Corporate Shareholders and their affiliates, on the other hand, shall promptly notify each other (as applicable) upon receipt by such party of written notice of any inquiries, claims, assessments, audits or similar events with respect to Taxes relating to a Pre-Closing Tax Period (any such inquiry, claim, assessment, audit or similar event, a " ***Tax Matter*** "). Any failure to so notify the other applicable party of any Tax Matter shall not relieve such other party of any liability with respect to such Tax Matters except to the extent such party was actually prejudiced as a result thereof.

(2) IPO Co. shall have sole control of the conduct of all Tax Matters, including any settlement or compromise thereof, provided, however, that IPO Co. shall keep the Corporate Shareholders reasonably informed of the progress of any Tax Matter and shall not affect any such settlement or compromise with respect to which the Corporate Shareholders are liable without obtaining the Corporate

Shareholders' prior written consent thereto, which shall not be unreasonably withheld or delayed.

e) Tax Refunds . Any refunds of Taxes for a Pre-Closing Tax Period, and Pre-Closing Tax Reserves in excess of those required to satisfy such Related Corporate Unitholder's liability for Taxes hereunder, shall be paid by IPO Co. to the applicable Corporate Shareholders (i) in the case of a refund of Taxes, within thirty (30) days of receipt of such refund or (ii) in all other cases, as soon as practicable following IPO Co's reasonable determination that such amounts are not required to satisfy such Related Corporate Unitholder's liability for Taxes hereunder.

6. Assignment

Each of the Unit Holders that is not a Related Corporate Unitholder hereby assigns, transfers, conveys and delivers to IPO Co. the Transferred Units, together with all associated rights, privileges, restrictions and obligations in exchange for the Reorganization Shares, with effect as of the Effective Time. Each Corporate Shareholder that is not a Non-Participating Corporate Shareholder, hereby assigns, transfers, conveys and delivers to IPO Co. the Corporate Shareholder Interests, together with all associated rights, privileges, restrictions and obligations in exchange for the Reorganization Shares with effect as of the Effective Time. The transfer to IPO Co. of the Transferred Units and the Corporate Shareholder Interests shall be referred to herein as the " ***LLC Transfer*** ".

7. Assumption and Admission

IPO Co. hereby (a) accepts the Transferred Units and the Corporate Shareholder Interest, (b) agrees to be admitted as member of the Operating Company contemporaneously with the LLC Transfer in the place and stead of each of the Unit Holders with respect to the Transferred Units and (c) undertakes and agrees to comply with and be bound by the terms of the Operating Agreement as a member and (d) agrees that the LLC Transfer shall constitute a transaction qualifying under Section 351 of the Internal Revenue Code and the Treasury Regulations promulgated thereunder (" ***Section 351*** "). IPO Co. agrees not to dispose of any Corporate Shareholder Interests or any Related Corporate Unitholder (including by dissolution or liquidation of any Related Corporate Unitholder) in a manner, or to take any other action, that causes the LLC Transfer to fail to qualify as a tax-free contribution under Section 351 with respect to any Corporate Shareholder.

8. Withdrawal

Immediately after the admission of IPO Co. as a member of the Operating Company, each of the Unit Holders shall be withdrawn as a member of the Operating Company with respect to the Transferred Units, and shall thereupon cease to be a member of the Operating Company with respect to the Transferred Units and cease to have or exercise any right or power as a member of the Operating Company.

9. Stock Distribution

Promptly following the transfer of the Transferred Units and the Corporate Shareholder Interest and in consideration of the same, IPO Co. shall issue and deliver the Reorganization Shares to (i) each of the Unit Holders as set forth under each such Unit Holder's name on the signature pages hereto and to (ii) each of the Corporate Shareholders as set forth under each such Corporate Shareholder's name on Schedule A and on the signature pages hereto. The Reorganization Shares shall be transferred and assigned to each of the Unit Holders and Corporate Shareholders free and clear of any liens, claims or encumbrances.

10. Registration Rights

Upon execution of the Investor Rights Agreement, dated on or about the date hereof and attached hereto as Exhibit A, Unit Holders and Corporate Shareholders holding Series A-1 Convertible Preferred Units, Series A-2 Convertible Preferred Units and/or Series B Convertible Preferred Units shall have the registration rights with respect to their Reorganization Shares as set forth therein.

11. Further Assurances

Each party agrees to execute and deliver such additional documents, certificates and instruments and to perform such additional acts, as may be reasonably requested by any other party to carry out all of the provisions of this Agreement and to consummate all of the transactions contemplated by this Agreement.

12. Successors and Assigns

This Agreement shall be binding upon the parties and their respective successors, executors, administrators, legal representatives, heirs and legal assigns and shall inure to the benefit of the parties and, except as otherwise provided herein, their respective successors, executors, administrators, legal representatives, heirs and legal assigns.

13. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with such laws.

14. Separability

Each provision of this Agreement shall be considered separable, and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this agreement that are valid, enforceable and legal.

15. Counterparts

This Agreement may be executed in two or more counterparts, and by facsimile or other electronic means, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16. Expiration

This Agreement shall expire and be of no further force or effect if the Effective Time shall not have occurred on or before December 31, 2014.

[***Signature Pages to Follow***]

The parties have signed this agreement as of the date first written above.

WAYFAIR INC.

By: /s/ Niraj Shah
Niraj Shah
Chief Executive Officer

Exhibit 3.1

CERTIFICATE OF INCORPORATION

OF

WAYFAIR INC.

FIRST: The name of the Corporation is: Wayfair Inc.

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

THIRD: The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH: The total number of shares of stock which the Corporation shall have authority to issue is 1,000 shares of Common Stock, $0.001 par value per share.

The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law of Delaware.

FIFTH: The name and mailing address of the sole incorporator are as follows:

NAME	MAILING ADDRESS
Niraj Shah	4 Copley Place, 7th Floor Boston, MA 02116

SIXTH: In furtherance of and not in limitation of powers conferred by statute, it is further provided:

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

2. Election of directors need not be by written ballot.

3. The Board of Directors is expressly authorized to adopt, amend, alter or repeal the By-Laws of the Corporation.

SEVENTH: Except to the extent that the General Corporation Law of Delaware prohibits the elimination or limitation of liability of directors for breaches of fiduciary duty, no director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for any breach of fiduciary duty as a director, notwithstanding any provision of law imposing such liability. No amendment to or repeal of this provision shall apply to or

have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment.

EIGHTH: The Corporation shall provide indemnification as follows:

1. Actions, Suits and Proceedings Other than by or in the Right of the Corporation . The Corporation shall indemnify each person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he or she is or was, or has agreed to become, a director or officer of the Corporation, or is or was serving, or has agreed to serve, at the request of the Corporation, as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (including any employee benefit plan) (all such persons being referred to hereafter as an "Indemnitee"), or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by or on behalf of Indemnitee in connection with such action, suit or proceeding and any appeal therefrom, if Indemnitee acted in good faith and in a manner which Indemnitee 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 action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

2. Actions or Suits by or in the Right of the Corporation . The Corporation shall indemnify any Indemnitee who was or is a party to or threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that Indemnitee is or was, or has agreed to become, a director or officer of the Corporation, or is or was serving, or has agreed to serve, at the request of the Corporation, as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (including any employee benefit plan), or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees) and, to the extent permitted by law, amounts paid in settlement actually and reasonably incurred by or on behalf of Indemnitee in connection with such action, suit or proceeding and any appeal therefrom, if Indemnitee acted in good faith and in a manner which Indemnitee reasonably believed to be in, or not opposed to, the best interests of the Corporation, except that no indemnification shall be made under the Section 2 in respect of any claim, issue or matter as to which Indemnitee shall have been adjudged to be liable to the Corporation, unless, and only to the extent, that the Court of Chancery of Delaware shall determine upon application that, despite the adjudication of such liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses (including attorneys' fees) which the Court of Chancery of Delaware shall deem proper.

3. Indemnification for Expenses of Successful Party . Notwithstanding any other provisions of this Article, to the extent that an Indemnitee has been successful, on the merits or otherwise, in defense of any action, suit or proceeding referred to in Sections 1 and 2 of this Article EIGHTH, or in defense of any claim, issue or matter therein, or on appeal from any such action, suit or proceeding, Indemnitee shall be indemnified against all expenses (including attorneys' fees) actually and reasonably incurred by or on behalf of Indemnitee in connection therewith.

4. Notification and Defense of Claim . As a condition precedent to an Indemnitee's right to be indemnified, such Indemnitee must notify the Corporation in writing as soon as practicable of any action, suit, proceeding or investigation involving such Indemnitee for which indemnity will or could be sought. With respect to any action, suit, proceeding or investigation of which the Corporation is so notified, the Corporation will be entitled to participate therein at its own expense and/or to assume the defense thereof at its own expense, with legal counsel reasonably acceptable to Indemnitee. After notice from the Corporation to Indemnitee of its election so to assume such defense, the Corporation shall not be liable to Indemnitee for any legal or other expenses subsequently incurred by Indemnitee in connection with such action, suit, proceeding or investigation, other than as provided below in this Section 4. Indemnitee shall have the right to employ his or her own counsel in connection with such action, suit, proceeding or investigation, but the fees and expenses of such counsel incurred after notice from the Corporation of its assumption of the defense thereof shall be at the expense of Indemnitee unless (i) the employment of counsel by Indemnitee has been authorized by the Corporation, (ii) counsel to Indemnitee shall have reasonably concluded that there may be a conflict of interest or position on any significant issue between the Corporation and Indemnitee in the conduct of the defense of such action, suit, proceeding or investigation or (iii) the Corporation shall not in fact have employed counsel to assume the defense of such action, suit, proceeding or investigation, in each of which cases the fees and expenses of counsel for Indemnitee shall be at the expense of the Corporation, except as otherwise expressly provided by this Article. The Corporation shall not be entitled, without the consent of Indemnitee, to assume the defense of any claim brought by or in the right of the Corporation or as to which counsel for Indemnitee shall have reasonably made the conclusion provided for in clause (ii) above. The Corporation shall not be required to indemnify Indemnitee under this Article EIGHTH for any amounts paid in settlement of any action, suit, proceeding or investigation effected without its written consent. The Corporation shall not settle any action, suit, proceeding or investigation in any manner which would impose any penalty or limitation on Indemnitee without Indemnitee's written consent. Neither the Corporation nor Indemnitee will unreasonably withhold or delay its consent to any proposed settlement.

5. Advance of Expenses . Subject to the provisions of Section 6 of this Article EIGHTH, in the event of any action, suit, proceeding or investigation of which the Corporation receives notice under this Article, any expenses (including attorneys' fees) incurred by or on behalf of an Indemnitee in defending an action, suit, proceeding or investigation or any appeal therefrom shall be paid by the Corporation in advance of the final disposition of such matter; provided , however , that the payment of such expenses incurred by or on behalf of Indemnitee in advance of the final disposition of such matter shall be made only upon receipt of an undertaking by or on behalf of Indemnitee to repay all amounts so advanced in the event that it shall

ultimately be determined that Indemnitee is not entitled to be indemnified by the Corporation as authorized in this Article; and further provided that no such advancement of expenses shall be made under this Article EIGHTH if it is determined (in the manner described in Section 6) that (i) Indemnitee did not act in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation, or (ii) with respect to any criminal action or proceeding, Indemnitee had reasonable cause to believe his or her conduct was unlawful. Such undertaking shall be accepted without reference to the financial ability of Indemnitee to make such repayment.

6. Procedure for Indemnification . In order to obtain indemnification or advancement of expenses pursuant to Section 1, 2, 3 or 5 of this Article EIGHTH, an Indemnitee shall submit to the Corporation a written request. Any such advancement of expenses shall be made promptly, and in any event within 60 days after receipt by the Corporation of the written request of Indemnitee, unless (i) the Corporation has assumed the defense pursuant to Section 4 of this Article EIGHTH (and none of the circumstances described in Section 4 of this Article EIGHTH that would nonetheless entitle the Indemnitee to indemnification for the fees and expenses of separate counsel have occurred) or (ii) the Corporation determines within such 60-day period that Indemnitee did not meet the applicable standard of conduct set forth in Section 1, 2 or 5 of this Article EIGHTH, as the case may be. Any such indemnification, unless ordered by a court, shall be made with respect to requests under Section 1 or 2 only as authorized in the specific case upon a determination by the Corporation that the indemnification of Indemnitee is proper because Indemnitee has met the applicable standard of conduct set forth in Section 1 or 2, as the case may be. Such determination shall be made in each instance (a) by a majority vote of the directors of the Corporation consisting of persons who are not at that time parties to the action, suit or proceeding in question ("disinterested directors"), whether or not a quorum, (b) by a committee of disinterested directors designated by majority vote of disinterested directors, whether or not a quorum, (c) if there are no disinterested directors, or if the disinterested directors so direct, by independent legal counsel (who may, to the extent permitted by law, be regular legal counsel to the Corporation) in a written opinion, or (d) by the stockholders of the Corporation.

7. Remedies . The right to indemnification or advancement of expenses as granted by this Article shall be enforceable by Indemnitee in any court of competent jurisdiction. Neither the failure of the Corporation to have made a determination prior to the commencement of such action that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Corporation pursuant to Section 6 of this Article EIGHTH that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct. Indemnitee's expenses (including attorneys' fees) reasonably incurred in connection with successfully establishing Indemnitee's right to indemnification, in whole or in part, in any such proceeding shall also be indemnified by the Corporation.

8. Limitations . Notwithstanding anything to the contrary in this Article, except as set forth in Section 7 of this Article EIGHTH, the Corporation shall not indemnify an Indemnitee pursuant to this Article EIGHTH in connection with a proceeding (or part thereof) initiated by such Indemnitee unless the initiation thereof was approved by the Board of Directors of the

Corporation. Notwithstanding anything to the contrary in this Article, the Corporation shall not indemnify an Indemnitee to the extent such Indemnitee is reimbursed from the proceeds of insurance, and in the event the Corporation makes any indemnification payments to an Indemnitee and such Indemnitee is subsequently reimbursed from the proceeds of insurance, Indemnitee shall promptly refund such indemnification payments to the Corporation to the extent of such insurance reimbursement.

9. Subsequent Amendment. No amendment, termination or repeal of this Article or of the relevant provisions of the General Corporation Law of Delaware or any other applicable laws shall affect or diminish in any way the rights of any Indemnitee to indemnification under the provisions hereof with respect to any action, suit, proceeding or investigation arising out of or relating to any actions, transactions or facts occurring prior to the final adoption of such amendment, termination or repeal.

10. Other Rights. The indemnification and advancement of expenses provided by this Article shall not be deemed exclusive of any other rights to which an Indemnitee seeking indemnification or advancement of expenses may be entitled under any law (common or statutory), agreement or vote of stockholders or disinterested directors or otherwise, both as to action in Indemnitee's official capacity and as to action in any other capacity while holding office for the Corporation, and shall continue as to an Indemnitee who has ceased to be a director or officer, and shall inure to the benefit of the estate, heirs, executors and administrators of Indemnitee. Nothing contained in this Article shall be deemed to prohibit, and the Corporation is specifically authorized to enter into, agreements with officers and directors providing indemnification rights and procedures different from those set forth in this Article. In addition, the Corporation may, to the extent authorized from time to time by its Board of Directors, grant indemnification rights to other employees or agents of the Corporation or other persons serving the Corporation and such rights may be equivalent to, or greater or less than, those set forth in this Article.

11. Partial Indemnification. If an Indemnitee is entitled under any provision of this Article to indemnification by the Corporation for some or a portion of the expenses (including attorneys' fees), judgments, fines or amounts paid in settlement actually and reasonably incurred by or on behalf of Indemnitee in connection with any action, suit, proceeding or investigation and any appeal therefrom but not, however, for the total amount thereof, the Corporation shall nevertheless indemnify Indemnitee for the portion of such expenses (including attorneys' fees), judgments, fines or amounts paid in settlement to which Indemnitee is entitled.

12. Insurance. The Corporation may purchase and maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise (including any employee benefit plan) against any expense, liability or loss incurred by him in any such capacity, or arising out of his status as such, 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 Delaware.

13. Savings Clause. If this Article or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify

each Indemnitee as to any expenses (including attorneys' fees), judgments, fines and amounts paid in settlement in connection with any action, suit, proceeding or investigation, whether civil, criminal or administrative, including an action by or in the right of the Corporation, to the fullest extent permitted by any applicable portion of this Article that shall not have been invalidated and to the fullest extent permitted by applicable law.

14. Definitions. Terms used herein and defined in Section 145(h) and Section 145(i) of the General Corporation Law of Delaware shall have the respective meanings assigned to such terms in such Section 145(h) and Section 145(i).

NINTH: 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 this Certificate of Incorporation, and all rights conferred upon stockholders herein are granted subject to this reservation.

EXECUTED this 8th day of August, 2014.

/s/ Niraj Shah
Niraj Shah, Incorporator

Exhibit 3.3

BY-LAWS

OF

WAYFAIR INC.

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ARTICLE I

STOCKHOLDERS

1.1 Place of Meetings. All meetings of stockholders shall be held at such place as may be designated from time to time by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President or, if not so designated, at the principal office of the corporation. The Board of Directors may, in its sole discretion, determine that a meeting shall not be held at any place, but may instead be held solely by means of remote communication in a manner consistent with the General Corporation Law of the State of Delaware.

1.2 Annual Meeting. The annual meeting of stockholders for the election of directors and for the transaction of such other business as may properly be brought before the meeting shall be held on a date and at a time designated by the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President (which date shall not be a legal holiday in the place where the meeting is to be held).

1.3 Special Meetings. Special meetings of stockholders for any purpose or purposes may be called at any time by the Chairman of the Board, if any, the President or any two members of the Board of Directors. A special meeting of stockholders shall be called by the Secretary, or in the case of death, absence, incapacity or refusal of the Secretary, by an Assistant Secretary or some other officer, upon application of at least a majority of the Board of Directors. The Board of Directors may postpone or reschedule any previously scheduled special meeting of stockholders. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

1.4 Notice of Meetings. Except as otherwise provided by law, notice of each meeting of stockholders, whether annual or special, shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting. Without limiting the manner by which notice otherwise may be given to stockholders, any notice shall be effective if given by a form of electronic transmission consented to (in a manner consistent with the General Corporation Law of the State of Delaware) by the stockholder to whom the notice is given. The notices of all meetings shall state the place, if any, date and time of the meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If notice is given by mail, such notice shall be deemed given when deposited in the United States mail, postage prepaid, directed 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 given at the time specified in Section 232 of the General Corporation Law of the State of Delaware.

1.5 Voting List. The Secretary shall prepare, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, for a period of at least 10 days prior to the

meeting: (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (b) during ordinary business hours, at the principal place of business of the corporation. If the meeting is to be held at a physical location (and not solely by means of remote communication), then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. The list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

1.6 Quorum. Except as otherwise provided by law, the Certificate of Incorporation or these By-laws, the holders of a majority in voting power of the shares of the capital stock of the corporation issued and outstanding and entitled to vote at the meeting, present in person, present by means of remote communication in a manner, if any, authorized by the Board of Directors in its sole discretion, or represented by proxy, shall constitute a quorum for the transaction of business; provided, however, that where a separate vote by a class or classes or series of capital stock is required by law or the Certificate of Incorporation, the holders of a majority in voting power of the shares of such class or classes or series of the capital stock of the corporation issued and outstanding and entitled to vote on such matter, present in person, present by means of remote communication in a manner, if any, authorized by the Board of Directors in its sole discretion, or represented by proxy, shall constitute a quorum entitled to take action with respect to the vote on such matter. A quorum, once established at a meeting, shall not be broken by the withdrawal of enough votes to leave less than a quorum.

1.7 Adjournments. Any meeting of stockholders may be adjourned from time to time to any other time and to any other place at which a meeting of stockholders may be held under these By-laws by the chairman of the meeting or by the stockholders present or represented at the meeting and entitled to vote, although less than a quorum. It shall not be necessary to notify any stockholder of any adjournment of less than 30 days if the time and place, if any, of the adjourned meeting, and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, are announced at the meeting at which adjournment is taken, unless after the adjournment a new record date is fixed for the adjourned meeting. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting.

1.8 Voting and Proxies. Each stockholder shall have one vote for each share of stock entitled to vote held of record by such stockholder and a proportionate vote for each fractional share so held, unless otherwise provided by law or the Certificate of Incorporation. Each stockholder of record entitled to vote at a meeting of stockholders, or to express consent or dissent to corporate action without a meeting, may vote or express such consent or dissent in person (including by means of remote communications, if any, by which stockholders may be deemed to be present in person and vote at such meeting) or may authorize another person or persons to vote or act for such stockholder by a proxy executed or transmitted in a manner permitted by the General Corporation Law of the State of Delaware by the stockholder or such stockholder's authorized agent and delivered (including by electronic transmission) to the

Secretary of the corporation. No such proxy shall be voted or acted upon after three years from the date of its execution, unless the proxy expressly provides for a longer period.

1.9 Action at Meeting. When a quorum is present at any meeting, any matter other than the election of directors to be voted upon by the stockholders at such meeting shall be decided by the vote of the holders of shares of stock having a majority in voting power of the votes cast by the holders of all of the shares of stock present or represented at the meeting and voting affirmatively or negatively on such matter (or if there are two or more classes or series of stock entitled to vote as separate classes, then in the case of each such class or series, the holders of a majority in voting power of the shares of stock of that class or series present or represented at the meeting and voting affirmatively or negatively on such matter), except when a different vote is required by law, the Certificate of Incorporation or these By-laws. When a quorum is present at any meeting, any election by stockholders of directors shall be determined by a plurality of the votes cast by the stockholders entitled to vote on the election.

1.10 Conduct of Meetings.

(a) Chairman of Meeting. Meetings of stockholders shall be presided over by the Chairman of the Board, if any, or in the Chairman's absence by the Vice Chairman of the Board, if any, or in the Vice Chairman's absence by the Chief Executive Officer, or in the Chief Executive Officer's absence, by the President, or in the President's absence by a Vice President, or in the absence of all of the foregoing persons by a chairman designated by the Board of Directors, or in the absence of such designation by a chairman chosen by vote of the stockholders at the meeting. The Secretary shall act as secretary of the meeting, but in the Secretary's absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

(b) Rules, Regulations and Procedures. The Board of Directors may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders of the corporation as it shall deem appropriate including, without limitation, such guidelines and procedures as it may deem appropriate regarding the participation by means of remote communication of stockholders and proxyholders not physically present at a meeting. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board of Directors, the chairman of any meeting of stockholders 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 chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the corporation, their duly authorized and constituted proxies or such other persons as shall be determined; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

1.11 Action without Meeting .

(a) Taking of Action by Consent . Any action required or permitted to be taken at any annual or special meeting of stockholders of the corporation may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, is signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote on such action were present and voted. Except as otherwise provided by the Certificate of Incorporation, stockholders may act by written consent to elect directors; provided, however, that, if such consent is less than unanimous, such action by written consent may be in lieu of holding an annual meeting only if all of the directorships to which directors could be elected at an annual meeting held at the effective time of such action are vacant and are filled by such action.

(b) Electronic Transmission of Consents . A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a stockholder or proxyholder, or by a person or persons authorized to act for a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this section, provided that any such telegram, cablegram or other electronic transmission sets forth or is delivered with information from which the corporation can determine (i) that the telegram, cablegram or other electronic transmission was transmitted by the stockholder or proxyholder or by a person or persons authorized to act for the stockholder or proxyholder and (ii) the date on which such stockholder or proxyholder or authorized person or persons transmitted such telegram, cablegram or electronic transmission. The date on which such telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the corporation by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by telegram, cablegram or other electronic transmission may be otherwise delivered to the principal place of business of the corporation or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded if, to the extent and in the manner provided by resolution of the Board of Directors. Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

(c) Notice of Taking of Corporate Action . Prompt notice of the taking of corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the corporation.

ARTICLE II

DIRECTORS

2.1 General Powers . The business and affairs of the corporation shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the corporation except as otherwise provided by law or the Certificate of Incorporation.

2.2 Number, Election and Qualification . Subject to the rights of holders of any series of Preferred Stock to elect directors, the number of directors of the corporation shall be established from time to time by the stockholders or the Board of Directors. The directors shall be elected at the annual meeting of stockholders by such stockholders as have the right to vote on such election. Election of directors need not be by written ballot. Directors need not be stockholders of the corporation.

2.3 Chairman of the Board; Vice Chairman of the Board . The Board of Directors may appoint from its members a Chairman of the Board and a Vice Chairman of the Board, neither of whom need be an employee or officer of the corporation. If the Board of Directors appoints a Chairman of the Board, such Chairman shall perform such duties and possess such powers as are assigned by the Board of Directors and, if the Chairman of the Board is also designated as the corporation's Chief Executive Officer, shall have the powers and duties of the Chief Executive Officer prescribed in Section 3.7 of these By-laws. If the Board of Directors appoints a Vice Chairman of the Board, such Vice Chairman shall perform such duties and possess such powers as are assigned by the Board of Directors. Unless otherwise provided by the Board of Directors, the Chairman of the Board or, in the Chairman's absence, the Vice Chairman of the Board, if any, shall preside at all meetings of the Board of Directors.

2.4 Tenure . Each director shall hold office until the next annual meeting of stockholders and until a successor is elected and qualified, or until such director's earlier death, resignation or removal.

2.5 Quorum . The greater of (a) a majority of the directors at any time in office and (b) one-third of the number of directors fixed pursuant to Section 2.2 of these By-laws shall constitute a quorum of the Board of Directors; provided, however, that in each case at least one director designated by the holders of Common Stock (a "Common Director") and at least one director designated by the holders of Series A Preferred Stock (a "Series A Director") are present at such meeting. If at any meeting of the Board of Directors there shall be less than such a quorum, a majority of the directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present.

2.6 Action at Meeting . Every act or decision done or made by a majority of the directors present at a meeting of the Board of Directors duly held at which a quorum is present shall be regarded as the act of the Board of Directors, unless a greater number is required by law or by the Certificate of Incorporation. Except as may be otherwise provided by law or the Certificate of Incorporation, on any matter presented to the Board of Directors for their action or consideration at any meeting of the Board (or by written consent of Board of Directors in lieu of meeting), (a) each Series A Director and each independent director shall be entitled to cast one

vote, and (b) each Common Director shall be entitled to cast (X) three votes for so long as there are a total of seven or fewer directors duly elected, (Y) three and one-half votes for so long as there are a total of eight directors duly elected, and (Z) four votes for so long as there are a total of nine directors duly elected, provided that during any period when a Common Director is not a full time employee of the corporation or any of its wholly-owned subsidiaries, the number of votes that such Common Director shall be entitled to cast shall be reduced by one vote.

2.7 Removal. Except as otherwise provided by the General Corporation Law of the State of Delaware or any voting agreement then in effect, any one or more or all of the directors of the corporation may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors, except that the directors elected by the holders of a particular class or series of stock may be removed without cause only by vote of the holders of a majority of the outstanding shares of such class or series.

2.8 Vacancies. Subject to the rights of holders of any series of Preferred Stock to elect directors, unless and until filled by the stockholders, any vacancy or newly-created directorship on the Board of Directors, however occurring, may be filled by vote of a majority of the directors then in office, although less than a quorum, or by a sole remaining director. A director elected to fill a vacancy shall be elected for the unexpired term of such director's predecessor in office, and a director chosen to fill a position resulting from a newly-created directorship shall hold office until the next annual meeting of stockholders and until a successor is elected and qualified, or until such director's earlier death, resignation or removal.

2.9 Resignation. Any director may resign by delivering a resignation in writing or by electronic transmission to the corporation at its principal office or to the Chairman of the Board, the Chief Executive Officer, the President or the Secretary. Such resignation shall be effective upon delivery unless it is specified to be effective at some later time or upon the happening of some later event.

2.10 Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and place as shall be determined from time to time by the Board of Directors; provided that any director who is absent when such a determination is made shall be given notice of the determination. A regular meeting of the Board of Directors may be held without notice immediately after and at the same place as the annual meeting of stockholders.

2.11 Special Meetings. Special meetings of the Board of Directors may be held at any time and place designated in a call by the Chairman of the Board, the Chief Executive Officer, the President, two or more directors, or by one director in the event that there is only a single director in office.

2.12 Notice of Special Meetings. Notice of the date, place, if any, and time of any special meeting of directors shall be given to each director by the Secretary or by the officer or one of the directors calling the meeting. Notice shall be duly given to each director (a) in person or by telephone at least 24 hours in advance of the meeting, (b) by sending written notice by reputable overnight courier, telecopy, facsimile or electronic transmission, or delivering written notice by hand, to such director's last known business, home or electronic transmission address at least 48 hours in advance of the meeting, or (c) by sending written notice by first-class mail to

such director's last known business or home address at least 72 hours in advance of the meeting. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purposes of the meeting.

2.13 Meetings by Conference Communications Equipment. Directors may participate in meetings of the Board of Directors or any committee thereof by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

2.14 Action by Consent. 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 to the action in writing or by electronic transmission, and the written consents or electronic transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

2.15 Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation with such lawfully delegable powers and duties as the Board of Directors thereby confers, to serve at the pleasure of the Board of Directors. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members of the committee present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors and subject to the provisions of law, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation and may authorize the seal of the corporation to be affixed to all papers which may require it. Each such committee shall keep minutes and make such reports as the Board of Directors may from time to time request. Except as the Board of Directors may otherwise determine, any committee may make rules for the conduct of its business, but unless otherwise provided by the directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in these By-laws for the Board of Directors. Except as otherwise provided in the Certificate of Incorporation, these By-laws, or the resolution of the Board of Directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

2.16 Compensation of Directors. Directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any director from serving the corporation or any of its parent or subsidiary entities in any other capacity and receiving compensation for such service.

ARTICLE III

OFFICERS

3.1 Titles. The officers of the corporation shall consist of a Chief Executive Officer, a President, a Secretary, a Treasurer and such other officers with such other titles as the Board of Directors shall determine, including one or more Vice Presidents, Assistant Treasurers and Assistant Secretaries. The Board of Directors may appoint such other officers as it may deem appropriate.

3.2 Election. The Chief Executive Officer, President, Treasurer and Secretary shall be elected annually by the Board of Directors at its first meeting following the annual meeting of stockholders. Other officers may be appointed by the Board of Directors at such meeting or at any other meeting.

3.3 Qualification. No officer need be a stockholder. Any two or more offices may be held by the same person.

3.4 Tenure. Except as otherwise provided by law, by the Certificate of Incorporation or by these By-laws, each officer shall hold office until such officer's successor is elected and qualified, unless a different term is specified in the resolution electing or appointing such officer, or until such officer's earlier death, resignation or removal.

3.5 Resignation and Removal. Any officer may resign by delivering a written resignation to the corporation at its principal office or to the Chief Executive Officer, the President or the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some later time or upon the happening of some later event. Any officer may be removed at any time, with or without cause, by vote of a majority of the directors then in office. Except as the Board of Directors may otherwise determine, no officer who resigns or is removed shall have any right to any compensation as an officer for any period following such officer's resignation or removal, or any right to damages on account of such removal, whether such officer's compensation be by the month or by the year or otherwise, unless such compensation is expressly provided for in a duly authorized written agreement with the corporation.

3.6 Vacancies. The Board of Directors may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any offices other than those of Chief Executive Officer, President, Treasurer and Secretary. Each such successor shall hold office for the unexpired term of such officer's predecessor and until a successor is elected and qualified, or until such officer's earlier death, resignation or removal.

3.7 President; Chief Executive Officer. Unless the Board of Directors has designated another person as the corporation's Chief Executive Officer, the President shall be the Chief Executive Officer of the corporation. The Chief Executive Officer shall have general charge and supervision of the business of the corporation subject to the direction of the Board of Directors, and shall perform all duties and have all powers that are commonly incident to the office of chief executive or that are delegated to such officer by the Board of Directors. The President shall perform such other duties and shall have such other powers as the Board of Directors or the

Chief Executive Officer (if the President is not the Chief Executive Officer) may from time to time prescribe. In the event of the absence, inability or refusal to act of the Chief Executive Officer or the President (if the President is not the Chief Executive Officer), the Vice President (or if there shall be more than one, the Vice Presidents in the order determined by the Board of Directors) shall perform the duties of the Chief Executive Officer and when so performing such duties shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer.

3.8 Vice Presidents. Each Vice President shall perform such duties and possess such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. The Board of Directors may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other title selected by the Board of Directors.

3.9 Secretary and Assistant Secretaries. The Secretary shall perform such duties and shall have such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the secretary, including without limitation the duty and power to give notices of all meetings of stockholders and special meetings of the Board of Directors, to attend all meetings of stockholders and the Board of Directors and keep a record of the proceedings, to maintain a stock ledger and prepare lists of stockholders and their addresses as required, to be custodian of corporate records and the corporate seal and to affix and attest to the same on documents.

Any Assistant Secretary shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of stockholders or directors, the chairman of the meeting shall designate a temporary secretary to keep a record of the meeting.

3.10 Treasurer and Assistant Treasurers. The Treasurer shall perform such duties and shall have such powers as may from time to time be assigned by the Board of Directors or the Chief Executive Officer. In addition, the Treasurer shall perform such duties and have such powers as are incident to the office of treasurer, including without limitation the duty and power to keep and be responsible for all funds and securities of the corporation, to deposit funds of the corporation in depositories selected in accordance with these By-laws, to disburse such funds as ordered by the Board of Directors, to make proper accounts of such funds, and to render as required by the Board of Directors statements of all such transactions and of the financial condition of the corporation.

The Assistant Treasurers shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Treasurer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Treasurer, the Assistant Treasurer (or if

there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Treasurer.

3.11 Salaries. Officers of the corporation shall be entitled to such salaries, compensation or reimbursement as shall be fixed or allowed from time to time by the Board of Directors.

3.12 Delegation of Authority. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

ARTICLE IV

CAPITAL STOCK

4.1 Issuance of Stock. Subject to the provisions of the Certificate of Incorporation, the whole or any part of any unissued balance of the authorized capital stock of the corporation or the whole or any part of any shares of the authorized capital stock of the corporation held in the corporation's treasury may be issued, sold, transferred or otherwise disposed of by vote of the Board of Directors in such manner, for such lawful consideration and on such terms as the Board of Directors may determine.

4.2 Stock Certificates; Uncertificated Shares. The shares of the corporation shall be represented by certificates, provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of the corporation's stock shall be uncertificated shares. Every holder of stock of the corporation represented by certificates shall be entitled to have a certificate, in such form as may be prescribed by law and by the Board of Directors, representing the number of shares held by such holder registered in certificate form. Each such certificate shall be signed in a manner that complies with Section 158 of the General Corporation Law of the State of Delaware.

Each certificate for shares of stock which are subject to any restriction on transfer pursuant to the Certificate of Incorporation, these By-laws, applicable securities laws or any agreement among any number of stockholders or among such holders and the corporation shall have conspicuously noted on the face or back of the certificate either the full text of the restriction or a statement of the existence of such restriction.

If the corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of each certificate representing shares of such class or series of stock, provided that in lieu of the foregoing requirements there may be set forth on the face or back of each certificate representing shares of such class or series of stock a statement that the corporation will furnish without charge to each stockholder who so requests a copy of the full text of the powers, designations, preferences and relative, participating, optional or other special rights of each class

of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

Within a reasonable time after the issuance or transfer of uncertificated shares, the corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to Sections 151, 202(a) or 218(a) of the General Corporation Law of the State of Delaware or, with respect to Section 151 of the General Corporation Law of the State of Delaware, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

4.3 Transfers. Shares of stock of the corporation shall be transferable in the manner prescribed by law and in these By-laws. Transfers of shares of stock of the corporation shall be made only on the books of the corporation or by transfer agents designated to transfer shares of stock of the corporation. Subject to applicable law, shares of stock represented by certificates shall be transferred only on the books of the corporation by the surrender to the corporation or its transfer agent of the certificate representing such shares properly endorsed or accompanied by a written assignment or power of attorney properly executed, and with such proof of authority or the authenticity of signature as the corporation or its transfer agent may reasonably require. Except as may be otherwise required by law, by the Certificate of Incorporation or by these By-laws, the corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect to such stock, regardless of any transfer, pledge or other disposition of such stock until the shares have been transferred on the books of the corporation in accordance with the requirements of these By-laws.

4.4 Lost, Stolen or Destroyed Certificates. The corporation may issue a new certificate of stock in place of any previously issued certificate alleged to have been lost, stolen or destroyed, upon such terms and conditions as the Board of Directors may prescribe, including the presentation of reasonable evidence of such loss, theft or destruction and the giving of such indemnity and posting of such bond as the Board of Directors may require for the protection of the corporation or any transfer agent or registrar.

4.5 Record Date. The Board of Directors may fix in advance a date as a record date for the determination of the stockholders entitled to notice of or to vote at any meeting of stockholders or to express consent (or dissent) to corporate action without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action. Such record date shall not precede the date on which the resolution fixing the record date is adopted, and such record date shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 10 days after the date of adoption of a record date for a consent without a meeting, nor more than 60 days prior to any other action to which such record date relates.

If no record date is fixed, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day before the day on which notice is given, or, if notice is waived, at the close of business on the day before

the day on which the meeting is held. If no record date is fixed, the record date for determining stockholders entitled to express consent to corporate action without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first consent is properly delivered to the corporation. If no record date is fixed, the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating to such purpose.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

4.6 Regulations. The issue, transfer, conversion and registration of shares of stock of the corporation shall be governed by such other regulations as the Board of Directors may establish.

ARTICLE V

GENERAL PROVISIONS

5.1 Fiscal Year. Except as from time to time otherwise designated by the Board of Directors, the fiscal year of the corporation shall begin on the first day of January of each year and end on the last day of December in each year.

5.2 Corporate Seal. The corporate seal shall be in such form as shall be approved by the Board of Directors.

5.3 Waiver of Notice. Whenever notice is required to be given by law, by the Certificate of Incorporation or by these By-laws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before, at or after the time of the event for which notice is to be given, shall be deemed equivalent to notice required to be given to such person. Neither the business nor the purpose of any meeting need be specified in any such waiver. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

5.4 Voting of Securities. Except as the Board of Directors may otherwise designate, the Chief Executive Officer, the President or the Treasurer may waive notice of, vote, or appoint any person or persons to vote, on behalf of the corporation at, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for this corporation (with or without power of substitution) at, any meeting of stockholders or securityholders of any other entity, the securities of which may be held by this corporation.

5.5 Evidence of Authority. A certificate by the Secretary, or an Assistant Secretary, or a temporary Secretary, as to any action taken by the stockholders, directors, a committee or any officer or representative of the corporation shall as to all persons who rely on the certificate in good faith be conclusive evidence of such action.

5.6 Certificate of Incorporation . All references in these By-laws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the corporation, as amended and in effect from time to time.

5.7 Severability . Any determination that any provision of these By-laws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these By-laws.

5.8 Pronouns . All pronouns used in these By-laws shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

ARTICLE VI

AMENDMENTS

6.1 By the Board of Directors . These By-laws may be altered, amended or repealed, in whole or in part, or new by-laws may be adopted by the Board of Directors.

6.2 By the Stockholders . These By-laws may be altered, amended or repealed, in whole or in part, or new by-laws may be adopted by the affirmative vote of the holders of a majority of the shares of the capital stock of the corporation issued and outstanding and entitled to vote at any annual meeting of stockholders, or at any special meeting of stockholders, provided notice of such alteration, amendment, repeal or adoption of new by-laws shall have been stated in the notice of such special meeting.

Exhibit 10.1

WAYFAIR LLC
SECOND AMENDED AND RESTATED 2010 INCENTIVE PLAN, AS AMENDED

1. **ESTABLISHMENT, PURPOSE AND TERM OF PLAN.**

1.1 **Establishment** . Wayfair LLC, a Delaware limited liability company (the " ***Company*** "), maintains the Wayfair LLC 2010 Incentive Plan, established under the Company's former name of CSN Stores LLC, effective as of July 1, 2010 (the " ***Effective Date*** "), which plan is amended and restated herein and shall hereafter be known as the "Wayfair LLC Second Amended and Restated 2010 Incentive Plan" (the " ***Plan*** "). The members of the Company entered into the Amended and Restated Limited Liability Company Agreement of Wayfair LLC, dated as of June 21, 2011 (the " ***Operating Agreement*** "), and approved the previously amended and restated version of this Plan, effective as of June 21, 2011, to reflect the revised terms of the Operating Agreement. The Plan has been further amended as set forth herein and such amendments to the Plan have been approved by the Board in accordance with Section 13 of the Plan.

1.2 **Purpose .** The purpose of the Plan is to advance the interests of the Participating Company Group by providing an incentive to attract, retain and reward persons performing services for the Participating Company Group and by motivating such persons to contribute to the growth and profitability of the Participating Company Group. The Company intends that Awards granted pursuant to the Plan be exempt from or comply with Section 409A of the Code (including any amendments or replacements of such section), and the Plan shall be so construed.

1.3 **Term of Plan.** The Plan shall continue in effect until its termination by the Board; provided, however, that all Awards shall be granted, if at all, within ten (10) years from July 1, 2010.

2. **DEFINITIONS AND CONSTRUCTION.**

2.1 **Definitions.** Whenever used herein, the following terms shall have their respective meanings set forth below:

(a) " ***Affiliate*** " means (i) a parent entity that controls the Company, directly or indirectly, through one or more intermediary entities, or (ii) a majority-owned subsidiary entity that is controlled by the Company, directly or indirectly, through one or more intermediary entities. For this purpose, the terms "parent," "majority-owned subsidiary," "control" and "controlled by" shall have the meanings assigned such terms for the purposes of Rule 701 under the Securities Act.

(b) " ***Award*** " means an Option, Restricted Unit Purchase Right, Restricted Unit Bonus or Deferred Unit granted under the Plan.

(c) " ***Award Agreement*** " means a written or electronic agreement between the Company and a Participant setting forth the terms, conditions and restrictions of the Award granted to the Participant.

(d) " ***Board*** " means the Board of Managers of the Company as described in the Operating Agreement. If one or more Committees have been appointed by the Board to administer the Plan, " ***Board*** " also means such Committee(s).

(e) " ***Capital Interest*** " means a "capital interest" as described in I.R.S. Revenue Procedure 93-27 and Revenue Procedure 2001-43.

(f) " ***Cause*** " means, unless such term or an equivalent term is otherwise defined by the applicable Award Agreement or other written agreement between a Participant and a Participating Company applicable to an Award, any of the following: (i) the Participant's theft, dishonesty, willful misconduct, breach of fiduciary duty for personal profit, or falsification of any Participating Company documents or records; (ii) the Participant's material failure to abide by a Participating Company's code of conduct or other policies (including, without limitation, policies relating to confidentiality and reasonable workplace conduct); (iii) the Participant's unauthorized use, misappropriation, destruction or diversion of any tangible or intangible asset or corporate opportunity of a Participating Company (including, without limitation, the Participant's improper use or disclosure of a Participating Company's confidential or proprietary information); (iv) any intentional act by the Participant which has a material detrimental effect on a Participating Company's reputation or business; (v) the Participant's repeated failure or inability to perform any reasonable assigned duties after written notice from a Participating Company of, and a reasonable opportunity to cure, such failure or inability; (vi) any material breach by the Participant of any employment or service agreement between the Participant and a Participating Company, which breach is not cured pursuant to the terms of such agreement; or (vii) the Participant's conviction (including any plea of guilty or nolo contendere) of any criminal act involving fraud, dishonesty, misappropriation or moral turpitude, or which impairs the Participant's ability to perform his or her duties with a Participating Company.

(g) " ***Change in Control*** " means unless such term or an equivalent term is otherwise defined by the applicable Award Agreement or other written agreement between a Participant and a Participating Company applicable to an Award, the occurrence of any of the following:

(i) an Ownership Change Event or a series of related Ownership Change Events (collectively, a " ***Transaction*** ") in which the Members immediately before the Transaction do not retain immediately after the Transaction direct or indirect beneficial ownership of more than fifty percent (50%) of the total combined voting power of the outstanding securities entitled to vote generally in the election of Managers or, in the case of an Ownership Change Event described in Section 2.1(x)(iii), the entity to which the assets of the Company were transferred (the " ***Transferee*** "), as the case may be; or

(ii) approval by the Members of a plan of complete liquidation or dissolution of the Company;

provided, however, that to the extent that any amount constituting nonqualified deferred compensation within the meaning of Section 409A of the Code would become payable under this Plan by reason of a Change in Control, such amount shall become payable only if the event constituting a Change in Control would also constitute a change in ownership or effective control of the Company or a change in the ownership of a substantial portion of the assets of the Company within the meaning of Section 409A.

For purposes of the preceding sentence, 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 or the Transferee, as the case may be, either directly or through one or more subsidiary corporations or other business entities. The Board shall have the right to determine whether multiple sales or exchanges of the voting securities of the Company or multiple Ownership Change Events are related, and its determination shall be final, binding and conclusive. For purposes of clarification, a Change in Control shall not include (1) the acquisition of voting securities directly from the Company, including pursuant to or in connection with a public offering of such securities, or (2) an acquisition of additional voting securities of the Company by a person (as such term is used in Sections 13 (d) and 14(d) of the Exchange Act) who on the Effective Date is the beneficial owner (as such term is defined in Rule 13d-3 under the Exchange Act) of more than fifty percent (50%) of such voting securities.

(h) "***Code***" means the Internal Revenue Code of 1986, as amended, and any applicable regulations and administrative guidelines promulgated thereunder.

(i) "***Committee***" means the compensation committee or other committee or subcommittee of the Board duly appointed to administer the Plan and having such powers as shall be specified by the Board. Unless the powers of the Committee have been specifically limited, the Committee shall have all of the powers of the Board granted herein, including, without limitation, the power to amend or terminate the Plan at any time, subject to the terms of the Plan and any applicable limitations imposed by law.

(j) "***Common Unit***" means a Common Unit of the Company, as described in the Operating Agreement and as adjusted from time to time in accordance with Section 4.3. Each Common Unit issued pursuant to the Plan is intended to be a Capital Interest.

(k) "***Company***" means Wayfair LLC, a Delaware limited liability company, formerly known as CSN Stores LLC, or any successor thereto.

(l) "***Consultant***" means a person engaged to provide consulting or advisory services (other than as an Employee or a Manager) to a Participating Company, provided that the identity of such person, the nature of such services or the entity to which such services are provided are consistent with the requirements of Rule 701(c) under the Securities Act.

(m) "***Deferred Unit***" means a right granted to a Participant pursuant to Section 8 to receive a Common Unit (or the Fair Market Value thereof in cash at the discretion of the Board) on a deferred basis on a date determined in accordance with the provisions of such Section and the Participant's Award Agreement.

(n) "***Disability***" means the inability of the Participant, in the opinion of a qualified physician acceptable to the Company, to perform the major duties of the Participant's position with the Participating Company Group because of the sickness or injury of the Participant.

(o) "***Employee***" means any person treated as an employee (including an Officer or a Manager who is also treated as an employee) in the records of a

Participating Company and who qualifies as an employee for purposes of Rule 701(c) under the Securities Act; provided, however, that neither service as a Manager nor payment of a Manager's fee shall be sufficient to constitute employment for purposes of the Plan. For purposes of the Plan, employment status shall be determined pursuant to applicable labor law rather than as determined for U.S. federal income tax purpose. The Company shall determine in good faith and in the exercise of its discretion whether an individual has become or has ceased to be an Employee and the effective date of such individual's employment or termination of employment, as the case may be. For purposes of an individual's rights, if any, under the terms of the Plan as of the time of the Company's determination of whether or not the individual is an Employee, all such determinations by the Company shall be final, binding and conclusive as to such rights, if any, notwithstanding that the Company or any court of law or governmental agency subsequently makes a contrary determination as to such individual's status as an Employee.

(p) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended.

(q) "***Fair Market Value***" means, as of any date:

(i) the value of a Unit or other property as determined by the Board in good faith without regard to any restriction other than a restriction which, by its terms, will never lapse, and in a manner consistent with the requirements of Section 409A of the Code; or

(ii) except as otherwise determined by the Board or as otherwise permitted or required by Section 409A of the Code, if, on such date, the Units or equity securities into which Units have been converted (in either case, "***Shares***") are listed or quoted on a national or regional securities exchange or quotation system, the Fair Market Value of a Share shall be the closing price of a Share as quoted on the national or regional securities exchange or quotation system constituting the primary market for the Shares, as reported in *The Wall Street Journal* or such other source as the Company deems reliable; provided that if the relevant date does not fall on a day on which the Shares have traded on such securities exchange or quotation system, the date on which the Fair Market Value shall be established shall be the last day on which the Shares were so traded or quoted prior to the relevant date, or such other appropriate day as shall be determined by the Board, in its discretion.

(r) "***Incentive Unit***" means an Incentive Unit of the Company, as described in the Operating Agreement and as adjusted from time to time in accordance with Section 4.3. Each Incentive Unit issued pursuant to the Plan is intended to be a Profits Interest.

(s) "***Managers***" mean the Managers of the Company designated in accordance with the Operating Agreement and who qualify as directors or general partners for purposes of Rule 701(c) under the Securities Act.

(t) "***Member***" means a Member of the Company, as defined by the Operating Agreement.

(u) "***Officer***" means any individual designated as an Officer of the Company in accordance with the Operating Agreement.

(v) " ***Operating Agreement*** " means the Second Amended and Restated Limited Liability Company Operating Agreement of Wayfair LLC, dated as of June 21, 2011, as the same may be amended from time to time.

(w) " ***Option*** " means a right to purchase Common Units granted to a Participant pursuant to Section 6.

(x) " ***Ownership Change Event*** " means the occurrence of any of the following with respect to the Company: (i) the direct or indirect sale or exchange in a single or series of related transactions by the Members of more than fifty percent (50%) of the voting securities of the Company; (ii) a merger or consolidation in which the Company is a party; or (iii) the sale, exchange, or transfer of all or substantially all of the assets of the Company (other than a sale, exchange or transfer to one or more Affiliates of the Company).

(y) " ***Participant"*** means any eligible person who has been granted one or more Awards.

(z) " ***Participating Company*** " means the Company or any Affiliate.

(aa) " ***Participating Company Group*** " means, at any point in time, all entities collectively which are then Participating Companies.

(bb) " ***Profits Interest*** " means a "profits interest" as described in I.R.S. Revenue Procedure 93-27 and Revenue Procedure 2001-43.

(cc) " ***Restricted Unit Award*** " means an Award of a Restricted Unit Bonus or a Restricted Unit Purchase Right.

(dd) " ***Restricted Unit Bonus*** " means Common Units or Incentive Units granted to a Participant pursuant to Section 7.

(ee) " ***Restricted Unit Purchase Right*** " means a right to purchase Common Units or Incentive Units granted to a Participant pursuant to Section 7.

(ff) " ***Securities Act*** " means the Securities Act of 1933, as amended.

(gg) " ***Series A Managers*** " has the meaning assigned to such term in the Operating Agreement.

(hh) " ***Service*** " means a Participant's employment or service with the Participating Company Group, whether in the capacity of an Employee, a Manager or a Consultant. Unless otherwise provided by the Board, a Participant's Service shall not be deemed to have terminated merely because of a change in the capacity in which the Participant renders such Service or a change in the Participating Company for which the Participant renders such Service, provided that there is no interruption or termination of the Participant's Service. Furthermore, a Participant's Service shall not be deemed to have been interrupted or terminated if the Participant takes any military leave, sick leave, or other bona fide leave of absence approved by the Company. However, unless otherwise provided by the Board, if any such leave taken by a Participant exceeds ninety (90) days, then on the ninety-first (91st) day following the commencement of such leave the Participant's Service shall be

deemed to have terminated, unless the Participant's right to return to Service is guaranteed by statute or contract. Notwithstanding the foregoing, unless otherwise designated by the Company or required by law, an unpaid leave of absence shall not be treated as Service for purposes of determining vesting under the Participant's Award Agreement. A Participant's Service shall be deemed to have terminated either upon an actual termination of Service or upon the business entity for which the Participant performs Service ceasing to be a Participating Company. Subject to the foregoing, the Company, in its discretion, shall determine whether the Participant's Service has terminated and the effective date of and reason for such termination.

(ii) "***Unit***" means either a Common Unit of the Company or an Incentive Unit of the Company, as described in the Operating Agreement and as adjusted from time to time in accordance with Section 4.3. The Board shall, consistent with the terms of this Plan, specify in the relevant Award Agreement whether a Unit subject to the Award shall be a Common Unit or an Incentive Unit.

(jj) "***Vesting Conditions***" mean those conditions established in accordance with the Plan prior to the satisfaction of which an Award or Units subject to an Award remain subject to forfeiture or a repurchase option in favor of the Company exercisable for the Participant's monetary purchase price, if any, for such Units upon the Participant's termination of Service.

2.2 **Construction.** Captions and titles contained herein are for convenience only and shall not affect the meaning or interpretation of any provision of the Plan. Except when otherwise indicated by the context, the singular shall include the plural and the plural shall include the singular. Use of the term "or" is not intended to be exclusive, unless the context clearly requires otherwise.

3. **ADMINISTRATION.**

3.1 **Administration by the Board.** The Plan shall be administered by the Board. All questions of interpretation of the Plan, of any Award Agreement or of any other form of agreement or other document employed by the Board or the Company in the administration of the Plan or of any Award shall be determined by the Board, and such determinations shall be final, binding and conclusive upon all persons having an interest in the Plan or such Award, unless fraudulent or made in bad faith. Any and all actions, decisions and determinations taken or made by the Board in the exercise of its discretion pursuant to the Plan or Award Agreement or other agreement thereunder (other than determining questions of interpretation pursuant to the preceding sentence) shall be final, binding and conclusive upon all persons having an interest therein.

3.2 **Authority of Officers.** Any Officer shall have the authority to act on behalf of the Company with respect to any matter, right, obligation, determination or election which is the responsibility of or which is allocated to the Company herein, provided the Officer has actual authority with respect to such matter, right, obligation, determination or election.

3.3 **Powers of the Board .** In addition to any other powers set forth in the Plan and subject to the provisions of the Plan and the Operating Agreement, the Board shall have the full and final power and authority, in its discretion:

(a) to determine the persons to whom, and the time or times at which, Awards shall be granted and the number of Units to be subject to each Award;

(b) to determine the type of Award granted;

(c) to determine the Fair Market Value of Units or other property;

(d) to determine the terms, conditions and restrictions applicable to each Award (which need not be identical) and any Units acquired pursuant thereto, including, without limitation, (i) the exercise or purchase price of Units pursuant to any Award, (ii) the method of payment for Units purchased pursuant to any Award, (iii) the method for satisfaction of any tax withholding obligation arising in connection with any Award, including by the withholding or delivery of Units, (iv) the timing, terms and conditions of the exercisability or vesting of any Award or Units acquired pursuant thereto, (v) the time of expiration of any Award, (vi) the effect of any Participant's termination of Service on any of the foregoing, and (vii) all other terms, conditions and restrictions applicable to any Award or Units acquired pursuant thereto not inconsistent with the terms of the Plan;

(e) to approve one or more forms of Award Agreement;

(f) to amend, modify, extend, cancel or renew any Award or to waive any restrictions or conditions applicable to any Award or any Units acquired pursuant thereto;

(g) to reprice or otherwise adjust the exercise price of any Option, or to grant in substitution for any Option a new Award covering the same or different number of Units;

(h) to accelerate, continue, extend or defer the exercisability or vesting of any Award or any Units acquired pursuant thereto, including with respect to the period following a Participant's termination of Service;

(i) to prescribe, amend or rescind rules, guidelines and policies relating to the Plan, or to adopt sub-plans or supplements to, or alternative versions of, the Plan, including, without limitation, as the Board deems necessary or desirable to comply with the laws of, or to accommodate the tax policy, accounting principles or custom of, foreign jurisdictions whose citizens may be granted Awards; and

(j) to correct any defect, supply any omission or reconcile any inconsistency in the Plan or any Award Agreement and to make all other determinations and take such other actions with respect to the Plan or any Award as the Board may deem advisable to the extent not inconsistent with the provisions of the Plan or applicable law.

3.4 **Indemnification.** In addition to such other rights of indemnification as they may have as members of the Board or as officers or employees of the Participating Company Group to the extent permitted by applicable law and the Operating Agreement, members of the Board and any officers or employees of the Participating Company Group to whom authority to act for the Board or the Company is delegated shall be indemnified by the Company against all reasonable expenses, including attorneys' fees, actually and necessarily incurred in connection with the defense of any action, suit or proceeding, or in connection with any appeal therein, to which they or any of them may be a party by reason of any action

taken or failure to act under or in connection with the Plan, or any right granted hereunder, and against all amounts paid by them in settlement thereof (provided such settlement is approved by independent legal counsel selected by the Board) or paid by them in satisfaction of a judgment in any such action, suit or proceeding, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such person is liable for gross negligence, bad faith or intentional misconduct in duties; provided, however, that within sixty (60) days after the institution of such action, suit or proceeding, such person shall offer to the Board, in writing, the opportunity for the Company at its own expense to handle and defend the same.

4. **UNITS SUBJECT TO PLAN.**

4.1 **Maximum Number of Units Issuable.** Subject to adjustment as provided in Sections 4.2 and 4.3, the maximum aggregate number of Units that may be issued under the Plan shall be Eleven Million One Hundred Seventeen Thousand Three Hundred Eighty Two (11,117,382) and shall consist of authorized but unissued or reacquired Units or any combination thereof. Units may be issued in the form of Common Units, Incentive Units, or any combination thereof, as determined by the Board.

4.2 **Unit Counting.** If an outstanding Award for any reason expires or is terminated or canceled, or if Units are acquired pursuant to an Award subject to forfeiture or repurchase and are forfeited or repurchased by the Company for an amount not greater than the Participant's exercise or purchase price, the Units allocable to the terminated portion of such Award or such forfeited or repurchased Units shall again be available for issuance under the Plan. Units shall not be deemed to have been issued pursuant to the Plan (a) with respect to any portion of an Award that is settled in cash or (b) to the extent such Units are withheld or reacquired by the Company in satisfaction of tax withholding obligations pursuant to Section 11.2. If the exercise price of an Option is paid by tender to the Company, or attestation to the ownership, of Units owned by the Participant, or by means of a Net-Exercise, the number of Units available for issuance under the Plan shall be reduced by the net number of Units for which the Option is exercised.

4.3 **Adjustments for Changes in Capital Structure .** Subject to any required action by the Members and the requirements of Section 409A of the Code to the extent applicable, in the event of any change in the Units effected without receipt of consideration by the Company, whether through merger, consolidation, reorganization, recapitalization, reclassification, Unit dividend, split, reverse split, split-up, split-off, spin-off, combination of Units, exchange of Units, Corporate Conversion (as defined by the Operating Agreement) or similar change in the capital structure of the Company adjustments shall be made as the Board determines appropriate in order to prevent dilution or enlargement of Participants' rights under the Plan, including, without limitation, (i) adjusting the number and/or kind of Units (or other securities) subject to the Plan and to any outstanding Awards, (ii) adjusting the exercise or purchase price per Unit of any outstanding Awards; (iii) adjusting Vesting Conditions (e.g., performance measures); (iv) providing for substitute awards, accelerating exercisability and/or vesting, effecting the lapse of restrictions and the termination of Awards, and/or providing for a period of time to exercise the Award prior to the applicable event; and/or (v) cancelling any one or more outstanding Awards; provided, however, that in the case of any "equity restructuring" (within the meaning of Section 718-10-20 of the FASB Accounting Standards Codification), the Board shall make an equitable or proportionate adjustment to outstanding Awards to reflect such equity restructuring. For purposes of the foregoing, conversion of any convertible securities of the Company shall not

be treated as "effected without receipt of consideration by the Company." If a majority of the Units which are of the same class as the Units that are subject to outstanding Awards are exchanged for, converted into, or otherwise become (whether or not pursuant to an Ownership Change Event) securities of another business entity (the " ***New Securities*** "), the Board may unilaterally amend the outstanding Awards to provide that such Awards are for New Securities. In the event of any such amendment, the number of New Securities and the exercise or purchase price of each unit of New Securities subject to the outstanding Awards shall be adjusted in a fair and equitable manner as determined by the Board, in its discretion. Any fractional Unit resulting from an adjustment pursuant to this Section shall be rounded down to the nearest whole number, and the exercise price per Unit shall be rounded up to the nearest whole cent. Such adjustments shall be determined by the Board, and its determination shall be final, binding and conclusive.

4.4 **Assumption or Substitution of Awards.** The Board may, without affecting the number of Units available pursuant to Section 4.1, authorize the issuance or assumption of benefits under this Plan in connection with any merger, consolidation, acquisition of property or stock, or reorganization upon such terms and conditions as it may deem appropriate, subject to compliance with Section 409A and any other applicable provisions of the Code, provided that the Company may only assume under this Plan awards granted by another company if the holder of the assumed award would have been eligible to be granted an Award under this Plan if the other company had applied the provisions of Section 5.1 (substituting the other company and its affiliates in place of the Participating Companies for this purpose).

5. **ELIGIBILITY.**

5.1 **Persons Eligible for Awards .** Awards may be granted only to Employees, Consultants and Managers.

5.2 **Participation in the Plan.** Awards are granted solely at the discretion of the Board. Eligible persons may be granted more than one Award. However, eligibility in accordance with this Section shall not entitle any person to be granted an Award, or, having been granted an Award, to be granted an additional Award.

5.3 **Issuance of Units Subject to Operating Agreement.** Notwithstanding any provision of the Plan to the contrary, as a condition to the grant of an Award to a Participant and/or receipt by the Participant of Units under an Award, the Participant shall, if required by the Board, execute and deliver to the Company a counterpart to the Operating Agreement in a form acceptable to the Board by which the Participant shall be bound by the terms and conditions of the Operating Agreement and any other documents the Board reasonably determines to be necessary or appropriate in connection with the issuance of an Award Agreement or such Units to the Participant.

6. **OPTIONS.**

All Options shall be nonstatutory options and not incentive stock options described in Section 422(b) of the Code. Options shall be evidenced by Award Agreements specifying the number of Common Units covered thereby, in such form as the Board shall from time to time establish. Such Award Agreements shall incorporate all applicable terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

6.1 **Exercise Price .** The exercise price for each Option shall be established in the discretion of the Board; provided, however, that the exercise price per Unit for an Option shall be not less than the Fair Market Value of a Common Unit on the effective date of grant of the Option. Notwithstanding the foregoing, an Option may be granted with an exercise price lower than the minimum exercise price set forth above if such Option is granted pursuant to an assumption or substitution for another option in a manner that would qualify under the provisions of Section 409A of the Code.

6.2 **Exercisability and Term of Options .** Subject to Section 12, Options shall be exercisable at such time or times, or upon such event or events, and subject to such terms, conditions, performance criteria and restrictions as shall be determined by the Board and set forth in the Award Agreement evidencing such Option; provided, however, that no Option shall be exercisable after the expiration of ten (10) years after the effective date of grant of such Option. Subject to the foregoing, unless otherwise specified by the Board in the grant of an Option, any Option granted hereunder shall terminate ten (10) years after the effective date of grant of the Option, unless earlier terminated in accordance with its provisions.

6.3 **Payment of Exercise Price** .

(a) ***Forms of Consideration Authorized.*** Except as otherwise provided below, payment of the exercise price for the number of Units being purchased pursuant to any Option shall be made (i) in cash, by check or in cash equivalent; (ii) if permitted by the Board and subject to the limitations contained in Section 6.3(b), by means of (1) a Unit Tender Exercise, (2) a Cashless Exercise or (3) a Net Exercise; (iii) by such other consideration as may be approved by the Board from time to time to the extent permitted by applicable law, or (iv) by any combination thereof. The Board may at any time or from time to time grant Options which do not permit all of the foregoing forms of consideration to be used in payment of the exercise price or which otherwise restrict one or more forms of consideration.

(b) Limitations on Forms of Consideration.

(i) **Unit Tender Exercise.** A " ***Unit Tender Exercise*** " means the delivery of a properly executed exercise notice accompanied by a Participant's tender to the Company, or attestation to the ownership, in a form acceptable to the Board of whole Units having a Fair Market Value that does not exceed the aggregate exercise price for the Units with respect to which the Option is exercised. A Unit Tender Exercise shall not be permitted if it would constitute a violation of the provisions of any law, regulation or agreement restricting the redemption of the Units. If required by the Board, the Option may not be exercised by tender to the Company, or attestation to the ownership, of Units unless such Units either have been owned by the Participant for a period of time required by the Board (and not used for another option exercise by attestation during such period) or were not acquired, directly or indirectly, from the Company.

(ii) **Cashless Exercise.** A Cashless Exercise shall be permitted only following a conversion of Options into options for shares of stock of a corporation having shares of the same class which have become publicly traded in an established securities market. A " ***Cashless Exercise*** " means the delivery of a properly executed exercise notice together with irrevocable instructions to a broker providing for the assignment to the Company of the proceeds of a sale or loan with respect to some or all of the

shares being acquired upon the exercise of the Option (including, without limitation, through an exercise complying with the provisions of Regulation T as promulgated from time to time by the Board of Governors of the Federal Reserve System). The Board reserves, at any and all times, the right, in the Board's sole and absolute discretion, to establish, decline to approve or terminate any program or procedures for the exercise of Options by means of a Cashless Exercise, including with respect to one or more Participants specified by the Board notwithstanding that such program or procedures may be available to other Participants.

(iii) **Net Exercise.** A " ***Net Exercise*** " means the delivery of a properly executed exercise notice followed by a procedure pursuant to which (1) the Company will reduce the number of Units otherwise issuable to a Participant upon the exercise of an Option by the largest whole number of Units having a Fair Market Value that does not exceed the aggregate exercise price for the Units with respect to which the Option is exercised, and (2) the Participant shall pay to the Company in cash the remaining balance of such aggregate exercise price not satisfied by such reduction in the number of whole Units to be issued.

6.4 **Effect of Termination of Service** .

(a) ***Option Exercisability .*** Subject to earlier termination of the Option as otherwise provided by this Plan and unless a longer exercise period is provided by the Board, an Option shall terminate immediately upon the Participant's termination of Service to the extent that it is then unvested and shall be exercisable after the Participant's termination of Service to the extent it is then vested only during the applicable time period determined in accordance with this Section and thereafter shall terminate:

(i) **Disability.** If the Participant's Service terminates because of the Disability of the Participant, the Option, to the extent unexercised and exercisable for vested Units on the date on which the Participant's Service terminated, may be exercised by the Participant (or the Participant's guardian or legal representative) at any time prior to the expiration of twelve (12) months after the date on which the Participant's Service terminated, but in any event no later than the date of expiration of the Option's term as set forth in the Award Agreement evidencing such Option (the " ***Option Expiration Date*** ").

(ii) **Death.** If the Participant's Service terminates because of the death of the Participant, the Option, to the extent unexercised and exercisable for vested Units on the date on which the Participant's Service terminated, may be exercised by the Participant's legal representative or other person who acquired the right to exercise the Option by reason of the Participant's death at any time prior to the expiration of twelve (12) months after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date. The Participant's Service shall be deemed to have terminated on account of death if the Participant dies within three (3) months after the Participant's termination of Service.

(iii) **Other Termination of Service.** If the Participant's Service terminates for any reason, except Disability or death, the Option, to the extent unexercised and exercisable for vested Units on the date on which the Participant's Service terminated, may be exercised by the Participant at any time prior to the expiration of three (3) months after the date on which the Participant's Service terminated, but in any event no later than the Option Expiration Date.

(b) ***Extension if Exercise Prevented by Law .*** Notwithstanding the foregoing, if the exercise of an Option within the applicable time periods set forth in Section 6.4(a) is prevented by the provisions of Section 12 below, the Option shall remain exercisable until the later of (i) thirty (30) days after the date such exercise first would no longer be prevented by such provisions or (ii) the end of the applicable time period under Section 6.4(a), but in any event no later than the Option Expiration Date.

6.5 **Transferability of Options.** During the lifetime of the Participant, an Option shall be exercisable only by the Participant or the Participant's guardian or legal representative. An Option and, prior to its exercise, the Common Units to be issued upon the exercise of the Option, shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution in accordance with the Operating Agreement and, for so long as the Company is relying on the exemption provided by Rule 12h-1(f) under the Exchange Act, the restrictions on transfer provided by Rule 12h-1(f) (including the requirement under such rule that any permitted transferee may not further transfer the Option). No Option, or the Common Units underlying such Option, shall, prior to exercise of the Option, be subject to any short position, "put equivalent position" or "call equivalent position" by the Participant, as such terms are defined in Rule 16a-1 of the Exchange Act, until the Company becomes subject to Section 13 or Section 15(d) of the Exchange Act or is no longer relying on the exemption pursuant to Rule 12h-1(f) under the Exchange Act. Notwithstanding the foregoing, to the extent permitted by the Board, in its discretion, and set forth in the Award Agreement evidencing such Option, an Option shall be assignable or transferable subject to the applicable limitations, if any, described in Rule 701 under the Securities Act, the Operating Agreement and, for so long as the Company is relying on the exemption provided by Rule 12h-1(f) under the Exchange Act, the restrictions on transfer provided by Rule 12h-1(f) (including the requirement under such rule that any permitted transferee may not further transfer the Option).

7. RESTRICTED UNIT AWARDS.

Restricted Unit Awards shall be evidenced by Award Agreements specifying whether the Award is a Restricted Unit Bonus or a Restricted Unit Purchase Right, whether the Units subject to the Award are Common Units or Incentive Units, and the number of Units subject to the Award, in such form as the Board shall from time to time establish. Such Award Agreements shall incorporate all applicable terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

7.1 **Types of Restricted Unit Awards Authorized.** Restricted Unit Awards may be granted in the form of either a Restricted Unit Bonus or a Restricted Unit Purchase Right and may pertain to either Common Units or Incentive Units. Restricted Unit Awards may be granted upon such conditions as the Board shall determine, including, without limitation, upon the attainment of one or more performance goals.

7.2 **Purchase Price .** The purchase price for Units issuable under each Restricted Unit Purchase Right shall be established by the Board in its discretion. No monetary payment (other than applicable tax withholding) shall be required as a condition of receiving Units pursuant to a Restricted Unit Bonus, the consideration for which shall be services actually rendered to a Participating Company or for its benefit.

7.3 **Purchase Period .** A Restricted Unit Purchase Right shall be exercisable within a period established by the Board, which shall in no event exceed thirty (30) days from the effective date of the grant of the Restricted Unit Purchase Right.

7.4 **Payment of Purchase Price.** Except as otherwise provided below, payment of the purchase price for the number of Units being purchased pursuant to any Restricted Unit Purchase Right shall be made (a) in cash, by check or in cash equivalent, (b) by such other consideration as may be approved by the Board from time to time to the extent permitted by applicable law, or (c) by any combination thereof.

7.5 **Vesting and Restrictions on Transfer .** Units issued pursuant to any Restricted Unit Award may (but need not) be made subject to Vesting Conditions based upon the satisfaction of such Service requirements, conditions, restrictions or performance criteria as shall be established by the Board and set forth in the Award Agreement evidencing such Award. During any period in which Units acquired pursuant to a Restricted Unit Award remain subject to Vesting Conditions, such Units may not be sold, exchanged, transferred, pledged, assigned or otherwise disposed of other than pursuant to an Ownership Change Event or as provided in Section 7.8. Upon request by the Board and/or the Company, a Participant shall execute any agreement evidencing such transfer restrictions prior to the receipt of Units hereunder and shall promptly present to the Company any and all certificates representing Units acquired hereunder for the placement on such certificates of appropriate legends evidencing any such transfer restrictions.

7.6 **Voting Rights; Dividends and Distributions.** Except as provided in this Section, Section 7.5 and any Award Agreement, during any period in which Units acquired pursuant to a Restricted Unit Award remain subject to Vesting Conditions, the Participant shall have all of the rights of a Member holding Units, including the right to vote such Units to the extent, if any, authorized by the Operating Agreement and to receive all dividends and other distributions paid with respect to such Units; provided, however, that if so determined by the Board and provided by the Award Agreement, such dividends and distributions shall be subject to the same Vesting Conditions as the Units subject to the Restricted Unit Award with respect to which such dividends or distributions were paid. In the event of a dividend or distribution paid in Units or other property or any other adjustment made upon a change in the capital structure of the Company as described in Section 4.3, any and all new, substituted or additional securities or other property (other than normal cash dividends) to which the Participant is entitled by reason of the Participant's Restricted Unit Award shall be immediately subject to the same Vesting Conditions as the Units subject to the Restricted Unit Award with respect to which such dividends or distributions were paid or adjustments were made.

7.7 **Effect of Termination of Service .** Unless otherwise provided by the Board in the Award Agreement evidencing a Restricted Unit Award, if a Participant's Service terminates for any reason, whether voluntary or involuntary (including the Participant's death or disability), then (a) the Company (or its assignee) shall have the option to repurchase for the purchase price paid by the Participant any Units acquired by the Participant pursuant to a Restricted Unit Purchase Right which remain subject to Vesting Conditions as of the date of the Participant's termination of Service and (b) the Participant shall forfeit to the Company any Units acquired by the Participant pursuant to a Restricted Unit Bonus which remain subject to Vesting Conditions as of the date of the Participant's termination of Service. The Company shall have the right to assign at any time any repurchase right it may have, whether

or not such right is then exercisable, to one or more persons as may be selected by the Company.

7.8 **Nontransferability of Restricted Unit Award Rights .** Rights to acquire Units pursuant to a Restricted Unit Award shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or the laws of descent and distribution. All rights with respect to a Restricted Unit Award granted to a Participant hereunder shall be exercisable during his or her lifetime only by such Participant or the Participant's guardian or legal representative and in accordance with the Operating Agreement.

8. **DEFERRED UNIT AWARDS.**

Deferred Unit Awards shall be evidenced by Award Agreements specifying the number of Deferred Units subject to the Award, in such form as the Board shall from time to time establish. Such Award Agreements shall incorporate all applicable terms of the Plan by reference and shall comply with and be subject to the following terms and conditions:

8.1 **Purchase Price.** No monetary payment shall be required as a condition of receiving a Deferred Unit Award, the consideration for which shall be services actually rendered to a Participating Company or for its benefit.

8.2 **Vesting.** Deferred Unit Awards may (but need not) be made subject to Vesting Conditions based upon the satisfaction of such Service requirements, conditions, restrictions or performance criteria as shall be established by the Board and set forth in the Award Agreement evidencing such Award.

8.3 **Voting Rights, Dividends and Distributions.** Participants shall have no voting rights or rights to receive cash dividends or other cash distributions with respect to the Common Units represented by Deferred Unit Awards until the date of the issuance of such Common Units (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). In the event of a dividend or distribution paid in Units or other property or any other adjustment made upon a change in the capital structure of the Company as described in Section 4.3, appropriate adjustments shall be made in the Participant's Deferred Unit Award so that it represents the right to receive upon settlement any and all new, substituted or additional securities or other property to which the Participant would be entitled by reason of the Units issuable upon settlement of the Award, and all such new, substituted or additional securities or other property shall be immediately subject to the same Vesting Conditions as are applicable to the Award.

8.4 **Effect of Termination of Service.** Unless otherwise provided by the Board and set forth in the Award Agreement evidencing a Deferred Unit Award, if a Participant's Service terminates for any reason, whether voluntary or involuntary (including the Participant's death or disability), then the Participant shall forfeit to the Company any Deferred Units pursuant to the Award which remain subject to Vesting Conditions as of the date of the Participant's termination of Service, and, in the event of the Participant's termination for Cause, such Deferred Unit Award to the extent not yet settled.

8.5 **Settlement of Deferred Unit Awards.** The Company shall issue to a Participant on the date on which Deferred Units subject to the Participant's Deferred Unit

Award vest or on such other date determined by the Board, in its discretion, and set forth in the Award Agreement one (1) Common Unit (and/or any other new, substituted or additional securities or other property pursuant to an adjustment described in Section 8.3) for each Deferred Unit then becoming vested or otherwise to be settled on such date, subject to the withholding of applicable taxes, if any. If permitted by the Board, the Participant may elect, consistent with the requirements of Section 409A of the Code, to defer receipt of all or any portion of the Units or other property otherwise issuable to the Participant pursuant to this Section, and such deferred issuance date(s) and amount(s) elected by the Participant shall be set forth in the Award Agreement. Notwithstanding the foregoing, the Board, in its discretion, may provide for settlement of any Deferred Unit Award by payment to the Participant in cash of an amount equal to the Fair Market Value on the payment date of the Units or other property otherwise issuable to the Participant pursuant to this Section.

8.6 **Nontransferability of Deferred Unit Awards.** Deferred Units and, prior to their settlement, the Common Units to be issued upon the settlement of the Deferred Units, shall not be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution in accordance with the Operating Agreement and, for so long as the Company is relying on an order of the SEC under Section 12(h) of the Exchange Act or a no-action position of the Staff of the SEC relieving the Company from registration under Section 12(g) of the Exchange Act of the Deferred Units and the Common Units subject thereto, the restrictions on transfer provided by Rule 12h-1(f) under the Exchange Act that would apply were the Deferred Units subject to such rule (including the requirement under such rule that any permitted transferee may not further transfer the Deferred Units). No Deferred Units, or the Common Units underlying such Deferred Units, shall, prior to the settlement of the Deferred Units, be subject to any short position, "put equivalent position" or "call equivalent position" by the Participant, as such terms are defined in Rule 16a-1 under the Exchange Act, until the Company becomes subject to Section 13 or Section 15(d) of the Exchange Act or is no longer relying on such SEC order or SEC Staff no-action position. All rights with respect to a Deferred Unit Award granted to a Participant hereunder shall be exercisable during his or her lifetime only by such Participant or the Participant's guardian or legal representative.

9. **STANDARD FORMS OF AWARD AGREEMENTS.**

9.1 **Award Agreements .** Each Award shall comply with and be subject to the terms and conditions set forth in the appropriate form of Award Agreement approved by the Board and as amended from time to time. No Award or purported Award shall be a valid and binding obligation of the Company unless evidenced by a fully executed Award Agreement.

9.2 **Authority to Vary Terms .** The Board shall have the authority from time to time to vary the terms of any standard form of Award Agreement either in connection with the grant or amendment of an individual Award or in connection with the authorization of a new standard form or forms; provided, however, that the terms and conditions of any such new, revised or amended standard form or forms of Award Agreement are not inconsistent with the terms of the Plan.

10. **CHANGE IN CONTROL.**

Subject to the requirements and limitations of Section 409A of the Code, if applicable, the Board may provide for any one or more of the following:

10.1 **Accelerated Vesting** . The Board may, in its discretion, provide in any Award Agreement or, in the event of a Change in Control, may take such actions as it deems appropriate to provide for the acceleration of the exercisability, vesting and/or settlement in connection with such Change in Control of each or any outstanding Award or portion thereof and Units acquired pursuant thereto upon such conditions, including termination of the Participant's Service prior to, upon, or following such Change in Control, to such extent as the Board shall determine.

10.2 **Assumption, Continuation or Substitution of Awards** . In the event of a Change in Control, the surviving, continuing, successor, or purchasing entity or parent thereof, as the case may be (the " ***Acquiror*** "), may, without the consent of any Participant, assume or continue the Company's rights and obligations under each or any Award or portion thereof outstanding immediately prior to the Change in Control or substitute for each or any such outstanding Award or portion thereof a substantially equivalent award with respect to the Acquiror's securities. For purposes of this Section, if so determined by the Board, in its discretion, an Award or any portion thereof shall be deemed assumed if, following the Change in Control, the Award confers the right to receive, subject to the terms and conditions of the Plan and the applicable Award Agreement, for each Unit subject to such portion of the Award immediately prior to the Change in Control, the consideration (whether units, stock, cash, other securities or property or a combination thereof) to which a holder of a Unit on the effective date of the Change in Control was entitled; provided, however, that if such consideration is not solely common equity of the Acquiror, the Board may, with the consent of the Acquiror, provide for the consideration to be received upon the exercise or settlement of the Award for each Unit to consist solely of common equity of the Acquiror equal in Fair Market Value to the per Unit consideration received by holders of Units pursuant to the Change in Control. If any portion of such consideration may be received by holders of Units pursuant to the Change in Control on a contingent or delayed basis, the Board may, in its discretion, determine such Fair Market Value per Unit as of the time of the Change in Control on the basis of the Board's good faith estimate of the present value of the probable future payment of such consideration. Any Award or portion thereof which is neither assumed or continued by the Acquiror in connection with the Change in Control nor exercised or settled as of the time of consummation of the Change in Control shall terminate and cease to be outstanding effective as of the time of consummation of the Change in Control. Notwithstanding the foregoing, Units acquired upon exercise of an Award prior to the Change in Control and any consideration received pursuant to the Change in Control with respect to such Units shall continue to be subject to all applicable provisions of the Award Agreement evidencing such Award except as otherwise provided in such Award Agreement.

10.3 **Cash-Out of Outstanding Awards.** The Board may, in its discretion and without the consent of any Participant, determine that, upon the occurrence of a Change in Control, each or any Award or portion thereof outstanding immediately prior to the Change in Control and not previously exercised or settled shall be canceled in exchange for a payment with respect to each vested Unit (and each unvested Unit, if so determined by the Board) subject to such canceled Award in (i) cash, (ii) securities of the Company or of another business entity a party to the Change in Control, or (iii) other property which, in any such case, shall be in an amount having a Fair Market Value equal to the Fair Market Value

of the consideration to be paid per Unit in the Change in Control, reduced (but not below zero) by the exercise or purchase price per Unit, if any, under such Award. If any portion of such consideration may be received by holders of Units pursuant to the Change in Control on a contingent or delayed basis, the Board may, in its sole discretion, determine such Fair Market Value per Unit as of the time of the Change in Control on the basis of the Board's good faith estimate of the present value of the probable amount of future payment of such consideration. In the event such determination is made by the Board, an Award having an exercise or purchase price per share equal to or greater than the Fair Market Value of the consideration to be paid per Unit in the Change in Control may be canceled without payment of consideration to the holder thereof. Payment pursuant to this Section (reduced by applicable withholding taxes, if any) shall be made to Participants in respect of the vested portions of their canceled Awards as soon as practicable following the date of the Change in Control and in respect of the unvested portions of their canceled Awards in accordance with the vesting schedules applicable to such Awards.

11. **TAX WITHHOLDING.**

11.1 **Tax Withholding in General.** The Company shall have the right to deduct from any and all payments made under the Plan, or to require the Participant, through payroll withholding, cash payment or otherwise, to make adequate provision for, the federal, state, local and foreign taxes (including any social insurance tax), if any, required by law to be withheld by the Participating Company Group with respect to an Award or the Units acquired pursuant thereto. The Company shall have no obligation to deliver Units or to release Units from an escrow established pursuant to an Award Agreement until the Participating Company Group's tax withholding obligations have been satisfied by the Participant.

11.2 **Withholding in Units or Directed Sale of Units.** The Company shall have the right, but not the obligation, to deduct from the Units issuable to a Participant upon the exercise or vesting of an Award, or to accept from the Participant the tender of, a number of whole Units having a Fair Market Value, as determined by the Board, equal to all or any part of the tax withholding obligations of the Participating Company Group. The Fair Market Value of any Units withheld or tendered to satisfy any such tax withholding obligations shall not exceed the amount determined by the applicable minimum statutory withholding rates. The Company may require a Participant to direct a broker, upon the vesting of an Award, to sell a portion of the Units subject to the Award determined by the Company in its discretion to be sufficient to cover the tax withholding obligations of any Participating Company and to remit an amount equal to such tax withholding obligations to the Company in cash.

12. **COMPLIANCE WITH SECURITIES LAW.**

The grant of Awards and the issuance of Units pursuant to any Award shall be subject to compliance with all applicable requirements of federal, state and foreign law with respect to such securities and the requirements of any stock exchange or market system upon which the securities of the Company may then be listed. No Award may be exercised or Units issued pursuant to an Award unless (a) a registration statement under the Securities Act shall at the time of such exercise or issuance be in effect with respect to the securities issuable pursuant to the Award or (b) in the opinion of legal counsel to the Company, the securities issuable pursuant to the Award may be issued in accordance with the terms of an applicable exemption from the registration requirements of the Securities Act. Furthermore, except as otherwise determined by the Board, in its discretion, no Option may be exercised if

the number of record holders of Units immediately following such exercise and issuance of Units would exceed ninety percent (90%) of the number of such record holders that would require the Company to register the Units pursuant to Section 12(g) of the Exchange Act, in which case the Board can, among other things, toll the stated exercise period or unilaterally cancel Options in exchange for a cash payment equal to the excess of the Fair Market Value on the attempted date of exercise over the stated exercise price for such Option. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance and sale of any securities hereunder shall relieve the Company of any liability in respect of the failure to issue or sell such securities as to which such requisite authority shall not have been obtained. As a condition to issuance of any securities, the Company may require the Participant to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation and to make any representation or warranty with respect thereto as may be requested by the Company.

13. **AMENDMENT OR TERMINATION OF PLAN.**

The Board may amend, suspend or terminate the Plan at any time without the approval of the Members unless such change to the Plan would require approval of the Members under any applicable law, regulation or rule, including the rules of any stock exchange or market system upon which the securities of the Company may then be listed. No amendment, suspension or termination of the Plan shall affect any then outstanding Award unless expressly provided by the Board. Except as provided by the next sentence, no amendment, suspension or termination of the Plan may have a materially adverse effect on any then outstanding Award without the consent of the Participant. Notwithstanding any other provision of the Plan or any Award Agreement to the contrary, the Board may, in its sole and absolute discretion and without the consent of any Participant, (i) amend the Plan or any Award Agreement, to take effect retroactively or otherwise, as it deems necessary or advisable for the purpose of conforming the Plan or such Award Agreement to any present or future law, regulation or rule applicable to the Plan, and (ii) amend the Plan to increase the maximum aggregate number of Units that may be issued under the Plan.

14. **MISCELLANEOUS PROVISIONS.**

14.1 **Repurchase Rights .** Units issued under the Plan may be subject to a right of first refusal, one or more repurchase options, or other conditions and restrictions as determined by the Board in its discretion at the time the Award is granted or as required by the Operating Agreement. With the approval of a majority of the Series A Managers, the Company shall have the right to assign at any time any repurchase right it may have, whether or not such right is then exercisable, to one or more persons as may be selected by the Company. Upon request by the Company, each Participant shall execute any agreement evidencing such transfer restrictions prior to the receipt of Units hereunder and shall promptly present to the Company any and all certificates representing Units acquired hereunder for the placement on such certificates of appropriate legends evidencing any such transfer restrictions.

14.2 **Forfeiture Events.** The Board may specify in an Award Agreement that the Participant's rights, payments, and benefits with respect to an Award shall 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 shall not be limited to, termination of Service for Cause or any act by

a Participant, whether before or after termination of Service, that would constitute Cause for termination of Service.

14.3 **Provision of Information** . The Company shall deliver to each Participant such disclosures as are required in accordance with Rule 701 under the Securities Act and by the Operating Agreement. At any time the Company is relying on the exemption provided by Rule 12h-1(f) under the Exchange Act, an order of the SEC under Section 12(h) of the Exchange Act or a no-action position of the Staff of the SEC relieving the Company from registration under Section 12(g) of the Exchange Act of any Awards and the Units subject thereto, the Company shall provide to the applicable Participants the information described in Securities Act Rules 701(e)(3), (4) and (5) by a method allowed under Rule 12h-1(f)(1)(vi) and in accordance with the requirements of Rule 12h-1(f)(1)(vi), provided that the Participant agrees to keep the information confidential until the Company becomes subject to the reporting requirements of Section 13 or Section 15(d) of the Exchange Act.

14.4 **Rights as Employee, Consultant or Manager.** No person, even though eligible pursuant to Section 5, shall have a right to be selected as a Participant, or, having been so selected, to be selected again as a Participant. Nothing in the Plan or any Award granted under the Plan shall confer on any Participant a right to remain an Employee, Consultant or Manager or interfere with or limit in any way any right of a Participating Company to terminate the Participant's Service at any time. To the extent that an Employee of a Participating Company other than the Company receives an Award under the Plan, that Award shall in no event be understood or interpreted to mean that the Company is the Employee's employer or that the Employee has an employment relationship with the Company.

14.5 **Rights as a Member.** A Participant shall have no rights as a Member with respect to any Units covered by an Award until the date of the issuance of such Units (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). No adjustment shall be made for dividends, distributions or other rights for which the record date is prior to the date such Units are issued, except as provided in Section 4.3 or another provision of the Plan.

14.6 **Delivery of Title to Securities.** Subject to any governing rules or regulations, the Company shall issue or cause to be issued the securities acquired pursuant to an Award and shall deliver such securities to or for the benefit of the Participant by means of one or more of the following: (a) by delivering to the Participant evidence of securities credited to the account of the Participant on the books of the Company or an agent of the Company, (b) by depositing such securities for the benefit of the Participant with any broker with which the Participant has an account relationship, or (c) by delivering such securities to the Participant in certificate form.

14.7 **Fractional Units.** The Company shall not be required to issue fractional Units upon the exercise or settlement of any Award.

14.8 **Retirement and Welfare Plans** . Neither Awards made under this Plan nor Units or cash paid pursuant to such Awards shall be included as "compensation" for purposes of computing the benefits payable to any Participant under any Participating Company's retirement plans (both qualified and non-qualified) or welfare benefit plans unless such other plan expressly provides that such compensation shall be taken into account in computing such benefits.

14.9 **Beneficiary Designation.** Subject to local laws and procedures, each Participant may file with the Company a written designation of a beneficiary who is to receive any benefit under the Plan to which the Participant is entitled in the event of such Participant's death before he or she receives any or all of such benefit. Each designation will revoke all prior designations by the same Participant, shall be in a form prescribed by the Company, and will be effective only when filed by the Participant in writing with the Company during the Participant's lifetime. If a married Participant designates a beneficiary other than the Participant's spouse, the effectiveness of such designation may be subject to the consent of the Participant's spouse. If a Participant dies without an effective designation of a beneficiary who is living at the time of the Participant's death, the Company will pay any remaining unpaid benefits to the Participant's legal representative.

14.10 **Severability** . If any one or more of the provisions (or any part thereof) of this Plan shall be held invalid, illegal or unenforceable in any respect, such provision shall be modified so as to make it valid, legal and enforceable, and the validity, legality and enforceability of the remaining provisions (or any part thereof) of the Plan shall not in any way be affected or impaired thereby.

14.11 **No Constraint on Company Action.** Nothing in this Plan shall be construed to: (a) limit, impair, or otherwise affect the Company's or another Participating Company's right or power to make adjustments, reclassifications, reorganizations, or changes of its capital or business structure, or to merge or consolidate, or dissolve, liquidate, sell, or transfer all or any part of its business or assets; or (b) limit the right or power of the Company or another Participating Company to take any action which such entity deems to be necessary or appropriate.

14.12 **Choice of Law.** Except to the extent governed by applicable federal law, the validity, interpretation, construction and performance of the Plan and each Award Agreement shall be governed by the laws of the State of Delaware, without regard to its conflict of law rules.

THE SECURITIES WHICH ARE THE SUBJECT OF THIS AGREEMENT HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISPOSITION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

WAYFAIR LLC
DEFERRED UNITS AGREEMENT

Wayfair LLC has granted to the Participant named in the *Notice of Grant of Deferred Units* (the " ***Grant Notice*** ") to which this Deferred Units Agreement (the " ***Agreement*** ") is attached an Award consisting of Deferred Units subject to the terms and conditions set forth in the Grant Notice and this Agreement. The Award has been granted pursuant to and shall in all respects be subject to the terms and conditions of the Wayfair LLC Second Amended and Restated 2010 Incentive Plan (the " ***Plan*** "), as amended to the Date of Grant, the provisions of which are incorporated herein by reference. By signing the Grant Notice, the Participant: (a) acknowledges receipt of and represents that the Participant has read and is familiar with the Grant Notice, this Agreement, the Plan and the Operating Agreement, (b) accepts the Award subject to all of the terms and conditions of the Grant Notice, this Agreement, the Plan and the Operating Agreement, and (c) agrees to accept as binding, conclusive and final all decisions or interpretations of the Board upon any questions arising under such documents.

1. **DEFINITIONS AND CONSTRUCTION .**

1.1 **Definitions .** Capitalized terms shall have the meanings assigned to such terms in the Grant Notice or the Plan, unless otherwise defined herein or as follows:

(a) " ***Initial Public Offering*** " means the initial underwritten public offering of securities of the class of equity securities then subject to the Award pursuant to an effective registration statement filed under the Securities Act.

(b) " ***Liquidity Event*** " means the first to occur of (i) the time immediately prior to the consummation of a Change in Control or (ii) the closing of the Initial Public Offering.

1.2 **Construction .** Captions and titles contained herein are for convenience only and shall not affect the meaning or interpretation of any provision of this Agreement. Except when otherwise indicated by the context, the singular shall include the plural and the plural shall include the singular. Use of the term "or" is not intended to be exclusive, unless the context clearly requires otherwise.

2. **CERTAIN TAX MATTERS .**

The Common Units issuable upon settlement of the Deferred Units are intended to be "capital interests" as described in Internal Revenue Service Revenue Procedure 93-27 and Revenue Procedure 2001-43 and not "profits interests" as described in such documents.

3. **ADMINISTRATION .**

3.1 **Questions of Interpretation.** All questions of interpretation concerning the Grant Notice, this Agreement, the Plan, the Operating Agreement and any other form of agreement or other document employed by the Board or the Company in the administration of the Plan or the Award shall be determined by the Board. All such determinations by the Board shall be final, binding and conclusive upon all persons having an interest in the Award, unless fraudulent or made in bad faith.

3.2 **Other Determinations.** Any and all actions, decisions and determinations taken or made by the Board in the exercise of its discretion pursuant to the Plan or the Award or other agreement thereunder (that are not questions of interpretation governed by Section 3.1) shall be final, binding and conclusive upon all persons having an interest in the Award. Any Officer shall have the authority to act on behalf of the Company with respect to any matter, right, obligation, or election which is the responsibility of or which is allocated to the Company herein, provided the Officer has actual authority with respect to such matter, right, obligation, or election.

4. **THE AWARD .**

4.1 **Grant of Units.** On the Date of Grant, the Participant shall acquire, subject to the provisions of this Agreement, the Total Number of Deferred Units set forth in the Grant Notice, subject to adjustment as provided in Section 11. Each Deferred Unit represents a right to receive on a date determined in accordance with the Grant Notice and this Agreement one (1) Common Unit.

4.2 **No Monetary Payment Required.** The Participant is not required to make any monetary payment (other than applicable tax withholding, if any) as a condition to receiving the Deferred Units or the Common Units issued upon settlement of the Deferred Units, the consideration for which shall be past services actually rendered or future services to be rendered to a Participating Company or for its benefit.

4.3 **Termination of the Award.** The Award shall terminate and no Common Units shall thereafter be issued in settlement of the Award after the first to occur of (a) the Expiration Date or (b) a Change in Control to the extent provided in Section 9.

5. **VESTING OF DEFERRED UNITS** .

5.1 **Normal Vesting.** Units acquired pursuant to this Agreement shall become Vested Deferred Units as provided in the Grant Notice. For purposes of determining the number of Vested Deferred Units following an Ownership Change Event, credited Service shall include all Service with any entity which is a Participating Company at the time the Service is rendered,

whether or not such entity is a Participating Company both before and after the Ownership Change Event.

5.2 **Effect of Termination of Service Prior to Liquidity Event.** If the Participant's Service terminates for any reason prior to the first occurrence of a Liquidity Event after the Date of Grant, then:

(a) all Deferred Units for which the service condition as set forth on the Grant Notice has not been satisfied shall be subject to the Company Reacquisition Right (as defined in Section 6.1) immediately upon the Participant's termination of Service; and

(b) and all Deferred Units for which the service condition as set forth on the Grant Notice has been satisfied as of the date of such termination of Service shall not then be subject to the Company Reacquisition Right, but instead shall become Vested Deferred Units upon the subsequent occurrence of a Liquidity Event prior to the Expiration Date.

5.3 **Effect of Termination of Service After a Liquidity Event** . If the Participant's Service terminates for any reason after the first occurrence of a Liquidity Event following the Date of Grant, then all Deferred Units that are not then Vested Deferred Units, after giving effect to any acceleration of vesting pursuant to Section 5.4, shall be subject to the Company Reacquisition Right (as defined in Section 6.1) immediately upon the Participant's termination of Service.

5.4 **Acceleration of Vesting Upon Termination Following a Change in Control** . In the event that the Participant's Service is terminated by the Company upon or within twelve (12) months following a Change in Control for any reason other than Cause (excluding termination as a result of the Participant's death or disability), the Vested Ratio shall be increased as set forth in the Grant Notice.

6. **COMPANY REACQUISITION RIGHT .**

6.1 **Grant of Company Reacquisition Right.** In the event that the Participant's Service terminates for any reason or no reason, with or without cause, the Participant shall forfeit and the Company shall automatically reacquire all Deferred Units which are not, as of the time of such termination, Vested Deferred Units (***"Unvested Deferred Units"***) except as otherwise provided in Section 5 above, and the Participant shall not be entitled to any payment therefor (the ***"Company Reacquisition Right"***).

6.2 **Ownership Change Event, Non-Cash Dividends, Distributions and Adjustments .** Upon the occurrence of an Ownership Change Event, a dividend or distribution to the Common Unit holders of the Company paid in Units or other property, or any other adjustment upon a change in the capital structure of the Company as described in Section 11, any and all new, substituted or additional securities or other property to which the Participant is entitled by reason of the Participant's ownership of Unvested Deferred Units shall be immediately subject to the Company Reacquisition Right and included in the terms "Deferred Units" and "Unvested Deferred Units" for all purposes of the Company Reacquisition Right with the same force and effect as the Unvested Deferred Units immediately prior to the Ownership Change Event, dividend, distribution or adjustment, as the case may be. For purposes of

determining the number of Vested Deferred Units following an Ownership Change Event, dividend, distribution or adjustment, credited Service shall include all Service with any entity which is a Participating Company at the time the Service is rendered, whether or not such entity is a Participating Company both before and after any such event.

7. **SETTLEMENT OF THE AWARD .**

7.1 **Issuance of Common Units; Operating Agreement .** Subject to the provisions of Section 7.3 below, the Company shall issue to the Participant on the Settlement Date with respect to each Vested Deferred Unit to be settled on such date one (1) Common Unit. If required by the Board, the Participant shall not be entitled to acquire any Units pursuant to the Award and to be admitted as a member of the Company thereby unless and until the Participant has executed and delivered to the Company a written undertaking in a form acceptable to the Board to be bound by the terms and conditions of the Operating Agreement and/or any lock-up or other documents the Board reasonably determines to be necessary or appropriate in connection with the issuance of such Units.

7.2 **Beneficial Ownership of Units; Certificate Registration .** The Participant hereby authorizes the Company, in its sole discretion, to deposit for the benefit of the Participant with any broker with which the Participant has an account relationship of which the Company has notice any or all Units acquired by the Participant pursuant to the settlement of the Award. Except as provided by the preceding sentence, the Units as to which the Award is settled shall be registered in book entry form with the Company or its transfer agent or shall be in certificate form, in either case registered in the name of the Participant, or, if applicable, in the names of the heirs of the Participant.

7.3 **Restrictions on Grant of the Award and Issuance of Units .** The grant of the Award and issuance of Units upon settlement of the Award shall be subject to compliance with all applicable requirements of federal, state or foreign law with respect to such securities. No Units may be issued hereunder if the issuance of such securities would constitute a violation of any applicable federal, state or foreign securities laws or other law or regulations or the requirements of any stock exchange or market system upon which the Units may then be listed. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance of any securities subject to the Award shall relieve the Company of any liability in respect of the failure to issue such securities as to which such requisite authority shall not have been obtained. As a condition to the settlement of the Award, the Company may require the Participant to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation and to make any representation or warranty with respect thereto as may be requested by the Company.

7.4 **Fractional Units .** The Company shall not be required to issue fractional Units upon the settlement of the Award.

8. **TAX WITHHOLDING .**

8.1 **In General.** At the time the Grant Notice is executed, or at any time thereafter as requested by a Participating Company, the Participant hereby authorizes withholding from payroll and any other amounts payable to the Participant, and otherwise agrees to make adequate provision for, any sums required to satisfy the federal, state, local and foreign tax (including any social insurance) withholding obligations of the Participating Company, if any, which arise in connection with the Award, the vesting of Deferred Units or the issuance of Units in settlement thereof. The Company shall have no obligation to deliver Units until the tax withholding obligations of the Participating Company have been satisfied by the Participant.

8.2 **Assignment of Sale Proceeds.** Subject to compliance with applicable law and the Company's securities trading compliance policy, if any, and if permitted by the Company, the Participant may satisfy the Participating Company's tax withholding obligations in accordance with procedures established by the Company providing for delivery by the Participant to the Company or a broker approved by the Company of properly executed instructions, in a form approved by the Company, providing for the assignment to the Company of the proceeds of a sale with respect to some or all of the securities being acquired upon settlement of Units.

8.3 **Withholding in Shares.** The Company shall have the right, but not the obligation, to require the Participant to satisfy all or any portion of a Participating Company's tax withholding obligations by deducting from the securities otherwise deliverable to the Participant in settlement of the Award a number of whole securities having a fair market value, as determined by the Company as of the date on which the tax withholding obligations arise, not in excess of the amount of such tax withholding obligations determined by the applicable minimum statutory withholding rates.

9. **EFFECT OF CHANGE IN CONTROL .**

In the event of a Change in Control, except to the extent that the Board determines to cash out the Award in accordance with Section 10.1(c) of the Plan, the surviving, continuing, successor, or purchasing entity or parent thereof, as the case may be (the " ***Acquiror*** "), may, without the consent of the Participant, assume or continue in full force and effect the Company's rights and obligations under all or any portion of the outstanding Deferred Units or substitute for all or any portion of the outstanding Deferred Units substantially equivalent rights with respect to the Acquiror's securities. For purposes of this Section, a Deferred Unit shall be deemed assumed if, following the Change in Control, the Deferred Unit confers the right to receive, subject to the terms and conditions of the Plan and this Agreement, the consideration (whether stock, cash, other securities or property or a combination thereof) to which a holder of a Common Unit on the effective date of the Change in Control was entitled (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Common Units); provided, however, that if such consideration is not solely common stock of the Acquiror, the Board may, with the consent of the Acquiror, provide for the consideration to be received upon settlement of the Deferred Units to consist solely of common stock of the Acquiror equal in Fair Market Value to the per unit consideration received by holders of Common Units pursuant to the Change in Control. If any portion of such consideration may be

received by holders of Common Units pursuant to the Change in Control on a contingent or delayed basis, the Board may, in its discretion, determine such Fair Market Value per Unit as of the time of the Change in Control on the basis of the Board's good faith estimate of the present value of the probable future payment of such consideration. The Award shall terminate and cease to be outstanding effective as of the time of consummation of the Change in Control to the extent that Deferred Units subject to the Award are neither assumed or continued by the Acquiror in connection with the Change in Control nor settled as of the time of the Change in Control.

10. **RIGHT OF FIRST REFUSAL .**

10.1 **Grant of Right of First Refusal .** Except as provided in Section 10.7, in the event the Participant, the Participant's legal representative, or other holder of Units acquired upon settlement of the Award proposes to sell, exchange, transfer, pledge, or otherwise dispose of any such units (the " ***Transfer Units*** ") to any person or entity, including, without limitation, any securities holder of a Participating Company, the Company shall have the right to repurchase the Transfer Units under the terms and subject to the conditions set forth in this Section (the " ***Right of First Refusal*** ").

10.2 **Notice of Proposed Transfer .** Prior to any proposed transfer of the Transfer Units, the Participant shall deliver written notice (the " ***Transfer Notice*** ") to the Company describing fully the proposed transfer, including the number of Transfer Units, the name and address of the proposed transferee (the " ***Proposed Transferee*** ") and, if the transfer is voluntary, the proposed transfer price, and containing such information necessary to show the bona fide nature of the proposed transfer. In the event of a bona fide gift or involuntary transfer, the proposed transfer price shall be deemed to be the Fair Market Value of the Transfer Units, as determined by the Board in good faith. If the Participant proposes to transfer any Transfer Units to more than one Proposed Transferee, the Participant shall provide a separate Transfer Notice for the proposed transfer to each Proposed Transferee. The Transfer Notice shall be signed by both the Participant and the Proposed Transferee and must constitute a binding commitment of the Participant and the Proposed Transferee for the transfer of the Transfer Units to the Proposed Transferee subject only to the Right of First Refusal.

10.3 **Bona Fide Transfer .** If the Company determines that the information provided by the Participant in the Transfer Notice is insufficient to establish the bona fide nature of a proposed voluntary transfer, the Company shall give the Participant written notice of the Participant's failure to comply with the procedure described in this Section 10, and the Participant shall have no right to transfer the Transfer Units without first complying with the procedure described in this Section 10. The Participant shall not be permitted to transfer the Transfer Units if the proposed transfer is not bona fide.

10.4 **Exercise of Right of First Refusal .** If the Company determines the proposed transfer to be bona fide, the Company shall have the right to purchase all, but not less than all, of the Transfer Units (except as the Company and the Participant otherwise agree) at the purchase price and on the terms set forth in the Transfer Notice by delivery to the Participant of a notice of exercise of the Right of First Refusal within thirty (30) days after the date the Transfer Notice is delivered to the Company. The Company's exercise or failure to exercise the Right of

First Refusal with respect to any proposed transfer described in a Transfer Notice shall not affect the Company's right to exercise the Right of First Refusal with respect to any proposed transfer described in any other Transfer Notice, whether or not such other Transfer Notice is issued by the Participant or issued by a person other than the Participant with respect to a proposed transfer to the same Proposed Transferee. If the Company exercises the Right of First Refusal, the Company and the Participant shall thereupon consummate the sale of the Transfer Units to the Company on the terms set forth in the Transfer Notice within sixty (60) days after the date the Transfer Notice is delivered to the Company (unless a longer period is offered by the Proposed Transferee); provided, however, that in the event the Transfer Notice provides for the payment for the Transfer Units other than in cash, the Company shall have the option of paying for the Transfer Units by the present value cash equivalent of the consideration described in the Transfer Notice as reasonably determined by the Company. For purposes of the foregoing, cancellation of any indebtedness of the Participant to any Participating Company shall be treated as payment to the Participant in cash to the extent of the unpaid principal and any accrued interest canceled. Notwithstanding anything contained in this Section to the contrary, the period during which the Company may exercise the Right of First Refusal and consummate the purchase of the Transfer Units from the Participant shall terminate no sooner than the completion of a period of eight (8) months following the date on which the Participant acquired the Transfer Units.

10.5 **Failure to Exercise Right of First Refusal .** If the Company fails to exercise the Right of First Refusal in full (or to such lesser extent as the Company and the Participant otherwise agree) within the period specified in Section 10.4, the Participant may conclude a transfer to the Proposed Transferee of the Transfer Units on the terms and conditions described in the Transfer Notice, provided such transfer occurs not later than ninety (90) days following delivery to the Company of the Transfer Notice or, if applicable, following the end of the period described in the last sentence of Section 10.4. The Company shall have the right to demand further assurances from the Participant and the Proposed Transferee (in a form satisfactory to the Company) that the transfer of the Transfer Units was actually carried out on the terms and conditions described in the Transfer Notice. No Transfer Units shall be transferred on the books of the Company until the Company has received such assurances, if so demanded, and has approved the proposed transfer as bona fide. Any proposed transfer on terms and conditions different from those described in the Transfer Notice, as well as any subsequent proposed transfer by the Participant, shall again be subject to the Right of First Refusal and shall require compliance by the Participant with the procedure described in this Section.

10.6 **Transferees of Transfer Units .** All transferees of the Transfer Units or any interest therein, other than the Company, shall be required as a condition of such transfer to agree in writing (in a form satisfactory to the Company) that such transferee shall receive and hold such Transfer Units or interest therein subject to all of the terms and conditions of this Agreement, including this Section 10 providing for the Right of First Refusal with respect to any subsequent transfer. Any sale or transfer of any Units shall be void unless the provisions of this Section are met.

10.7 **Transfers Not Subject to Right of First Refusal .** The Right of First Refusal shall not apply to any transfer or exchange of the Shares if such transfer or exchange is in connection with an Ownership Change Event. If the consideration received pursuant to such transfer or exchange consists of securities of a Participating Company, such consideration shall

remain subject to the Right of First Refusal unless the provisions of Section 10.8 result in a termination of the Right of First Refusal.

10.8 **Early Termination of Right of First Refusal .** The other provisions of this Agreement notwithstanding, the Right of First Refusal shall terminate and be of no further force and effect upon the existence of a public market for the class of securities subject to the Right of First Refusal. A " ***public market*** " shall be deemed to exist if (i) such securities are listed on a national securities exchange (as that term is used in the Exchange Act) or (ii) such securities traded on the over-the-counter market and prices therefor are published daily on business days in a recognized financial journal.

11. **ADJUSTMENTS FOR CHANGES IN CAPITAL STRUCTURE .**

Subject to any required action by the Members and the requirements of Section 409A of the Code to the extent applicable, in the event of any change in the Common Units effected without receipt of consideration by the Company, whether through merger, consolidation, reorganization, reincorporation, recapitalization, reclassification, Units split, reverse split, split-up, split-off, spin-off, combination of Units, exchange of Units, Conversion (as defined by the Operating Agreement) or similar change in the capital structure of the Company, appropriate and proportionate adjustments shall be made in the number of Deferred Units subject to the Award and/or the number and kind of Units or other property to be issued in settlement of the Award, in order to prevent dilution or enlargement of the Participant's rights under the Award. For purposes of the foregoing, conversion of any convertible securities of the Company shall not be treated as "effected without receipt of consideration by the Company." Any and all new, substituted or additional securities or other property to which the Participant is entitled by reason of ownership of Deferred Units acquired pursuant to this Award will be immediately subject to the provisions of this Award on the same basis as all Deferred Units originally acquired hereunder. Any fractional Deferred Unit or Common Unit resulting from an adjustment pursuant to this Section shall be rounded down to the nearest whole number. Such adjustments shall be determined by the Board, and its determination shall be final, binding and conclusive.

12. **RIGHTS AS A MEMBER, MANAGER, EMPLOYEE OR CONSULTANT .**

The Participant shall have no rights as a Member with respect to any Units which may be issued in settlement of this Award until the date of the issuance of such units (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). No adjustment shall be made for distributions or other rights for which the record date is prior to the date the Units are issued, except as provided in Section 11. If the Participant is an Employee, the Participant understands and acknowledges that, except as otherwise provided in a separate, written employment agreement between a Participating Company and the Participant, the Participant's employment is "at will" and is for no specified term. Nothing in this Agreement shall confer upon the Participant any right to continue in the Service of a Participating Company or interfere in any way with any right of the Participating Company Group to terminate the Participant's Service at any time.

13. **LEGENDS .**

If the securities issuable pursuant to this Award are at any time evidenced by certificates, the Company may at any time place legends referencing the Right of First Refusal and any applicable federal, state or foreign securities law restrictions on all certificates representing securities issued pursuant to this Agreement. The Participant shall, at the request of the Company, promptly present to the Company any and all certificates representing securities acquired pursuant to this Award in the possession of the Participant in order to carry out the provisions of this Section. Unless otherwise specified by the Company, legends placed on such certificates may include, but shall not be limited to, the following:

13.1 "THE SECURITIES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED OR HYPOTHECATED UNLESS THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER SUCH ACT COVERING SUCH SECURITIES, THE SALE IS MADE IN ACCORDANCE WITH RULE 144 OR RULE 701 UNDER THE ACT, OR THE COMPANY RECEIVES AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY, STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SUCH ACT."

13.2 "THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AND REPURCHASE OPTIONS IN FAVOR OF THE COMPANY OR ITS ASSIGNEE SET FORTH IN AN AGREEMENT BETWEEN THE COMPANY AND THE REGISTERED HOLDER, OR SUCH HOLDER'S PREDECESSOR IN INTEREST, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THIS COMPANY."

14. **COMPLIANCE WITH SECTION 409A .**

It is intended that any election, payment or benefit which is made or provided pursuant to or in connection with this Award that may result in Section 409A Deferred Compensation shall comply in all respects with the applicable requirements of Section 409A (including applicable regulations or other administrative guidance thereunder, as determined by the Board in good faith) to avoid the unfavorable tax consequences provided therein for non-compliance and the Award shall be so construed. In connection with effecting such compliance with Section 409A, the following shall apply:

14.1 **Separation from Service; Required Delay in Payment to Specified Employee.** Notwithstanding anything set forth herein to the contrary, no amount payable pursuant to this Agreement on account of the Participant's termination of Service which constitutes a "deferral of compensation" within the meaning of the Treasury Regulations issued pursuant to Section 409A of the Code (the " ***Section 409A Regulations*** ") shall be paid unless and until the Participant has incurred a "separation from service" within the meaning of the Section 409A Regulations. Furthermore, to the extent that the Participant is a "specified employee" within the meaning of the Section 409A Regulations as of the date of the Participant's separation from service, no amount that constitutes a deferral of compensation

which is payable on account of the Participant's separation from service shall be paid to the Participant before the date (the " ***Delayed Payment Date*** ") which is first day of the seventh month after the date of the Participant's separation from service or, if earlier, the date of the Participant's death following such separation from service. All such amounts that would, but for this Section, become payable prior to the Delayed Payment Date will be accumulated and paid on the Delayed Payment Date.

14.2 **Other Changes in Time of Payment.** Neither the Participant nor the Company shall take any action to accelerate or delay the payment of any benefits under this Agreement in any manner which would not be in compliance with the Section 409A Regulations.

14.3 **Amendments to Comply with Section 409A; Indemnification.** Notwithstanding any other provision of this Agreement to the contrary, the Company is authorized to amend this Agreement, to void or amend any election made by the Participant under this Agreement and/or to delay the payment of any monies and/or provision of any benefits in such manner as may be determined by the Company, in its discretion, to be necessary or appropriate to comply with the Section 409A Regulations without prior notice to or consent of the Participant. The Participant hereby releases and holds harmless the Company, its directors, officers and stockholders from any and all claims that may arise from or relate to any tax liability, penalties, interest, costs, fees or other liability incurred by the Participant in connection with the Award, including as a result of the application of Section 409A.

14.4 **Advice of Independent Tax Advisor.** The Company has not obtained a tax ruling or other confirmation from the Internal Revenue Service with regard to the application of Section 409A to the Award, and the Company does not represent or warrant that this Agreement will avoid adverse tax consequences to the Participant, including as a result of the application of Section 409A to the Award. The Participant hereby acknowledges that he or she has been advised to seek the advice of his or her own independent tax advisor prior to entering into this Agreement and is not relying upon any representations of the Company or any of its agents as to the effect of or the advisability of entering into this Agreement.

15. **LOCK-UP AGREEMENT .**

The Participant hereby agrees that in the event of any underwritten public offering of securities, including an initial public offering of securities, made by the Company pursuant to an effective registration statement filed under the Securities Act, the Participant shall not offer, sell, contract to sell, pledge, hypothecate, grant any option to purchase or make any short sale of, or otherwise dispose of any securities of the Company or any rights to acquire securities of the Company for such period of time from and after the effective date of such registration statement as may be established by the underwriter for such public offering; provided, however, that such period of time shall not exceed one hundred eighty (180) days from the effective date of the registration statement to be filed in connection with such public offering; provided, further, however, that such one hundred eighty (180) day period may be extended for an additional period, not to exceed twenty (20) days, upon the request of the Company or the underwriter to accommodate regulatory restrictions on (i) the publication or other distribution of research reports and (ii) analyst recommendations and opinions, including but not limited to, the restrictions contained in NASD Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor

provisions or amendments thereto). The foregoing limitation shall not apply to securities registered in the public offering under the Securities Act. The Participant hereby agrees to enter into any agreement reasonably required by the underwriters to implement the foregoing within a reasonable timeframe if so requested by the Company.

16. **RESTRICTIONS ON TRANSFER OF UNITS .**

No Units acquired pursuant to this Award may be sold, exchanged, transferred (including, without limitation, any transfer to a nominee or agent of the Participant), assigned, pledged, hypothecated or otherwise disposed of, including by operation of law in any manner which violates any of the provisions of this Agreement, and any such attempted disposition shall be void. The Company shall not be required (a) to transfer on its books any Units which will have been transferred in violation of any of the provisions set forth in this Agreement or (b) to treat as owner of such Units or to accord the right to vote as such owner or to pay dividends to any transferee to whom such Units will have been so transferred.

17. **MISCELLANEOUS PROVISIONS .**

17.1 **Termination or Amendment.** The Board may terminate or amend the Plan or this Agreement at any time; provided, however, that except as provided in Section 9 in connection with a Change in Control, no such termination or amendment may have a materially adverse effect on the Participant's rights under this Agreement without the consent of the Participant unless such termination or amendment is necessary to comply with applicable law or government regulation, including, but not limited to, Section 409A. No amendment or addition to this Agreement shall be effective unless in writing.

17.2 **Nontransferability of the Award.** Prior to the issuance of Units on the applicable Settlement Date, neither this Award nor any Deferred Units subject to this Award shall be subject in any manner to anticipation, alienation, sale, exchange, transfer, assignment, pledge, encumbrance, or garnishment by creditors of the Participant or the Participant's beneficiary, except transfer by will or by the laws of descent and distribution. No Deferred Units subject to this Award, or the Units underlying such Deferred Units, shall, prior to the settlement of the Deferred Units, be subject to any short position, "put equivalent position" or "call equivalent position" by the Participant, as such terms are defined in Rule 16a-1 of the Exchange Act. All rights with respect to the Award shall be exercisable during the Participant's lifetime only by the Participant or the Participant's guardian or legal representative.

17.3 **Further Instruments.** The parties hereto agree to execute such further instruments and to take such further action as may reasonably be necessary to carry out the intent of this Agreement.

17.4 **Binding Effect.** This Agreement shall inure to the benefit of the successors and assigns of the Company and, subject to the restrictions on transfer set forth herein, be binding upon the Participant and the Participant's heirs, executors, administrators, successors and assigns.

17.5 **Delivery of Documents and Notices.** Any document relating to participation in the Plan or any notice required or permitted hereunder shall be given in writing

and shall be deemed effectively given (except to the extent that this Agreement provides for effectiveness only upon actual receipt of such notice) upon personal delivery, electronic delivery at the e-mail address, if any, provided for the Participant by a Participating Company, or upon deposit in the U.S. Post Office or foreign postal service, by registered or certified mail, or with a nationally recognized overnight courier service, with postage and fees prepaid, addressed to the other party at the address of such party set forth in the Grant Notice or at such other address as such party may designate in writing from time to time to the other party.

(a) ***Description of Electronic Delivery .*** The Plan documents, which may include but do not necessarily include: the Plan, the Grant Notice, this Agreement, the Operating Agreement, and any reports of the Company provided generally to the Company's Unit holders, may be delivered to the Participant electronically. In addition, if permitted by the Company, the Participant may deliver electronically the Grant Notice to the Company or to such third party involved in administering the Plan as the Company may designate from time to time. Such means of electronic delivery may include but do not necessarily 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 such other means of electronic delivery specified by the Company.

(b) ***Consent to Electronic Delivery.*** The Participant acknowledges that the Participant has read Section 17.5(a) of this Agreement and consents to the electronic delivery of the Plan documents and, if permitted by the Company, the delivery of the Grant Notice, as described in Section 17.5(a). The Participant acknowledges that he or she may receive from the Company a paper copy of any documents delivered electronically at no cost to the Participant by contacting the Company by telephone or in writing. The Participant further acknowledges that the Participant will be provided with a paper copy of any documents if the attempted electronic delivery of such documents fails. Similarly, the Participant understands that the Participant must provide the Company or any designated third party administrator with a paper copy of any documents if the attempted electronic delivery of such documents fails. The Participant may revoke his or her consent to the electronic delivery of documents described in Section 17.5(a) or may change the electronic mail address to which such documents are to be delivered (if 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 described in Section 17.5(a).

17.6 **Integrated Agreement.** The Grant Notice, this Agreement, the Plan and the Operating Agreement shall constitute the entire understanding and agreement of the Participant and the Participating Company Group with respect to the subject matter contained herein or therein and supersede any prior agreements, understandings, restrictions, representations, or warranties among the Participant and the Participating Company Group with respect to such subject matter. To the extent contemplated herein or therein, the provisions of the Grant Notice, this Agreement, the Plan and the Operating Agreement shall survive any settlement of the Award and shall remain in full force and effect.

17.7 **Applicable Law.** Except to the extent governed by applicable federal law, the validity, interpretation, construction and performance of this Option Agreement shall be governed by the laws of the State of Delaware, without regard to its conflict of law rules.

17.8 **Counterparts.** The Grant Notice may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Exhibit 10.7

WAYFAIR INC.

INVESTORS' RIGHTS AGREEMENT

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Schedule A - Schedule of Investors

INVESTORS' RIGHTS AGREEMENT

THIS INVESTORS' RIGHTS AGREEMENT (" **Agreement** ") is made as of , 2014, by and among Wayfair Inc., a Delaware corporation (" **Wayfair** " or the " **Company** "), each of the investors listed on Schedule A hereto (together with any investors or transferees who become parties hereto as "Investors" pursuant to Sections 6.1 below, the " **Investors** ").

RECITALS :

WHEREAS, the Investors listed as " **Series A Investors** " on Schedule A acquired Series A Convertible Preferred Units of Wayfair LLC **("Wayfair LLC"**), either directly or indirectly through certain corporate entities, pursuant to the terms of a Series A Convertible Preferred Unit Purchase Agreement, dated June 21, 2011, by and among Wayfair LLC and the parties named therein, and a Series A Convertible Preferred Unit Purchase Agreement, dated November 30, 2012, by and among Wayfair LLC and the parties named therein;

WHEREAS, the Investors listed as " **Series B Investors** " on Schedule A acquired Series B Convertible Preferred Units of Wayfair LLC, either directly or indirectly through certain corporate entities, pursuant to the terms of a Series B Convertible Preferred Unit Purchase Agreement (the " **Purchase Agreement** "), dated March 5, 2014, by and among Wayfair LLC and the parties named therein;

WHEREAS, the Series A Investors and Series B Investors (the " **Existing Investors** ") and Wayfair LLC are parties to that certain Second Amended and Restated Investors' Rights Agreement dated as of March 5, 2014 (the " **Prior Agreement** "); and

WHEREAS, on or about the date of this Agreement, Wayfair LLC is undergoing a corporate reorganization, pursuant to which (i) some Existing Investors will exchange their Series A Convertible Preferred Units and Series B Convertible Preferred Units of Wayfair LLC (" **Units** ") for shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B Preferred Stock of the Company, (ii) some Existing Investors will contribute certain corporate entities held by them that own Units to the Company in exchange for shares of Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B Preferred Stock of the Company, and (iii) Wayfair LLC will become a wholly-owned subsidiary of the Company (the " **Reorganization** ").

NOW, THEREFORE, the Company and the Investors agree as follows:

1. Definitions . For purposes of this Agreement:

1.1 " **Advisory Investor** " means any Investor (or transferee thereof) who, directly or indirectly, is advised by an investment advisor registered under the Investment Advisers Act of 1940, as amended.

1.2 " **Affiliate** " means, with respect to any specified Person, any other Person who, directly or indirectly, controls, is controlled by, or is under common control with such

Person, including, without limitation, any general partner, managing member, officer or director of such Person or any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, or shares the same management company with, such Person, provided that , with respect to each of the Investors, the term Affiliate shall be deemed to include any Person under common management therewith.

1.3 "" **Budget** " has the meaning assigned to such term in Section 3.1(b)(3).

1.4 " **Common Stock** " means shares of the Company's common stock, par value $0.001 per share, and any securities into which such shares of Common Stock may hereinafter be reclassified.

1.5 " **Competitor** " means any Person reasonably and in good faith determined by the Board of Directors to be a competitor of the Company.

1.6 " **Damages** " means any loss, damage, or liability (joint or several) to which a party hereto may become subject under the Securities Act, the Exchange Act, or other federal or state law, insofar as such loss, damage, or liability (or any action in respect thereof) arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in any registration statement of the Company, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto; (ii) an omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading; or (iii) any violation or alleged violation by the indemnifying party (or any of its agents or Affiliates) of the Securities Act, the Exchange Act, any state securities law, or any rule or regulation promulgated under the Securities Act, the Exchange Act, or any state securities law.

1.7 " **Derivative Securities** " means any securities or rights convertible into, or exercisable or exchangeable for (in each case, directly or indirectly), Common Stock, including options and warrants.

1.8 " **Exchange Act** " means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

1.9 " **Excluded Registration** " means (i) a registration relating to the sale of securities to employees of the Company or a subsidiary pursuant to an option, equity purchase, or similar plan; (ii) a registration relating to an SEC Rule 145 transaction; (iii) 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 the Registrable Securities; or (iv) a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered.

1.10 " **Form S-1** " means such form under the Securities Act as in effect on the date hereof or any successor registration form under the Securities Act subsequently adopted by the SEC.

1.11 " **Form S-3** " means such form under the Securities Act as in effect on the date hereof or any registration form under the Securities Act subsequently adopted by the SEC

that permits incorporation of substantial information by reference to other documents filed by the Company with the SEC.

1.12 " **GAAP** " means generally accepted accounting principles in the United States.

1.13 " **Holder** " means any holder of Registrable Securities who is a party to this Agreement.

1.14 " **Immediate Family Member** " means a child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, of a natural person referred to herein.

1.15 " **Initiating Holders** " means, collectively, Holders who properly initiate a registration request under this Agreement.

1.16 " **IPO** " means the Company's first underwritten public offering of its Common Stock under the Securities Act.

1.17 " **Key Employee** " means any executive level employee (including division director and vice president level positions) of the Company as well as any employee or consultant of the Company who either alone or in concert with others develops, invents, programs or designs any Company Intellectual Property Asset (as defined in the Purchase Agreement).

1.18 " **Major Investor** " means each of HarbourVest/NYSTRS Co-invest Fund L.P., HarbourVest Partners VIII-Venture Fund L.P., HarbourVest Partners 2007 Direct Fund L.P., Spark Capital III (AIV I), L.P., Spark Capital Founders' Fund III, LP, Great Hill Equity Partners IV, L.P., Great Hill Investors, LLC, Battery Ventures IX (AIV I), L.P., Battery Investment Partners IX, LLC, Iconiq Strategic Partners-B, L.P., Iconiq Strategic Partners, L.P., any Advisory Investor and any Investor that, individually or together with such Investor's Affiliates, holds at least 10,000 Registrable Securities (as adjusted for any equity dividend, equity split, combination, or other recapitalization or reclassification affecting such securities after the date hereof).

1.19 " **New Securities** " means, collectively, equity securities of the Company, whether or not currently authorized, as well as rights, options, or warrants to purchase such equity securities, or securities of any type whatsoever that are, or may become, convertible or exchangeable into or exercisable for such equity securities.

1.20 " **Person** " means any individual, corporation, partnership, trust, limited liability company, association or other entity.

1.21 " **Preferred Stock** " means, collectively, shares of the Company's Series A-1 Preferred Stock, Series A-2 Preferred Stock and Series B Preferred Stock.

1.22 " **Registrable Securities** " means (i) the Common Stock issuable or issued upon conversion or exchange of the Preferred Stock or otherwise held by Investors; (ii) any Common Stock, or any Common Stock issued or issuable (directly or indirectly) upon conversion and/or exchange of any other securities of the Company, acquired by the Investors after the date hereof; and (iii) any Common Stock issued as (or issuable upon the conversion or exercise of any warrant, right or other security that is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, the shares referenced in clauses (i) and (ii) above and, excluding in all cases, however, any Registrable Securities sold by a Person in a transaction in which the applicable rights under this Agreement are not assigned pursuant to Section 6.1 , and excluding for purposes of Section 2 any shares for which registration rights have terminated pursuant to Section 2.13 of this Agreement.

1.23 " **Registrable Securities then outstanding** " means the number of shares at a point in time determined by adding the number of shares of Common Stock that are Registrable Securities at such time and the number of shares of Common Stock issuable as Registrable Securities (directly or indirectly) at such time upon the exercise or conversion of derivative securities pursuant to Section 1.22.

1.24 " **Restricted Securities** " means the securities of the Company required to bear the legend set forth in Section 2.12(b) hereof.

1.25 " **SEC** " means the Securities and Exchange Commission.

1.26 " **SEC Rule 144** " means Rule 144 promulgated by the SEC under the Securities Act, or any successor provisions.

1.27 " **SEC Rule 145** " means Rule 145 promulgated by the SEC under the Securities Act, or any successor provisions.

1.28 " **Securities Act** " means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

1.29 " **Selling Expenses** " means all underwriting discounts, selling commissions, and stock transfer taxes applicable to the sale of Registrable Securities, and fees and disbursements of counsel for any Holder, except for the fees and disbursements of the Selling Holder Counsel borne and paid by the Company as provided in Section 2.6 .

1.30 " **Selling Holder Counsel** " shall have the meaning assigned to it in Section 2.6 .

1.31 " **Series A Directors** " means the directors of the Company that the holders of record of the Series A Preferred Stock and Series A-1 Preferred Stock are entitled to elect pursuant to the Company's Certificate of Incorporation.

1.32 " **Series A-1 Preferred Stock** " means shares of the Company's Series A-1 Preferred Stock, $0.001 par value per share.

1.33 **"Series A-2 Preferred Stock"** means shares of the Company's Series A-2 Preferred Stock, $0.001 par value per share.

1.34 " **Series B Preferred Stock** " means the Company's Series B Preferred Stock, $0.001 par value per share.

2. Registration Rights . The Company covenants and agrees as follows:

2.1 Demand Registration .

(a) Form S-1 Demand . Beginning upon the date that is one hundred eighty (180) days after the effective date of the registration statement for the IPO, if the Company receives a request from any Major Investor that the Company file a Form S-1 registration statement with respect to at least twenty percent (20%) of the Registrable Securities then outstanding (or a lesser percent if the anticipated aggregate offering price, net of Selling Expenses, would exceed $10 million), then the Company shall (i) within ten (10) days after the date such request is given, give notice thereof (the " **Demand Notice** ") to all Holders other than the Initiating Holders; and (ii) as soon as practicable, and in any event within sixty (60) days after the date such request is given by the Initiating Holders, file a Form S-1 registration statement under the Securities Act covering all Registrable Securities that the Initiating Holders requested to be registered and any additional Registrable Securities requested to be included in such registration by any other Holders, as specified by notice given by each such Holder to the Company within twenty (20) days of the date the Demand Notice is given, and in each case, subject to the limitations of Section 2.1(c) and Section 2.3 .

(b) Form S-3 Demand . If at any time when it is eligible to use a Form S-3 registration statement and the Company receives a request from Holders of at least ten percent (10%) of the Registrable Securities then outstanding (or a lesser percent if the anticipated aggregate offering price, net of Selling Expenses, would exceed $1.0 million) that the Company file a Form S-3 registration statement with respect to outstanding Registrable Securities of such Holders having an anticipated aggregate offering price, net of Selling Expenses, of at least $1.0 million, then the Company shall (i) within ten (10) days after the date such request is given, give a Demand Notice to all Holders other than the Initiating Holders; and (ii) as soon as practicable, and in any event within thirty (30) days after the date such request is given by the Initiating Holders, file a Form S-3 registration statement under the Securities Act covering all Registrable Securities requested to be included in such registration by any other Holders, as specified by notice given by each such Holder to the Company within twenty (20) days of the date the Demand Notice is given, and in each case, subject to the limitations of Section 2.1(c) and Section 2.3 .

(c) Notwithstanding the foregoing obligations, if the Company furnishes to Holders requesting a registration pursuant to this Section 2.1 a certificate signed by the Company's chief executive officer stating that in the good faith judgment of the Company's Board of Directors it would be materially detrimental to the Company and its stockholders for such registration statement to either become effective or remain effective for as long as such registration statement otherwise would be required to remain effective, because such action would (i) materially interfere with a significant acquisition, corporate reorganization, or other

similar transaction involving the Company; (ii) require premature disclosure of material information that the Company has a bona fide business purpose for preserving as confidential; or (iii) render the Company unable to comply with requirements under the Securities Act or Exchange Act, then the Company shall have the right to defer taking action with respect to such filing, and any time periods with respect to filing or effectiveness thereof shall be tolled correspondingly, for a period of not more than forty-five (45) days after the request of the Initiating Holders is given; provided, however, that the Company may not invoke this right more than once in any twelve (12) month period; and provided further that the Company shall not register any securities for its own account or that of any other stockholder during such forty-five (45) day period other than an Excluded Registration.

(d) The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to Section 2.1(a)(i) during the period that is sixty (60) days before the Company's good faith estimate of the date of filing of, and ending on a date that is one hundred eighty (180) days after the effective date of, a Company-initiated registration, provided, that the Company is actively employing its good faith commercially reasonable efforts to cause such registration statement to become effective; or (ii) after the Company has effected two (2) registrations pursuant to Section 2.1(a). The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to Section 2.1(b) (i) during the period that is thirty (30) days before the Company's good faith estimate of the date of filing of, and ending on a date that is ninety (90) days after the effective date of, a Company-initiated registration, provided, that the Company is actively employing its good faith commercially reasonable efforts to cause such registration statement to become effective; or (ii) if the Company has effected two (2) registrations pursuant to Section 2.1(b) within the twelve (12) month period immediately preceding the date of such request. A registration shall not be counted as "effected" for purposes of this Section 2.1(d) until such time as the applicable registration statement has been declared effective by the SEC, unless the Initiating Holders withdraw their request for such registration (other than as a result of a material adverse effect), elect not to pay the registration expenses therefor, and forfeit their right to one demand registration statement pursuant to Section 2.6, in which case such withdrawn registration statement shall be counted as "effected" for purposes of this Section 2.1(d).

2.2 Company Registration. If the Company proposes to register (including, for this purpose, a registration effected by the Company for stockholders other than the Holders) any of its securities under the Securities Act in connection with the public offering of such securities solely for cash (other than in an Excluded Registration), the Company shall, at such time, promptly give each Holder notice of such registration. Upon the request of each Holder given within twenty (20) days after such notice is given by the Company, the Company shall, subject to the provisions of Section 2.3, cause to be registered all of the Registrable Securities that each such Holder has requested to be included in such registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 2.2 before the effective date of such registration, whether or not any Holder has elected to include Registrable Securities in such registration. The expenses (other than Selling Expenses) of such withdrawn registration shall be borne by the Company in accordance with Section 2.6.

2.3 Underwriting Requirements .

(a) If, pursuant to Section 2.1 , the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to Section 2.1 , and the Company shall include such information in the Demand Notice. The underwriter(s) will be selected by the Company and shall be reasonably acceptable to at least a majority-in-interest of Initiating Holders. In such event, the right of any Holder to include such Holder's Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Section 2.4(e)) enter into an underwriting agreement in customary form with the underwriter(s) selected for such underwriting. Notwithstanding any other provision of this Section 2.3 , if the managing underwriter advises the Initiating Holders in writing that marketing factors require a limitation on the number of shares to be underwritten, then the Initiating Holders shall so advise all Holders of Registrable Securities that otherwise would be underwritten pursuant hereto, and the number of Registrable Securities that may be included in the underwriting shall be allocated among such Holders of Registrable Securities, including the Initiating Holders, in proportion (as nearly as practicable) to the number of Registrable Securities owned by each Holder or in such other proportion as shall mutually be agreed to by all such selling Holders; provided, however , that the number of Registrable Securities held by the Holders to be included in such underwriting shall not be reduced unless all other securities are first entirely excluded from the underwriting. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of shares allocated to any Holder to the nearest 100 shares.

(b) In connection with any offering involving an underwriting of shares pursuant to Section 2.2 , the Company shall not be required to include any of the Holders' Registrable Securities in such underwriting unless the Holders accept the terms of the underwriting as agreed upon between the Company and its underwriters, and then only in such quantity as the underwriters in their sole discretion determine will not jeopardize the success of the offering by the Company. If the total number of securities, including Registrable Securities, requested by stockholders to be included in such offering exceeds the number of securities to be sold (other than by the Company) that the underwriters in their reasonable discretion determine is compatible with the success of the offering, then the Company shall be required to include in the offering only that number of such securities, including Registrable Securities, which the underwriters and the Company in their sole discretion determine will not jeopardize the success of the offering. If the underwriters determine that less than all of the Registrable Securities requested to be registered can be included in such offering, then the Registrable Securities that are included in such offering shall be allocated among the selling Holders in proportion (as nearly as practicable to) the number of Registrable Securities owned by each selling Holder or in such other proportions as shall mutually be agreed to by all such selling Holders. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of Units allocated to any Holder to the nearest 100 shares. Notwithstanding the foregoing, in no event shall the number of Registrable Securities included in the offering be reduced unless all other securities (other than securities to be sold by the Company) are first entirely excluded from the offering. For purposes of the provision in this

Section 2.3(b) concerning apportionment, for any selling Holder that is a partnership, limited liability company, or corporation, the partners, members, retired partners, retired members, stockholders, and Affiliates of such Holder, or the estates and Immediate Family Members of any such partners, retired partners, members, and retired members and any trusts for the benefit of any of the foregoing Persons, shall be deemed to be a single "selling Holder," and any pro rata reduction with respect to such "selling Holder" shall be based upon the aggregate number of Registrable Securities owned by all Persons included in such "selling Holder," as defined in this sentence.

(c) For purposes of Section 2.1, a registration shall not be counted as "effected" if, as a result of an exercise of the underwriter's cutback provisions in Section 2.3(a), fewer than fifty percent (50%) of the total number of Registrable Securities that Holders have requested to be included in such registration statement are actually included.

2.4 Obligations of the Company . Whenever required under this Section 2 to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) prepare and file with the SEC a registration statement with respect to such Registrable Securities and use its commercially reasonable efforts to cause such registration statement to become effective and, upon the request of the Holders of at least a majority of the Registrable Securities registered thereunder, keep such registration statement effective for a period of up to one hundred twenty (120) days or, if earlier, until the distribution contemplated in the registration statement has been completed; provided, however , that (i) such one hundred twenty (120) day period shall be extended for a period of time equal to the period the Holder refrains, at the request of an underwriter of Common Stock (or other securities) of the Company, from selling any securities included in such registration, and (ii) in the case of any registration of Registrable Securities on Form S-3 that are intended to be offered on a continuous or delayed basis, subject to compliance with applicable SEC rules, such one hundred twenty (120) day period shall be extended for up to one hundred eighty (180) days, if necessary, to keep the registration statement effective until all such Registrable Securities are sold;

(b) prepare and file with the SEC such amendments and supplements to such registration statement, and the prospectus used in connection with such registration statement, as may be necessary to comply with the Securities Act in order to enable the disposition of all securities covered by such registration statement;

(c) furnish to the selling Holders such numbers of copies of a prospectus, including a preliminary prospectus, as required by the Securities Act, and such other documents as the Holders may reasonably request in order to facilitate their disposition of their Registrable Securities;

(d) use its commercially reasonable efforts to register and qualify the securities covered by such registration statement under such other securities or blue-sky laws of such jurisdictions as shall be reasonably requested by the selling Holders; provided that the Company shall not be required to qualify to do business or to file a general consent to service of

process in any such states or jurisdictions, unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(e) in the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the underwriter(s) of such offering;

(f) use its commercially reasonable efforts to cause all such Registrable Securities covered by such registration statement to be listed on a national securities exchange or trading system and each securities exchange and trading system (if any) on which similar securities issued by the Company are then listed;

(g) provide a transfer agent and registrar for all Registrable Securities registered pursuant to this Agreement and provide a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration;

(h) promptly make available for inspection by the selling Holders, any managing underwriter participating in any disposition pursuant to such registration statement, and any attorney or accountant or other agent retained by any such underwriter or selected by the selling Holders, all financial and other records, pertinent corporate documents, and properties of the Company, and cause the Company's officers, managers, directors, employees, and independent accountants to supply all information reasonably requested by any such seller, underwriter, attorney, accountant, or agent, in each case, as necessary or advisable to verify the accuracy of the information in such registration statement and to conduct appropriate due diligence in connection therewith;

(i) notify each selling Holder, promptly after the Company receives notice thereof, of the time when such registration statement has been declared effective or a supplement to any prospectus forming a part of such registration statement has been filed; and

(j) after such registration statement becomes effective, notify each selling Holder of any request by the SEC that the Company amend or supplement such registration statement or prospectus.

In addition, the Company shall ensure that, at all times after any registration statement covering a public offering of securities of the Company under the Securities Act shall have become effective, its insider trading policy shall provide that the Company's directors may implement a trading program under Rule 10b5-1 of the Exchange Act.

2.5 Furnish Information . It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 2 with respect to the Registrable Securities of any selling Holder that such Holder shall furnish to the Company such information regarding itself, the Registrable Securities held by it, and the intended method of disposition of such securities as is reasonably required to effect the registration of such Holder's Registrable Securities.

2.6 Expenses of Registration . All expenses (other than Selling Expenses) incurred in connection with registrations, filings, or qualifications pursuant to Section 2 ,

including all registration, filing, and qualification fees; printers' and accounting fees; fees and disbursements of counsel for the Company; and the reasonable fees and disbursements, not to exceed $30,000, of one counsel for the selling Holders (" **Selling Holder Counsel** ") selected by the Holders of at least a majority of the Registrable Securities, shall be borne and paid by the Company; provided, however , that the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Section 2.1 if the registration request is subsequently withdrawn at the request of the Holders of at least a majority of the Registrable Securities to be registered (in which case all selling Holders shall bear such expenses pro rata based upon the number of Registrable Securities that were to be included in the withdrawn registration), unless the Holders of at least a majority of the Registrable Securities agree to forfeit their right to one registration pursuant to Section 2.1(a) or Section 2.1(b), as the case may be; provided further that if, at the time of such withdrawal, the Holders have learned of a material adverse change in the condition, business, or prospects of the Company from that known to the Holders at the time of their request and have withdrawn the request with reasonable promptness after learning of such information, then the Holders shall not be required to pay any of such expenses and shall not forfeit their right to one registration pursuant to Section 2.1(a) or Section 2.1(b) . All Selling Expenses relating to Registrable Securities registered pursuant to this Section 2 shall be borne and paid by the Holders pro rata on the basis of the number of Registrable Securities registered on their behalf.

2.7 Delay of Registration . No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any registration pursuant to this Agreement as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 2 .

2.8 Indemnification . If any Registrable Securities are included in a registration statement under this Section 2 :

(a) To the extent permitted by law, the Company will indemnify and hold harmless each selling Holder, and the partners, members, officers, directors, and stockholders of each such Holder; legal counsel, investment advisers and accountants for each such Holder; any underwriter (as defined in the Securities Act) for each such Holder; and each Person, if any, who controls such Holder or underwriter within the meaning of the Securities Act or the Exchange Act, against any Damages, and the Company will pay to each such Holder, underwriter, controlling Person, or other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which Damages may result, as such expenses are incurred; provided, however , that the indemnity agreement contained in this Section 2.8(a) shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Company, which consent shall not be unreasonably withheld, nor shall the Company be liable for any Damages to the extent that they arise out of or are based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of any such Holder, underwriter, controlling Person, or other aforementioned Person expressly for use in connection with such registration.

(b) To the extent permitted by law, each selling Holder, severally and not jointly, will indemnify and hold harmless the Company, and each of its managers or

directors, as applicable, each of its officers who has signed the registration statement, each Person (if any), who controls the Company within the meaning of the Securities Act, legal counsel and accountants for the Company, any underwriter (as defined in the Securities Act), any other Holder selling securities in such registration statement, and any controlling Person of any such underwriter or other Holder, against any Damages, in each case only to the extent that such Damages arise out of or are based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of such selling Holder expressly for use in connection with such registration; and each such selling Holder will pay to the Company and each other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which Damages may result, as such expenses are incurred; provided, however , that the indemnity agreement contained in this Section 2.8(b) shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Holder, which consent shall not be unreasonably withheld; and provided further that in no event shall the aggregate amounts payable by a Holder by way of indemnity or contribution under this Section 2.8(b) exceed the proceeds from the offering received by such Holder (net of any Selling Expenses paid by such Holder), except in the case of fraud or willful misconduct by such Holder.

(c) Promptly after receipt by an indemnified party under this Section 2.8 of notice of the commencement of any action (including any governmental action) for which a party may be entitled to indemnification hereunder, such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 2.8 , give the indemnifying party notice of the commencement thereof. The indemnifying party shall have the right to participate in such action and, to the extent the indemnifying party so desires, participate jointly with any other indemnifying party to which notice has been given, and to assume the defense thereof with counsel mutually satisfactory to the parties; provided, however , that an indemnified party (together with all other indemnified parties that may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such action. The failure to give notice to the indemnifying party within a reasonable time of the commencement of any such action shall relieve such indemnifying party of any liability to the indemnified party under this Section 2.8 , to the extent that such failure materially prejudices the indemnifying party's ability to defend such action. The failure to give notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 2.8 .

(d) To provide for just and equitable contribution to joint liability under the Securities Act in any case in which either (i) any party otherwise entitled to indemnification hereunder makes a claim for indemnification pursuant to this Section 2.8 but it is judicially determined (by the entry of a final judgment or decree by a court of competent jurisdiction and the expiration of time to appeal or the denial of the last right of appeal) that such indemnification may not be enforced in such case, notwithstanding the fact that this Section 2.8 provides for indemnification in such case, or (ii) contribution under the Securities Act may be required on the part of any party hereto for which indemnification is provided under this Section 2.8 , then, and in each such case, such parties will contribute to the aggregate losses,

claims, damages, liabilities, or expenses to which they may be subject (after contribution from others) in such proportion as is appropriate to reflect the relative fault of each of the indemnifying party and the indemnified party in connection with the statements, omissions, or other actions that resulted in such loss, claim, damage, liability, or expense, as well as to reflect any other relevant equitable considerations. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or allegedly untrue statement of a material fact, or the omission or alleged omission of a material fact, relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission; provided, however , that, in any such case, (x) no Holder will be required to contribute any amount in excess of the public offering price of all such Registrable Securities offered and sold by such Holder pursuant to such registration statement, and (y) no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation; and provided further that in no event shall a Holder's liability pursuant to this Section 2.8(e) , when combined with the amounts paid or payable by such Holder pursuant to Section 2.8(b) , exceed the proceeds from the offering received by such Holder (net of any Selling Expenses paid by such Holder), except in the case of willful misconduct or fraud by such Holder.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control. The Company shall use commercially reasonable efforts to include provisions in the underwriting agreement that are consistent with the foregoing provisions.

(f) Unless otherwise superseded by an underwriting agreement entered into in connection with the underwritten public offering, the obligations of the Company and Holders under this Section 2.8 shall survive the completion of any offering of Registrable Securities in a registration under this Section 2 , and otherwise shall survive the termination of this Agreement.

2.9 Reports Under Exchange Act . With a view to making available to the Holders the benefits of SEC Rule 144 and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company shall:

(a) make and keep available adequate current public information, as those terms are understood and defined in SEC Rule 144, at all times after the effective date of the registration statement filed by the Company for the IPO;

(b) use commercially reasonable efforts to file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (at any time after the Company has become subject to such reporting requirements); and

(c) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request (i) to the extent accurate, a written statement by the Company that it has complied with the reporting requirements of SEC Rule 144 (at any time after ninety (90) days after the effective date of the registration statement filed by the Company for the IPO), the Securities Act, and the Exchange Act (at any time after the Company has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after the Company so qualifies); (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company; and (iii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC that permits the selling of any such securities without registration (at any time after the Company has become subject to the reporting requirements under the Exchange Act) or pursuant to Form S-3 (at any time after the Company so qualifies to use such form).

2.10 Limitations on Subsequent Registration Rights . From and after the date of this Agreement, the Company shall not, without the prior written consent of the Holders of at least a majority of the Registrable Securities then outstanding, enter into any agreement with any holder or prospective holder of any securities of the Company that would allow such holder or prospective holder (i) to include such securities in any registration unless, under the terms of such agreement, such holder or prospective holder may include such securities in any such registration only to the extent that the inclusion of such securities will not reduce the number of the Registrable Securities of the Holders that are included or (ii) to demand registration of any securities held by such holder or prospective holder; provided that this limitation shall not apply to any additional Investor who becomes a party to this Agreement in accordance with Section 6.9 .

2.11 "Market Stand-off' Agreement . Each Holder hereby agrees that it will not, without the prior written consent of the managing underwriter, during the period commencing on the date of the final prospectus relating to the registration by the Company of the IPO, and ending on the date specified by the Company and the managing underwriter (such period not to exceed one hundred eighty (180) days, or such other period not to exceed an additional fifteen days, but only as may be required by applicable regulatory restrictions on (1) the publication or other distribution of research reports, and (2) analyst recommendations and opinions, including, but not limited to, the restrictions contained in FINRA Rule 2711(f)(4) or NYSE Rule 472(f)(4), or any successor provisions or amendments thereto), (i) lend; offer; pledge; sell; contract to sell; sell any option or contract to purchase; purchase any option or contract to sell; grant any option, right, or warrant to purchase; or otherwise transfer or dispose of, directly or indirectly, any Common Stock, Incentive Units or any securities convertible into or exercisable or exchangeable (directly or indirectly) for Common Stock held immediately before the effective date of the registration statement for such offering or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of such securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or other securities, in cash, or otherwise. The foregoing provisions of this Section 2.11 shall apply only to the IPO, shall not apply to the sale of any securities to an underwriter pursuant to an underwriting agreement or to transactions involving broad-based indices or baskets of securities (in each case, in which the securities of the Company represent less than 5% of such index or basket), and shall be

applicable to the Holders only if all officers, managers or directors, as applicable, and stockholders individually owning more than one percent (1%) of the Company's outstanding Common Stock (after giving effect to conversion into Common Stock of all outstanding Preferred Stock) are subject to the same restrictions. The underwriters in connection with such registration are intended third-party beneficiaries of this Section 2.11 and shall have the right, power, and authority to enforce the provisions hereof as though they were a party hereto. Each Holder further agrees to execute such agreements as may be reasonably requested by the underwriters in connection with such registration that are consistent with this Section 2.11 or that are necessary to give further effect thereto. Any discretionary waiver or termination of the restrictions of any or all of such agreements by the Company or the underwriters shall apply pro rata to all Holders subject to such agreements, based on the number of shares subject to such agreements.

2.12 Restrictions on Transfer .

(a) The Preferred Stock and the Registrable Securities shall not be sold, pledged, or otherwise transferred, and the Company shall not recognize and shall issue stop transfer instructions to its transfer agent with respect to any such sale, pledge, or transfer, except upon the conditions specified in this Agreement, which conditions are intended to ensure compliance with the provisions of the Securities Act. A transferring Holder will cause any proposed purchaser, pledgee, or transferee of the Preferred Stock and the Registrable Securities held by such Holder to agree to take and hold such securities subject to the provisions and upon the conditions specified in this Agreement.

(b) Each certificate or instrument representing (i) Registrable Securities and (ii) any other securities issued in respect of the securities referenced in clauses (i) and (ii), upon any split, distribution, recapitalization, merger, consolidation, or similar event affecting such securities, shall (unless otherwise permitted by the provisions of Section 2.12(c)) be stamped or otherwise imprinted with a legend substantially in the following form:

THE SECURITIES REPRESENTED HEREBY HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. SUCH SECURITIES MAY NOT BE SOLD, PLEDGED, OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR A VALID EXEMPTION FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT.

THE SECURITIES REPRESENTED HEREBY MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE COMPANY AND THE STOCKHOLDER, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY.

The Holders consent to the Company making a notation in its records and giving instructions to any transfer agent of the Restricted Securities in order to implement the restrictions on transfer set forth in this Section 2.12 .

(c) The holder of each certificate representing Restricted Securities, by acceptance thereof, agrees to comply in all respects with the provisions of this Section 2. Before any proposed sale, pledge, or transfer of any Restricted Securities or the Preferred Stock and the Registrable Securities, unless there is in effect a registration statement under the Securities Act covering the proposed transaction, the Holder thereof shall give notice to the Company of such Holder's intention to effect such sale, pledge, or transfer. Each such notice shall describe the manner and circumstances of the proposed sale, pledge, or transfer in sufficient detail and, if reasonably requested by the Company, shall be accompanied at such Holder's expense by either (i) a written opinion of legal counsel who shall, and whose legal opinion shall, be reasonably satisfactory to the Company, addressed to the Company, to the effect that the proposed transaction may be effected without registration under the Securities Act; (ii) a "no action" letter from the SEC to the effect that the proposed sale, pledge, or transfer of such securities without registration will not result in a recommendation by the staff of the SEC that action be taken with respect thereto; or (iii) any other evidence reasonably satisfactory to counsel to the Company to the effect that the proposed sale, pledge, or transfer of the securities may be effected without registration under the Securities Act, whereupon the Holder of such securities shall be entitled to sell, pledge, or transfer such securities in accordance with the terms of the notice given by the Holder to the Company. The Company will not require such a legal opinion or "no action" letter (x) in any transaction in compliance with SEC Rule 144, (y) in any transaction in which such Holder distributes securities to an Affiliate of such Holder for no consideration or (z) in any transaction in which such Holder or such Holder's Investor Parent is an Advisory Investor and is transferring to another person advised by an investment advisor registered under the Investment Advisers Act of 1940, as amended, or a subsidiary thereof; provided, in each case, that each transferee agrees in writing to be subject to the terms of this Section 2.12. If applicable, each certificate or instrument evidencing the securities transferred as above provided shall bear, except if such transfer is made pursuant to SEC Rule 144, the appropriate restrictive legend set forth in Section 2.12(b), except that such certificate shall not bear such restrictive legend if, in the opinion of counsel for such Holder and the Company, such legend is not required in order to establish compliance with any provisions of the Securities Act.

2.13 Termination of Registration Rights. The right of any Holder to request registration or inclusion of Registrable Securities in any registration pursuant to Section 2.1 or Section 2.2 shall terminate upon (a) the closing of a Deemed Liquidation Event (as such term is defined in the Company's Certificate of Incorporation); provided, that with respect to a Deemed Liquidation Event described in Article Fourth, Section B.2.3.1(b) of the Company's Certificate of Incorporation, with respect to any Investor, only once the proceeds of such Deemed Liquidation Event have been received by the Company and fully distributed to such Investor; provided, further, that if the proceeds of such Deemed Liquidation Event consist of securities that are not listed on a national securities exchange or another nationally recognized trading system and cannot be sold without restriction under SEC Rule 144 within any 90 day period, the Company shall have used commercially reasonable efforts to provide the Investor with registration rights for such securities in substantially the form set forth in the foregoing provisions), or (b) the later to occur of (x) such time when all of such Holder's Registrable Securities could be sold without restriction under SEC Rule 144 within any 90 day period and (y) 18 months after the effective date of the registration statement of an IPO.

3. Information and Observer Rights .

3.1 Delivery of Financial Statements .

(a) The Company shall deliver to each Major Investor:

(1) as soon as practicable, but in any event within one hundred twenty (120) days after the end of each fiscal year of the Company, (i) a balance sheet as of the end of such year, (ii) statements of income and of cash flows for such year, and a comparison between (x) the actual amounts as of and for such fiscal year and (y) the comparable amounts for the prior year and as included in the Budget for such year, with an explanation of any material differences between such amounts and a schedule as to the sources and applications of funds for such year, and (iii) a statement of stockholders' equity as of the end of such year, all such financial statements audited and certified by independent public accountants of nationally recognized standing selected by the Company and approved by the Board of Directors;

(2) as soon as practicable, but in any event within forty-five (45) days after the end of each of the first three (3) quarters of each fiscal year of the Company, unaudited statements of income and of cash flows for such fiscal quarter, and an unaudited balance sheet and a statement of stockholders' equity as of the end of such fiscal quarter, all prepared in accordance with GAAP (except that such financial statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP);

(3) as soon as practicable, but in any event within forty five (45) days after the end of each fiscal year of the Company, (i) an unaudited balance sheet as of the end of such year, (ii) unaudited statements of income and of cash flows for such year, and a comparison between (x) the actual amounts as of and for such fiscal year and (y) the comparable amounts for the prior year and as included in the Budget for such year, with an explanation of any material differences between such amounts and a schedule as to the sources and applications of funds for such year, and (iii) an unaudited statement of stockholders' equity as of the end of such year;

(4) as soon as practicable, (i) but in any event within sixty (60) days, after each of (x) June 30 th and (y) December 31 st

and (ii) after the closing of any additional sale and issuance of preferred stock of the Company, a statement showing the number of shares of each class and series of capital stock and securities convertible into or exercisable for shares of capital stock of the Company outstanding at the end of the period, the Common Stock issuable upon conversion or exercise of any outstanding securities convertible or exercisable for Common Stock and the exchange ratio or exercise price applicable thereto, and the number of shares of issued stock options and options not yet issued but reserved for issuance, if any, all in sufficient detail as to permit the Major Investors to calculate their respective percentage equity ownership in the Company, and certified by the chief financial officer or chief executive officer of the Company as being true, complete, and correct;

(5) simultaneously with the delivery to the members of the Board of Directors, a copy of the meeting materials sent in advance of quarterly Board of Director meetings; and

(6) with respect to the financial statements called for in Section 3.1(a)(1) , Section 3.1(a)(2) and Section 3.1(a)(3) upon request of a Major Investor, an instrument executed by the chief financial officer and chief executive officer of the Company certifying that such financial statements were prepared in accordance with GAAP consistently applied with prior practice for earlier periods (except as otherwise set forth in Section 3.1(a)(2) and Section 3.1(a)(3)) and fairly present the financial condition of the Company and its results of operation for the periods specified therein;

provided, however , that the Company shall not be obligated under this Section 3.1(a) to provide information (i) that the Company reasonably determines in good faith to be a trade secret or confidential information (unless covered by an enforceable confidentiality agreement, in form acceptable to the Company) or (ii) the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel.

(b) In addition to the financial statements set forth in Section 3.1(a) above, the Company shall deliver to each Major Investor that holds at least 946 shares of Series A Preferred Stock (or Common Stock issued upon conversion thereof):

(1) as soon as practicable, but in any event within thirty (30) days of the end of each month, an unaudited income statement and statement of cash flows for such month, and an unaudited balance sheet and statement of stockholders' equity as of the end of such month, all prepared in accordance with GAAP (except that such financial

statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP);

(2) as soon as practicable, but in any event thirty (30) days before the end of each fiscal year, a budget and business plan for the next fiscal year (collectively, the " **Budget** "), approved by the Board of Directors and prepared on a monthly basis, including balance sheets, income statements, and statements of cash flow for such months and, promptly after prepared, any other budgets or revised budgets prepared by the Company;

(3) with respect to the financial statements called for in Section 3.1(b)(1) , upon request of a Major Investor, an instrument executed by the chief financial officer and chief executive officer of the Company certifying that such financial statements were prepared in accordance with GAAP consistently applied with prior practice for earlier periods (except as otherwise set forth in Section 3.1 (b)(2)) and fairly present the financial condition of the Company and its results of operation for the periods specified therein; and

(4) such other information relating to the financial condition, business, prospects, or corporate affairs of the Company as a Major Investor may from time to time reasonably request;

provided, however , that the Company shall not be obligated under this Section 3.1(b) to provide information (i) that the Company reasonably determines in good faith to be a trade secret or confidential information (unless covered by an enforceable confidentiality agreement, in form acceptable to the Company) or (ii) the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel.

If, for any period, the Company has any subsidiary whose accounts are consolidated with those of the Company, then in respect of such period the financial statements delivered pursuant to the foregoing sections shall be the consolidated and consolidating financial statements of the Company and all such consolidated subsidiaries.

Notwithstanding anything else in this Section 3.1 to the contrary, the Company may cease providing the information set forth in this Section 3.1 during the period starting with the date forty-five (45) days before the Company's good-faith estimate of the date of filing of a registration statement if it reasonably concludes it must do so to comply with the SEC rules applicable to such registration statement and related offering; provided that the Company's covenants under this Section 3.1 shall be reinstated at such time as the Company is no longer actively employing its commercially reasonable efforts to cause such registration statement to become effective.

3.2 Inspection . The Company shall permit each Major Investor, at such Major Investor's expense, to visit and inspect the Company's and its subsidiaries' properties; examine its books of account and records; and discuss the Company's and its subsidiaries' affairs, finances, and accounts with its officers, during normal business hours of the Company as may be reasonably requested by the Major Investor; provided, however , that the Company shall not be obligated pursuant to this Section 3.2 to provide access to any information that it reasonably considers to be a trade secret or confidential information (unless covered by an enforceable confidentiality agreement, in form acceptable to the Company) or the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel.

3.3 Termination of Information Rights . The covenants set forth in Sections 3.1 and 3.2 shall terminate and be of no further force or effect (i) immediately before but subject to the consummation of the IPO, (ii) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, or (iii) upon a Deemed Liquidation Event, as such term is defined in the Company's Certificate of Incorporation, unless, following such Deemed Liquidation Event, the Major Investors hold equity in an entity that is not subject to the reporting requirements of Section 13(a) or 15(d) of the Exchange Act, whichever event occurs first.

3.4 Confidentiality . Each Investor agrees that such Investor will keep confidential and will not disclose, divulge, or use for any purpose (other than to monitor its investment in the Company) any confidential information obtained from the Company pursuant to the terms of this Agreement (including notice of the Company's intention to file a registration statement), unless such confidential information (a) is known or becomes known to the public in general (other than as a result of a breach of this Section 3.5 by such Investor), (b) is or has been independently developed or conceived by the Investor without use of the Company's confidential information, or (c) is or has been made known or disclosed to the Investor by a third party without a breach of any obligation of confidentiality such third party may have to the Company; provided, however , that an Investor may disclose confidential information (i) to its attorneys, accountants, consultants, investment advisors and other professionals to the extent necessary to obtain their services in connection with monitoring its investment in the Company; (ii) to any prospective purchaser of any Registrable Securities from such Investor, if such prospective purchaser agrees to be bound by the provisions of this Section 3.5 ; (iii) to any existing or prospective, direct or indirect Affiliate, investor, partner, member, stockholder, or wholly owned subsidiary of such Investor in the ordinary course of business, provided that such Investor informs such Person that such information is confidential and directs such Person to maintain the confidentiality of such information; (iv) to the other Investors and their attorneys, consultants, Affiliates, partners and other persons permitted pursuant to clauses (i) and (iii) above, (v) as may otherwise be required by law, provided that the Investor promptly notifies the Company of such disclosure and takes reasonable steps to minimize the extent of any such required disclosure, or, (vi) in the case of any Advisory Investor, to its registered investment advisor for use solely in such investment advisor's internal reports, provided that the amount and value of the securities of the Company held by such Advisory Investor is the only confidential information permitted to be disclosed pursuant to this clause (vi).

4. Rights to Future Equity Issuances .

4.1 Right of First Offer . Subject to the terms and conditions of this Section 4.1 and applicable securities laws, if the Company proposes to offer or sell any New Securities, the Company shall first offer such New Securities to each Major Investor. A Major Investor shall be entitled to apportion the right of first offer hereby granted to it among (i) itself, (ii) its Affiliates or Advisory Investors having the same or affiliated registered investment advisor and (iii) its beneficial interest holders, such as limited partners, members or any other Person having "beneficial ownership," as such term is defined in Rule 13d-3 promulgated under the Exchange Act, of such Major Investor (" **Investor Beneficial Owner** "), in each case in such proportions as it deems appropriate; provided that , upon the purchase of any New Securities, each such Affiliate or Investor Beneficial Owner agrees to enter into this Agreement, as an "Investor" under each such agreement (provided that, any such Affiliate or Investor Beneficial Owner that is a Competitor shall not be entitled to any rights under Sections 3.1 and 3.2 hereof).

(a) The Company shall give notice (the " **Offer Notice** ") to each Major Investor, stating (i) its bona fide intention to offer such New Securities, (ii) the number of such New Securities to be offered, and (iii) the price and terms, if any, upon which it proposes to offer such New Securities.

(b) By notification to the Company within twenty (20) days after the Offer Notice is given, each Major Investor may elect to purchase or otherwise acquire, at the price and on the terms specified in the Offer Notice, up to that portion of such New Securities which equals the proportion that the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Preferred Stock and any other vested Derivative Securities then held, by such Major Investor bears to the total Common Stock of the Company then outstanding (assuming full conversion and/or exercise, as applicable, of all Preferred Stock and other vested Derivative Securities). At the expiration of such twenty (20) day period, the Company shall promptly notify each Major Investor that elects to purchase or acquire all the Common Stock available to it (each, a " **Fully Exercising Investor** ") of any other Major Investor's failure to do likewise. During the ten (10) day period commencing after the Company has given such notice, each Fully Exercising Investor may, by giving notice to the Company, elect to purchase or acquire, in addition to the number of shares specified above, up to that portion of the New Securities for which Major Investors were entitled to subscribe but that were not subscribed for by the Major Investors which is equal to the proportion that the Common Stock issued and held, or issuable upon conversion and/or exercise, as applicable, of Preferred Stock and any other vested Derivative Securities then held, by such Fully Exercising Investor bears to the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Preferred Stock and any other vested Derivative Securities then held, by all Fully Exercising Investors who wish to purchase such unsubscribed Units. The closing of any sale pursuant to this Section 4.1(b) shall occur within the later of one hundred twenty (120) days of the date that the Offer Notice is given and the date of initial sale of New Securities pursuant to Section 4.1(c) .

(c) If all New Securities referred to in the Offer Notice are not elected to be purchased or acquired as provided in Section 4.1(b) , the Company may, during the ninety (90) day period following the expiration of the periods provided in Section 4.1(b) , offer and sell

the remaining unsubscribed portion of such New Securities to any Person or Persons at a price not less than, and upon terms no more favorable to the offeree than, those specified in the Offer Notice. If the Company does not enter into an agreement for the sale of the New Securities within such period, or if such agreement is not consummated within thirty (30) days of the execution thereof, the right provided hereunder shall be deemed to be revived and such New Securities shall not be offered unless first reoffered to the Major Investors in accordance with this Section 4.1 .

(d) The right of first offer in this Section 4.1 shall not be applicable to (i) Excluded Securities (as defined in the Company's Certificate of Incorporation); and (ii) shares of Common Stock issued in the IPO.

(e) The right of first offer set forth in this Section 4.1 shall terminate with respect to any Major Investor who fails to purchase, in any transaction subject to this Section 4.1 , some portion of the New Securities allocated to such Major Investor pursuant to this Section 4.1 . Following any such termination, such Investor shall no longer be deemed a "Major Investor" for any purpose of this Section 4.1 .

4.2 Termination . The covenants set forth in Section 4.1 shall terminate and be of no further force or effect (i) immediately before but subject to the consummation of a Qualified Public Offering, as defined in the Company's Certificate of Incorporation, (ii) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, or (iii) upon a Deemed Liquidation Event, (as such term is defined in the Certificate of Incorporation); provided, that with respect to a Deemed Liquidation Event described in Article Fourth, Section B.2.3.1(b) of the Company's Certificate of Incorporation, with respect to any Investor, only once the proceeds of such Deemed Liquidation Event have been received by the Company and fully distributed to such Investor.

5. Additional Covenants .

5.1 Insurance . The Company shall use commercially reasonable efforts to maintain, from financially sound and reputable insurers, (i) Directors and Officers Errors and Omissions insurance and (ii) an employment practices liability insurance policy, together in a shared amount not less than $5 million, until such time as the Board of Directors (including the approval of at least a majority of the Series A Directors) determines that such insurance should be discontinued. The Company shall use commercially reasonable efforts to maintain term "key person" insurance on each of Steven Conine and Niraj Shah, which policies (i) shall name the Company as loss payee, and (ii) shall not be cancelable by the Company without prior approval of the Board of Directors (including at least a majority of the Series A Directors).

5.2 Employee Agreements . The Company will cause (i) each person now or hereafter employed by it or by any Subsidiary (or engaged by the Company or any Subsidiary as a consultant/independent contractor, including but not limited to persons employed by SK Retail, Inc.) with access to confidential information and/or trade secrets to enter into a nondisclosure and proprietary rights assignment agreement and (ii) each Key Employee to enter into a one (1) year noncompetition and nonsolicitation agreement previously approved by the Board of Directors. In addition, the Company shall not amend, modify, terminate, waive, or otherwise

alter, in whole or in part, any of the above-referenced agreements or any restricted stock agreement between the Company and any employee, without the consent of at least a majority of the Series A Directors.

5.3 Employee Vesting . Unless otherwise approved by the Board of Directors, including at least a majority of the Series A Directors, all future employees and consultants of the Company or any Subsidiary who purchase, receive options to purchase, or receive awards of the Company's shares of capital stock after the date hereof shall be required to execute restricted stock or option agreements, as applicable, providing for (i) vesting of shares over a five (5) year period, with the first twenty percent (20%) of such shares vesting following twelve (12) months of continued employment or service, and the remaining shares vesting in equal monthly installments over the following forty-eight (48) months, and (ii) a market stand-off provision substantially similar to that in Section 2.11 . In addition, unless otherwise approved by the Board of Directors, including at least a majority of the Series A Directors, the Company shall retain a "right of first refusal" on employee transfers until the Company's IPO and shall have the right to repurchase unvested shares at cost upon termination of employment of a holder of restricted stock; provided that , notwithstanding any other provision of this Agreement, such "right of first refusal" shall not be assignable by the Company.

5.4 Matters Requiring Investor Director Approval . In addition to any other consents required hereunder or under the Certificate of Incorporation, so long as the holders of Series A-1 Preferred Stock and Series A-2 Preferred Stock are entitled to elect at least one Series A Director, the Company hereby covenants and agrees with each of the Investors that it shall not, nor shall it permit any subsidiary to, directly or indirectly, by amendment, merger, consolidation or otherwise, without approval of the Board of Directors, which approval must include the affirmative vote of at least a majority of the Series A Directors:

(a) make, or permit any subsidiary to make, any loan or advance to any Subsidiary or other corporation, partnership, or other entity unless it is wholly owned by the Company;

(b) make, or permit any subsidiary to make, any loan or advance to any Person or Persons in excess of $25,000, including, without limitation, any employee or manager of the Company or any Subsidiary, except advances and similar expenditures in the ordinary course of business or under the terms of an employee option plan approved by the Board of Directors, including at least a majority of the Series A Directors;

(c) otherwise enter into or be a party to any transaction with any manager, officer, or employee of the Company or any "associate" (as defined in Rule 12b-2 promulgated under the Exchange Act) of any such Person, except for (i) transactions contemplated by this Agreement; or (ii) transactions made in the ordinary course of business and pursuant to reasonable requirements of the Company's business and upon fair and reasonable terms that are approved by at least a majority of the Board of Directors, including at least a majority of the Series A Directors; or

(d) hire, terminate, or change the compensation of Niraj Shah or Steven Conine, including approving any option grants or other equity awards to Niraj Shah or Steven Conine.

5.5 Board Matters. Unless otherwise determined by the vote of at least a majority of the managers then in office (including at least a majority of the Series A Directors), the Board of Directors shall meet at least quarterly in accordance with an agreed-upon schedule. The Company shall reimburse the nonemployee managers for all reasonable out-of-pocket travel expenses incurred in connection with attending meetings of the Board of Directors. Any Board of Directors committee now existing or hereinafter established shall include not less than one (1) Series A Director.

5.6 Control Over Subsidiaries. The Company shall institute and shall keep in place arrangements reasonably satisfactory to the Series A Directors such that the Company (i) will control the operations of any subsidiary and (ii) will be permitted to properly consolidate the financial results of any subsidiary in the consolidated financial statements of the Company. Upon request by the Series A Directors, (A) the composition of the board of directors or similar governing body of each domestic Subsidiary, whether now in existence or formed in the future, shall be comprised of the same members (with the same number of votes) as the Company's Board of Directors and (B) the composition of the board of directors or similar governing body of each foreign subsidiary, whether now in existence of formed in the future, shall be comprised of at least one member designated by the Series A Directors. The Company shall maintain such rights under applicable law so as to allow it to maintain control, in its capacity as the sole equity holder of each of the Company's Subsidiaries, over the board of directors managers or similar governing bodies of all of the Company's Subsidiaries. The Company shall take all necessary actions to maintain any subsidiary, whether now in existence or formed in the future, as is necessary to conduct the Company's business as conducted or as proposed to be conducted. The Company shall use commercially reasonable efforts to cause each subsidiary, whether now in existence or formed in the future, to comply in all material respects with applicable laws, rules and regulations.

5.7 Successor Indemnification. If the Company or any of its successors or assignees consolidates with or merges into any other Person and is not the continuing or surviving corporation or entity of such consolidation or merger, then to the extent necessary, proper provision shall be made so that the successors and assignees of the Company assume the obligations of the Company with respect to indemnification of members of the Board of Directors as in effect immediately before such transaction, whether such obligations are contained in the Company's Certificate of Incorporation or elsewhere, as the case may be.

5.8 Requests for Information. The Company shall respond (or, in the event the Company has engaged the services of a transfer agent to maintain its stockholder list or stock ledger, shall use commercially reasonable efforts to cause its transfer agent to respond) as soon as practicable to an Investor's reasonable request for (a) accounting or securities law information required in connection with such Investor's audit or (b) a statement showing the number of shares of capital stock then held by such Investor and the number of outstanding shares of each class and series of outstanding securities and securities convertible into or exercisable for shares of capital stock of the Company in sufficient detail as to permit such Investor to calculate its

respective percentage equity ownership in the Company; provided, however, that the Company shall not be obligated to provide such information if such disclosure could reasonably (i) result in a violation of applicable law or (ii) conflict with the Company's insider trading policy or confidentiality obligations.

5.9 Use of Investor Names. Except as required in connection with a registration statement under the Securities Act or other filings required by the Exchange Act, the Company shall not use the name or trademarks of any of Fidelity Management & Research Company, Morgan Stanley Investment Management Inc., T. Rowe Price Associates, Inc., Viking Global Investments LP, Wellington Management Company, LLP or any of their respective Affiliates or any Investors advised by them (including in any press release relating to the sale of equity securities of the Company) without the prior written consent from such Person, as applicable.

5.10 Termination of Covenants. The covenants set forth in this Section 5, except for Sections 5.7, 5.8 and 5.9, shall terminate and be of no further force or effect (i) immediately before but subject to the consummation of the IPO, (ii) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, or (iii) with respect to any Investor, upon a Deemed Liquidation Event, as such term is defined in the Certificate of Incorporation; provided, that with respect to a Deemed Liquidation Event described in Article Fourth, Section B.2.3.1(b) of the Company's Certificate of Incorporation, with respect to any Investor, only once the proceeds of such Deemed Liquidation Event have been received by the Company and fully distributed to such Investor. The covenant set forth in Section 5.8 shall terminate and be of no further force or effect with regards to an Investor when such Investor no longer holds any Registrable Securities.

6. Miscellaneous.

6.1 Successors and Assigns. The rights under this Agreement may be assigned (but only with all related obligations) by a Holder to a transferee of Registrable Securities; provided, however, that (x) the Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee and the Registrable Securities with respect to which such rights are being transferred; (y) such transferee agrees in a written instrument delivered to the Company to be bound by and subject to the terms and conditions of this Agreement, including the provisions of Section 2.11 and (z) any such transferee that is a Competitor shall not be entitled to any rights under Section 3.1 or 3.2. The terms and conditions of this Agreement inure to the benefit of and are binding upon the respective successors and permitted assignees of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and permitted assignees any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided herein.

6.2 Governing Law. This Agreement and any controversy arising out of or relating to this Agreement shall be governed by and construed in accordance with the General Corporation Law of the State of Delaware, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Delaware.

6.3 Counterparts; Facsimile. This Agreement may be executed and delivered by facsimile signature and in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6.4 Titles and Subtitles. The titles and subtitles used in this Agreement are for convenience only and are not to be considered in construing or interpreting this Agreement.

6.5 Notices. All notices, requests, and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given, delivered and received (i) upon personal delivery to the party to be notified; (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day; (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one (1) business day after the business day of deposit with a nationally recognized overnight courier, specifying next-day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their addresses as set forth on Schedule A hereto, or to the principal office of the Company and to the attention of the Chief Executive Officer, in the case of the Company, or to such email address, facsimile number, or address as subsequently modified by written notice given in accordance with this Section 6.5. If notice is given to the Company, a copy shall also be sent to Latham & Watkins LLP, 1000 Winter Street, Suite 3700, Waltham, Massachusetts 02451, Attention: John H. Chory, Esq., Tel: (617) 948-6032, Fax: (617) 948-6001.

6.6 Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance, and either retroactively or prospectively) only with the written consent of the Company and the holders of at least a majority of the Registrable Securities then outstanding; provided that (w) the Company may in its sole discretion waive compliance with Section 2.12(c) (and the Company's failure to object promptly in writing after notification of a proposed assignment allegedly in violation of Section 2.12(c) shall be deemed to be a waiver); (x) any provision hereof may be waived by any waiving party on such party's own behalf, without the consent of any other party; (y) Sections 1.1, 1.18, 1.22, 2.1, 3, 5.8, 5.10 and 6.6 may not be amended without the consent of the holders of at least two-thirds of the Registrable Securities issued or issuable pursuant to the conversion of the Series B Preferred Stock (other than amendments solely related to the addition of new parties to this Agreement), and (z) Section 5.9 may not be amended without the consent of the Investors advised by the investment advisers named therein. Notwithstanding the foregoing, (a) this Agreement may not be amended or terminated and the observance of any term hereof may not be waived with respect to any Investor without the written consent of such Investor, unless such amendment, termination, or waiver applies to all Investors in the same fashion (it being agreed that a waiver of the provisions of Section 4 with respect to a particular transaction shall be deemed to apply to all Investors in the same fashion if such waiver does so by its terms, notwithstanding the fact that certain Investors may nonetheless, by agreement with the Company, purchase securities in such transaction), and (b) Schedule A hereto may be amended by the Company from time to time in accordance with Section 6.1 or Section 6.9 hereof to add information regarding additional Investors without the consent of the other parties hereto. Any amendment, termination, or waiver effected in accordance with this Section 6.6 shall be binding on all parties hereto, regardless of whether any such party has consented thereto. No waivers of or exceptions to any

term, condition, or provision of this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such term, condition, or provision.

6.7 Severability . In case any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and such invalid, illegal, or unenforceable provision shall be reformed and construed so that it will be valid, legal, and enforceable to the maximum extent permitted by law.

6.8 Aggregation of Shares . All Registrable Securities held or acquired by Affiliates or Advisory Investors having the same or affiliated registered investment advisor shall be aggregated together for the purpose of determining the availability of any rights under this Agreement and such Affiliates or Advisory Investors having the same or affiliated registered investment advisor may apportion such rights as among themselves in any manner they deem appropriate.

6.9 Effectiveness of Agreement; Prior Agreement; Entire Agreement; Other Agreements . This Agreement shall become effective only upon the effectiveness of the Reorganization (the " **Effective Time** "). In the event the Reorganization shall not have occurred on or prior to December 31, 2014, this Agreement shall be of no force or effect. Upon the Effective Time, the Prior Agreement shall be terminated in its entirety and the provisions of the Prior Agreement shall no longer be of any force or effect. This Agreement (including any Schedules and Exhibits hereto) constitutes the full and entire understanding and agreement among the parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the parties (including the Prior Agreement) is expressly canceled. In addition, in the event the Reorganization has occurred, but the Company has not consummated a Qualified Public Offering prior to the fourth business day after the Reorganization, the Company and the Investors will either enter into new Voting and Right of First Refusal and Co-Sale Agreements with the Investors on the same terms and conditions or otherwise provide that such agreements currently in effect between Wayfair LLC and the Investors will continue to be in effect and apply with respect to the Company.

6.10 Delays or Omissions . No delay or omission to exercise any right, power, or remedy accruing to any party under this Agreement, upon any breach or default of any other party under this Agreement, shall impair any such right, power, or remedy of such nonbreaching or nondefaulting party, nor shall it be construed to be a waiver of or acquiescence to any such breach or default, or to any similar breach or default thereafter occurring, nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. All remedies, whether under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

6.11 Acknowledgment . The Company acknowledges that the Investors are in the business of venture capital investing and therefore review the business plans and related proprietary information of many enterprises, including enterprises which may have products or services which compete directly or indirectly with those of the Company. Nothing in this Agreement shall preclude or in any way restrict the Investors from investing or participating in

any particular enterprise whether or not such enterprise has products or services which compete with those of the Company.

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WAYFAIR INC.

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (this " Agreement ") is effective as of , 20 by and between Wayfair Inc., a Delaware corporation (the " Company "), and (" Indemnitee ").

A. The Company recognizes the difficulty in obtaining liability insurance for its directors, officers, employees, controlling persons, fiduciaries and other agents and affiliates, the significant cost of such insurance and the general limitations in the coverage of such insurance.

B. The Company further recognizes the substantial increase in corporate litigation in general, subjecting directors, officers, employees, controlling persons, fiduciaries and other agents and affiliates to expensive litigation risks at the same time as the availability and coverage of liability insurance has been severely limited.

C. The current protection available to directors, officers, employees, controlling persons, fiduciaries and other agents and affiliates of the Company may not be adequate under the present circumstances, and directors, officers, employees, controlling persons, fiduciaries and other agents and affiliates of the Company (or persons who may be alleged or deemed to be the same), including the Indemnitee, may not be willing to serve or continue to serve or be associated with the Company in such capacities without additional protection.

D. The Company (a) desires to attract and retain the involvement of highly qualified persons, such as Indemnitee, to serve and be associated with the Company, and (b) accordingly, wishes to provide for the indemnification and advancement of expenses to the Indemnitee to the maximum extent permitted by law.

E. In view of the considerations set forth above, the Company desires that Indemnitee shall be indemnified and advanced expenses by the Company as set forth herein.

AGREEMENT :

In consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Certain Definitions.

(a) " *Change in Control* " shall be deemed to have occurred if, on or after the date of this Agreement, (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended), other than a trustee or other fiduciary holding securities under an employee benefit plan of the Company acting in such capacity or a corporation owned directly or indirectly by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company, becomes the "beneficial owner" (as defined in Rule 13d-3 under said Act), directly or indirectly, of securities of the Company

representing more than fifty percent (50%) of the total voting power represented by the Company's then outstanding Voting Securities, (ii) during any period of two (2) consecutive years, individuals who at the beginning of such period constitute the Board of Directors of the Company and any new director 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 (2/3) 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 a majority thereof, (iii) the stockholders of the Company approve a merger or consolidation of the Company with any other corporation other than a merger or consolidation which would result in the Voting Securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into Voting Securities of the surviving entity) at least eighty percent (80%) of the total voting power represented by the Voting Securities of the Company or such surviving entity outstanding immediately after such merger or consolidation or (iv) the stockholders of the Company approve a plan of complete liquidation of the Company or an agreement for the sale or disposition by the Company of (in one transaction or a series of related transactions) all or substantially all of the Company's assets.

(b) " *Claim* " shall mean with respect to a Covered Event: any threatened, asserted, pending or completed action, suit, proceeding or alternative dispute resolution mechanism, or any hearing, inquiry or investigation (formal or informal) that Indemnitee [(or in the case of a Fund Indemnitor (as defined in Section 18 below) seeking to be indemnified, a Fund Indemnitor)](1) in good faith believes might lead to the institution of any such action, suit, proceeding or alternative dispute resolution mechanism, whether civil, criminal, administrative, investigative or other, including any appeal therefrom.

(c) References to the " *Company* " shall include, in addition to Wayfair Inc., any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger to which Wayfair Inc. (or any of its wholly owned subsidiaries) is a party, which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees, agents or fiduciaries, so that if Indemnitee is or was a director, officer, employee, agent or fiduciary of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee, agent or fiduciary of another corporation, partnership, joint venture, employee benefit plan, trust or other enterprise, Indemnitee shall stand in the same position under the provisions of this Agreement with respect to the resulting or surviving corporation as Indemnitee would have with respect to such constituent corporation if its separate existence had continued.

(d) " *Covered Event* " shall mean any event or occurrence by reason of the fact that Indemnitee is or was a director, officer, employee, agent or fiduciary of the Company, or any subsidiary of the Company, direct or indirect, or is or was serving at the request of the Company as a director, officer, employee, agent or fiduciary of another corporation, partnership, joint venture, trust or other enterprise, or by reason of any action or inaction on the part of Indemnitee while serving in such capacity.

(1) Alternative language for directors affiliated with investment funds is included in brackets.

(e) " *Expense Advance* " shall mean a payment to Indemnitee for Expenses pursuant to Section 3 hereof, in advance of the settlement of or final judgment in any action, suit, proceeding or alternative dispute resolution mechanism, hearing, inquiry or investigation, which constitutes a Claim.

(f) " *Expenses* " shall mean any and all direct and indirect costs, losses, claims, damages, fees, expenses and liabilities, joint or several (including reasonable attorneys' fees and all other costs, expenses and obligations reasonably incurred in connection with investigating, defending, being a witness in or participating in (including on appeal), or preparing to defend, to be a witness in or to participate in, any action, suit, proceeding, alternative dispute resolution mechanism, hearing, inquiry or investigation), judgments, fines, penalties and amounts paid in settlement (if such settlement is approved in advance by the Company, which approval shall not be unreasonably withheld) actually and reasonably incurred, of any Claim and any federal, state, local or foreign taxes imposed on the Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement.

(g) " *Independent Legal Counsel* " shall mean an attorney or firm of attorneys, selected in accordance with the provisions of Section 2(d) hereof, who shall not have otherwise performed services for (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning the rights of Indemnitee under this Agreement, or of other indemnitees under similar indemnity agreements) or (ii) any other party to the Claim giving rise to a claim for indemnification hereunder, within the last three (3) years. Notwithstanding the foregoing, the term "Independent Legal 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) References to " *other enterprises* " shall include employee benefit plans; references to " *fines* " shall include any excise taxes assessed on Indemnitee with respect to an employee benefit plan; and references to " *serving at the request of the Company* " shall include any service as a director, officer, employee, agent or fiduciary of the Company which imposes duties on, or involves services by, such director, officer, employee, agent or fiduciary with respect to an employee benefit plan, its participants or its beneficiaries; and if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan, Indemnitee shall be deemed to have acted in a manner " *not opposed to the best interests of the Company* " as referred to in this Agreement.

(i) " *Reviewing Party* " shall mean, subject to the provisions of Section 2(d), any person or body appointed by the Board of Directors in accordance with applicable law to review the Company's obligations hereunder and under applicable law, which may include a member or members of the Company's Board of Directors, Independent Legal Counsel or any other person or body not a party to the particular Claim for which Indemnitee is seeking indemnification, exoneration or hold harmless rights.

(j) " *Section* " refers to a section of this Agreement unless otherwise indicated.

(k) " *Voting Securities* " shall mean any securities of the Company that vote generally in the election of directors.

2. Indemnification .

(a) Indemnification of Expenses . Subject to the provisions of Section 2(b) below, the Company shall indemnify, exonerate or hold harmless Indemnitee for Expenses to the fullest extent permitted by law if Indemnitee was, is or becomes a party to or witness or other participant in, or is threatened to be made a party to or witness or other participant in, any Claim (whether by reason of or arising in part out of a Covered Event), including all interest, assessments and other charges incurred in connection with or in respect of such Expenses.

(b) Review of Indemnification Obligations .

(i) Notwithstanding the foregoing, in the event any Reviewing Party shall have determined (in a written opinion, in any case in which Independent Legal Counsel is the Reviewing Party) that Indemnitee is not entitled to be indemnified, exonerated or held harmless hereunder under applicable law, (A) the Company shall have no further obligation under Section 2(a) to make any payments to Indemnitee not made prior to such determination by such Reviewing Party and (B) the Company shall be entitled to be reimbursed by Indemnitee (who hereby agrees to reimburse the Company) for all Expenses theretofore paid in indemnifying, exonerating or holding harmless Indemnitee (within thirty (30) days after such determination); *provided , however* , that if Indemnitee has commenced or thereafter commences legal proceedings in a court of competent jurisdiction to secure a determination that Indemnitee is entitled to be indemnified, exonerated or held harmless hereunder under applicable law, any determination made by any Reviewing Party that Indemnitee is not entitled to be indemnified hereunder under applicable law shall not be binding and Indemnitee shall not be required to reimburse the Company for any Expenses theretofore paid in indemnifying, exonerating or holding harmless Indemnitee until a final judicial determination is made with respect thereto (as to which all rights of appeal therefrom have been exhausted or lapsed). Indemnitee's obligation to reimburse the Company for any Expenses shall be unsecured and no interest shall be charged thereon.

(ii) Subject to Section 2(b)(iii) below, if the Reviewing Party shall not have made a determination within forty-five (45) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall, to the fullest extent not prohibited by law, be deemed to have been made and Indemnitee shall be entitled to such indemnification, absent (A) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification or (B) a prohibition of such indemnification under applicable law; *provided , however* , that such 45-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making the determination with respect to entitlement to indemnification in good faith requires such additional time for the obtaining or evaluating of documentation and/or information relating thereto.

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

(c) Indemnitee Rights on Unfavorable Determination; Binding Effect . If any Reviewing Party determines that Indemnitee substantively is not entitled to be indemnified, exonerated or held harmless hereunder in whole or in part under applicable law, Indemnitee shall have the right to commence litigation seeking an initial determination by the court or challenging any such determination by such Reviewing Party or any aspect thereof, including the legal or factual bases therefor, and, subject to the provisions of Section 15 hereof, the Company hereby consents to service of process and to appear in any such proceeding. Absent such litigation, any determination by any Reviewing Party shall be conclusive and binding on the Company and Indemnitee.

(d) Selection of Reviewing Party; Change in Control . If there has not been a Change in Control, any Reviewing Party shall be selected by the Board of Directors, and if there has been such a Change in Control (other than a Change in Control which has been approved by a majority of the Company's Board of Directors who were directors immediately prior to such Change in Control), any Reviewing Party with respect to all matters thereafter arising concerning Indemnitee's indemnification, exoneration or hold harmless rights for Expenses under this Agreement or any other agreement or under the Company's Certificate of Incorporation or bylaws as now or hereafter in effect, or under any other applicable law, if desired by Indemnitee, shall be Independent Legal Counsel selected by the Indemnitee and approved by Company (which approval shall not be unreasonably withheld). Such counsel, among other things, shall render its written opinion to the Company and Indemnitee as to whether and to what extent Indemnitee would be entitled to be indemnified, exonerated or held harmless hereunder under applicable law and the Company agrees to abide by such opinion. The Company agrees to pay the reasonable fees of the Independent Legal Counsel referred to above and to fully indemnify, exonerate and hold harmless such counsel against any and all expenses (including attorneys' fees), claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto. Notwithstanding any other provision of this Agreement, the Company shall not be required to pay Expenses of more than one Independent Legal Counsel in connection with all matters concerning a single Indemnitee, and such Independent Legal Counsel shall be the Independent Legal Counsel for any or all other Indemnitees unless (i) the Company otherwise determines or (ii) any Indemnitee shall provide a written statement setting forth in detail a reasonable objection to such Independent Legal Counsel representing other Indemnitees.

(e) Mandatory Payment of Expenses . Notwithstanding any other provision of this Agreement other than Section 10 hereof, to the fullest extent permitted by applicable law and to the extent that Indemnitee was a party to (or participant in) and has been successful on the merits or otherwise, including, without limitation, the dismissal of an action without prejudice, in defense of any Claim, Indemnitee shall be indemnified, exonerated and held harmless against all Expenses actually and reasonably incurred by Indemnitee in connection therewith. If Indemnitee is not wholly successful in such Claim but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Claim, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or on his behalf in connection with or related to each successfully resolved claim, issue or matter to the fullest

extent permitted by law. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Claim by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

(f) Contribution. If the indemnification, exoneration or hold harmless rights provided for in this Agreement is for any reason held by a court of competent jurisdiction to be unavailable to an Indemnitee, then in lieu of indemnifying, exonerating or holding harmless Indemnitee thereunder, the Company shall contribute to the amount paid or required to be paid by Indemnitee as a result of such Expenses (i) in such proportion as is deemed fair and reasonable in light of all of the circumstances in order to reflect the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Claim or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with the action or inaction which resulted in such Expenses, as well as any other relevant equitable considerations. In connection with the registration of the Company's securities, the relative benefits received by the Company and Indemnitee shall be deemed to be in the same respective proportions that the net proceeds from the offering (before deducting expenses) received by the Company and Indemnitee, in each case as set forth in the table on the cover page of the applicable prospectus, bear to the aggregate public offering price of the securities so offered. The relative fault of the Company and Indemnitee shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or Indemnitee and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company and Indemnitee agree that it would not be just and equitable if contribution pursuant to this Section 2(f) were determined by pro rata or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding paragraph. In connection with the registration of the Company's securities, in no event shall Indemnitee be required to contribute any amount under this Section 2(f) in excess of the net proceeds received by Indemnitee from its sale of securities under such registration statement. No person found guilty of fraudulent misrepresentation (within the meaning of Section 11(a) of the Securities Act of 1933, as amended) shall be entitled to contribution from any person who was not found guilty of such fraudulent misrepresentation.

3. Expense Advances.

(a) Obligation to Make Expense Advances. The Company shall make Expense Advances to Indemnitee upon receipt of a written undertaking by or on behalf of the Indemnitee to repay such amounts if it shall ultimately be determined that the Indemnitee is not entitled to be indemnified, exonerated or held harmless therefor by the Company.

(b) Form of Undertaking. Any written undertaking by the Indemnitee to repay any Expense Advances hereunder shall be unsecured and no interest shall be charged thereon.

4. Procedures for Indemnification and Expense Advances.

(a) Timing of Payments. All payments of Expenses (including without limitation Expense Advances) by the Company to the Indemnitee pursuant to this Agreement shall be made to the fullest extent permitted by law as soon as practicable after written demand by Indemnitee therefor is presented to the Company, but in no event later than forty-five (45) days after such written demand by Indemnitee is presented to the Company, except in the case of Expense Advances, which shall be made no later than twenty (20) days after such written demand by Indemnitee is presented to the Company. If the Company disputes a portion of the amounts for which indemnification is requested, the undisputed portion shall be paid and only the disputed portion withheld pending resolution of any such dispute.

(b) Notice/Cooperation by Indemnitee. Indemnitee shall, as a condition precedent to Indemnitee's right to be indemnified, exonerated or held harmless or Indemnitee's right to receive Expense Advances under this Agreement, give the Company notice in writing as soon as practicable of any Claim made against Indemnitee for which indemnification, exoneration or hold harmless rights will or could be sought under this Agreement. Notice to the Company shall be directed to the President and the Secretary of the Company at the address shown on the signature page of this Agreement (or such other address as the Company shall designate in writing to Indemnitee) and shall include a description of the nature of the Claim and the facts underlying the Claim, in each case to the extent known to Indemnitee. To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of such Claim. In addition, Indemnitee shall give the Company such information and cooperation as the Company may reasonably require and as shall be within Indemnitee's power. The failure by Indemnitee to notify the Company hereunder will not relieve the Company from any liability which it may have to Indemnitee hereunder or otherwise than under this Agreement, and any delay in so notifying the Company shall not constitute a waiver by Indemnitee of any rights under this Agreement, except to the extent (solely with respect to the indemnity hereunder) that such failure or delay materially prejudices the Company.

(c) No Presumptions; Burden of Proof. For purposes of this Agreement, the termination of any Claim by judgment, order, settlement (whether with or without court approval) or conviction, or upon a plea of *nolo contendere* , or its equivalent, shall not create a presumption that Indemnitee did not meet any particular standard of conduct or have any particular belief or that a court has determined that indemnification, exoneration or hold harmless right is not permitted by this Agreement or applicable law. In addition, neither the failure of any Reviewing Party to have made a determination as to whether Indemnitee has met any particular standard of conduct or had any particular belief, nor an actual determination by any Reviewing Party that Indemnitee has not met such standard of conduct or did not have such belief, prior to the commencement of legal proceedings by Indemnitee to secure a judicial determination that Indemnitee should be indemnified, exonerated or held harmless under this Agreement or applicable law, shall be a defense to Indemnitee's claim or create a presumption that Indemnitee has not met any particular standard of conduct or did not have any particular belief. In connection with any determination by any Reviewing Party or otherwise as to whether the

Indemnitee is entitled to be indemnified, exonerated or held harmless hereunder, the burden of proof shall be on the Company to establish that Indemnitee is not so entitled.

(d) Notice to Insurers . If, at the time of the receipt by the Company of a notice of a Claim pursuant to Section 4(b) hereof, the Company has liability insurance in effect which may cover such Claim, the Company shall give prompt notice of the commencement of such Claim to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all reasonably necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such Claim in accordance with the terms of such policies.

(e) Selection of Counsel . In the event the Company shall be obligated hereunder to provide indemnification, exoneration or hold harmless rights for or make any Expense Advances with respect to the Expenses of any Claim, the Company, if appropriate, shall be entitled to assume the defense of such Claim with counsel approved by Indemnitee (which approval shall not be unreasonably withheld) upon the delivery to Indemnitee of written notice of the Company's election to do so. After delivery of such notice, approval of such counsel by Indemnitee and the retention of such counsel by the Company, the Company will not be liable to Indemnitee under this Agreement for any fees or expenses of separate counsel subsequently employed by or on behalf of Indemnitee with respect to the same Claim; *provided, however* , that (i) Indemnitee shall have the right to employ Indemnitee's separate counsel in any such Claim at Indemnitee's expense and (ii) if (A) the employment of separate counsel by Indemnitee has been previously authorized by the Company, (B) Indemnitee shall have reasonably concluded that there may be a conflict of interest between the Company and Indemnitee in the conduct of any such defense or (C) the Company shall not continue to retain such counsel to defend such Claim, then the fees and expenses of Indemnitee's separate counsel shall be Expenses for which Indemnitee may receive indemnification, exoneration or hold harmless rights or Expense Advances hereunder. The Company shall have the right to conduct such defense as it sees fit in its sole discretion, including the right to settle any claim, action or proceeding against Indemnitee without the consent of Indemnitee, provided that the terms of such settlement include either: (i) a full release of Indemnitee by the claimant from all liabilities or potential liabilities under such claim or (ii), in the event such full release is not obtained, the terms of such settlement do not limit any indemnification, exoneration or hold harmless rights Indemnitee may now, or hereafter, be entitled to under this Agreement, the Company's Certificate of Incorporation, bylaws, any agreement, any vote of stockholders or disinterested directors, the General Corporation Law of the State of Delaware (the " DGCL ") or otherwise.

5. Additional Indemnification Rights; Nonexclusivity .

(a) Scope . The Company hereby agrees to indemnify, exonerate and hold harmless the Indemnitee to the fullest extent permitted by law, notwithstanding that such indemnification, exoneration or hold harmless right is not specifically authorized by the other provisions of this Agreement, the Company's Certificate of Incorporation, the Company's bylaws or by statute, a vote of stockholders or a resolution of directors, or otherwise. The rights of indemnification and to receive Expense Advances as provided by this Agreement shall be interpreted independently of, and without reference to, any other such rights to which Indemnitee may at any time be entitled. In the event of any change after the date of this Agreement in any

applicable law, statute or rule which expands the right of a Delaware corporation to indemnify, exonerate or hold harmless a member of its board of directors or an officer, employee, agent or fiduciary, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits afforded by such change. In the event of any change in any applicable law, statute or rule which narrows the right of a Delaware corporation to indemnify, exonerate or hold harmless a member of its board of directors or an officer, employee, agent or fiduciary, such change, to the extent not otherwise required by such law, statute or rule to be applied to this Agreement, shall have no effect on this Agreement or the parties' rights and obligations hereunder except as set forth in Section 10(a) hereof.

(b) Nonexclusivity. The indemnification, exoneration or hold harmless rights and the payment of Expense Advances provided by this Agreement shall be in addition to any rights to which Indemnitee may be entitled under the Company's Certificate of Incorporation, its bylaws, any other agreement, any vote of stockholders or disinterested directors, the DGCL, or otherwise. The indemnification, exoneration or hold harmless rights and the payment of Expense Advances provided under this Agreement shall continue as to Indemnitee for any action taken or not taken while serving in an indemnified, exonerated or held harmless capacity even though subsequent thereto Indemnitee may have ceased to serve in such capacity.

6. No Duplication of Payments. The Company shall not be liable under this Agreement to make any payment in connection with any Claim made against Indemnitee to the extent Indemnitee has otherwise actually received payment (under any insurance policy, provision of the Company's Certificate of Incorporation, bylaws or otherwise) of the amounts otherwise payable hereunder[, except as provided in Section 18 below].

7. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification, exoneration or hold harmless rights by the Company for some or a portion of Expenses incurred in connection with any Claim, but not, however, for the total amount thereof, the Company shall nevertheless indemnify, exonerate or hold harmless Indemnitee for the portion of such Expenses to which Indemnitee is entitled.

8. Mutual Acknowledgment. Both the Company and Indemnitee acknowledge that in certain instances, federal law or applicable public policy may prohibit the Company from indemnifying, exonerating or holding harmless its directors, officers, employees, agents or fiduciaries under this Agreement or otherwise. Indemnitee understands and acknowledges that the Company may be required in the future to undertake with the Securities and Exchange Commission to submit the question of indemnification, exoneration or hold harmless rights to a court in certain circumstances for a determination of the Company's right under public policy to indemnify, exonerate or hold harmless Indemnitee.

9. Liability Insurance. To the extent the Company maintains liability insurance applicable to directors, officers, employees, agents or fiduciaries, Indemnitee shall be covered by such policies in such a manner as to provide Indemnitee the same rights and benefits as are provided to the most favorably insured of the Company's directors who are not employees of the Company, if Indemnitee is a director who is not employed by the Company; or of the Company's officers, if Indemnitee is a director of the Company and is also employed by the Company, or is

not a director of the Company but is an officer; or in the Company's sole discretion, if Indemnitee is not an officer or director but is an employee, agent or fiduciary.

10. Exceptions . Notwithstanding any other provision of this Agreement, the Company shall not be obligated pursuant to the terms of this Agreement:

(a) Excluded Action or Omissions . To indemnify, exonerate or hold harmless Indemnitee for Expenses resulting from acts, omissions or transactions for which Indemnitee is prohibited from receiving indemnification, exoneration or hold harmless rights under this Agreement or applicable law; *provided, however* , that notwithstanding any limitation set forth in this Section 10(a) regarding the Company's obligation to provide indemnification, exoneration or hold harmless rights to Indemnitee, Indemnitee shall be entitled under Section 3 to receive Expense Advances hereunder with respect to any such Claim unless and until a court having jurisdiction over the Claim shall have made a final judicial determination (as to which all rights of appeal therefrom have been exhausted or lapsed) that Indemnitee has engaged in acts, omissions or transactions for which Indemnitee is prohibited from receiving indemnification under this Agreement or applicable law.

(b) Claims Initiated by Indemnitee . To indemnify, exonerate or hold harmless or make Expense Advances to Indemnitee with respect to Claims initiated or brought voluntarily by Indemnitee and not by way of defense, counterclaim or cross claim, except (i) with respect to actions or proceedings brought to establish or enforce an indemnification, exoneration or hold harmless right under this Agreement or any other agreement or insurance policy or under the Company's Certificate of Incorporation or bylaws now or hereafter in effect relating to Claims for Covered Events, (ii) in specific cases if the Board of Directors has approved the initiation or bringing of such Claim or (iii) as otherwise required under Section 145 of the DGCL, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, exoneration, hold harmless right, Expense Advances or insurance recovery, as the case may be.

(c) Lack of Good Faith . To indemnify, exonerate or hold harmless Indemnitee for any Expenses incurred by Indemnitee with respect to any action instituted (i) by Indemnitee to enforce or interpret this Agreement, if a court having jurisdiction over such action determines as provided in Section 13 hereof that each of the material assertions made by Indemnitee as a basis for such action was not made in good faith or was frivolous or (ii) by or in the name of the Company to enforce or interpret this Agreement, if a court having jurisdiction over such action determines as provided in Section 13 hereof that each of the material defenses asserted by Indemnitee in such action was made in bad faith or was frivolous.

(d) Claims Under Section 16(b) or Sarbanes-Oxley Act . To indemnify, exonerate or hold harmless Indemnitee for expenses and the payment of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 16(b) of the Securities Exchange Act of 1934, as amended, or any similar successor statute or (ii) 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 Exchange Act (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); *provided, however,* that notwithstanding any limitation set forth in this Section 10(d) regarding the Company's obligation to provide indemnification or exoneration or hold harmless, Indemnitee shall be entitled under Section 3 hereof to receive Expense Advances hereunder with respect to any such Claim unless and until a court having jurisdiction over the Claim shall have made a final judicial determination (as to which all rights of appeal therefrom have been exhausted or lapsed) that Indemnitee has violated said statute.

11. Counterparts . This Agreement may be executed in counterparts and by facsimile or electronic transmission, each of which shall constitute an original and all of which, together, shall constitute one instrument.

12. Binding Effect; Successors and Assigns . This Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business and/or assets of the Company), spouses, heirs, and personal and legal representatives. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all, or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, 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. This Agreement shall continue in effect regardless of whether Indemnitee continues to serve as a director, officer, employee, agent or fiduciary (as applicable) of the Company or of any other enterprise at the Company's request. [The Company and Indemnitee agree that the Fund Indemnitors (as defined in Section 18 below) are express third party beneficiaries of this Agreement.]

13. Expenses Incurred in Action Relating to Enforcement or Interpretation . In the event that any action is instituted by Indemnitee under this Agreement or under any liability insurance policies maintained by the Company to enforce or interpret any of the terms hereof or thereof, Indemnitee shall be entitled to be indemnified for all Expenses incurred by Indemnitee with respect to such action (including without limitation attorneys' fees), regardless of whether Indemnitee is ultimately successful in such action, unless as a part of such action a court having jurisdiction over such action makes a final judicial determination (as to which all rights of appeal therefrom have been exhausted or lapsed) that each of the material assertions made by Indemnitee as a basis for such action was not made in good faith or was frivolous; *provided , however ,* that until such final judicial determination is made, Indemnitee shall be entitled under Section 3 to receive payment of Expense Advances hereunder with respect to such action. In the event of an action instituted by or in the name of the Company under this Agreement to enforce or interpret any of the terms of this Agreement, Indemnitee shall be entitled to be indemnified, exonerated or held harmless for all Expenses incurred by Indemnitee in defense of such action (including without limitation costs and expenses incurred with respect to Indemnitee's counterclaims and cross-claims made in such action), unless as a part of such action a court having jurisdiction over such action makes a final judicial determination (as to which all rights of appeal therefrom have been exhausted or lapsed) that each of the material defenses asserted by Indemnitee in such action was made in bad faith or was frivolous; *provided , however ,* that until

such final judicial determination is made, Indemnitee shall be entitled under Section 3 to receive payment of Expense Advances hereunder with respect to such action.

14. Notices . All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed duly given (i) if delivered by hand and signed for by the party addressed, on the date of such delivery or (ii) if mailed by domestic certified or registered mail with postage prepaid, on the third business day after the date postmarked. Addresses for notice to either party are as shown on the signature page of this Agreement or as subsequently modified by written notice.

15. Consent to Jurisdiction . The Company and Indemnitee each hereby irrevocably consent to the jurisdiction of the courts of the State of Delaware for all purposes in connection with any action or proceeding which arises out of or relates to this Agreement and agree that any action instituted under this Agreement shall be commenced, prosecuted and continued only in the Court of Chancery of the State of Delaware in and for New Castle County, which shall be the exclusive and only proper forum for adjudicating such a claim.

16. Severability . The provisions of this Agreement shall be severable in the event that any of the provisions hereof (including any provision within a single section, paragraph or sentence) are held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law. Furthermore, to the fullest extent possible, the provisions of this Agreement (including without limitation each portion of this Agreement containing any provision held to be invalid, void or otherwise unenforceable, that is not itself invalid, void or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

17. Choice of Law . This Agreement, and all rights, remedies, liabilities, powers and duties of the parties to this Agreement, shall be governed by and construed in accordance with the laws of the State of Delaware without regard to principles of conflicts of laws.

18. [Primacy of Indemnification; Subrogation .][Omitted .]

(a) [The Company hereby acknowledges that Indemnitee has or may in the future have certain indemnification, exoneration, hold harmless or Expense advancement rights and/or insurance provided by [*name of venture capital fund*] and certain of its affiliates (collectively, the " Fund Indemnitors "). The Company hereby agrees (i) that it is the indemnitor of first resort (*i.e.* , its obligations to Indemnitee are primary and any obligation of the Fund Indemnitors to advance Expenses or to provide indemnification, exoneration or hold harmless rights for the same Expenses incurred by Indemnitee are secondary), (ii) that it shall be required to advance the full amount of Expenses incurred by Indemnitee and shall be liable for the full amount of all Expenses, to the extent legally permitted and as required by the Certificate of Incorporation or bylaws of the Company (or any agreement between the Company and Indemnitee), without regard to any rights Indemnitee may have against the Fund Indemnitors, (iii) that it irrevocably waives, relinquishes and releases the Fund Indemnitors from any and all claims against the Fund Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof and (iv) if any Fund Indemnitor is a party to or a participant in a legal

proceeding, which participation or involvement arises solely as a result of Indemnitee's service to the Company as a director of the Company, then such Fund Indemnitor shall be entitled to all of the indemnification rights and remedies under this Agreement to the same extent as Indemnitee. The Company further agrees that no advancement or payment by the Fund Indemnitors on behalf of Indemnitee with respect to any Claim for which Indemnitee has sought indemnification, exoneration or hold harmless rights from the Company shall affect the foregoing and the Fund Indemnitors shall have a right to receive from the Company, contribution and/or be subrogated, to the extent of such advancement or payment to all of the rights of recovery of Indemnitee against the Company.

(b) Except as provided in Section 18(a) above, in the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee from any insurance policy purchased by the Company, who shall execute all documents required and shall do all acts that may be necessary to secure such rights and to enable the Company effectively to bring suit to enforce such rights. In no event, however, shall the Company or any other person have any right of recovery, through subrogation or otherwise, against (i) Indemnitee, (ii) any Fund Indemnitor or (iii) any insurance policy purchased or maintained by Indemnitee or any Fund Indemnitor.]

19. Amendment and Termination. No amendment, modification, termination or cancellation of this Agreement shall be effective unless it is in writing signed by both the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed to be or shall constitute a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver.

20. Integration and Entire Agreement. This Agreement sets forth the entire understanding between the parties hereto and supersedes and merges all previous written and oral negotiations, commitments, understandings and agreements relating to the subject matter hereof between the parties hereto, including any existing director or officer indemnification agreement; *provided , however* , that this Agreement is a supplement to and in furtherance of the Certificate of Incorporation, the bylaws, any directors and officers insurance maintained by the Company and applicable law, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder.

21. No Construction as Employment Agreement. Nothing contained in this Agreement shall be construed as giving Indemnitee any right to employment by the Company or any of its subsidiaries or affiliated entities.

22. Additional Acts. If for the validation of any of the provisions in this Agreement any act, resolution, approval or other procedure is required, the Company undertakes to cause such act, resolution, approval or other procedure to be affected or adopted in a manner that will enable the Company to fulfill its obligations under this Agreement.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF , the parties hereto have executed this Indemnification Agreement as of the date first above written.

WAYFAIR INC.

By: _____
Name:
Title:
Address: 4 Copley Place, 7th Floor
Boston, MA 02116

Agreed to and accepted by:

INDEMNITEE:

By: _____
Name:

Address:

Exhibit 10.9

COPLEY PLACE

BOSTON, MASSACHUSETTS

OFFICE LEASE

Between

COPLEY PLACE ASSOCIATES, LLC
as Landlord

and

WAYFAIR LLC,
as Tenant

DATED April 18, 2013

FROM THE OFFICE OF:

Goulston & Storrs, P.C.
400 Atlantic Avenue
Boston, Massachusetts 02110-3333

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Exhibit B-2 Landlord's Work

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Exhibit D Cleaning Specifications

Exhibit E Measurement Standards

Exhibit F Letter of Credit Form

Schedule 8.01 Tenant's HVAC Requirements

OFFICE LEASE

COPLEY PLACE

BOSTON, MASSACHUSETTS

THIS INSTRUMENT is an Agreement of Lease in which the Landlord and the Tenant are the parties hereinafter named, and which relates to space in the Office Section of Copley Place (hereinafter referred to as the " **Office Section** ") located at 100 Huntington Avenue, Boston, Suffolk County, Massachusetts (the project known as Copley Place, including without limitation the hotel portions thereof, plazas, pedestrian bridges, service areas and all other common areas, together with all present and future easements, additions, improvements, air rights and other rights appurtenant thereto, is hereinafter referred to as the " **Property** "), subject to the covenants, terms, provisions and conditions of this Lease. The " **Office Section** " means the seven (7) levels of office area in four so-called " **Towers** " (denoted, respectively, as "One Copley Place", "Two Copley Place", "Three Copley Place" and "Four Copley Place" or as "Tower 1", "Tower II", "Tower Ill" and "Tower IV", respectively), containing approximately 867,564 square feet of rentable floor area constituting a portion of the building (the " **Building** ") located at the aforesaid address. The Building also contains retail shopping, restaurant, parking and other facilities, which are not included within the Office Section. The Building does not, however, include the hotel or residential portions of the Property or the pedestrian bridges.

The provisions set forth in this lease are the result of a negotiation in which the parties were represented by counsel experienced in lease transactions of office space in the Commonwealth of Massachusetts. Each of the provisions was negotiated in view of the entire transaction including the type and location of the property, the rental, the term and the respective rights, obligations and remedies of the Landlord and Tenant. As a result, the rights, obligations and remedies which have been agreed to herein are, as negotiated, a part of the transaction as a whole and neither party intends that the absence of any particular remedy being specified for a particular action or lack of action by the other party imply that the parties intended any remedy not so specified. Without limiting the generality of the foregoing, in no event shall Tenant have the right to terminate or cancel this lease as a result of any default by Landlord or breach by Landlord of its covenants or any warranties or promises hereunder, except in the case of a wrongful eviction of Tenant from the demised premises (constructive or actual) by Landlord or as otherwise specifically set forth herein. In consideration of the covenants herein contained, Landlord and Tenant hereby agree as follows:

ARTICLE 1.
BASIC DATA

The following sets forth basic data and, where the context admits, constitutes definitions of the terms hereinafter listed.

1.01	Date :	April 18, 2013
1.02	Landlord :	COPLEY PLACE ASSOCIATES, LLC, a Delaware limited liability company

1.03	Present Mailing Address of Landlord :	Simon Property Group, Inc. Attention: Property Manager Two Copley Place, Suite 100 Boston, MA 02116-6502
1.04	Tenant :	WAYFAIR LLC, a Delaware limited liability company
1.05	Present Mailing Address of Tenant :	177 Huntington Avenue, Suite 6000 Boston, MA 02115 Attention: General Counsel
1.06	Guarantor :	None
1.07	Present Mailing Address of Guarantor :	Not Applicable
1.08	Commencement Date :	Subject to ARTICLE 3 and ARTICLE 36 hereof, July 1, 2014.
1.09	Rent Commencement Date :	The Commencement Date
1.10	Termination Date :	June 30, 2024 as the same may be extended pursuant to the option of extension set forth in ARTICLE 41, unless, in any case, sooner terminated as provided in this Lease.
1.11	Base Rent :	Subject to ARTICLE 3, ARTICLE 4 and ARTICLE 36 hereof, Base Rent shall be payable in accordance with the following table:

Period	Annual Base Rent Per Rentable Square Foot	Annual Base Rent	Monthly Installment of Annual Base Rent
July 1, 2014 through June 30, 2015	$ 34.65	$ 3,662,366.40	$ 305,197.20
July 1, 2015 through June 30, 2016	$ 35.65	$ 3,768,062.40	$ 314,005.20
July 1, 2016 through June 30, 2017	$ 36.65	$ 3,873,758.40	$ 322,813.20
July 1, 2017 through June 30, 2018	$ 37.65	$ 3,979,454.40	$ 331,621.20

July 1, 2018 through June 30, 2019	$ 38.65	$ 4,085,150.40	$ 340,429.20
July 1, 2019 through June 30, 2020	$ 39.65	$ 4,190,846.40	$ 349,237.20
July 1, 2020 through June 30, 2021	$ 40.65	$ 4,296,542.40	$ 358,045.20
July 1, 2021 through June 30, 2022	$ 41.65	$ 4,402,238.40	$ 366,853.20
July 1, 2022 through June 30, 20233	$ 42.65	$ 4,507,934.40	$ 375,661.20
July 1, 2023 through June 30, 2024	$ 43.65	$ 4,613,630.40	$ 384,469.20

1.12 Operating Expense Base Year : The Calendar Year 2014.

1.13 Base Year Operating Expenses : The amount of Operating Expenses incurred with respect to the Base Year, determined in accordance with subsection 5.02(v) (including the grossing up thereof as provided therein).

1.14 Tax Base Year : The Calendar Year 2014.

1.15 Base Year Taxes : The amount of Taxes incurred with respect to the Tax Base Year determined in accordance with subsection 5.02(iv) (including the grossing up thereof as provided therein).

1.16 Tenant's Proportionate Tax Share : 12.82% for the Premises initially leased hereunder (computed on the basis of 95% occupancy).

1.17 Tenant's Proportionate Expense Share : 12.82% for the Premises initially leased hereunder (computed on the basis of 95% occupancy).

1.18 Use : Subject to ARTICLE 23, general executive, professional and administrative offices and uses ancillary or accessory thereto.

1.19	Premises :	That portion of the Office Section designated on the plan attached hereto as Exhibit A consisting of a Sheet for each floor of Tower IV in which a portion of the Premises is located and containing a total of approximately 105,696 rentable square feet, consisting of the following approximate rentable square footages in Tower IV of the Building: **35,176 rentable square feet on the 7 th floor** **24,104 rentable square feet on the 6 th floor** **15,976 rentable square feet on the 4 th floor** **23,048 rentable square feet on the 3 rd floor** **7,392 rentable square feet on the 1 st floor** The foregoing described Premises (" **Initial Premises** ") is subject to an expansion of the Premises pursuant to the Expansion Rights provided in ARTICLE 42 and the exercise(s) of a Right of First Offer provided in ARTICLE 43. Excepted and excluded from the Premises are the roof or ceiling, the floor and all perimeter walls of the Premises, except the inner surfaces thereof, but the entry doors to the Premises are not excluded from the Premises and are a part thereof for all purposes; and Tenant agrees that Landlord shall have the right to place in the Premises (but in such manner as to reduce to a minimum interference with Tenant's use of the Premises) utility lines, pipes and the like, to serve premises other than the Premises, and to replace and maintain and repair such utility lines, pipes and the like, in, over and upon the Premises, but in no event shall such installations reduce the usable square footage of the Premises by more than *de minimus* amounts.
1.20	Common Areas :	Those portions of the Property not leased to any tenant, but for the benefit of the Property and its tenants, such as landscaped areas, malls, pedestrian walkways and bridges, public restrooms, service areas and the like

and if the Premises include less than the entire rentable floor area of any floor, the common toilets, corridor and elevator lobby of such floor.

1.21	Letter of Credit Amount :	$1,220,788.80
1.22	Brokers :	Richards Barry Joyce & Partners for Tenant CB Richard Ellis-N.E. Partners, L.P. for Landlord

ARTICLE 2.
HABENDUM; TERM

To have and to hold the Premises for the Term (as hereinafter defined), and the right to use the Common Areas during the Term in common with others entitled thereto. The term of this Lease (the " **Term** ") shall be that period of time commencing on the Commencement Date specified in ARTICLE 1 hereof and ending on the Termination Date specified in ARTICLE 1 hereof, unless extended as set forth in ARTICLE 41 hereof or sooner terminated as provided herein.

ARTICLE 3.
POSSESSION

3.01 Rent Commencement . In the event Landlord is unable to deliver possession of the Premises on or before September 1, 2013 in the condition required pursuant to Section 7.1 by reason of the holding over or retention of possession by any tenant or occupant, or for any other reason, this Lease shall nevertheless continue in force and effect, except the Commencement Date and the Rent Commencement Date for any portion of the Initial Premises that Landlord is delayed in delivering beyond September 1, 2013 shall be delayed day for day for each day following September 1, 2013 that Landlord is unable to so deliver possession of such portion of the Premises. In addition, (i) if Landlord is unable to so deliver possession of all or any portion of the Initial Premises by December 31, 2013, then following the Rent Commencement Date, Tenant shall have the right to receive an abatement of one (1) day of Base Rent allocable to the portion of the Initial Premises which Landlord has not so delivered for each and every day of delay in such delivery following December 31, 2013 and (ii) if Landlord is unable to so deliver possession of fifty percent (50%) or more of the Initial Premises by February 1, 2014, Tenant shall have the right, by giving written notice thereof to Landlord, to terminate this Lease and in such event all obligations of Landlord and Tenant with respect to this Lease shall terminate and be of no further force and effect.

3.02 Early Entry . Landlord shall deliver the Premises to Tenant, in the condition set forth in Section 7.1 on September 1, 2013 for purposes of performing Tenant's Initial Alterations (as hereinafter defined) of the Premises and for installation of telecommunications, business equipment and furniture, and may, subject to Legal Requirements (as hereinafter defined) use the Premises for the conduct of Tenant's business prior to the Commencement Date. Such entry by

Tenant prior to the Commencement Date shall be at Tenant's sole risk and without material interference to any work then being performed in the Building by Landlord or to any work then being performed by other tenants in space occupied by such tenants, and all of the covenants and conditions of this Lease shall be binding upon the parties hereto with respect to such whole or part of the Premises. Nevertheless, Tenant's obligation to pay Rent shall not commence until the Rent Commencement Date and Tenant shall pay Base Rent and any Additional Rent that may be due under ARTICLE 5 on the Rent Commencement Date and upon the first day of each calendar month thereafter at the rates set forth in ARTICLES 1 and 5 hereof. Tenant shall pay for electricity used by Tenant following commencement of Tenant's construction of the Initial Alterations in the Premises as determined by actual check metering of such usage.

3.03 No Change in Lease Term . The occurrence of any of the events described in this ARTICLE 3 shall not be deemed to accelerate or defer the Termination Date.

3.04 Appurtenant Rights . Tenant shall have, as appurtenant to the Premises, the right (i) to use, in common with others, to the extent space is available therein, the shafts, stacks, pipes, ducts, risers and conduits that are not for the exclusive use of other tenants in the Building, (ii) to use vertical conduits, installed by Tenant at its sole cost and expense, in locations approved by Landlord, for telecommunications running from the Premises to the roof of the Building or a below grade point of entry into the Building, (iii) to install, at Tenant's sole cost and expense, fiber optic cabling, in conduits and locations approved by Landlord, (iv) to install, use, maintain and repair, a standby generator, in accordance with ARTICLE 45 below, and the Dish/Antenna (as defined in ARTICLE 44 below), and (v) to use the roof area designated on Exhibit A-2 for the installation and maintenance of a roof deck on the terms and conditions set forth in Section 3.05.

3.05 Roof Deck . If Tenant elects to install a roof deck as described in Section 3.04; such roof deck shall be subject to all Legal Requirements as if the same were a part of the Premises; installed and maintained at Tenant's expense (but the Allowance provided hereunder may be used for design and installation of the same), removed and replaced at Tenant's expense as required for roof maintenance, and otherwise subject to all requirements and rights applicable to Initial Alterations, including, without limitation, that the Tenant shall have no obligation of restoration with regard to the roof deck. Tenant shall maintain liability insurance with respect thereto as if the same were part of the Premises. Tenant shall be responsible for any material damage caused to the roof or any other part of the Building by the installation, use, maintenance, removal or replacement of the roof deck, to the extent caused by Tenant, Tenant's invitees or any of Tenant's agents or representatives as a result of Tenant's exercise of its rights with respect to the roof deck. Tenant agrees that if it makes use of the roof for a roof deck, it will keep the roof of the Building free of all trash or waste materials produced by Tenant, Tenant's invitees or any of Tenant's agents or representatives. Except as may arise from the negligence of the Landlord, neither Landlord nor its agents shall have any responsibility or liability for the conduct or safety of any of Tenant, Tenant's invitees or any of Tenant's agents or representatives while on the roof deck. If Tenant elects to remove the roof deck, Tenant shall repair any damage to the roof caused by such removal, including the patching of any holes. Tenant specifically acknowledges and agrees that the terms and conditions of ARTICLE 14 regarding indemnification and waiver of claims shall apply with full force and effect to the roof deck.

ARTICLE 4.
BASE RENT

Commencing on the Rent Commencement Date, Tenant shall pay to Landlord or Landlord's agent without notice or demand at Copley Place Associates, LLC, c/o Simon Property Group, Inc., P.O. Box 5631, Indianapolis, Indiana 40206-5631, or at such other place as Landlord may from time to time designate in writing, in coin or currency which, at the time of payment, is legal tender for private or public debts in the United States of America, the Base Rent specified in ARTICLE 1 hereof in the equal monthly installments specified in ARTICLE 1 hereof in advance on or before the first day of each and every month (and partial month, if any) during the Term following the Rent Commencement Date, without any abatement, counterclaim, set-off or deduction whatsoever, except as expressly provided herein; in this regard, it is understood that the parties have agreed to such remedies with respect to those instances, if any, in which the parties have determined that such remedies are appropriate. If the Rent Commencement Date for any portion of the Premises is other than on the first day of a month or the Term ends other than on the last day of the month, the Base Rent for such month shall be prorated. The prorated Base Rent for the portion of the month in which the Rent Commencement Date occurs shall be paid on the Rent Commencement Date.

ARTICLE 5.
ADDITIONAL RENT

5.01 Obligation as to Additional Rent . In addition to paying the Base Rent specified in ARTICLE 4 hereof, Tenant shall, commencing on the Rent Commencement Date and for the duration of the Term, pay as "Additional Rent" the amounts determined pursuant to Sections 5.03 and 5.04 of this ARTICLE 5. The Base Rent and the Additional Rent are sometimes collectively referred to in this Lease as the " **Rent** ". All amounts due under this ARTICLE as Additional Rent shall be payable for the same periods and in the same manner, time and place as the Base Rent and in the same currency, without any abatement, counterclaim, set-off or deduction whatsoever, except as expressly set forth herein. Without limitation on other obligations of Tenant that shall survive the expiration of the Term, the obligations of Tenant to pay the Additional Rent provided for in this ARTICLE 5 shall survive the expiration of the Term for a period of eighteen (18) months. For any partial Calendar Year following the Rent Commencement Date, Tenant shall be obligated to pay only a pro rata share of the Additional Rent, based on the number of days of the Term falling within such Calendar Year.

5.02 Definitions . As used in this ARTICLE 5, the terms:

(i) " **Calendar Year** " shall mean each calendar year in which any part of the Term falls, through and including the year in which the Term expires.

(ii) " **Tenant's Proportionate Tax Share** " shall mean the percentage specified in ARTICLE 1 hereof, being the percentage calculated by dividing the rentable area contained in the Premises by 824,186 (being 95% of the rentable square foot area of the Office Section).

(iii) " **Tenant's Proportionate Expense Share** " shall mean the percentage specified in ARTICLE 1 hereof, being the percentage calculated by dividing the rentable area contained in the Premises by 824,186 (being 95% of the rentable square foot area of the Office Section).

(iv) " **Taxes** " shall mean all real estate taxes and assessments, special or otherwise, levied or assessed upon or with respect to the Property or any part thereof including without limitation Common Areas as such taxes and assessments are reasonably determined by Landlord to be for the benefit of the Office Section and ad valorem taxes for any personal property of Landlord to the extent used in connection with the Office Section. For purposes of clarity, it is understood that there is one real estate tax bill for the Property and that Landlord allocates to the Office Section real estate taxes and assessments on the entire Property based upon the reasonable determination of Landlord. Should the Commonwealth of Massachusetts, or any political subdivision thereof, or any other governmental authority having jurisdiction over the Building, (a) impose a tax, assessment, charge or fee, which Landlord shall be required to pay, by way of substitution for or as a supplement to such real estate taxes and ad valorem personal property taxes, or (b) impose an income or franchise tax or a tax on rents in substitution for or as a supplement to a tax levied against the Property or any part thereof and/or the personal property used by Landlord in connection with the Property or any part thereof, all such taxes, assessments, fees or charges (hereinafter defined as "in lieu of taxes") shall be deemed to constitute Taxes hereunder. Taxes shall also include, in the year paid, all fees and costs reasonably incurred by Landlord in seeking to obtain a reduction of, or a limit on the increase in, any Taxes, regardless of whether any reduction or limitation is obtained. Taxes shall not include any inheritance, estate, succession, transfer, gift, franchise, corporate excise taxes, transfer taxes, or net income or capital stock tax. If less than 95% of the Office Section is occupied during all or a portion of the Tax Base Year or any Adjustment Year, Landlord shall make an appropriate adjustment in Taxes for such year by adjusting the amount deemed to be Taxes for such Calendar Year so that Tenant's responsibility for Taxes shall be an amount equal to the amount it would have paid on account of Taxes had the Office Section been 95% occupied. In computing the Adjustment Amount under Section 5.03, any refund of Taxes received by Landlord in the period during which Taxes is being computed and which is available to benefit Tenant as described in this ARTICLE 5, shall, net of the cost of obtaining such refund (to the extent costs were not previously included in Taxes or Operating Expenses), reduce Taxes to which Section 5.03 is applicable; and if Tenant expands into space formerly occupied by other tenants, which expansion space becomes subject to this Lease, Tenant shall not be entitled to any refund or credit in connection with a refund or abatement of Taxes for periods prior to the commencement date for Tenant's lease of such expansion space. All references to Taxes "for" a particular Calendar Year shall be deemed to refer to Taxes due and payable during such Calendar Year without regard to when such Taxes are assessed or levied.

(v) " **Operating Expenses** " mean all expenses, costs and disbursements of every kind and nature, other than Taxes, paid or incurred by Landlord in operating, managing, repairing and maintaining the Property and its appurtenances as such expenses, costs and disbursements are reasonably allocated on a fair and equitable basis

to the Office Section by the Landlord in its sole reasonable judgment, or as the same are incurred directly in the operation of the Office Section. Operating Expenses shall include, without limitation: premiums for fire, casualty, liability and such other insurance as Landlord may from time to time maintain; security expenses; compensation and all fringe benefits, workmen's compensation insurance premiums and payroll taxes paid by Landlord to, for or with respect to all persons engaged in operating, maintaining, or cleaning the Property (equitably apportioned, if such personnel serve the Property and other properties); steam, water, sewer, stormwater, electric, gas, telephone, and other utility charges to the Building not billed directly to tenants by Landlord or the utility; expenses incurred in connection with the central plant furnishing heating, ventilating and air conditioning to the Office Section (and to the Building and the Property where and to the extent the expenses of the Building and the Property are otherwise allocable to the Office Section), which expenses may include a reasonable fee paid to the independent operator of such central plant; costs of lighting, ventilating, (including maintaining and repairing ventilating fans and fan rooms) making routine repairs to and maintenance of underground roadways (and the access ramps servicing such roadways) and railroad platforms and railroad rights of way (including track); costs of repairing and maintaining fire protection systems relating to the underground roadways, access ramps, railroad platforms and railroad rights of way; costs of building and cleaning supplies and equipment (including rental); cost of maintenance, cleaning and repairs; cost of snow plowing or removal, or both, and care of interior and exterior landscaping; payments to independent contractors under contracts for cleaning, operating, management, maintenance and repair (which payments may be to affiliates of Landlord so long as not more than the market rate for such services is included in determining Tenant's share of Operating Expenses); all other expenses paid in connection with cleaning, operating, management, maintenance and repair, and the amortized cost of capital expenditures (provided that replacement parts or components which are essentially in the nature of regular maintenance replacements even though classified for accounting purposes as capital and which are installed in the ordinary course of business shall not be deemed capital for these purposes and shall not therefore be capital expenditures for purposes of this Lease) which are: (a) in good faith based upon engineering estimates intended to (I) stabilize or reduce, over the portion of the useful life of such improvements or equipment within the then Term, operating expense costs that would otherwise be incurred or (II) improve the operating efficiency of the Property; or (b) required to comply with any Laws that are enacted, or first become effective, after the date of this Lease. The amount included in any Calendar Year with respect to such capital expenditure shall be the total expenditure amortized by Landlord over the useful life thereof determined in accordance with generally accepted accounting principles or, in the case of those items described in clause (a)(I) or clause (a)(II) above, the lesser of the useful life of such items and the Payback Period (defined below). The amortized cost of a capital expenditure may, at Landlord's option, include actual rate paid by Landlord to finance the capital expenditure or imputed interest at the rate that Landlord is charged for moneys then borrowed by Landlord or by an affiliate that makes such funds available to Landlord for operations. "Payback Period" means the reasonably estimated period of time that it takes for the cost savings resulting from a capital expenditure to equal the total capital expenditure.

Operating Expenses shall not, however, include the following:

(a) costs of any alterations or special services rendered to individual tenants (including Tenant), for which a special, separate charge shall be made or which is not furnished generally to all office tenants of the Building;

(b) Taxes;

(c) interest or principal or financing costs on mortgages encumbering the land on which the Building is located or the Building or relating to funds borrowed by Landlord, or any ground lease rent or other rent payable by Landlord to the holder of any ground lease or other lease to the Landlord, as tenant, of the Property or any portion thereof;

(d) leasing commissions, marketing costs, advertising, legal, space planning, construction and related expenses (including permitting, licensing and inspection fees), and lease concessions incurred in procuring, negotiating or disputing leases or subleases with, and installing leasehold improvements for, tenants, subtenants or prospective tenants or subtenants of the Building;

(e) any other expenses for which Landlord actually receives during the applicable period direct reimbursement from insurance (or if Landlord fails to carry the insurance required hereunder, the reimbursement Landlord would have received had it carried such requisite insurance), condemnation awards, other tenants or any other source;

(f) any costs in connection with the repair, replacement or correction of any defective construction work or equipment which is covered by an applicable warranty and for which (and to the extent which) Landlord recovers with respect thereto;

(g) any charges under any maintenance or management contract made with an affiliate of Landlord to the extent such charges exceed what would have been paid at arm's length with an unrelated party;

(h) any costs, fines or penalties incurred due to the violation by Landlord or any other tenant of any law;

(i) any costs of environmental remediation for which Landlord is responsible under this Lease, or for which any other tenant or other third party is responsible under the law;

(j) costs incurred in connection with the sale, financing or refinancing of the Property or any portion thereof;

(k) fines, interest and penalties incurred due to the late payment of Taxes, or the failure to file tax or informational returns when due, or due to the late payment of Operating Expenses;

(l) organizational expenses associated with the creation and operation of the entity which constitutes Landlord, including Landlord's general corporate overhead, in-house legal fees and any entertainment, dining or travel expenses of Landlord;

(m) any penalties or damages that Landlord pays to Tenant under this Lease or to other tenants in the Building under their respective leases;

(n) the amount of judgments against Landlord or settlements of third party claims against Landlord and the amount of attorneys' fees in connection with any of the same (but the foregoing shall not prevent the application of insurance carried by Landlord under this Lease to the same);

(o) costs of the operation of the Copley Garage or the Dartmouth Street Garage (as such terms are hereinafter defined);

(p) rentals and other related expenses incurred in leasing heating, ventilating and air conditioning systems, elevators or other equipment ordinarily considered to be capital items, except (i) expenses in connection with making repairs on or keeping Buildings systems in operation while repairs are being made and (ii) costs of equipment not affixed to the Building which is used in providing janitorial or similar services;

(q) capital expenditures which are not specifically included in Operating Expenses as set forth above;

(r) advertising and promotional expenditures and costs of signs in or on the Building identifying the owner of the Building or other tenants' signs, costs arising from Landlord's charitable or political contributions, costs for sculpture, paintings or other objects of art, other than maintenance of the same, and the cost of any "tenant relations" parties, events or promotion;

(s) the cost of any electric power used by any tenant in the Building for which such tenant is billed directly by Landlord including without limitation by reason of such tenant's usage being metered or sub-metered, or electric power costs for which any tenant directly contracts with the local public service company;

(t) bad debt, rental loss or any reserves for repairs or replacements; or services and utilities provided, taxes attributable to, and costs incurred in connection with the operation of the retail, parking, and restaurant operations in the Building; or

(u) costs of so-called lease or credit enhancement insurance or similar insurance products, whether or not the same is required by any mortgagee of the Property, which are obtained for the purpose of obtaining financing or similar credit benefits that inure to the owner or mortgagee of the Property.

If less than 95% of the Office Section's rentable area shall have been occupied by tenant(s) at any time during any Calendar Year (including the Operating Expense Base Year), for purposes of determining the Adjustment Amount (as hereinafter defined) and the Operating Expense in the Base Year, each component of Operating Expenses for such Calendar Year allocated to the Office Section that varies with fluctuations in occupancy shall be deemed to be an amount equal to the like component which would reasonably be expected to have been incurred had such occupancy been 95% throughout such Calendar Year (including the Operating Expense Base Year, as applicable), so that the amount Tenant actually pays on account of Operating Expenses paid or incurred by Landlord reflects the amount Tenant would have paid if

the Office Section would have been 95% occupied during such period. If any item of Operating Expenses, though paid or incurred in one calendar year, relates to more than one Calendar Year, at the option of Landlord such item may be proportionately allocated among such related calendar years.

5.03 Expense & Tax Adjustment . Tenant shall pay to Landlord or Landlord's agent as Additional Rent, a sum (" **Adjustment Amount** ") equal to the sum of (i) Tenant's Proportionate Expense Share multiplied by the amount by which (a) Operating Expenses incurred in each Calendar Year exceeds (b) Base Year Operating Expenses plus (ii) Tenant's Proportionate Tax Share multiplied by the amount by which (a) Taxes payable with respect to each Calendar Year exceeds (b) Base Year Taxes. The Adjustment Amount with respect to each Calendar Year shall be paid in monthly installments, in an amount reasonably estimated from time to time by Landlord and communicated by written notice to Tenant, which estimate may be revised to reflect increases in Taxes and Operating Expense adjustments. Landlord shall cause to be kept books and records showing Operating Expenses in accordance with an appropriate system of accounts and accounting practices consistently maintained for a period of at least two (2) years following the conclusion of each Calendar Year during the Term. Following the close of each Calendar Year, Landlord shall cause the amount of the Adjustment Amount for such Calendar Year to be computed based on Operating Expenses and Taxes for such Calendar Year and Landlord shall deliver to Tenant a statement of such amount and within thirty (30) days after receipt of such statement, Tenant shall pay any deficiency to Landlord as shown by such statement, as the same may have been adjusted by reason of such review. If the total of the estimated monthly installments paid by Tenant during any Calendar Year exceed the actual Adjustment Amount due from Tenant for such Calendar Year, at Landlord's option such excess shall be either credited against payments next due hereunder or refunded by Landlord provided Tenant is not then in default hereunder with respect to any monetary obligation or in default beyond applicable notice and cure periods with respect to any other obligations. Delay in computation of the Adjustment Amount or a delay in the delivery of a statement of such amount shall not be deemed a default hereunder or a waiver of Landlord's right to collect the Adjustment Amount hereunder; provided, however, Landlord's failure to deliver such computation and statement within eighteen (18) months after the end of the applicable Calendar Year shall be deemed a waiver of Landlord's right to collect any amount in addition to the amounts theretofore collected with respect to such applicable Calendar Year on account of Operating Expenses and Taxes (but such failure or delay in delivery shall not entitle Tenant to a refund of estimated amounts collected with respect to Operating Expenses and Taxes with respect to such applicable Calendar Year). The provisions of this Section 5.03 shall survive the expiration or earlier termination of this Lease.

5.04 Adjustment for Services not Rendered by Landlord . Tenant acknowledges that if Landlord is not furnishing any particular work or service the cost of which, if performed by Landlord, would be included in Operating Expenses, to any tenant who has undertaken to perform such work or service in lieu of the performance thereof by Landlord, and, as a result, Operating Expenses are reduced, Operating Expenses shall be deemed for the purpose of determining the Adjustment Amount to be increased by an amount equal to the additional Operating Expenses which would reasonably have been incurred during such period by Landlord if it had at its own expense furnished such work or service to such tenant. Furthermore, to the extent Landlord incurs any category or item contained within Operating Expenses that should

have been but was not included in the Base Year, then the Base Year Operating Expenses shall be increased by the amount which should have been included in the Base Year Operating Expenses.

5.05 Audit Rights . Tenant may, within one hundred eighty (180) days after receiving Landlord's statement of Operating Expenses or Taxes, give Landlord written notice (" **Review Notice** ") that Tenant intends to review Landlord's records of the Operating Expenses or Taxes for that calendar year and, if Tenant so chooses, the Calendar Year immediately preceding and/or the Operating Expense Base Year and Tax Base Year. Within a reasonable time after receipt of the Review Notice, Landlord shall make all pertinent records available for inspection by electronic files or in hard copy (which hard copies shall be provided at the Building and may, at Tenant's expense, be copied). Such records shall set forth in reasonable detail the Operating Expenses or Taxes and shall include reasonable backup necessary for Tenant to conduct its review, including the records for the previous calendar year or base year for comparison. Within one hundred eighty (180) days after the records are made available to Tenant, Tenant shall have the right to give Landlord written notice (an " **Objection Notice** ") stating in reasonable detail any objection to Landlord's statement of Operating Expenses or Taxes for the years under review. Tenant shall be deemed to have approved Landlord's statement of Expenses or Taxes and shall be barred from raising any claims regarding the Operating Expenses or Taxes for that year if Tenant fails to give Landlord an Objection Notice within the 180 day period following the receipt of the statement for the next succeeding Calendar Year or fails to provide Landlord with a Review Notice within the applicable 180 day period described above. If Tenant provides Landlord with a timely Objection Notice, Landlord and Tenant shall work together in good faith to resolve any issues raised in Tenant's Objection Notice. In the event Landlord and Tenant are unable to reach a mutual determination of the issues, Tenant shall have the right to have professional auditors conduct a review of Landlord's books and records relating to Operating Expenses or Taxes incurred during the period. Such professional auditors may not, however, be engaged on a contingent fee basis. Such an audit may occur not more often than once in a year; shall be conducted within twelve (12) months (plus any period for which Landlord defers the audit as provided in this sentence) of receipt of a statement of the statement of Operating Expenses and Taxes (and the other documentation to which Tenant is entitled as set forth above) for the period being audited; shall be conducted during regular business hours of Landlord's property manager at its office in the Boston, Massachusetts metropolitan area; provided, however, so long as Simon Property Group, Inc. or an affiliate is the property manager of the Building and the Building is owned by an entity in which an affiliate of Simon Property Group has an economic interest, such audit must be conducted in the Indianapolis, Indiana office of Landlord. Such audit shall occur on the date requested by Tenant which shall be on not less than fifteen (15) business days' notice from Tenant to Landlord and may be deferred by Landlord, by notice to Tenant given at least ten (10) business days before the date proposed by Tenant, for up to one (1) month to a date convenient to Landlord's property manager and Tenant. Landlord shall be provided with a copy of such third-party audit. If Landlord and Tenant determine without a third party audit, or if such audit demonstrates, that Operating Expenses or Taxes for the calendar year are less than reported, Landlord shall provide Tenant with a credit against the next installment of Rent in the amount of the overpayment by Tenant. Likewise, if Landlord and Tenant determine that Operating Expenses or Taxes for the calendar year are greater than reported, or if the audit so demonstrates, Tenant shall pay Landlord the amount of any underpayment within thirty (30) days. In addition, if as a result of an audit, Operating Expenses

or Taxes are found to be overstated by more than five percent (5%), Landlord shall pay to Tenant, Tenant's reasonable cost of conducting such audit, not to exceed $15,000.00, plus, if applicable, reasonable travel costs to Indianapolis for necessary auditing staff. The records obtained by Tenant shall be treated as confidential. In no event shall Tenant be permitted to examine Landlord's records or to dispute any statement of Operating Expenses or Taxes unless Tenant has paid and continues to pay during the period of the audit all Rent when due.

5.06 Billing for Electricity .

(i) Lack of Separate Metering . The Premises are not separately metered for electricity and, accordingly, Tenant shall pay Landlord as further Additional Rent, in monthly installments at the time prescribed for monthly installments, the electrical charge computed by Landlord based on a check meter installed at Landlord's sole cost and expense and the applicable rates and surcharges of the electrical utility serving the Premises (without any surcharges by Landlord).

(ii) Separate Metering . In the event that Landlord in its sole discretion subsequently makes arrangements with the utility company supplying electricity to the Premises for separate metering and billing, Tenant shall pay (as hereinafter described) for the use of all electrical service to the Premises (other than the electrical service necessary for Landlord to fulfill its obligation to provide heating and air conditioning as provided in subsection 8.01 (i) hereof). In such event, Tenant shall be billed directly by such utility company and Tenant agrees to pay each bill promptly in accordance with its terms. In the event that for any reason Tenant cannot be billed directly, Landlord shall forward each bill received by it with respect to the Premises to Tenant and Tenant shall pay such bill promptly in accordance with its terms.

ARTICLE 6.
USE OF PREMISES

Tenant shall use and occupy the Premises in accordance with law; and solely for the Permitted Uses specified in ARTICLE 1 hereof and for no other purpose or purposes. For purposes of clarity, it is understood that an office use shall include the right of the Tenant to conduct an on-line retail operation; provided, however, Tenant shall have no right to conduct an in-person retail operation on the Premises.

ARTICLE 7.
CONDITION OF PREMISES; LANDLORD'S WORK

7.01 Condition of Premises . The Premises are demised to Tenant and Tenant accepts the same "as-is", except that (a) if, not later than sixty (60) days following the date of this Lease, Tenant notifies Landlord that the Initial Premises or a portion thereof (clearly designated in such notice to Landlord) are to be delivered in shell condition (but absent such notice Landlord will not otherwise be obligated to perform the Shell Work, time being of the essence of such notice), the Landlord shall, with respect to such designated portion(s) of the Premises, perform the Shell Work described in Exhibit B-1 at Landlord's sole cost and expense prior to September 1, 2013, and all other work necessary to prepare the Initial Premises for Tenant's occupancy shall be

performed at Tenant's sole cost and expense, in accordance with the applicable provisions of this Lease and (b) as to space added to the Premises pursuant to Section 42.01, if Tenant elects as provided therein, that some or all of the space so added shall be delivered in shell condition (but absent such notice Landlord will not otherwise be obligated to perform the Shell Work, time being of the essence of such notice), the Landlord shall, with respect to such designated portion (s) of the Premises, perform the Shell Work described in Exhibit B-1 at Landlord's sole cost and expense prior to the date which is ninety (90) days following the date on which the additional space would be delivered under Section 42.01 but for the Tenant election that the same be delivered in shell condition, and all other work necessary to prepare the space so added under Section 42.01 for Tenant's occupancy shall be performed at Tenant's sole cost and expense, in accordance with the applicable provisions of this Lease. Tenant's taking possession of any portion of the Premises shall be conclusive evidence that such portion of the Premises was in good order and satisfactory condition when Tenant took possession, and except for latent defects not readily apparent from a careful inspection of the Premises without cutting into or otherwise disturbing walls, floors or ceilings and punchlist items of which Tenant has delivered notice to Landlord, excluding items of damage caused by Tenant or its agents, independent contractors or suppliers (subject to the provisions of Section 3.01 of this Lease). No promise of Landlord to alter, remodel or improve the Property and no representation by Landlord or its agents respecting the condition of the Property has been made to Tenant or relied upon by Tenant other than as may be contained in this Lease or in any written amendment hereto signed by Landlord and Tenant.

7.02 Building Renovations . Subject to Landlord obtaining Boston Redevelopment Authority and City of Boston approvals, as well as approvals and/or relocation agreements of tenants affected by proposed construction, including without limitation Barneys New York, Banana Republic, Sovereign Bank, BCBG and Karen Clarke, Landlord shall, at Landlord's sole cost and expense, complete the planned renovations to the Property (not limited to new office lobby on retail level, upgraded sky lobby, conference center and roof deck). Landlord's intention is that such approvals will be diligently pursued so as to permit completion of such renovations no later than the Commencement Date.

7.03 Landlord's Work . Prior to the Commencement Date, Landlord shall, at its sole cost and expense substantially complete, in a good and workmanlike manner and in accordance with Legal Requirements, Landlord's Work as set forth in Exhibit B-2.

ARTICLE 8.
SERVICES

8.01 List of Services . Landlord shall provide the following services, the costs of which are included within Operating Expenses, on all days during the Term, except Sundays and holidays, unless otherwise stated, and subject to all governmental rules, regulations and guidelines applicable thereto:

(i) HVAC. Heating and air conditioning in the Premises during the normal heating and air conditioning seasons, from Monday through Friday, during the period from 8 a.m. to 6 p.m. and on Saturday during the period from 8 a.m. to 1 p.m., satisfying the standards set forth in Schedule 8.01 attached hereto. Tenant will pay for all heating

and air conditioning requested and furnished prior to or following such hours at rates to be established from time to time by Landlord and intended by Landlord to reflect, when set, Landlord's good faith estimate of its cost to deliver such after-hours heating and air conditioning. Requests for any additional services shall be in writing and delivered to Landlord's property manager not later than 2 p.m. of the previous day.

(ii) Electric . Adequate electrical wiring and facilities for standard building lighting fixtures provided by Landlord and for Tenant's incidental uses (it being understood that Tenant is to bear the cost of replacement of all lamps, tubes, ballasts and starters for lighting fixtures in the Premises); provided that (a) the connected electrical load for lighting and incidental use equipment does not exceed an average of six (6) watts per rentable square foot of the Premises; (b) the electricity so furnished for incidental uses will be at 277 volts (and may be stepped down at Tenant's expense in accordance with Tenant's requirements) and no electrical circuit for the supply of such incidental use will have a current capacity exceeding 20 amperes; and (c) such electricity will be used only for equipment and accessories normal to office usage, including without limitation a server room. If Tenant's requirements for such electricity (including without limitation supplemental cooling requirements by reason of such uses) are in excess of those set forth in the preceding sentence, Landlord reserves the right to require Tenant to install the conduit, wiring and other equipment necessary to supply electricity for such excess use requirements at Tenant's expense.

(iii) Water . Water at temperatures and otherwise as supplied by the City of Boston or other water provider for drinking, lavatory and toilet purposes and to water which Tenant can use to supply its condenser units for supplemental heating, ventilation and air-conditioning as provided in Section 8.3(c) below (but Landlord shall not have an obligation to provide so-called condenser water).

(iv) Janitorial . Janitorial services as delineated in Exhibit D attached hereto.

(v) Window Washing . Window washing of the inside and outside of windows in the Building's perimeter walls as may be situated in the Premises as delineated in Exhibit D attached hereto.

(vi) Passenger Elevator . Non-exclusive automatic passenger elevator service twenty-four hours (24) a day, seven (7) days a week, three hundred sixty-five (365) days a year.

(vii) Freight Elevator and Loading Dock . Non-exclusive freight elevator service to all floors of the Premises and access to the Buildings loading dock, subject to scheduling by Landlord.

(viii) Access . Access to the Premises twenty-four (24) hours per day, seven (7) days a week, three hundred sixty-five (365) days per year, subject to fire, casualty and other causes beyond Landlord's control.

8.02 Landlord Repairs and Maintenance . Landlord shall operate the Building in a good and quality manner at all times and shall maintain and repair the Building components described in this subsection 8.02 in good condition and repair, consistent with standards for similar office buildings in downtown Boston, Massachusetts which have services, systems and facilities comparable to the Building. Landlord agrees to keep neat and clean and in good order, condition and repair, and in compliance with all Legal Requirements, the roof, public and common areas, plazas, exterior walls (including exterior glass), foundation, footings, structure and structural elements of the Building and the plumbing, mechanical, electrical, fire safety, sprinkler, heating, ventilation, air conditioning, elevator and telecommunications systems, ducts, pipes and conduits serving the Premises and the other portions of the Building, but nothing herein shall require the Landlord to repair or maintain any portion thereof that is for the exclusive use of Tenant or any tenant or occupant of the Building. All costs incurred by Landlord in the performance of its obligations under this Section 8.02 shall be included in Operating Expenses subject to and in accordance with ARTICLE 5. If (a) Landlord fails to make repairs or replacements which Landlord has undertaken to make under the provisions of this subsection 8.02 or elsewhere in this Lease and (b) by reason of such failure, there is an imminent threat in the Premises to persons or property or Tenant is prevented from conducting its business operations in the Premises, Tenant may elect to take reasonable action within the Premises (and without affecting structure or systems outside of the Premises) solely to remedy the condition threatening such persons or property or Tenant's business operations. Tenant shall endeavor to give Landlord advance notice of the condition and the action, but if such notice is not reasonable under the circumstances, shall give notice to Landlord as soon as practicable. Tenant shall not have any such right with respect to any condition which Landlord intends to remedy in accordance with a comprehensive plan, intended to manage the necessary repair or replacement, which has been communicated to Tenant. In the event that Tenant remedies such imminent threat or condition preventing the conduct of Tenant's business in the Premises, Landlord shall reimburse Tenant for all actual out-of-pocket costs reasonably incurred in connection which such repairs completed by Tenant hereunder within thirty (30) days after submission by Tenant to Landlord of a statement of such costs and a request for reimbursement thereof, together with reasonable back up documentation. In the event Landlord does not, within such thirty (30) day period following the submission of the request for reimbursement and the necessary documentation, make payment of the full amount for which Tenant submitted a request for reimbursement, Tenant may cause the matter to be submitted to arbitration by notice given to Landlord within five (5) business days of the end of the end of the thirty (30) day period, in which event Landlord and Tenant shall, during the ensuing ten (10) business days, attempt to agree on an arbitrator not affiliated with either party (and if they are unable to do so, either party may request that the President of the American Arbitration Association in Boston choose an arbitrator, as promptly as possible, meeting the criteria set forth below; provided, however, the parties shall each have the right during a five (5) business day period following the end of the ten (10) business day period to submit the names of not more than two (2) potential arbitrators meeting the said criteria and if the parties or either of them makes such a submission, the choice of the President of the American Arbitration Association shall be made from the list of potential arbitrators so submitted). The arbitrator shall have a period of ten (10) business days to determine (1) whether Tenant was authorized under this Section 8.02 to make the repairs made by it and (2) if so authorized the amount which Tenant is entitled to be reimbursed consistent with the rights of Tenant and the obligations of Landlord under this Section 8.02. If any amount

is owed by Landlord in addition to any amount which Landlord may have theretofore paid to Tenant with respect hereto, Landlord shall pay such amount within thirty (30) days following the decision of the arbitrator and if Landlord does not make such payment within such thirty (30) day period, Tenant may offset the amount the arbitrator determined was due to Tenant, less any portion thereof theretofore paid to Tenant, from Base Rent thereafter becoming due under this Lease. The arbitrator shall be a person with knowledge of commercial office property management (and not less than ten (10) years' experience in the field of property management) sufficient to enable such person (a) to assess the requirement for Tenant having taken the actions taken by Tenant and (b) to analyze the cost of the repair work undertaken to assure the reasonability thereof. The expenses of the arbitrator shall be borne equally by the Landlord and the Tenant.

8.03 Interruption of Services . Tenant agrees that Landlord shall not be liable in damages, by abatement of Rent or otherwise, for failure to furnish or delay in furnishing any service, or for any diminution in the quality or quantity thereof, when such failure or delay or diminution is occasioned, in whole or in part, by repairs, renewals, or improvements, by any strike, lockout or other labor trouble, by inability to secure electricity, gas, water, or other fuel at the Building after reasonable effort so to do, by any accident or casualty whatsoever, by act or default of Tenant or other parties, or by any other cause beyond Landlord's reasonable control; and such failures or delays or diminution (any such event, a "Service Failure") shall never be deemed to constitute an eviction or disturbance of Tenant's use and possession of the Premises or relieve Tenant from paying Rent or performing any of its obligations under this Lease. Notwithstanding the foregoing, if the Premises, or a material portion of the Premises, is made untenantable (that is, Tenant cannot conduct its business in such portion) or inaccessible for a period in excess of five (5) consecutive business days as a result of the Service Failure that has been caused by Landlord's act or omission with respect to matters within Landlord's control (" **Controlled Service Failure** "), then Tenant, as its sole remedy, shall be entitled to receive an abatement of Rent payable hereunder during the period beginning on the sixth (61) consecutive business day of the Controlled Service Failure and ending on the day the service has been restored. If the entire Premises has not been rendered untenantable or inaccessible by such a Controlled Service Failure, the amount of abatement that Tenant is entitled to receive by reason of such a Controlled Service Failure shall be prorated based upon the percentage of the Premises rendered untenantable or inaccessible and not used by Tenant. Notwithstanding the foregoing, business days during which the Premises or a material portion thereof are untenantable or inaccessible, or during which all or nearly all the Premises are unusable, by reason of a Service Failure which arises from a fire or other casualty which is covered by the provisions of ARTICLE 13 shall in no event be considered in determining whether Tenant is entitled to an abatement of Rent under this Section 8.03 (in such event the provisions of Section 13.01 shall govern Tenant's rights). In no event shall Landlord be liable to Tenant for any loss or damage, including the theft of Tenant's property, arising out of or in connection with the failure of any security services, personnel or equipment.

8.04 Additional Services . Landlord may, but shall have no obligation to, provide such extra or additional services (beyond the services described in Section 8.01) as it is reasonably possible for Landlord to provide, and as Tenant may from time to time request in writing, within a reasonable period after the time such extra or additional services are requested; furthermore, if extra or additional elevator or heating and air conditioning services are requested, Landlord shall

not be required to furnish any such services unless Landlord has received advance notice from Tenant requesting such services prior to 2:00 p.m. on the business day next preceding the day with respect to which such services are requested. Failure by Landlord to furnish such services shall not constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of Rent, or relieve Tenant from any of its obligations under this Lease, or impose any liability upon Landlord or its agents by reason of inconvenience or annoyance to Tenant, or injury to or interruption of Tenant's business or otherwise. Tenant shall pay for such extra or additional services at Landlord's scheduled rate therefor from time to time as quoted to other tenants of the Office Section, or if there be no scheduled rate, then at Landlord's cost in providing them, such amount to be considered additional Rent hereunder. All charges for such extra or additional services shall be due and payable at the same time as the installment of Base Rent with which they are billed, or if billed separately, shall be due and payable within ten (10) days after Tenant receives Landlord's bill therefor. Any such billings for extra or additional services shall include an itemization of the extra or additional services rendered and the charge for each such service.

8.05 Energy Conservation . Notwithstanding anything to the contrary in this ARTICLE 8 or elsewhere in this Lease, Landlord shall have the right to institute such policies, programs and measures as may be necessary or desirable, in Landlord's discretion, for the conservation and/or preservation of energy or energy related services if consistent with similar programs instituted generally in first-class office buildings in Boston, or as may be required to comply with any applicable codes, rules and regulations, whether mandatory or voluntary.

ARTICLE 9.
COMPLIANCE WITH LAWS; REPAIRS; HAZARDOUS MATERIALS

9.01 Compliance With Laws . Subject to the following provisions, each of Landlord, in the Base Building Work and in performance of its obligations under Section 8.02, and in its use, ownership, operation and management of the Property, and Tenant, in the Tenant Improvements and any other work it performs in the Building and in its use and occupancy of the Premises, shall comply in all material respects with the requirements of all applicable governmental laws, codes, ordinances, rules and regulations, whether now or hereinafter enacted, including without limitation the Americans With Disabilities Act (42 U.S.C. §12101 et. seq.) and the regulations and accessibility guidelines issued pursuant thereto and the laws set forth in M.G.L. Ch. 22, §13A and the regulations promulgated thereunder (Architectural Access Board Regulations) (collectively, " **Legal Requirements** "), to the extent that the same are applicable to the Building, and with any and all directions, rules and regulations of Boards of Fire Underwriters, Rating Boards or the like (or successor agencies); and Tenant shall obtain and maintain all permits, licenses and the like, required by all applicable laws in respect of Tenant's particular use and occupancy of the Premises, as opposed to office use in general. Landlord will cooperate with Tenant's efforts to obtain any such permits, licenses and the like, at no cost to Landlord. Notwithstanding the foregoing, in no event shall Tenant be responsible or liable for, or obligated to cure, any noncompliance with Legal Requirements existing on or before the Commencement Date, nor shall Tenant be responsible for any future violation of Legal Requirements that results in whole or in part, from Landlord's acts or omissions or improvements to the Property. Furthermore, Tenant's obligations under this Section 9.01 shall not include making any structural repairs or improvements to the Building.

9.02 Repairs . Subject to Section 12.01, Tenant will, at Tenant's own expense, keep the Premises, including all improvements, fixtures and furnishings therein, in good order, repair and condition at all times during the Term, and, except as to damage resulting from ordinary wear and tear, Tenant shall promptly and adequately repair all damage to the Premises and replace or repair all damaged or broken glass, fixtures and appurtenances, under the supervision and subject to the approval of Landlord, and within any reasonable period of time specified by Landlord; provided, however, as to any damage resulting from casualty, Tenant shall have no responsibility for repair or replacement which is Landlord's responsibility under this Lease. If Tenant does not do so, Landlord may, but shall not be obligated to, make such repairs and replacements, and Tenant shall pay Landlord the cost thereof, including a percentage of the cost thereof (to be uniformly established for the Office Section) sufficient to reimburse Landlord for all overhead, general conditions, fees and other costs or expenses arising from Landlord's involvement with such repairs and replacements forthwith upon being billed for same. Landlord may, but shall not be required to, enter the Premises at all reasonable times on reasonable advance notice (and at any time in emergency situations, with such notice as is commensurate with the emergency) to make such repairs, alterations, improvements and additions to the Premises, to the Office Section or the Building or to any equipment located in the Office Section or the Building as Landlord shall desire or deem necessary or as Landlord may be required to do by governmental authority or court order or decree.

9.03 Hazardous Materials .

(i) Tenant shall not (either with or without negligence) cause or permit the escape, disposal or release of any biologically or chemically active or hazardous substances, or materials (collectively the " **Hazardous Materials** "). Tenant shall not allow the storage or use of Hazardous Materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such Hazardous Materials, nor allow to be brought into the Building any Hazardous Materials except to use in the ordinary course of Tenant's business, and then only after written notice is given to Landlord of the identity of Hazardous Materials. Without limitation, Hazardous Materials shall include those described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901 et seq., any applicable state or local laws and the regulations adopted under these acts; provided, however, Hazardous Materials shall not include customary office and cleaning supplies, in reasonable quantities which are maintained and stored in accordance with manufacturer's specification for maintenance and storage in an office environment. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of Hazardous Materials, then the reasonable costs thereof shall be reimbursed by Tenant to Landlord upon demand as additional charges if such requirement applies to the Premises. In addition, Tenant shall execute affidavits, representations and the like from time to time at Landlord's request concerning Tenant's best knowledge and belief regarding the presence of Hazardous Materials on the Premises. In all events, Tenant shall indemnify Landlord in the manner elsewhere provided in this Lease from any release of Hazardous Materials on the Premises occurring while Tenant is in possession or elsewhere if caused by Tenant or persons

acting under Tenant. The within covenants shall survive the expiration or earlier termination of the Term.

(ii) Landlord hereby represents to Tenant that, to the best of its knowledge, there are no Hazardous Materials present on, in or under the land on which the Building is located that require investigation or remediation under applicable law. Tenant shall have no responsibility for and shall not assume or be deemed to have assumed any liability of Landlord on account of oil or Hazardous Materials on, at or in the Property prior to the date Tenant takes possession of the Premises. In no event, unless caused by Tenant or persons for whose conduct Tenant is responsible, shall Tenant be liable for any release of oil or hazardous substances occurring or accruing after the Term. Landlord shall indemnify, defend and hold Tenant harmless from and against any claims, damages, costs and liabilities, including consultants' fees and reasonable attorneys fees, arising out of Landlord's use, generation, storage or disposal of hazardous substances or oil on, under or about, or transported to or from, the Building or the Land. Landlord's indemnification obligations under this Section 9.03(ii) shall survive the expiration or earlier termination of this Lease.

ARTICLE 10.
ADDITIONS AND ALTERATIONS

10.01 Consent Required . Tenant shall not, without the prior written consent of Landlord, make any alterations, improvements or additions (sometimes referred to in this Lease, collectively, as " **Alterations** ") to the Premises, which consent shall not be unreasonably, withheld, conditioned or delayed. Alterations to be made to the Initial Premises prior to the commencement of the Term or made initially to SSB Expansion Space and Early Expansion Space (as those terms are defined under Section 42.01) are referred to in this Lease as the " **Initial Alterations** ". If Landlord consents to said alterations, improvements or additions, it may impose such conditions with respect thereto as Landlord deems reasonable, including, without limitation, requiring Tenant to provide reasonable assurance that all costs incurred with respect to such work shall be fully and timely paid, insurance against liabilities which may arise out of such work, and plans and specifications plus permits necessary for such work, requiring Tenant to perform such work at times reasonably designated by Landlord; provided, however, such conditions shall not require Tenant to construct Initial Alterations during particular hours (although reasonable rules and regulations relating to regulating noise, odor and vibration resulting from such construction may be imposed). Notwithstanding the foregoing, Landlord's consent shall not be necessary with respect to Alterations that do not affect the Building systems or structure or the roof skin and (a) are cosmetic in nature (such as paint, carpet and attached furniture) or (b) which in the aggregate (together with any reasonably related set of Alterations) cost less than $50,000.00 plus the costs of painting and carpeting related to the particular Alterations. Tenant shall have the right to hire its own contractors, subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed; provided, that it is agreed that it shall not be unreasonable for Landlord to withhold consent to work in the Building by any contractor with whom Landlord has had quality or cooperation issues in the past. It is further understood that Landlord's consent to the hiring by Tenant of Tenant's own contractors may be withheld if Landlord's permitting such hiring might reasonably be expected to adversely affect other construction in the Building or might reasonably be expected to result in

a material interruption of services provided to tenants of the Building. Any contractor hired by Tenant shall be appropriately insured as reasonably determined by Landlord. Tenant shall promptly pay to the contractor, when due, the cost of all such work and of all decorating required by reason thereof. In connection with seeking Landlord's approval, plans and specifications regarding proposed Alterations shall be in such form and with such content as Landlord shall reasonably require and Tenant shall, in addition to all other expenses which Tenant is obligated to pay to Landlord hereunder, reimburse Landlord for all sums reasonably expended for unaffiliated third party consultants' examination and approval of the architectural and working plans and specifications for the Alterations and, except in connection with the Initial Alterations to the Premises, shall pay Landlord for use of elevators and hoists during the making of the Alterations; provided, however, that Landlord shall have the exclusive right to determine the scheduling of (and shall cooperate reasonably with Tenant to coordinate) the use of such elevators and hoists which shall not be unreasonably withheld, conditioned or delayed. Landlord shall review and approve (or provide comments on) Tenant's plans and specifications no later than ten (10) business days after submission. If Landlord fails to approve, object to or provide comments on Tenant's submission of a set of plans and specifications within such ten (10) business day period, then Tenant may deliver a notice to Landlord stating that if Landlord fails to approve, object to or provide comments on such plans within two (2) business days following the delivery of such notice, and in such event, if Landlord fails to so approve, object to or provide comments on such plans within such two (2) business day period, Landlord shall be deemed to have approved the submitted set of plans and specifications. If any of the plans and specifications are disapproved by Landlord, Landlord shall provide Tenant with reasonably detailed reasons for such disapproval and the foregoing process shall be repeated until all of the plans and specifications shall have been approved or deemed approved by Landlord, except that Landlord's approval of any revisions to the plans and specifications submitted in response to Landlord's comments or objections shall be deemed given unless Landlord submits written comments or objections to Tenant within five (5) business days after receipt thereof, subject to the delivery of a second notice and Landlord's failure to approve, object to or provide comments within two (2) business days following Landlord's receipt thereof. Except for the reimbursement for third party consultants at commercially reasonable rates, Tenant will not be charged any Landlord supervisory, management or review fees in connection with any Alterations. Landlord's architect and base building contractor will reasonably cooperate with Tenant to ensure timely completion of Alterations. Upon completion of such work Tenant shall deliver to Landlord, if payment is made directly to contractors, evidence of payment, contractors' affidavits and full and final waivers of all liens for labor, services or materials, all in form satisfactory to Landlord. Tenant shall defend and hold Landlord, any mortgagee, the DOT (defined in Article 33U), the Property and the Building harmless from all costs, damages, liens and expenses related to such work. All work done by Tenant or its contractors pursuant to ARTICLES 9 or 10 shall be done in a good and workmanlike manner using only good grades of materials and shall comply with all insurance requirements and all applicable laws and ordinances and rules and regulations of governmental departments or agencies.

10.02 Improvements are Landlord's Property . All alterations, improvements and additions to the Premises, whether temporary or permanent in character, made or paid for by Landlord or Tenant, shall without compensation to Tenant become Landlord's property at the termination of this Lease by lapse of time or otherwise; provided, however, all articles of personal property and all business fixtures, machinery and equipment and furniture owned or

installed by Tenant solely at its expense in the Premises (all of which are herein referred to as " **Tenant's Property** ") shall remain the property of Tenant and may be removed by Tenant or any person claiming under Tenant at any time or times during the Term and shall be removed by Tenant no later than the expiration or earlier termination of the Term. Any items of Tenant's Property (except money, securities and like valuables) which remain on the Premises after the Termination Date or earlier termination of the Term shall be deemed to have been abandoned and in such case may either be retained by Landlord as its property or may be removed by Landlord and disposed of at Tenant's expense (this provision shall survive the termination of this Lease).

10.03 Lines . Tenant may install, maintain, replace, remove or use any communications or computer wires, cables and related devices and fiber optic cabling (collectively the "Lines") at the Property in or serving the Premises, provided: (a) Tenant shall obtain Landlord's prior written consent, use an experienced and qualified contractor approved in writing by Landlord in accordance with, and subject to, the procedures and standards for approvals of contractors performing Alterations, and comply with all of the other provisions of ARTICLE 10.01, (b) any such installation, maintenance, replacement, removal or use shall not interfere with the use of any then existing Lines at the Building, (c) an acceptable number of spare Lines and space for additional Lines shall be maintained for existing and future occupants of the Building, as determined in Landlord's reasonable opinion, (d) if Tenant at any time uses any equipment that may create an electromagnetic field exceeding the normal insulation ratings or ordinary twisted pair riser cable or cause radiation higher than normal background radiation, the Lines therefor (including riser cables) shall be appropriately insulated to prevent such excessive electromagnetic fields or radiation, (e) Tenant's rights shall be subject to the rights of any regulated telephone company, and (f) Tenant shall pay all costs in connection therewith. Landlord reserves the right to require that Tenant remove any Lines located in or serving the Premises which are installed in violation of these provisions, or which are at any time in violation of any laws, ordinances, rules or regulations or represent a dangerous or potentially dangerous condition (whether such Lines were installed by Tenant or any other party claiming under Tenant), within fifteen (15) days after written notice.

Landlord may (but shall not have the obligation to): (i) install new Lines at the Building, (ii) create additional space for Lines at the Property, and (iii) reasonably direct, monitor and/or supervise the installation, maintenance, replacement and removal of, the allocation and periodic re-allocation of available space (if any) for, and the allocation of excess capacity (if any) on, any Lines now or hereafter installed at the Building by Landlord, Tenant or any other party (but Landlord shall have no right to monitor or control the information transmitted through such Lines). Such rights shall not be in limitation of other rights that may be available to Landlord by law or otherwise. If Landlord exercises any such rights, Landlord may charge Tenant for the costs attributable to Tenant, or may include those costs and all other costs in Operating Expenses under ARTICLE 5 (including without limitation, costs for acquiring and installing Lines and risers to accommodate new Lines and spare Lines, any associated computerized system and software for maintaining records of Line connections, and the fees of any consulting engineers and other experts); provided, any capital expenditures included in Operating Expenses hereunder shall be amortized (together with reasonable finance charges) as provided in subsection 5.02(v).

Tenant shall not be required to remove any or all Lines installed by or for Tenant within or serving the Premises upon termination of this Lease. All Lines shall become the property of Landlord (without payment by Landlord) upon termination of this Lease. Tenant shall not, without the prior written consent of Landlord in each instance, grant to any third party a security interest or lien in or on the Lines, and any such security interest or lien granted without Landlord's written consent shall be null and void. Except to the extent arising from the intentional or negligent acts of Landlord or Landlord's agents or employees, Landlord shall have no liability for damages arising from, and Landlord does not warrant that the Tenant's use of any Lines will be free from the following (collectively called "Line Problems"): (x) any eavesdropping or wire-tapping by unauthorized parties, (y) any failure of any Lines to satisfy Tenant's requirements, or (z) any shortages, failures, variations, interruptions, disconnections, loss or damage caused by the installation, maintenance, replacement, use or removal of Lines by or for other tenants or occupants at the Building, by any failure of the environmental conditions or the power supply for the Building to conform to any requirements for the Lines or any associated equipment, or any other problems associated with any Lines by any other cause. Under no circumstances shall any Line Problems be deemed an actual or constructive eviction of Tenant, render Landlord liable to Tenant for abatement of Rent, or relieve Tenant from performance of Tenant's obligations under this Lease. Landlord in no event shall be liable for damages by reason of loss of profits, business interruption or other consequential damage arising from any Line Problems.

10.04 Specialty Alterations . Subject to the foregoing provisions, Tenant shall have the right to construct within the Premises computer rooms and any other specialized facilities, and may connect floors of the Premises by the installation of interconnecting stairs, as long as any such work does not impact the structural integrity of the Building; provided, however, if Tenant elects to construct any such installations or additions, or any other installations or additions which are not typical office-related leasehold improvements that require substantial or unusual expense to re-adapt the Premises for normal office purposes (collectively, " **Specialty Alterations** "), Landlord shall notify Tenant of Tenant's removal or restoration obligations with respect to any Specialty Alterations at the time of Landlord's approval of such Specialty Alterations, and Tenant shall be obligated to remove any identified Specialty Alterations at the expiration of the Term; provided, however, Landlord hereby agrees that Tenant shall not be required to remove or restore any of Tenant's Initial Alterations (or Alterations that were comparable replacements of Initial Alterations) whether or not the same are Specialty Alterations.

ARTICLE 11.
COVENANT AGAINST LIENS

Tenant has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by act of Tenant, operation of law or otherwise, to attach to or be placed upon the Property, the Building or the Premises, or to affect any estate or interest of Landlord, Landlord's lessor, any mortgagee or the DOT (defined in ARTICLE 33U). Tenant covenants and agrees not to suffer or permit any lien of mechanics, materialmen or others to be placed against the Property, the Building or the Premises, or to affect any estate or interest of Landlord, Landlord's lessor, any mortgagee or the DOT, with respect to work or services claimed to have been performed for or materials claimed to have been furnished to Tenant or the

Premises, and, in case of any such lien attaching or notice of any lien, or claim therefor being asserted, Tenant covenants and agrees to cause same to be released and removed of record, by payment or bonding over within thirty (30) days after Tenant's actual knowledge thereof. In the event that such lien is not so released and removed, Landlord, at its sole option, may take all action necessary to release and remove such lien (without any duty to investigate the validity thereof) and Tenant shall promptly upon notice reimburse Landlord for all sums, costs and expenses (including reasonable attorneys' fees) incurred by Landlord in connection therewith.

ARTICLE 12.
INSURANCE

12.01 Waiver of Subrogation. Landlord and Tenant each hereby waive any and every claim for recovery from the other for any and all loss of or damage to the Property, Building or the Premises or to the contents thereof, which loss or damage is covered by valid and collectible physical damage insurance policies, to the extent that such loss or damage is recoverable under said insurance policies. Inasmuch as this mutual waiver will preclude the assignment of any such claim by subrogation (or otherwise) to an insurance company (or any other person), Landlord and Tenant each agree to give to each insurance company which has issued, or in the future may issue, to its policies of physical damage insurance, written notice of the terms of this mutual waiver, and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of said waiver. Tenant's waiver of subrogation as hereinabove set forth shall also run to the benefit of and extend to Landlord's lessor and the DOT.

12.02 Coverage. Tenant shall purchase and maintain insurance during the entire Term for the benefit of Tenant, and, except for personal property insurance maintained by Tenant other than with respect to leasehold improvements, for the benefit of Landlord, the DOT and any mortgagee of which Tenant is given notice (as their respective interests may appear) (collectively, the "Insured Landlord Parties") with terms, coverages and in companies reasonably satisfactory to Landlord, and with such increases in limits as Landlord may from time to time request and which are consistent with increases required of similar office tenants in Class A office buildings in Boston, but initially Tenant shall maintain the following coverages in the following amounts:

(i) Commercial General Liability. Commercial General Liability Insurance covering the Insured Landlord Parties and Landlord's management agent for claims of bodily injury, personal injury and property damage arising out of Tenant's operations, assumed liabilities or use of the Premises, for limits of liability not less than:

Bodily Injury and Property	$3,000,000 each occurrence
Damage Liability	$3,000,000 annual aggregate
Personal Injury Liability	$3,000,000 annual aggregate
	0% Insured's participation

(ii) Comprehensive Automobile. Comprehensive Automobile Insurance covering all owned, non-owned and hired automobiles of Tenant including the loading and unloading of any automobile with limits of liability not less than:

Bodily Injury and Property	$3,000,000 each occurrence
Damage Liability	$3,000,000 annual aggregate

(iii) Physical Damage. Physical Damage Insurance covering all additions, improvements and alterations to the Premises which are beyond the building standard tenant improvements provided by Landlord and all office furniture, trade fixtures, office equipment, merchandise and all other items of Tenant's property on the Premises. Such insurance shall be written on an "all risks" of physical loss or damage basis, for the full replacement cost value of the covered items and in amounts that meet any coinsurance clauses of the policies of insurance.

(iv) Improvements and Betterments. From and after the time Tenant takes control of the Premises for purposes of its construction, Improvements and Betterments Insurance completed value (non-reporting) form coverage, including "all-risk" type coverage and coverage against the perils normally covered by a special extended coverage endorsement, collapse, cost of demolition, increased cost of construction and the value of the undamaged portion of the construction being undertaken by Tenant, in customary form for Massachusetts construction projects and to be maintained in such amounts as to afford one hundred percent (100%), non-contributory coverage against loss.

Tenant may provide such of the foregoing insurance coverage under a so-called blanket policy providing adequate coverage in Landlord's reasonable judgment for the properties and risks being covered thereby. In the event Tenant elects to use a blanket policy, Tenant shall specifically notify Landlord thereof and provide such information regarding the properties and risks covered thereby as Landlord shall reasonably request. Tenant may, in addition, satisfy the limits requirements through umbrella coverage written with companies which would satisfy the provisions of this ARTICLE if such companies were providing the underlying coverage hereunder.

Tenant shall, prior to the commencement of the Term, furnish to Landlord certificates evidencing such coverage, on ACORD Form 27, which certificates shall state that such insurance coverage may not be changed or canceled without at least thirty (30) days' prior written notice to Landlord and Tenant and shall name Landlord and Landlord's management agent as additional insureds (other than with respect to the insurance described in subsection 12.02 (iii) above).

12.03 Avoid Action Increasing Rates. Tenant shall comply with all applicable laws and ordinances, all orders and decrees of court and all requirements of other governmental authorities having jurisdiction over the Building and of the applicable rating bureau, and shall not, directly or indirectly, make any use of the Premises which may thereby be prohibited or be dangerous to person or property or which may jeopardize any insurance coverage or may increase the cost of insurance or require additional insurance coverage. If by reason of the failure of Tenant to

comply with the provisions of this Section 12.03, (i) any insurance coverage is jeopardized, or (ii) insurance premiums are increased, Landlord shall have the option to require Tenant to make immediate payment of the increased insurance premium and if Tenant fails to do so, such failure shall constitute a default in the payment of Rent due under this Lease.

12.04 Landlord's Insurance. Landlord agrees to maintain in full force and effect throughout the Term (i) Commercial General Liability Coverage with respect to the Property, and the conduct and operation of its business therein, with combined commercial general liability and umbrella coverage limits of not less than Ten Million Dollars ($10,000,000.00) for bodily injury or death and property damage in any one occurrence and shall name Tenant as an additional insured; and (ii) Cause of Loss Special Form property insurance (including commercially reasonable amounts of loss of rents coverage, as long as such coverage is available at commercially reasonable rates) with respect to the Building and the Building's equipment and personal property, but excluding Tenant's property and any alterations made by Tenant, in an amount equal to the replacement cost of the equipment and personal property that Landlord is obligated to insure hereunder.

ARTICLE 13.
FIRE OR OTHER CASUALTY

13.01 Effect of Casualty. ARTICLE 9 hereof notwithstanding, if the Premises or the access thereto shall be damaged by fire or other casualty and if such damage does not render all or a material portion of the Premises untenantable and if the Premises, the Office Section or the Building are not substantially damaged (as hereinafter defined), then Landlord shall, subject to building and zoning laws then applicable, repair and restore the same with reasonable promptness, subject to reasonable delays for insurance adjustments and delays caused by matters beyond Landlord's reasonable control, but shall not be obligated to expend therefor an amount in excess of the proceeds of insurance recovered with respect thereto plus any associated deductible amount. If all or a material portion of the Premises are rendered untenantable by fire or other casualty, or if the Premises, the Office Section or the Building are substantially damaged by fire or other casualty (the term "substantially damaged" meaning damage of such a character that the same cannot, in the ordinary course, reasonably be expected to be repaired within one hundred eighty (180) days from the time that repair work would commence) and Landlord is terminating all other leases in Tower IV, then, in either such case, Landlord shall have the right to terminate this Lease by giving notice of Landlord's election so to do not later than one hundred twenty (120) days after Landlord has ascertained all information required by Landlord to determine whether or not to terminate this Lease, including without limitation the amount of insurance proceeds which are available to Landlord for restoration. If all or a material portion of the Premises or access thereto are so damaged by fire or other casualty that the Premises are rendered untenantable (reasonable commercial access to the Premises being necessary for the Premises to be "tenantable") for the operation of Tenant's business for a period reasonably estimated by Landlord to exceed two hundred forty (240) days or if the damage is not in fact repaired so that the Premises are tenantable for the operation of Tenant's business within such two hundred forty (240) day period, then Tenant shall have the right to terminate this Lease by giving notice of Tenant's election to terminate not later than thirty (30) days after (a) receiving notice from Landlord that the period for repair will exceed two hundred forty (240) days or (b) the end of such two hundred forty (240) day period if the Premises are not in fact tenantable at

the end of such period. In the event a party entitled to do so gives such termination notice, this Lease shall terminate (with appropriate proration(s) of Rent being made for Tenant's possession of the tenantable portion of the Premises after the date of such damage) as of the date specified in such notice (but in no event sooner than thirty (30) days after the date of such notice) with the same force and effect as if the date specified were the date originally established as the expiration date hereof. Except as aforesaid, Landlord shall have no liability to Tenant, and except as specifically provided above, Tenant shall not be entitled to terminate this Lease by virtue of any delays in completion of such repairs and restoration. Further, in the event this Lease is not terminated, Landlord shall not be obligated to restore any portion of the Office Section or the Building outside of the Premises which is not necessary for reasonable access to and egress from the Premises. Rent shall abate on those portions of the Premises as are, from time to time, untenantable as a result of such damage.

13.02 Intentionally Omitted .

13.03 Responsibility for Reconstruction of Improvements . Notwithstanding anything to the contrary herein set forth, Landlord shall have no duty pursuant to this ARTICLE 13 to repair or restore any portion of the alterations, additions or improvements in the Premises or the decorations hereto except to the extent that such alterations additions, improvements and decorations were paid by requisitions from any allowance provided by Landlord to Tenant and only to the extent of the insurance proceeds with respect thereto paid to Landlord by Tenant or its insurers. If Tenant desires any other or additional repairs or restoration, the same shall be done at Tenant's sole cost and expense subject to all of the provisions of ARTICLE 9 and ARTICLE 10 hereof. Tenant acknowledges that Landlord shall be entitled to the full proceeds of any insurance coverage, whether carried by Landlord or Tenant, for damage to alterations, additions, improvements or decorations provided by Landlord either directly or through an allowance to Tenant.

ARTICLE 14.
WAIVER OF CLAIMS -INDEMNIFICATION

14.01 Tenant's Indemnification . To the extent not prohibited by law, Landlord, its partners, its managing agent, Landlord's lessor, any mortgagee, the DOT and their respective officers, agents, servants and employees shall not be liable for any damage either to person or property or resulting from the loss of use thereof sustained by Tenant or by other persons due to the Building or any part thereof or any appurtenances thereof becoming out of repair, or due to the happening of any accident or event in or about the Office Section, the Premises or the Building, or due to any act or neglect of any tenant or occupant of the Office Section, the Building or of any other person or entity. This provision shall apply particularly, but not exclusively, to damage caused by gas, electricity, snow, frost, steam, sewage, sewer gas or odors, fire, water, noise, vibration, fumes or by the bursting or leaking of pipes, faucets, sprinklers, plumbing fixtures and windows, and shall apply without distinction as to the person whose act or neglect was responsible for the damage and whether the damage was due to any of the causes specifically enumerated above or to some other cause of an entirely different kind. Tenant further agrees that all personal property upon the Premises, or upon loading docks, receiving and holding areas, or freight elevators of the Building shall be at the risk of Tenant only, and that Landlord shall not be liable for any loss or damage thereto or theft thereof. Without limitation of

any other provisions hereof, Tenant agrees to defend, protect, indemnify and save harmless Landlord, Landlord's lessor, any mortgagee and the DOT from and against all liability to third parties which arose (or which were claimed to have arisen) within or without the Premises during the Term of this Lease or out of acts or omissions of Tenant and its servants, agents, employees, contractors, suppliers, workers and invitees, except to the extent such liability arises from the negligence of Landlord, its property manager or its agents. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

14.02 Landlord's Indemnification . To the maximum extent this agreement may be made effective according to law, Landlord agrees to indemnify and save harmless Tenant from and against all liabilities for claims by third parties arising from any accident, injury or damage to any person, or to the property of any person occurring on the Property, including any accident, injury or damage in connection with the Landlord's Work, where such accident, damage or injury results from negligence of Landlord, its property manager or Landlord's agents, or from a breach by Landlord of its representations and warranties set forth in this Lease. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

ARTICLE 15.
NONWAIVER

No waiver of any provision of this Lease shall be implied by any failure of Landlord or Tenant to enforce any remedy against the other on account of the violation of such provision, even if such violation be continued or repeated subsequently, and no express waiver shall affect any provision other than the one specified in such waiver and that one only for the time and in the manner specifically stated. No receipt of monies by Landlord from Tenant after the termination of this Lease shall in any way alter the length of the Term or of Tenant's right of possession hereunder or after the giving of any notice shall reinstate, continue or extend the Term or affect any notice given Tenant prior to the receipt of such monies, it being agreed that after the service of notice or the commencement of a suit or after final judgment for possession of the Premises, Landlord may receive and collect any Rent due, and the payment of said Rent shall not waive or affect said notice, suit or judgment.

ARTICLE 16.
CONDEMNATION

If the Property, the Building or any portion thereof shall be taken or condemned by any competent authority for any public or quasi-public use or purpose (a " **taking** "), or if the configuration of any roadway, street, alley, or railroad line adjacent to or beneath the Building is changed by any competent authority and such taking or change in configuration makes it necessary or desirable to remodel or reconstruct the Building or any part thereof, Landlord shall have the right, exercisable at its sole discretion, to cancel this Lease upon not less than ninety (90) days' notice prior to the date of cancellation designated in the notice. No money or other consideration shall be payable by Landlord to Tenant for the right of cancellation and Tenant shall have no right to share in the condemnation award or in any judgment for damages caused by such taking or change in configuration; provided, however, nothing herein shall prevent Tenant from pursuing a judgment from the taking authority for its moving expenses, the unamortized costs of improvements paid for by Tenant (and not paid by Landlord allowance) and

trade fixtures so long as pursued in a separate action which will not result in a reduction of any award otherwise payable to Landlord (except for the cost of such Tenant's trade fixtures, unamortized improvements (not paid by allowance) or the Tenant's expense of moving that might otherwise have been paid to Landlord). In the event that any part of the Premises shall be taken by any public authority or for any public use and the remainder, even after restoration, would not be reasonably suitable for Tenant's use, in Tenant's bona fide business judgment, or in the event that a taking results in a permanent loss of adequate parking or a permanent deprivation of all reasonable commercial access to the Premises, then this Lease may be terminated at the election of Tenant, which election shall be made by giving of notice by Tenant to Landlord within thirty (30) days after the date of the taking.

ARTICLE 17.
ASSIGNMENT AND SUBLETTING

17.01 No Transfer Without Consent . Tenant shall not, without the prior written consent of Landlord (which consent shall not be unreasonably conditioned, delayed or withheld), (i) assign, convey or mortgage this Lease or any interest hereunder; (ii) permit to occur or exist any assignment of this Lease, voluntarily or by operation of law; (iii) sublet the Premises or any part thereof; or (iv) permit the occupancy of the Premises by any parties other than Tenant, its affiliates and their employees. Any such action (each, a " **Transfer'')** on the part of Tenant to any assignee, sublessee or other transferee (each assignee, sublessee or other transferee being referred to herein as a " **Transferee** "), without Landlord's consent to the extent such consent is required, shall be void and of no effect. Landlord's consent to any Transfer or Landlord's election to accept any Transferee as the tenant hereunder and to collect rent from such Transferee shall not release Tenant or any subsequent tenant of the Premises from any covenant or obligation under this Lease. Landlord's consent to any Transfer shall not constitute a waiver of Landlord's right to withhold its consent to any future Transfer.

Notwithstanding any contrary provision of this Lease, Tenant shall have the right, without the prior consent of Landlord, to assign this Lease and to sublet all or any portion of the leased Premises to any person or entity (a) controlling, controlled by, or under common control with Tenant, (b) acquiring all or substantially all of the assets of Tenant, or (c) with or into which Tenant merges or consolidates, whether by statutory merger, sale of stock, or otherwise (any of the foregoing (a)-(c), a " **Related Party Transfer** "), so long as (i) the principal purpose of such assignment or sublease is not the acquisition of Tenant's interest in this Lease by a third party, (ii) the assignment or sublet is not made to circumvent the provisions of this Section 17.01, and (iii) the assignee or successor under (b) or (c) succeeds to all or substantially of Tenant's business conducted within the Premises immediately prior to such assignment or sublet. In no event shall any business reorganization (e.g., a change in corporate form of Tenant), nor any change in Tenant's shareholders, partners, or other beneficial owners in the conduct of Tenant's business, be deemed an assignment of Tenant's interest in this Lease.

Landlord agrees that the Premises may be occupied without the need for any sublease during the Term by any persons or entities which in the aggregate occupy not more than five percent (5%) of the Premises if such persons or entities are during the period of occupancy involved in a then current engagement with Tenant, current consultants to Tenant actively

involved in furnishing consulting services during such period, or a member of Tenant or any affiliate thereof, to whom Tenant is providing courtesy office space.

No Transfer or Related Party Transfer shall release the transferor from primary liability with the transferee for all of the Tenant's obligations under this Lease.

The parties hereby agree that it shall be reasonable under this Lease and under any applicable law for Landlord to withhold consent to any proposed Transfer requiring Landlord's consent where one or more of the following applies (without limitation as to other reasonable grounds for withholding consent, Landlord acknowledging that the rental rate is not a reasonable ground for withholding consent under this Lease): (i) the Transferee is of a character or reputation or engaged in a business which is not consistent with the quality of the Property; (ii) the Transferee intends to use the Premises or a portion thereof for purposes which are not permitted under this Lease; (iii) the Transferee is either (x) a government (or agency or instrumentality thereof), (y) an occupant of the Property (unless Landlord does not have comparable space in the Building that is suitable for use by such occupant), or (z) a prospective tenant of the Property with whom Landlord is actively negotiating at the time Tenant proposes to make the Transfer; (iv) Tenant is in monetary default (or any other default which has continued beyond applicable notice and cure periods) as described in ARTICLE 24; (v) the proposed Transferee's anticipated use of the Premises involves the generation, storage, use, treatment or disposal of Hazardous Materials in a manner not otherwise permitted by this Lease; (vi) the proposed Transferee is in any way affiliated with organizations which sponsor terrorist organizations regardless of the use to be made of the Premises by the proposed Transferee; (vii) the corridor pattern resulting from demising the sublease space would result in access to leasable space serviced by that corridor being inconsistent with the corridor pattern of a first- class office building; or (viii) in the reasonable judgment of Landlord acting in good faith, such a Transfer would violate any term, condition, covenant or agreement of the Landlord involving the Property. If Landlord wrongfully withholds its consent to any Transfer, Tenant's sole and exclusive remedy therefor shall be to seek specific performance of Landlord's obligation to consent to such Transfer.

17.02 Rent Premium on Transfer . Without limitation of the rights of Landlord hereunder in respect thereto, (i) if there is any assignment of this Lease by Tenant or a subletting or other Transfer of the whole of the Premises (other than a Related Party Transfer, which shall not be subject to the provisions of this Section 17.03) by Tenant, or (ii) if Tenant, as debtor or debtor in possession, or a trustee in bankruptcy for Tenant pursuant to the Bankruptcy Code, 11 U.S.C. 101 et. seq., as amended from time to time (the " **Bankruptcy Code** "), shall assign this Lease or sublet the Premises, or any part thereof, at a rent or for other consideration which, in any such case, is in excess of the sum of (x) the subleased portion's pro rata share of the rent payable hereunder by Tenant for the period of the sublease or the amount payable for the assigned space over the remaining term of this Lease with respect thereto, and (y) the Reasonable Transfer Costs (as hereinafter defined), then Tenant shall pay to Landlord, as additional rent, (a) with respect to an assignment of this Lease fifty percent (50%) of the amount by which the total consideration received or to be received by Tenant in connection with the assignment exceeds the Reasonable Transfer Costs and (b) with respect to a sublease, fifty percent (50%) of the amount by which the total consideration received or to be received by Tenant in connection with the sublease exceeds the sum of the rent applicable to the subleased space and the Reasonable Transfer Costs (the

" **Sublease Premium** "). " Reasonable Transfer Costs" shall mean any tenant improvement allowance paid or credited to the transferee by Tenant, customary brokerage commissions not reimbursed by the transferee or paid directly by the transferee, legal, advertising and marketing expenses, free rent allowances, alteration costs and expenses of preparation of the Premises (or portion thereof) for the transferee. With respect to an assignment of this Lease, the amount payable to Landlord hereunder shall be paid to Landlord by Tenant as a first charge against the consideration received by Tenant and payment shall be made by Tenant within thirty (30) days of Tenant having received consideration in connection with the assignment (Tenant shall pay the first charge as consideration is received so that if there are installments of consideration, the payment to Landlord shall be made from each installment as such first charge until the full amount due to Landlord shall have been paid). With respect to a sublease, for each month commencing with the first month in which the subtenant pays any consideration to or for the benefit of the Tenant (the " **Sublease Start Month** ") through the month in which Landlord receives payment or gets other consideration from Tenant in connection with the sublease, Tenant shall pay to Landlord (each such monthly payment to Landlord, an " **On-Account Premium Payment** ") an amount equal to (a) 50% of (i) the total of all such consideration theretofore paid to or for the benefit of Tenant with respect to the subleasing through the end of such month for which the calculation is being made (the " **Calculation Period** ") less (ii) the Rent payable by Tenant under this Lease for the Calculation Period less (iii) the Amortized Reasonable Transfer Costs for the Calculation Period, reduced by (b) the total of On-Account Premium Payments theretofore made by Tenant. Tenant shall pay the On-Account Premium Payment due with respect to any calendar month within ten (10) business days following such calendar month. " **Amortized Reasonable Transfer Costs** " shall mean the Reasonable Transfer Costs (A) divided by the number of calendar months between, and including, the first calendar month with respect to which the subtenant pays any rent to Tenant or provides a benefit to Tenant (such as paying a cost otherwise customarily or legally the responsibility of Tenant) and the last calendar month of the term of the sublease multiplied by (B) the number of calendar months commencing with the first calendar month with respect to which the subtenant paid rent through the calendar month in which the payment due Landlord is being calculated. The provisions of this Section 17.03 shall apply to each and every assignment of this Lease and each and every subletting or other Transfer of all or a portion of the Premises, other than Related Party Transfers, in each case on the terms and conditions set forth herein. Each request by Tenant for permission to assign this Lease or to sublet the whole or any part of the Premises shall be accompanied by a certification of an executive officer of Tenant as to the elements of consideration paid or to be paid by the assignee or subtenant, however characterized, and the time periods with respect to which such payments have been or will be made together with a calculation, based thereon, of the amount due Landlord under this Section 17.02 by reason of the assignment or sublet. For the purposes of this Section 17.03, the consideration paid by the transferee shall mean all Base Rent, Additional Rent or other payments and/or consideration payable by one party to another related to the use and occupancy of all or a portion of the Premises.

17.03 Change in Control . If Tenant is a corporation or a limited liability company (other than a corporation whose stock is traded through a national or regional exchange or over-the- counter), any transaction or series of transactions (including without limitation any dissolution, merger, consolidation or other reorganization of Tenant, or any issuance, sale, gift, transfer or redemption of any capital stock of Tenant, whether voluntary, involuntary or by operation of

law, or any combination of any of the foregoing transactions) resulting in the transfer of control of Tenant, other than by reason of death, shall be deemed to be a Transfer for the purpose of this ARTICLE 17. If Tenant is a partnership, any transaction or series of transactions (including without limitation any withdrawal or admittance of a partner or any change in any partners' interest in Tenant, whether voluntary, involuntary or by operation of law, or any combination of any of the foregoing transactions) resulting in the transfer of control of Tenant, other than by reason of death, shall be deemed to be a Transfer for purposes of this ARTICLE 17. The term "control" as used in this Section 17.03 means the power to directly or indirectly direct or cause the direction of the management or policies of Tenant. If Tenant is a corporation or a limited liability company, a change or series of changes in ownership of stock which would result in direct or indirect change in ownership by the stockholders or an affiliated group of stockholders (or members) of less than fifty percent (50%) of the outstanding voting stock of Tenant as of the date of the execution and delivery of this Lease shall not be considered a change of control; provided, however, a sale of part or all of the corporate shares of Tenant resulting in a change in control of Tenant shall not require Landlord's consent if more than 50% of the voting power is held by twenty-five (25) or more unrelated shareholders or distributed to such number of unrelated shareholders in a public offering registered with the Securities and Exchange Commission. For purposes of clarity, Landlord acknowledges that although a transaction which results in a change in control may be a Transfer under this Article 17, Landlord's consent thereto is not required and no amount shall be due under Section 17.02 with respect to any such Transfer which is a Related Party Transfer (although a subsequent change in control of a party who succeeded to an interest in this Lease or the Premises (or a part thereof) in a Related Party Transfer shall require consent and/or payment of an amount under Section 17.02 if such Transfer does not itself constitute a Related party Transfer.

ARTICLE 18.
SURRENDER OF POSSESSION

Upon the expiration of the Term or upon the termination of Tenant's right of possession to all or a portion of the Premises, whether by lapse of time or at the option of Landlord as herein provided, Tenant shall forthwith quietly and peaceably surrender the Premises or portion thereof to Landlord in good order, repair and condition, ordinary wear excepted. Any interest of Tenant in the alterations, improvements and additions to the Premises made or paid for by Landlord or Tenant shall, without compensation to Tenant, become Landlord's property at the termination of this Lease by lapse of time or otherwise and if such option is exercised such alterations, improvements and additions shall be relinquished to Landlord in good condition, ordinary wear excepted. Prior to the termination of the Term or of Tenant's right of possession Tenant shall remove office furniture, trade fixtures, office equipment and all other items of Tenant's property on the Premises. Tenant shall pay to Landlord upon demand the cost of repairing any damage to the Premises and to the Building caused by any removal required hereunder. If Tenant shall fail or refuse to remove any such property from the Premises, Tenant shall be conclusively presumed to have abandoned the same, and title thereto shall thereupon pass to Landlord without any cost either by set-off, credit, allowance or otherwise, and Landlord may at its option accept the title to such property or, at Tenant's expense, may (i) remove the same or any part in any manner that Landlord shall choose, repairing any damage to the Premises caused by such removal, and (ii) store, destroy or otherwise dispose of the same without incurring liability to Tenant or any other person.

ARTICLE 19.
HOLDING OVER

In addition to performing all of Tenant's other obligations hereunder, if Tenant retains possession of the Premises or any part thereof after the expiration of the Term, such holding over shall be on the terms and conditions as set forth in this Lease, as far as applicable, except that Tenant shall pay, as a use and occupancy charge with respect to, in addition to all other charges for which Tenant would be liable hereunder if it were occupying during the term of this Lease, during the first thirty (30) days of such holdover 150% of the Base Rent and the Adjustment Amount payable under the terms of this Lease for and with respect to the last full calendar month immediately prior to the expiration of the Term and after such initial thirty (30) day period for each calendar month or portion thereof during which such holdover continues, as a use and occupancy charge with respect to, in addition to all other charges for which Tenant would be liable hereunder if it were occupying during the term of this Lease, an amount equal to 150% of the higher of (x) the Base Rent and the Adjustment Amount payable under the terms of this Lease for and with respect to the last full calendar month immediately prior to the expiration of the Term or (y) one twelfth of the annual fair market rent for the Premises under a one (1) year lease commencing on the day immediately succeeding the last day of the Term. Amounts due as aforesaid shall be prorated for partial months on a per diem basis. Notwithstanding anything to the contrary herein contained, Landlord shall have the right to commence eviction proceedings against Tenant immediately upon any holding over by Tenant in the Premises.

In addition, Tenant shall indemnify, defend and hold Landlord harmless from and against any loss, cost or damages (including, without limitation reasonable attorneys' fees) which Landlord may suffer by reason of any such holdover by Tenant for a period of longer than thirty (30) days. The provisions of this ARTICLE 19 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law.

ARTICLE 20.
ESTOPPEL CERTIFICATE

Tenant agrees that, from time to time upon not less than twenty (20) days' prior request by Landlord, Landlord's lessor or any mortgagee, Tenant or Tenant's duly authorized representative having knowledge of the following facts will deliver to Landlord a statement in writing certifying (i) that this Lease is unmodified (or if there have been modifications, a description of such modifications), (ii) to the best of Tenant's knowledge, this Lease (as modified if there were modifications) is in full force and effect, (iii) the dates to which Rent and other charges have been paid; (iv) to the best of Tenant's knowledge, that Landlord is not in default under any provision of this Lease, or, if in default, the nature thereof in detail; (v) if true, that the Premises have been delivered to Tenant by Landlord and accepted by Tenant; (vi) that there are no proceedings pending against Tenant which have been adversely decided and which would affect Tenant's obligations under this Lease (or if there are such proceedings, identifying such proceedings; (vii) that Tenant has not made a claim against Landlord which has not been resolved or satisfied (or is any such claim has not been resolved or satisfied, stating such claims and its status); and (viii) such further matters as may reasonably be requested by Landlord; it being intended that any such statement may be relied upon by any prospective assignee of Landlord, any mortgagee or prospective mortgagee of the Building, any prospective assignee of

any such mortgagee, or any prospective and/or subsequent purchaser or transferee of all or a part of Landlord's interest in the Property, the Office Section or the Building, or any other person having an interest therein. Tenant shall execute and deliver whatever additional instruments may reasonably be required for such purposes. Tenant's failure to deliver any of the foregoing instruments or the statement within twenty (20) days of Landlord's request therefor in writing shall be deemed to be an acknowledgement that the statements contained therein are true.

ARTICLE 21.
SUBORDINATION

This Lease and all rights of Tenant hereunder are subject and subordinate to any mortgage or mortgages, blanket or otherwise, made by Landlord and which do now or may hereafter affect the Property or the Building; and to any and all renewals, modifications, consolidations, replacements and extensions thereof, and to any ground or other lease, or similar instrument now or hereafter placed against the Building; provided that the foregoing subordination shall only be effective as to a mortgagee that has offered to enter into a commercially reasonable subordination, non-disturbance and attornment agreement with Tenant (" **SNDA** "), and does in fact enter into a SNDA with Tenant if Tenant accepts such offer, under the terms of which (in addition to other commercially reasonable provisions) such Mortgagee shall agree that so long as Tenant is not in default beyond applicable periods of notice and cure of its obligations under this Lease, Tenant's occupancy under, on and subject to the terms hereof shall not be disturbed. Landlord represents and warrants that as of the date of execution of this Lease, there is no mortgage on the Building or the Property. Tenant shall upon demand at any time or times execute, acknowledge and deliver to Landlord any and all instruments that may be reasonably necessary to subordinate this Lease and all rights of Tenant hereunder to any such mortgage or mortgages or to confirm or evidence such subordination subject to the terms of the SNDA. Each of the parties shall bear its own costs in connection with the subordination and the SNDA. Tenant covenants and agrees, in the event any proceedings are brought for the foreclosure of any mortgage with respect to which it has been delivered a SNDA, to attorn to the purchaser upon any such foreclosure sale if so requested to do by such purchaser, and to recognize such purchaser as the Landlord under this Lease. Tenant agrees to execute and deliver at any time and from time-to-time, upon the request of Landlord or of any holder of such mortgage or of such purchaser, any instrument which may be necessary or appropriate, in the reasonable judgment of the requesting party, in any such foreclosure proceeding or otherwise to evidence such attornment. Tenant waives the provisions of any statute or rule of law, now or hereafter in effect, which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease, or the obligations of Tenant hereunder in the event any such foreclosure proceeding is brought, prosecuted or completed. Tenant and Landlord further agree that if so requested by any mortgagee of Landlord, this Lease shall be made superior to any such mortgage and that they will execute such documents as may be required by such mortgagee to effect the superiority of this Lease to such mortgage.

Following the execution of this Lease, Landlord shall request and use reasonable efforts to obtain from the DOT a recognition agreement, on commercially reasonable terms, pursuant to which the DOT agrees that so long as Tenant is not in default beyond applicable periods of notice and cure of its obligations under this Lease, Tenant's occupancy under, on and subject to the terms hereof shall not be disturbed in the event of a termination of the Underlying Lease.

ARTICLE 22.
CERTAIN RIGHTS RESERVED BY LANDLORD

Landlord shall have the following rights (but not obligations), each of which Landlord may exercise without notice to Tenant and without liability to Tenant for damage or injury to property, person or business on account of the exercise thereof, and the exercise of any such rights shall not be deemed to constitute an eviction or disturbance of Tenant's use or possession of the Premises, and shall not give rise to any claim for set-off or abatement of Rent or any other claim:

(i) To change the Building's name or street address upon not less than one hundred eighty (180) days prior written notice, in which event, Landlord shall reimburse Tenant for all of Tenant's costs of the type reasonably and customarily incurred by a tenant in connection with changing such name or address on Tenant's stationary and other office supplies.

(ii) To install, affix and maintain any and all signs on the exterior and on the interior of the Building (other than within the Premises).

(iii) Provided that reasonable access to the Premises shall be maintained and the business of Tenant shall not be interfered with or disrupted unreasonably, to rearrange, relocate, enlarge, reduce, close or change corridors, elevators, stairs, lavatories, doors, lobbies, exits or entrances in or to the Building and to decorate and to make repairs, alterations, additions and improvements, structural or otherwise, in or to the Building or any part thereof, including the Premises, and may erect scaffolding and other structures reasonably required by the character of the work to be performed, and during such operations may upon reasonable notice enter upon the Premises and take into and upon or through any part of the Building, including the Premises, all materials that may be required to make such repairs, alterations, improvements, or additions, and in that connection Landlord may temporarily close public entry ways, other public spaces, stairways, corridors or connecting structures and interrupt or temporarily suspend any services or facilities agreed to be furnished by Landlord all, subject to the provisions of this clause, without the same constituting an eviction of Tenant in whole or in part, and without abatement of Rent by reason of loss or interruption of the business of Tenant or otherwise, and without in any manner rendering Landlord liable for damages or relieving Tenant from performance of Tenant's obligations under this Lease. Landlord may at its option make any repairs, alterations, improvements and additions in and about the Building and upon reasonable notice in or about the Premises during ordinary business hours and, if Tenant desires to have such work done during other than business hours, Tenant shall pay all overtime and additional expenses resulting therefrom. Landlord's entry into the Premises shall be accomplished in a manner to minimize interference with the Tenant's business but such commitment shall not require Landlord to perform such work during other than ordinary business hours.

(iv) To furnish door keys for the entry door(s) in the Premises at the commencement of this Lease and to retain at all times, and to use in appropriate instances, keys to all doors within and into the Premises and Tenant shall be obligated

should it elect to change the manner in which its Premises are secured to provide Landlord with duplicates of keys, entry cards and with combinations or passwords necessary to allow Landlord and those furnishing services to the Premises in accordance with the terms and conditions of this Lease to access the Premises for such purposes as may be permitted under this Lease. Upon the expiration of the Term or of Tenant's right of possession, Tenant shall return all keys to Landlord and shall disclose to Landlord the combination of any safes, cabinets or vaults left in the Premises.

(v) To approve all window coverings used in the Building which approval shall not be unreasonably withheld, conditioned or delayed, it being understood that window coverings which are visible from outside the Premises may be subject to a standard of uniformity imposed by the Landlord in its reasonable discretion.

(vi) To approve the weight, size and location of safes, vaults and other heavy equipment and articles in and about the Premises and the Building so as not to exceed the legal live load per square foot designated by the structural engineers for the Building, and to require all such items and furniture and similar items to be moved into or out of the Building and Premises only at such times and in such manner as Landlord shall direct in writing. Tenant shall not install or operate machinery or any mechanical devices of a nature not directly related to Tenant's ordinary use of the Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Movement of Tenant's property into or out of the Building or the Premises and within the Building are entirely at the risk and responsibility of Tenant, and Landlord reserves the right to require permits before allowing any property to be moved into or out of the Building or the Premises.

(vii) To establish reasonable security policies and other controls for the purpose of regulating all property and packages, both personal and otherwise, to be moved into or out of the Building and Premises and all persons using the Building both during and after normal office hours, provided such policies and other controls do not unreasonably interfere with Tenant's security system and security protocol set forth herein. Without limiting the generality of the foregoing, Landlord may require all persons entering or leaving the Building during such hours as Landlord may from time to time reasonably determine to identify themselves to security personnel by registration or otherwise in accordance with Building security controls, and to establish their right to enter or leave in accordance with the provisions of applicable rules and regulations adopted by Landlord. Landlord shall not be liable in damages for any error with respect to exclusion from the Building of any person. In case of fire, casualty, invasion, insurrection, mob, riot, civil disorder, public excitement or other commotion, or threat thereof, Landlord reserves the right, in its reasonable discretion, to limit or prevent access to the Building during the continuance of the same, shut down elevator service, activate elevator emergency controls or otherwise take such action or preventive measures deemed reasonably necessary by Landlord for the safety or security of the tenants or other occupants of the Building or the protection of the Building and the property in the Building. Tenant agrees to cooperate with any reasonable safety or security program developed by Landlord.

(viii) To reasonably regulate delivery and service of supplies and the usage of the loading docks, receiving areas and freight elevators.

(ix) To show the Premises to prospective tenants at reasonable times in the last eighteen (18) months of the Term (as the same may have been extended as set forth in ARTICLE 41), and, if vacated or abandoned, to show the Premises at any time, and to decorate, remodel, repair, alter or otherwise prepare the Premises for re- occupancy.

(x) To erect, use and maintain pipes, ducts, wiring and conduits, and appurtenances thereto, in and through the Premises at reasonable locations.

(xi) To enter the Premises at any reasonable time to inspect the Premises upon twenty-four (24) hours prior written, telephone or fax notice to Tenant except in an emergency, for the purpose of inspecting or making repairs to the Premises or responding to any emergency condition, and Landlord shall also have the right to make access available at all reasonable hours, upon twenty-four (24) hours prior written notice to Tenant except in an emergency, to prospective or existing mortgagees, purchasers or tenants of all or any part of the Property.

(xii) To grant to any person or to reserve unto itself the exclusive right to conduct any business or render any service in the Building. If Landlord elects to make available to tenants in the Building any services or supplies, or arranges a master contract therefor, Tenant agrees to obtain its requirements, if any, therefor from Landlord or under any such contract, provided that the charges therefor are reasonable.

ARTICLE 23.
RULES AND REGULATIONS

Tenant agrees to observe the rules and regulations for the Building attached hereto as Exhibit C and made a part hereof. Landlord shall have the right from time to time to prescribe additional rules and regulations which, in its judgment, may be desirable for the use, entry, operation and management of the Premises, the Office Section and the Building, each of which rules and regulations and any amendments thereto shall become a part of this Lease. Tenant shall comply with all such rules and regulations; provided, however, that such rules and regulations shall not contradict or abrogate any right or privilege herein expressly granted to Tenant.

ARTICLE 24.
LANDLORD'S REMEDIES

The following shall each be an "Event of Default" under this Lease: If Tenant shall fail to pay the Rent or any installment thereof within five (5) business days after the date due or shall fail to pay, within five (5) business days after written notice of such failure is given to Tenant, any other sum required to be paid by Tenant under this Lease or under the terms of any other agreement between Landlord and Tenant; or if the interest of Tenant in this Lease shall be levied on under execution or other legal process; or if any voluntary petition in bankruptcy or for corporate re-organization or any similar relief shall be filed by Tenant; or if any involuntary petition in bankruptcy shall be filed against Tenant under any federal or state bankruptcy or

insolvency act and shall not have been dismissed within ninety (90) days from the filing thereof; or if a receiver shall be appointed for Tenant or any of the property of Tenant by any court and such receiver shall not have been dismissed within ninety (90) days from the date of his appointment; or if Tenant shall make an assignment for the benefit of creditors; or if Tenant shall admit in writing Tenant's inability to meet Tenant's debts as they mature; or if Tenant shall have misrepresented or breached a warranty to Landlord set forth in clause S of Section 32 of this Lease for which no cure period is applicable under Section 32.S; or if any event has occurred which is specified as an Event of Default under this Lease; or if Tenant shall fail to observe or perform any of the other covenants or conditions in this Lease which Tenant is required to observe and perform and such default shall continue for thirty (30) days after written notice to Tenant (or if such default is curable and shall reasonably require more than thirty (30) days to cure, if Tenant shall fail to commence to cure said default within thirty (30) days after notice thereof and/or fail to continuously prosecute the curing of the same to completion with due diligence) then Landlord may treat the occurrence of any one or more of the foregoing events as a breach of this Lease. If an Event of Default occurs, Landlord at its option may, without additional notice or any demand of any kind to Tenant or any other person, have any one or more of the following described remedies in addition to all other rights and remedies provided at law or in equity or elsewhere in this Lease:

(i) Landlord may terminate this Lease and the Term created hereby at any time after the occurrence of any such Event of Default and shall give Tenant written notice of Landlord's election to do so and the effective date thereof (the "Effective Date"), in which event Landlord may forthwith repossess the Premises in accordance with applicable law and shall be entitled to recover,

(a) forthwith as liquidated damages, in addition to any other sums or liabilities under this Lease due to Landlord and damages for which Tenant may be liable, a sum of money equal to the present value (such present value to be computed on the basis of a per annum discount rate equal to the effective annual yield on U.S. Treasury obligations which could be purchased on the business day next succeeding the Effective Date (or if Landlord has elected to first avail itself of the remedy provided in subclause 24(i)(b) below, the date as of which it notifies Tenant that it is electing the remedy set forth in this subclause 24(i)(a)) and mature closest to the Termination Date as determined as if this Lease had not been terminated for a default hereunder) of the Rent provided to be paid by Tenant for the balance of the Term over the present value of the fair market rental value of the Premises, after deduction from the present value of such fair market rental value of all anticipated expenses of reletting. Should the present value of the fair market rental value of the Premises, after deduction of all anticipated expenses of reletting, for the balance of the Term exceed the present value of the Rent provided to be paid by Tenant for the balance of the Term, Landlord shall have no obligation to pay to Tenant the excess or any part thereof or to credit such excess or any part thereof against any other sums or damages for which Tenant may be liable to Landlord, and unless and until such time as Landlord elects to avail itself of the remedy set forth in this subclause 24(i)(a).

(b) in addition to any other sums or damages for which Tenant may otherwise be liable to Landlord, a sum of money equal to amounts due at the Effective Date and to recover from time to time from Tenant, and Tenant shall remain liable for, all Rent which

would have thereafter been due but for such termination as and when the same would have become due (or after the same would have become due) had such termination not occurred by reason of default by Tenant, and any other sums thereafter accruing as they would have become due under this Lease during the period from the Effective Date to the Termination Date and at any time while Landlord is pursuing its rights hereunder, Landlord may invoke its rights to liquidated damages for the balance of the term as provided in subclause 24(i)(a) above.

Landlord may, but shall be under no obligation to, except as required by law, relet the Premises or any part thereof for the account of Tenant, for such rent, from time to time (which may be for a term extending beyond the Term of this Lease), and upon such terms as Landlord in Landlord's sole discretion shall determine and Landlord shall have no obligation to accept any proposal made by third parties nor shall Landlord be required to accept any tenant offered by Tenant or to observe any instructions given by Tenant relative to such reletting. Also at any time prior to Landlord exercising rights under subclause 24(i)(a) above, Landlord may change the locks or other entry devices of the Premises and make repairs, alterations and additions in or to the Premises and redecorate same to the extent deemed by Landlord necessary or desirable, and Tenant shall upon written demand pay the cost thereof together with, if Landlord successfully relets the Premises or any part thereof, Landlord's expenses of reletting, including without limitation, brokerage commissions payable to Landlord's agent or to others.

Landlord may collect the rents from any such reletting and apply the same to the payment of expenses of reentry, redecoration, repair and alterations and the expenses of reletting and the excess or residue remaining to the payment of Rent and other sums in this Lease provided to be paid by Tenant under subclause 24(i)(b) above after the date of any such reletting, and any such excess or residue shall operate only as an offsetting credit against the amount of Rent and other sums due and owing with respect to periods after the date of such reletting. For purposes of clarity, in no event shall Tenant be entitled to a credit on its indebtedness to Landlord with respect to prior periods or a refund of amounts accelerated pursuant to subclause 24(i)(a) if Landlord relets the Premises or any part thereof. No such reentry, repossession, repairs, alterations, additions or reletting pursuant to this ARTICLE shall operate to release Tenant in whole or in part from any of Tenant's obligations hereunder, and if Landlord effects any such reletting, Landlord may, at any time and from time to time, with respect to periods prior to the period with respect to which Landlord avails itself of the remedy set forth in subclause 24(i)(a) above (and Tenant's payment of the amount required thereby) sue and recover judgment for any deficiencies from time to time remaining after the application from time to time of the proceeds of any such reletting.

(ii) Landlord, without thereby waiving default or breach, may cure the same for the account and at the expense of Tenant, without notice in a case of emergency threatening life or property, as determined by Landlord in its sole discretion, or in case of correction of a dangerous or hazardous condition threatening life or property, and in any other case if such default or breach is or becomes an Event of Default or continues for five (5) days after the Landlord gives written notice of intention to cure. Bills for any expense incurred by Landlord in connection with any such performance by Landlord shall be for the account of Tenant, and shall be due and payable within thirty (30) days

after Tenant receives said bills, and if not paid when due, the amounts thereof shall become immediately due and payable as Additional Rent under this Lease.

ARTICLE 25.
EXPENSES OF ENFORCEMENT

Tenant shall pay upon demand all Landlord's reasonable costs, charges and expenses including the fees and out-of-pocket expenses of counsel, agents and others retained by Landlord incurred in enforcing Tenant's obligations hereunder following the occurrence of a default or breach which continues beyond any applicable grace or cure periods.

ARTICLE 26.
COVENANT OF QUIET ENJOYMENT

Landlord covenants that Tenant, on paying the Rent, charges for services and other payments herein reserved and on keeping, observing and performing, within applicable periods of notice, cure and grace, all the other terms, covenants, conditions, provisions and agreements herein contained on the part of Tenant to be kept, observed and performed shall, during the Term, peaceably and quietly have, hold and enjoy the Premises subject to the terms, covenants, conditions, provisions and agreements hereof, without hindrance or ejection by any persons lawfully claiming by, through or under Landlord, the foregoing covenant of quiet enjoyment being in lieu of any other covenant, expressed or implied.

ARTICLE 27.
LETTER OF CREDIT

27.01 General Provisions . Not later than the date on which Tenant commences its Initial Alterations, Tenant shall deliver to Landlord, as collateral for the full performance by Tenant of all of its obligations under this Lease and for all losses and damages Landlord may suffer as a result of Tenant's failure to comply with one or more provisions of this Lease, a Letter of Credit (hereinafter defined) substantially in the form of Exhibit F and containing the terms required herein, in the face amount of the Letter of Credit Amount, naming Landlord as beneficiary.

" **Letter of Credit** " shall mean a clean, irrevocable, non-documentary and unconditional letter of credit, permitting multiple and partial draws thereon, and otherwise in form acceptable to Landlord in its sole, reasonable discretion issued by and drawable upon a commercial bank (the "Issuing Bank"), which is satisfactory to Landlord and which satisfies both the Minimum Rating Agency Threshold (as hereinafter defined) and the Minimum Capital Threshold (as hereinafter defined). The " **Minimum Rating Agency Threshold** " shall mean that the Issuing Bank has outstanding unsecured, uninsured and unguaranteed senior long-term indebtedness that is then rated (without regard to qualification of such rating by symbols such as "+" or"-" or numerical notation) "Baa" or better by Moody's Investors Service, Inc. and/or "BBB" or better by Standard & Poor's Rating Services, or a comparable rating by a comparable national rating agency designated by Landlord in its discretion. The " **Minimum Capital Threshold** " shall mean that the Issuing Bank has combined capital, surplus and undivided profits of not less than $2,000,000,000.

If, at any time or from time to time, Landlord reasonably determines that an Issuing Bank (i) no longer satisfies the Minimum Rating Agency Threshold, (ii) no longer satisfies the Minimum Capital Threshold, (iii) has been seized or closed by the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, or another governmental or regulatory agency or authority, (iv) has become insolvent or its financial condition is such that in Landlord's reasonable judgment, the Issuing Bank may be unable to honor a draw on the Letter of Credit, or (v) is unwilling or unable to honor the Letter of Credit or to perform its obligations to honor a draw upon the Letter of Credit, then within ten (10) days after demand, Tenant shall deliver to Landlord a replacement Letter of Credit, issued by a replacement Issuing Bank which satisfies the Minimum Rating Agency Threshold and the Minimum Capital Threshold and is otherwise satisfactory to Landlord in its discretion.

Tenant shall cause the Letter of Credit to be continuously maintained in effect (whether through replacement, renewal or extension) in the Letter of Credit Amount through the date (the " **Final LC Expiration Date** ") that is sixty (60) days after the scheduled expiration date of the Term or any renewal Term. If the Letter of Credit held by Landlord expires earlier than the Final LC Expiration Date (whether by reason of a stated expiration date or a notice of termination or non-renewal given by the issuing bank), Tenant shall deliver a new Letter of Credit or certificate of renewal or extension (a " **Renewal or Replacement LC** ") to Landlord not later than sixty (60) days prior to the expiration date of the Letter of Credit then held by Landlord. Any Renewal or Replacement LC shall comply with all of the provisions of this ARTICLE 27, shall be irrevocable, transferable and shall remain in effect (or be automatically renewable) through the Final LC Expiration Date upon the same terms as the expiring Letter of Credit or such other terms as may be acceptable to Landlord in its sole, reasonable discretion.

27.02 Drawings under Letter of Credit . Upon Tenant's failure to comply with one or more provisions of this Lease which continues beyond applicable periods of notice and cure, or as otherwise specifically agreed by Landlord and Tenant pursuant to this Lease or any amendment hereof, Landlord may, without prejudice to any other remedy provided in this Lease or by Law, draw on the Letter of Credit and use all or part of the proceeds to (a) satisfy any amounts due to Landlord from Tenant, and (b) satisfy any other damage, injury, expense or liability caused by Tenant's failure to so comply. In addition, if Tenant fails to furnish a Renewal or Replacement LC complying with all of the provisions of this ARTICLE 27 at least sixty (60) days prior to the stated expiration date of the Letter of Credit then held by Landlord, Landlord may draw upon such Letter of Credit and hold the proceeds thereof (and such proceeds need not be segregated) in accordance with the terms of this ARTICLE 27 (the " **LC Proceeds Account** ").

27.03 Use of Proceeds by Landlord . Subject to Section 27.02, the proceeds of the Letter of Credit shall constitute Landlord's sole and separate property (and not Tenant's property or the property of Tenant's bankruptcy estate) and Landlord may immediately upon any draw (and without notice to Tenant) apply or offset the proceeds of the Letter of Credit: (a) against any Rent or other amount payable by Tenant under this Lease that is not paid when due; (b) against all losses and damages that Landlord has suffered; (c) against any costs incurred by Landlord in connection with this Lease (including attorneys fees); and (d) against any other amount that Landlord is owed by reason of Landlord's exercise of its remedies for Tenant default under this Lease. Landlord agrees to return the Original Letter of Credit or any Renewal or Replacement LC pay to Tenant, or at Tenant's written direction, the Issuing Bank or pay within thirty (30)

days after the Final LC Expiration Date the amount of any proceeds of the Letter of Credit received by Landlord and not applied as allowed above; provided, that if prior to the Final LC Expiration Date a voluntary petition is filed by Tenant, or an involuntary petition is filed against Tenant by any of Tenant's creditors, under the Federal Bankruptcy Code, then Landlord shall not be obligated to make such payment in the amount of the unused Letter of Credit proceeds until either all preference issues relating to payments under this Lease have been resolved in such bankruptcy or reorganization case or such bankruptcy or reorganization case has been dismissed, in each case pursuant to a final court order not subject to appeal or any stay pending appeal.

27.04 Additional Covenants of Tenant . If, as result of any application or use by Landlord of all or any part of the Letter of Credit, the amount of the Letter of Credit shall be less than the Letter of Credit Amount, Tenant shall, within five (5) business days thereafter, provide Landlord with additional letter(s) of credit in an amount equal to the deficiency (or a replacement letter of credit in the total Letter of Credit Amount), and any such additional (or replacement) letter of credit shall comply with all of the provisions of this ARTICLE 27, and if Tenant fails to comply with the foregoing, notwithstanding anything to the contrary contained in this Lease, the same shall constitute an Event of Default by Tenant. Tenant further covenants and warrants that it will neither assign nor encumber the Letter of Credit or any part thereof and that neither Landlord nor its successors or assigns will be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

27.05 Nature of Letter of Credit . Landlord and Tenant (a) acknowledge and agree that in no event or circumstance shall the Letter of Credit or any renewal thereof or substitute therefor or any proceeds thereof (including the LC Proceeds Account) be deemed to be or treated as a "security deposit" under any Law applicable to security deposits in the commercial context (" **Security Deposit Laws** "), (b) acknowledge and agree that the Letter of Credit (including any renewal thereof or substitute therefor or any proceeds thereof) is not intended to serve as a security deposit, and the Security Deposit Laws shall have no applicability or relevancy thereto, and (c) waive any and all rights, duties and obligations either party may now or, in the future, will have relating to or arising from the Security Deposit Laws.

ARTICLE 28.
REAL ESTATE BROKER

The Tenant represents that Tenant has dealt with (and only with) the Broker specified in ARTICLE 1 hereof as broker in connection with this Lease, and that insofar as Tenant knows, no other broker negotiated this Lease or is entitled to any commission in connection therewith. Tenant agrees to indemnify, defend and hold harmless Landlord its employees and agents from and against any claims made by any broker or finder other than the Broker named above for a commission or fee in connection with this Lease or any sublease hereunder, but nothing herein shall be construed as permitting any such sublease, provided that Landlord has not in fact retained such broker or finder. Landlord agrees to indemnify, defend and hold harmless Tenant, its employees and agents from and against any claims made by any broker or finder named above for a commission or fee in connection with this Lease, provided Tenant has not in fact retained such broker or finder and, in addition, Landlord shall pay the fees of the Broker(s) named in ARTICLE 1 of this Lease.

ARTICLE 29.
NOTICE TO MORTGAGEE AND GROUND LESSOR

After receiving notice from any person, firm or other entity that it holds a mortgage which includes the Premises, the Building or the Office Section as part of the mortgaged premises, or that it is the ground lessor under a ground lease (which term shall include the Underlying Lease and the Sublease (as such terms are defined in Section 32U of this Lease)) with Landlord, as ground lessee, which includes the Premises, the Building or the Office Section as part of the demised premises, no notice of default from Tenant to Landlord shall be effective unless and until a copy of the same is given to such holder or ground lessor, and the timely curing of any of Landlord's defaults by such holder or ground lessor shall be treated as performance by Landlord. Such holder or ground lessor shall be given such reasonable time as may be necessary to effect such cure or to foreclose the mortgage or terminate the ground lease, as the case may be. For the purposes of ARTICLE 21, this ARTICLE 29, ARTICLE 30 and ARTICLE 33, the term " **mortgage** " includes a mortgage on a leasehold interest of Landlord (but not one on Tenant's leasehold interest).

ARTICLE 30.
ASSIGNMENT OF RENTS

With reference to any assignment by Landlord of Landlord's interest in this Lease, or the rents payable hereunder, conditional in nature or otherwise, which assignment is made to the holder of a mortgage or ground lease (which term shall include the Underlying Lease and the Sublease) on property which includes the Premises, the Building or the Office Section, Tenant agrees:

(i) that the execution thereof by Landlord, and the acceptance thereof by the holder of such mortgage, or the ground lessor, shall never be treated as an assumption by such holder or ground lessor of any of the obligations of Landlord hereunder, unless such holder, or ground lessor, shall, by notice sent to Tenant, specifically otherwise elect; and

(ii) that, except as aforesaid, such holder or ground lessor shall be treated as having assumed Landlord's obligations hereunder only upon a foreclosure of such holder's mortgage and the taking of possession of the Premises, or in the case of a ground lessor, the assumption of Landlord's position hereunder by such ground lessor. In no event shall the acquisition of title to the Building and the land on which the same is located by a purchaser which, simultaneously therewith, leases the entire Building or such land back to the seller thereof be treated as an assumption, by operation of law or otherwise, of Landlord's obligations hereunder, but Tenant shall look solely to such seller-lessee, and its successors from time to time in title, for performance of Landlord's obligations hereunder. In any such event, this Lease shall be subject and subordinate to the lease to such seller. For all purposes, such seller-lessee, and its successors in title, shall be the landlord hereunder unless and until Landlord's position shall have been assumed by such purchaser-lessor.

ARTICLE 31.
PERSONAL PROPERTY TAXES

Tenant shall pay all taxes which may be lawfully charged, assessed, or imposed upon all fixtures and equipment of every type and also upon all of Tenant's personal property in the Premises, and Tenant shall pay all license fees which may lawfully be imposed upon the business of Tenant conducted upon the Premises.

ARTICLE 32.
MISCELLANEOUS

A. Remedies Cumulative . All rights and remedies of Landlord under this Lease shall be cumulative and none shall exclude any other rights and remedies allowed by law.

B. Interest on Overdue Amounts . All payments becoming due under this Lease and remaining unpaid for five (5) days thereafter shall bear interest from the date actually due until paid at the rate two percent (2%) per annum above the prime rate of interest charged from time to time by Bank of America (or its successor), but in no event more than the highest rate which is at the time lawful in the Commonwealth of Massachusetts; provided, however, if a payment otherwise due is not received on the date due (rather than within five (5) days thereafter, more than once in any twelve (12) month period, any payment due for the next succeeding twelve (12) months shall bear interest from the date due without the five (5) day grace period. Interest hereunder shall be payable within ten (10) days of billing therefor by Landlord. The obligation hereunder shall survive the termination of this Lease.

C. Grammatical Rules . The necessary grammatical changes required to make the provisions hereof apply either to corporations or partnerships or individuals, men or women, as the case may require, shall in all cases be assumed as though in each case fully expressed.

D. Successors and Assigns . Each of the provisions of this Lease shall extend to and shall, as the case may require, bind or inure to the benefit not only of Landlord and of Tenant, but also of their respective successors or assigns, provided this clause shall not permit any assignment by Tenant contrary to the provisions of ARTICLE 17 hereof. All indemnities, covenants and agreements of Tenant contained herein shall inure to the benefit of Landlord's agents and employees.

E. Incorporation by Reference; Authority . All of the representations and obligations of Landlord are contained herein and in the Exhibits attached hereto, each of which is incorporated herein by reference so that all references to " **Lease** " herein shall refer to the body of this Lease and all Exhibits thereto; and no modification, waiver or amendment of this Lease or of any of its conditions or provisions shall be binding upon Landlord or Tenant unless in writing signed by Landlord and Tenant or, as to Landlord, by a duly authorized agent of Landlord empowered by a written authority signed by Landlord.

F. Submission Not an Offer . Submission of this Lease for examination shall not bind Landlord or Tenant in any manner, and no lease or obligations of Landlord or Tenant shall arise until this instrument is signed by both Landlord and Tenant and delivery is made to each.

G. Rights to View, etc. No rights to any view or to light or air over any property, whether belonging to Landlord or any other person, are granted to Tenant by this Lease.

H. Intentionally Omitted .

I. Transfer or Assignment by Landlord . Tenant acknowledges that Landlord has the right to transfer its interest in the Premises, the Office Section and the Building and in this Lease, and Tenant agrees that in the event of any such transfer Landlord shall be released from all liability thereafter accruing under this Lease and all liability with respect to periods prior to such transfer to the extent assumed by the transferee specifically or as a matter of law and Tenant agrees to look solely to such transferee for the performance of Landlord's obligations hereunder from and after the date of such transfer except to the extent liabilities were not assumed by the transferee for the period prior to the transfer; provided that nothing herein shall result in liability to the transferee beyond the net proceeds received by the transferor in connection with such transfer. Tenant further acknowledges that Landlord may assign its interest in this Lease to a mortgage lender as additional security and agrees that such an assignment shall not release Landlord from its obligations hereunder and that Tenant shall continue to look to Landlord for the performance of its obligations hereunder.

J. Paramount Title . Landlord's title is and always shall be paramount to the title of Tenant. Nothing herein contained shall empower Tenant to commit or engage in any act which can, shall or may encumber the title of Landlord.

K. No Recording of Lease . This Lease shall not be recorded by Tenant or by anyone acting through, under or on behalf of Tenant, and the recording thereof in violation of this provision shall make this Lease null and void at Landlord's election. At Tenant's request, Landlord agrees to execute a Notice of Lease in recordable form for recording with the Suffolk County Registry of Deeds.

L. Captions . The captions of ARTICLES, Sections and subsections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such ARTICLES, Sections and subsections.

M. Intentionally Omitted ..

N. Landlord/Tenant Relationship . Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturer or any association between Landlord and Tenant, it being expressly understood and agreed that neither the method of computation of Rent nor any act of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

O. Order of Application . Landlord shall have the right to apply payments received from Tenant pursuant to this Lease (regardless of Tenant's designation of such payments) to satisfy any obligations of Tenant hereunder that are past due, in such order and amounts as Landlord in its sole discretion may elect.

P. Time is of the Essence . Time is of the essence of this Lease and each of its provisions.

Q. Interpretive Law . Interpretation of this Lease shall be governed by the law of the Commonwealth of Massachusetts.

R. Effect of Indemnifications . All indemnities, covenants and agreements of Tenant and Landlord contained herein which inure to the benefit of the other party shall be construed to also inure to the benefit of the other party's agents and employees.

S. OFAC . Each of Landlord and Tenant certifies, represents, warrants and covenants (the party so certifying, representing, warranting and covenanting is referred to herein as the "Certifying Party") to the other that:

(i) The Certifying Party is not acting and will not act, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, " **Specially Designated National and Blocked Person** ", or other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and

(ii) The Certifying Party is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation.

(iii) Without limiting the foregoing, the Certifying Party is not, and the entities or individuals constituting the Certifying Party or which may own or control the Certifying Party or which may be owned or controlled by the Certifying Party are not, among the individuals or entities identified on any list compiled pursuant to Executive Order 13224 for the purpose of identifying suspected terrorists.

Each of Landlord and Tenant hereby agrees to defend (with counsel reasonably acceptable to the indemnified party), indemnify and hold harmless the other party (and as to landlord as the indemnified party, Landlord's designated property management company), and their respective partners, members, affiliates and subsidiaries, and all of their respective officers, trustees, directors, shareholders, employees, servants, partners, representatives, insurers and agents from and against any and all claims arising from or related to any such breach the indemnifying party of the foregoing certifications, representations, warranties and covenants. In connection with the foregoing, it is expressly understood and agreed that (x) any breach by Tenant of the foregoing representations and warranties shall be a default by Tenant under ARTICLE 24 above and that, as to any such breach which would result in any material liability to Landlord which would not be discharged by a cure by Tenant in accordance with ARTICLE 24, no cure period for such default shall be applicable, and (y) the representations and warranties contained in this clause S and the indemnity set forth herein shall be continuing in nature and shall survive the expiration or earlier termination of this Lease.

T. Substitution of Other Premises . At any time hereafter, Landlord may relocate any portion of Tenant's Premises not within Tower IV, subject to the terms set forth below, on the following conditions: (i) if the portion of the Premises which Landlord wants to relocate comprises a full floor of a Tower, the Premises on such full floor can only be relocated in

connection with a lease to another tenant of not less than 40,000 rentable square feet; and (ii) if the portion of the Premises which Landlord wants to relocate comprises less than a full floor of a Tower, the Premises on such floor can be relocated in connection with a lease to another tenant of not less than one full floor of a Tower of the Office Section. Any such re-locatable portion of the Premises is referred to herein as " **Committed Non-Tower IV Premises** ". Landlord may (upon not less than one hundred eighty (180) days' prior notice) substitute for the Committed Non-Tower IV Premises, different space (herein referred to as the " **New Premises** ") in the Office Section, provided that the New Premises shall be usable for Tenant's purpose; shall be contiguous to the remaining Premises; shall be situated on the same floor as, or a higher floor than, the Committed Non Tower IV Premises; shall have a window line not less that the window line of the Committed Non-Tower IV Premises from which Tenant is being relocated; and Landlord shall pay the expenses of Tenant's moving from the Committed Non-Tower IV Premises to the New Premises and for fully demising and improving the New Premises so that they are substantially similar to the Committed Non-Tower IV Premises in quality of improvement and utility to Tenant. The New Premises shall contain not less rentable square footage as the Committed Non-Tower IV Premises and in no event will the Base Rent or Tenant's Proportionate Expense Share or Proportionate Tax Share be increased by reason of the substitution.

U. Underlying Leases . Landlord is the lessee of air rights premises collectively referred to as Copley Place, pursuant to that certain Air Rights Lease Agreement (the " **Underlying Lease** "), made as of June 20, 2011, by and between Landlord, as the tenant thereunder, and the Massachusetts Department of Transportation (" **DOT** "), as the landlord thereunder.

Landlord hereby gives notice to Tenant that it supports the Affirmative Action and Resident Preference goals set forth in Paragraph 6 of Schedule D to the Underlying Lease and in Attachment C to the City of Boston's Urban Development Action Grant application for Copley Place, and encourages Tenant to pursue such goals in Tenant's own employment practices. In connection with hiring to fill permanent jobs at the Premises, Tenant shall not discriminate against any employee or applicant for employment because of race, color, religious creed, national origin, age or sex. Tenant shall comply to the extent applicable, with Title VII of the U.S. Civil Rights Act and M.G.L. c.151B with respect to employment at the Premises.

V. Partial Invalidity . If any term, provision or condition contained in this Lease shall, to any extent, be invalid or unenforceable, the remainder of this Lease (or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each and every other term, provision and condition of this Lease shall be valid and enforceable to the fullest extent possible permitted by law.

W. Intentionally Omitted .

X. Signage . Landlord hereby consents to Tenant placing signage on the exterior of the Premises at Tenant's entrance doors, at Tenant's sole cost and expense, in accordance with Landlord's reasonable rules with respect thereto and Tenant may, at its option, at Landlord's sole cost and expense, have its name on the electronic Building directory provided for tenants in the

Sky Lobby of the Building as well as elevator lobby signage, consistent in quality and aesthetics with other elevator lobby signage in the Building, in each floor elevator lobby serving the Premises. Subject to any necessary approval from the City of Boston and Landlord's approval of design, materials and specific location, not to be unreasonably withheld, Tenant may, at Tenant's sole cost and expense, install, maintain and replace, so long as Signage Tenants occupy not less than 70% of the Initial Premises (or rentable area equivalent thereto), at Tenant's sole cost and expense:

1. the name and/or logo of the original Tenant or of a transferee pursuant to a Related Party Transfer, or, so long as such installation shall not result in a breach by Landlord of its obligations under any then existing lease of space in the Property, of a transferee to which Landlord has consented, a plaque not to exceed 18 inches by 18 inches in the new retail level office lobby at or near the elevators or Building directory.

2. the name and/or logo of the original Tenant or of a transferee pursuant to a Related Party Transfer, or, so long as such installation shall not result in a breach by Landlord of its obligations under any then existing lease of space in the Property, of a transferee to which Landlord has consented, to be located above or next to signage identifying Tower IV in the Sky Lobby and sized consistent with new or existing Building Standard Tower identification signage (which presently exists on Tower entrance doors).

3. the name and/or logo of the original Tenant or of a transferee pursuant to a Related Party Transfer, or, so long as such installation shall not result in a breach by Landlord of its obligations under any then existing lease of space in the Property, of a transferee to which Landlord has consented, on monument signage of approximately 2 feet deep by 3 feet wide by 4 feet high, in the outdoor plaza at the corner of Dartmouth Street and Huntington Avenue.

" **Signage Tenant** " shall mean the original Tenant named herein, any transferee pursuant to a Related Party Transfer, or any other transferee pursuant to a transfer to which Landlord has consented. No such signage shall display the name or logo of more than one entity and the name and logo on the signage must be the Tenant under this Lease or, if the Tenant under this Lease is an entity which is a lease-holding entity, the name and logo can be that of the affiliate of Tenant that is the principal operating company occupying the Premises.

Y. Attorneys' Fees . In the event of any legal action or proceeding brought by either party against the other arising out of this Lease, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs (including, without limitation, court costs and expert witness fees) incurred in such action. Such amounts shall be included in any judgment rendered in any such action or proceeding.

Z. Waiver of Consequential Damages . Landlord and Tenant each hereby waive all claims for special, incidental, or consequential damages (except as may arise by reason of a Tenant holdover under Article 19) against the other arising out of the breach of or failure to perform or observe the requirements and obligations created by this Lease.

AA. Violations of Law . Landlord hereby represents and warrants that as of the date hereof, Landlord has received no notices of any uncured violation of law, ordinance, order or regulation applicable to the Property.

ARTICLE 33.
NOTICES

All notices to be given under this Lease shall be in writing and either hand delivered; delivered by reputable overnight courier, delivery acknowledged by recipient; or deposited in the United States mail, certified or registered mail with return receipt requested, postage prepaid, addressed as follows:

(i) If to Landlord:

Simon Property Group, L.P.
Attention: Mike Connell, Property Manager
Two Copley Place, Suite 100
Boston, MA 02116-6502

With a copy to:

Simon Property Group, L.P.
225 West Washington Street
Indianapolis, IN 46204

and as provided in ARTICLE 29 of this Lease

and to such other person or such other address designated by notice sent by Landlord or Tenant.

(ii) If to Tenant:

Prior to the Commencement Date:

Wayfair LLC
177 Huntington Avenue, Suite 6000
Boston, MA 02115
Attention: Chief Financial Officer

Following the Commencement Date:

Wayfair LLC
Four Copley Place
Boston, MA 02116
Attention: Chief Financial Officer

With a copy to:

Bingham McCutchen LLP One Federal Street
Boston, Massachusetts 02110
Attention: Maurice H. Sullivan, Ill, Esq.

After receiving notice from any person, firm or other entity that it holds a mortgage which includes the Building as part of the mortgaged premises, no notice from Tenant to Landlord shall be effective unless and until a copy of the same is given to such holder, and the curing of any of Landlord's defaults by such holder shall be treated as performance by Landlord. Such holder shall be given such reasonable time as may be necessary to effect such cure or to foreclose the mortgage, as the case may be. For the purposes of ARTICLE 21, ARTICLE 29, ARTICLE 30 and this ARTICLE 33, the term " **mortgage** " includes a mortgage on a leasehold interest of Landlord (but not one on Tenant's leasehold interest.

Notice by mail shall be deemed to have been given as of the date of receipt. Notice by hand delivery or reputable overnight courier shall be deemed to have been given at the time of delivery or attempted delivery (as customarily evidenced by the courier).

ARTICLE 34.
LIMITATION ON LIABILITY

It is expressly understood and agreed by Tenant that none of Landlord's covenants, undertakings, representations or agreements are made or intended as personal covenants, undertakings, representations or agreements by Landlord or its partners, and any liability for damage or breach or nonperformance by Landlord shall be collectible only out of Landlord's interest in the Property and no personal liability is assumed by, nor at any time may be asserted against, Landlord or its partners or any of its or their directors, officers, agents, employees, legal representatives, successors or assigns, all such liability, if any, being expressly waived and released by Tenant. The provisions of this ARTICLE 34 shall expressly be applicable to and inure to the benefit of Landlord's successors and assigns. In no event shall Landlord or its constituent partners be liable for any incidental or consequential damages in connection with its obligations under, or any action taken by Landlord or its constituent partners in connection with, this Lease.

It is expressly understood and agreed by Landlord that none of Tenant's covenants, undertakings, representations or agreements are made or intended as personal covenants, undertakings, representations or agreements by, and no personal liability is assumed by, nor at any time may be asserted against, any of Tenant's members or partners or any of its or their directors, officers, agents, employees, legal representatives, successors or assigns, all such liability, if any, being expressly waived and released by Landlord.

ARTICLE 35.
LANDLORD'S DESIGNATED AGENT

It is expressly understood and agreed by Tenant that the provisions of this Lease may be enforced on behalf of Landlord by an agent designated by Landlord for such purpose, and such enforcement shall be equally effective whether in the name of Landlord or such agent.

ARTICLE 36.
COMMENCEMENT DATE

If Landlord shall not have substantially completed Landlord's Work (as set forth in Exhibit B) by the Commencement Date (" **Landlord's Completion Date** "), the Commencement Date shall be deferred for the number of days after Landlord's Completion Date required for Landlord to substantially complete Landlord's Work; provided, however, the Commencement Date shall not be deferred if the Premises are not substantially completed by reason of any Tenant Delays (hereinafter defined). " **Tenant Delays** " shall mean delays caused by Tenant, its employees, agents or contractors which begin one (1) business day following notice thereof from Landlord to Tenant. Furthermore, if Landlord shall not have substantially completed Landlord's Work with respect to restroom renovation with respect to the Initial Premises by September 14, 2014, then Tenant shall be entitled to a credit, for each day from September 1, 2014 to the date of such substantial completion, against Base Rent equal to one (1) day of Base Rent applicable to any floor of Tower IV (based on rentable square feet on that floor) with respect to which the Landlord's Work thereon shall not have been substantially completed. In addition, if Tenant adds space to the Initial Premises and as a result of such addition, Tenant is leasing more than 50% of a floor of a Tower, Landlord shall renovate the restrooms on such floor as contemplated by Exhibit B-2, and if Landlord shall not have substantially completed such restroom renovation on such floor by the date which is one hundred twenty (120) days following the date on which the Landlord delivers the space to Tenant that results in Tenant being the tenant of more than 50% of such floor, then Tenant shall be entitled to a credit, for each day following the end of such one hundred twenty (120) day period to the date of such substantial completion, against Base Rent due under this Lease equal to one (1) day of Base Rent applicable to the additional space on such floor which resulted in Landlord's obligation.

ARTICLE 37.
PARKING

Tenant shall have the right during the Term to use up to twenty-five (25) non reserved parking spaces in the garage located within and serving the Property and up to fifteen (15) non- reserved parking spaces in the Dartmouth Street Garage in the property adjacent to the Building and located on Dartmouth Street, subject with respect to each garage of payment by Tenant for such use at the prevailing monthly rate therefor generally charged to Office Section tenants by the operator of the garage from time to time; provided, however, for every additional 3,500 rentable square feet of space in the Premises in excess of 130,000 rentable square feet, Tenant will be entitled to use, at eh monthly rate and on the same terms as other spaces used by Tenant therein, one additional non-reserved parking space in the Dartmouth Street garage. In the event of non-payment of parking charges due hereunder by the Tenant, Landlord shall have the right to terminate Tenant's rights with respect to parking without any obligation to reinstate such right to parking in the event Tenant attempts to resume payment for parking.

ARTICLE 38.
TENANT IMPROVEMENT ALLOWANCE

Subject to the terms of this Section 38 set forth below, there shall be paid by the Landlord as the Landlord's contribution toward Tenant's Initial Alterations, the sum (" **Allowance** ") of

$7,191,555.84, based upon a contribution of $68.04 per rentable square foot for 105,696 rentable square feet in the Initial Premises. Tenant shall submit to Landlord Tenant's good faith estimate (" **Qualified Cost Estimate** ") of the Qualified Costs (hereinafter defined) to be incurred by Tenant in connection with its move to and the construction of Initial Alterations in the Premises. Installments of the Allowance shall be payable in accordance with the procedures set forth below. Installments of the Allowance, which shall in no event exceed in the aggregate the amount of the Allowance, shall be paid to Tenant (or, at Landlord's option if Landlord reasonably determines that Tenant is not paying its contractors and such failure to pay may give rise to a lien against the Building, to the order of the contractor that performed the work set forth in the respective invoices) or, at Tenant's option to Tenant's contractors, with respect to Qualified Costs theretofore incurred by Tenant (and not theretofore paid to Tenant or which were Tenant's responsibility as set forth in this Article 38) for which Tenant has submitted a requisition consisting of, (i) in the case of other than costs incurred under architectural and engineering contracts (collectively " **Professional Services Contracts** ") or under construction contracts, such as furniture or moving or professional fees that are contracted for by Tenant separate from construction and Professional Services Contracts, paid invoices, (ii) in the case of Professional Services Contracts, invoices, and (iii) in the case of construction costs (a) an application for payment and sworn statement of a contractor performing general contracting work in the Premises substantially in the form of AIA Document G-702 covering all work for which disbursement is to be made to a date specified therein which is part of the construction contract; (b) a certification from an AIA architect substantially in the form of the Architect's Certificate for Payment which is located on AIA Document G702, Application and Certificate of Payment; (c) contractor's, project managers and subcontractor's waivers of liens which shall cover all applicable items of Qualified Costs under such construction contracts for which disbursement is being requested and any other statements and forms required for compliance with the mechanics' lien laws of the Commonwealth of Massachusetts, together with invoices with respect to such Qualified Costs and such other supporting data as Landlord or Landlord's Mortgagee may reasonably require; (iv) a cost breakdown for each trade or subcontractor performing the work included in Qualified Costs for which a request for disbursement under such construction contracts is being made; (v) copies of all construction contracts for the such Alterations, together with copies of all change orders, if any; and (iii) a request to disburse from Tenant containing an acknowledgement by Tenant of the work done and a good faith estimate of the cost to complete the Initial Alterations to the Premises. Upon completion of the Initial Alterations, and as part of the requisition for final disbursement of the Allowance for hard construction costs, Tenant shall furnish Landlord with: (1) general contractor and architect's completion affidavits, (2) full and final waivers of lien, (3) receipted bills covering all labor and materials expended and used, (4) as-built plans of the Alterations, and (5) the certification of Tenant's architect to the Landlord that, based on on-site observation and the data comprising the application for disbursement, to the best of the architect's knowledge, information and belief, the Alterations have progressed as indicated in the application, the quality of the Alterations is in accordance with the construction contract documents and the contractor is entitled to; payment of the amount certified in the application. Notwithstanding the foregoing, if the Qualified Cost Estimate exceeds the Allowance, Tenant shall be entitled to payments with respect to any requisition in accordance with the terms hereof except that each individual disbursement of the Allowance by Landlord shall be in the same ratio to the amount properly requisitioned as the Allowance bears to the Adjusted Qualified Cost Estimate (hereinafter defined). " **Adjusted**

Qualified Cost Estimate " means the Qualified Cost Estimate reduced by any amount paid prior to the date of computing the Adjusted Qualified cost Estimate by Tenant directly to a contractor, professional or supplier with respect to the cost of an item that had been included in the Qualified Cost Estimate, but with respect to which Tenant will not be submitting a requisition (and for which Landlord will not make any payment with respect to the Allowance). Furthermore, the amount of any installment of the Allowance otherwise payable shall be reduced by the amount of any retainage applicable to the Qualified Costs (proportionately if an individual disbursement is reduced as set forth in the immediately preceding sentence) with respect to which the disbursement is being requested, but such retainage shall be payable as part of the final draw when all requirements set forth for such disbursement have been met). In no event shall Landlord be required to disburse any installment of the Allowance more than twice in any calendar month and in no event will Landlord be obligated to disburse an amount which is less than $50,000 (other than the final disbursement on account of the Allowance). Notwithstanding anything herein to the contrary, Landlord shall not be obligated to disburse any portion of the Allowance during the continuance of an uncured default under this Lease, and Landlord's obligation to disburse shall only resume when and if such default is curable and is, in fact, cured. Time is of the essence with respect to the time periods set forth in this Section 38.

For purposes hereof, " **Qualified Costs** " shall mean actual costs for (a) preparation of drawings and other expenses incurred in connection with design and construction, including without limitation permit fees and costs of labor and materials, (b) construction of the Premises in accordance with the plans and specifications approved in accordance with ARTICLE 10, (c) wiring and cabling in the Premises (d) architectural, engineering, construction management, project management and other professional fees relating to design and construction of the Premises and the negotiation of this Lease, (e) costs for the procurement of furniture, fixtures and equipment in connection with this Lease, (f) telephone data, equipment, audio visual equipment, security systems and special power distribution (g) moving and delivery costs, (h) skylights and (i) a roof deck on the roof of Tower IV, U) interconnecting staircases between floors in the Premises, and (k) all other hard and soft costs related to the Tenant's Alterations and moving expenses associated with the space with respect to which the Allowance for such Qualified Costs is being provided.

Notwithstanding the foregoing, if, as of June 15, 2015, the amount paid or payable (by reason of requisitions) by Landlord with respect to the Allowance is less than the Allowance, Landlord shall apply an amount equal the difference between the amount theretofore requisitioned by Tenant and the Allowance to Base Rent next coming due under this Lease; provided however, Landlord shall have no obligation to apply such amount to Base Rent if Tenant is in default of its obligations under this Lease unless and until such application would cure all defaults of Tenant in full.

Landlord shall pay the portion of the Allowance related to a requisition as is to be paid by Landlord under this Article 38 not later than thirty (30) days following the Landlord's approval of the applicable requisition package. Landlord shall have a review period of fifteen (15) business days following the submission of a requisition package to object to the submission as not being in compliance with this Article 38 and if Landlord does not object to the submission within such period, the submission shall be deemed approved. If Landlord shall object to a requisition package, Tenant shall resubmit as necessary to comply with this Article 38 and the

process for approval shall begin again. If Landlord shall fail to pay by the date due hereunder the amount to be paid by Landlord in accordance with this Article 38 for thirty (30) days following approval or deemed approval of the requisition package, upon five (5) days prior written notice thereof from Tenant to Landlord of such failure, Tenant may offset against Base Rent next payable by Tenant to Landlord under this Lease, the amount which was not paid by the end of such thirty (30) day notice period together with interest thereon at the rate specified in Section 32.B of this Lease from the end of such thirty (30) day period until the date on which such amount with interest is offset against such Base Rent or otherwise paid by Landlord to Tenant.

ARTICLE 39.
FINANCIAL STATEMENTS

Tenant shall furnish to Landlord annually within thirty (30) days after Landlord's request therefor in connection with any bona fide potential sale or financing of the Building, Tenant's most recent annual statement, certified by a responsible financial officer of Tenant. Tenant agrees that Landlord may deliver a copy of such statements to its mortgagee or ground lessor or a potential purchaser of Landlord's interest in the Premises, but otherwise, Landlord shall treat such statements and information contained therein as confidential; provided, however, Landlord may release such statements and information if and to the extent required by a court of competent jurisdiction or if in the opinion of Landlord's counsel, the information contained in such statements and information is required to be disclosed under applicable law following not less than ten (10) business days' notice to Tenant unless otherwise required by applicable law.

ARTICLE 40.
TENANT AUTHORITY TO EXECUTE LEASE

40.01 Tenant Authority to Execute Lease . Tenant (a) represents and warrants that this Lease has been duly authorized, executed and delivered by and on behalf of Tenant and constitutes the valid and binding agreement of Tenant in accordance with the terms hereof and (b) if Landlord so requests, Tenant shall deliver to Landlord or its agent, concurrently with the delivery of this Lease executed by Tenant, certified resolutions authorizing Tenant's execution and delivery of this Lease by the person executing on behalf of Tenant and the performance of Tenant's obligations hereunder.

40.02 Landlord Authority to Execute Lease . Landlord has all requisite power and authority to execute and deliver this Lease and to carry out its obligations hereunder and the transactions contemplated hereby.

ARTICLE 41.
OPTION TO EXTEND LEASE

Tenant shall have the right to extend the Term of this Lease for two (2) successive five (5) year periods, each such right of Tenant to be conditioned upon (a) this Lease at the time of election being in full force and effect and Tenant not then being in default under this Lease beyond any applicable notice and cure period, such extension period to commence upon the expiration of the original Term of this Lease, (b) as to the second option, the first option having been exercised. Each option may be exercised for all or a portion, but not less than 70%, of the

Premises as the same is constituted at the date the option is exercised; provided, however, any contiguous portion of the Premises on any floor of any Tower with respect to which Tenant does not exercise an option to extend (each, a " **Non-Extended Space** ") (a) shall be not less than 5,000 contiguous rentable square feet on any one floor of any one Tower and (b) shall meet the Window Line Criterion (hereinafter defined) and (c) shall be accessible by a corridor that is consistent with corridor layouts in comparable first class office towers. Tenant shall be responsible for the cost of separately demising the remaining Premises (demising walls erected and Building systems separated from the space relinquished). The " **Window Line Criterion** " shall mean that the Non-Extended Space satisfies any one of the following conditions:

(i) The window lines (exterior and atrium facing) are comparable to the window lines (exterior and atrium facing) of any other leased space in the Office Section of comparable size;

(ii) The window lines (exterior and atrium facing) are substantially proportionate to the window lines (exterior and atrium facing) in the space on the floor that they is being retained;

(iii) The window line is, in the view of the Landlord's Office Section brokers, marketable at rates consistent with the rates for other space of the Office Section; or

(iv) The window lines (exterior and atrium facing) are substantially proportionate to the window lines (exterior and atrium facing) of any other leased space in the Office Section.

A right of extension shall be exercised, if at all, by written notice to Landlord given at least eighteen (18) months, but not more than twenty-four (24) months prior to the expiration of the then Term of this Lease and such notice must designate the portion of the then Premises, if less than all, with respect to which the extension is being exercised. If a notice is given in compliance with the provisions hereof, this Lease shall, thereupon, be extended for the applicable extension period, subject to the terms of this ARTICLE 41, without the need for any further instrument to be executed (but either party shall execute such a confirmatory instrument upon the request of the other); and if no such notice is given, then Tenant's right of extension shall be null and void. All of the terms, conditions and provisions of this Lease shall be applicable to any extension of the Term hereof, as if the termination date of the extension period were the date originally set forth herein for the expiration of the Term, except that (i) the exercised right of extension shall be of no further force or effect, so that there shall be no further right of extension with respect thereto, (ii) the Base Rent per square foot during the extension period shall be 95% of the Fair Market Rent (as hereinafter defined); and (iii) the Premises demised under this Lease during the extension period shall be the Premises set forth in Tenant's notice of extension (which may not be less than seventy percent (70%) of the Premises demised under this Lease at the time the notice of extension is given, as described above) and Tenant's Proportionate Tax Share and Tenant's Proportionate Expense Share shall be proportionately adjusted, if necessary to reflect the reduced size of space included in the Premises.

" **Fair Market Rent** " for purposes of this ARTICLE 41 shall mean the rent (base rent and additional rent adjusted, if necessary, to reflect the base years to be used for the applicable period) per rentable square foot for similar office space in the Building and in comparable buildings as reasonably located in the City of Boston, (i) without taking into account actual improvements (regardless of who paid for such improvements), or the cost of demolition of the space, and (ii) taking into account (A) the magnitude of any free rent or buildout allowance, (B) length of lease, (C) building amenities, (D) the location and floor levels of the premises, (E) services provided, (F) surrender rights, if any, (G) parking rights and obligations, (H) free rent, tenant allowances or other concessions and (I) all other relevant market factors and (iii) taking into account the brokerage commissions, if any, to be paid in connection with the renewal.

Within thirty (30) days after Tenant's exercise of the extension option (or, if earlier, within thirty (30) days after Tenant's request for Landlord's rental rate, which may be made at any time after the date twenty-two (22) months prior to the then scheduled expiration of the Term and prior to Tenant's giving its notice exercising the extension option), Landlord shall provide Tenant with its good faith estimate of the Fair Market Rent for the period of the extension. If, within thirty (30) days after Tenant's receipt of Landlord's estimate (" **Consideration Period** "), Tenant shall not have accepted Landlord's estimate of Fair Market Rent, the parties shall at the request of either party made by notice given within ten (10) days of the end of the Consideration Period, discuss the matter in good faith for thirty (30) days. If within such thirty (30) day period the parties have not agreed on the Fair Market Rent rate in writing, then Landlord and Tenant shall, during the ensuing fifteen (15) days, attempt to agree on an arbitrator not affiliated with either party (and if they are unable to do so, either party may request that the President of the American Arbitration Association in Boston choose an arbitrator, as promptly as possible, meeting the criteria set forth below; provided, however, the parties shall have the right during the ten (10) day period following the end of the fifteen (15) day period to submit the names of not more than two (2) potential arbitrators meeting the said criteria and if the parties or either of them makes such a submission, the choice of the President of the American Arbitration Association shall be made from the list of potential arbitrators so submitted). Such arbitrator shall have a period of thirty (30) days to determine which of Landlord's estimate of Fair Market Rent or Tenant's estimate of Fair Market Rent hereunder more closely corresponds to the Fair Market Rent and the estimate of Fair Market Rent which in the judgment of the arbitrator more closely corresponds to the arbitrator's estimate of Fair Market Rent shall be the Fair Market Rent for purposes hereof and the determination shall be binding upon the parties. The arbitrator must choose either the Fair Market Rent estimate submitted by Landlord or the Fair Market Rent estimate submitted by Tenant. Such arbitrator shall have at least ten (10) years' experience in the valuation and appraisal of first-class office rents for real estate in the City of Boston, be experienced with leasing transactions exceeding 100,000 square feet within the downtown Boston area, and have no then contractual relationship with either Landlord or Tenant. The expenses of the arbitrator shall be borne equally by the Landlord and the Tenant.

ARTICLE 42.
EXPANSION RIGHTS

42.01 Special Expansion Rights . Exhibit A-1 described certain spaces in Tower IV of the Building of which the Tenant is State Street Bank or an affiliate. Each such space is

designated on Exhibit A-1 as "SSB" and is referred to herein as an " **SSB Expansion Space** " and such spaces are referred to herein collectively as " **SSB Expansion Spaces** ". The SSB Expansion Spaces are subject to a lease which terminates on December 31, 2014, if not extended pursuant to its current terms by December 31, 2013. In the event the lease of the SSB Expansion Spaces is not extended pursuant to the terms of the currently existing rights of the tenant thereof to extend either because the tenant of the SSB Expansion Space does not give timely notice of extension or because such tenant provides a waiver of the right to extend prior to December 31, 2013, Landlord shall promptly notify Tenant and Tenant shall have the option to expand the Initial Premises by any or all of the SSB Expansion Spaces (but as to any designated SSB Expansion Space on any one floor of any Tower, the expansion option must be exercised as to the entire SSB Expansion Space), by notice to Landlord given not later than the earlier of (a) February 28, 2014 and (b) sixty (60) days following the date of Landlord's notice, but in no event shall Tenant be obligated to exercise an option earlier than September 30, 2013. If Tenant timely provides such notice, the SSB Expansion Spaces which Tenant elected to add to the Premises shall be added thereto as of January 1, 2015 (subject to any holdover by the tenant thereof).

Exhibit A-1 also designates a portion of the first floor of Tower I as space that may become Available (as hereinafter defined) prior to July 1, 2014. It is also possible that an SSB Expansion Space may become Available prior to July 1, 2014 by reason of a negotiated termination of the existing lease with respect to such SSB Expansion Space. Furthermore, space contiguous (vertically or horizontally) to the Initial Premises excluding the currently vacant (approximately 8,963 rsf) suite on the second floor of Tower Ill may become available by reason of a termination of lease. Each SSB Expansion Space that becomes Available prior to July 1, 2014; the Tower I Space described in Exhibit A-1 and any such contiguous space in Tower Ill that becomes Available prior to July 1, 2014, is referred to herein as an " **Early Expansion Space** " (and collectively as " **Early Expansion Spaces** "). If the current tenant of an Early Expansion Space notifies Landlord that it is willing to terminate its existing lease of an Early Expansion Space prior to July 1, 2014 and Landlord is willing, in its sole discretion, to permit such termination, Landlord shall notify Tenant of the anticipated date of such Early Expansion Space shall be Available ("EES Notice"), and Tenant shall have the option to expand the Initial Premises by the addition thereto of such Early Expansion Space, by notice ("EES Acceptance") to Landlord given not later than the later to occur of (i) September 1, 2013 and (ii) thirty (30) days following the date Tenant receives the associated EES Notice.

An Early Expansion Space shall be added to the Premises on later to occur of September 1, 2013 and the Add Date (as hereinafter defined) for such Early Expansion Space.

" **Add Date** " as to an Early Expansion Space shall be five (5) business days following the later to occur of (A) the date the Landlord anticipated the Early Expansion Space would be available in the EES Notice and (B) the date such Early Expansion Space is Available and Tenant is given notice thereof by Landlord; but in no event prior to thirty (30) days following the date Tenant gives the EES Acceptance with respect to such Early Expansion Space; provided, however, the Add Date shall be deferred as provided in Article 7 with respect to Early Expansion Space to be delivered in "shell" rather than "as-is" condition as provided in Article 7.

Space shall be " **Available** " if the lease with respect thereto is terminated, such space is vacant and currently existing tenants of the Building do not have rights to such space which were

in effect as of the date of this Lease. It is understood that Tenant's rights hereunder with respect to Tower IV are superior to rights of any third party including State Street Bank except with respect to the existing renewal option of State Street Bank (without modification).

With respect to SSB Expansion Space and Early Expansion Space added to the Premises hereunder, such space shall as of the date the same become a part of the Premises be leased on all of the terms and conditions of this Lease as if the same were a part of the Premises originally designated in Section 1.19, and, accordingly, (ii) Base Rent shall be increased by the Annual Base Rent per Rentable Square Foot set forth in Section 1.11 of this Lease multiplied by the rentable square feet in the SSB Expansion Space and/or Early Expansion Space so added to the Premises originally designated as of the date so added, (iii) the Tenant's Proportionate Expense Share and Tenant's Proportionate Tax Share will be increased to reflect the additional square footage in the Premises as of the date so added, and (iv) the Allowance under Section 38 shall be increased by an amount equal to $60.00 per rentable square foot contained in the added SSB Expansion Space and/or Early Expansion Space.

42.02 Expansion Rights . Tenant shall have two (2) additional options to expand the Premises, subject to Section 43.01(ii). The first option (" **Expansion Option One** ") is to expand the Premises by the addition thereto of approximately 16,654 rentable square feet on the 4th floor of Tower III (" **Expansion Space One** ") and the second option ("Expansion Option Two") is to expand the Premises by the addition thereto of approximately 5,413 rentable square feet on the 4th floor of Tower III (" **Expansion Space Two** "). Expansion Space One and Expansion Space Two are designated on Exhibit A-3. In the event Tenant exercises a right of first offer as provided in Article 43 with respect to space within Expansion Space One and/or Expansion space Two, the space that landlord is obligated to deliver hereunder shall be correspondingly reduced. The right to exercise Expansion Option One is subject only to the prior rights of the current tenant thereof to extend or renew its lease thereof pursuant to existing rights contained in its lease as of the date hereof on or before March 31, 2014. The right to exercise Expansion Option Two is subject only to the right of first offer granted to the current tenant of Expansion Space One prior to the date of this Lease. Each option to expand requires notice of the exercise of the option by the applicable Expansion Notice Date (hereinafter defined), time being of the essence, and the space which is the subject of such option to expand shall be delivered by Landlord to Tenant by the applicable Expansion Delivery Date (as hereinafter defined). " **Expansion Notice Date** " for Expansion Option One is March 1, 2014 and for Expansion Option Two is July 1, 2014. " **Expansion Delivery Date** " for Expansion Space One is March 1, 2015 and for Expansion Space Two is July 1, 2015. Rent will be payable on the space added by the exercise of Expansion Option One beginning on July 1, 2015. Rent will be payable on the space added by the exercise of Expansion Option Two beginning on November 1, 2015. With respect to expansion space added to the Premises under this Section 42.02, such expansion space shall be leased on all of the terms and conditions of this Lease as amended from time to time, except that (i) the Term for such expansion space shall begin on the applicable Expansion Delivery Date and end on the Termination Date (as the same may be extended or reduced as provided in this Lease), (ii) Base Rent shall be increased by the addition thereto of the Annual Base Rent per Rentable Square Foot set forth in Section 1.11 of this Lease multiplied by the rentable square feet in the applicable expansion space, (iii) the Proportionate Share of Expenses and the Proportionate Share of Taxes will be increased to reflect the additional square footage in the Premises and (iv) Tenant shall receive an improvement allowance with respect to the

expansion space at a rate of $60.00 (not $68.04) per rentable square foot of the applicable expansion space multiplied by the ratio of the number of months in the term of the expansion space to the number of months in the original term of this Lease, such improvement allowance to be administered on the same terms as the Allowance under ARTICLE 38, but only disbursed to the extent of Qualified Costs related to the expansion space, without the right to apply any unused portion to free rent and such allowance must be requisitioned by December 31, 2016. The expansion space shall be otherwise delivered in "as-is" condition, broom clean and free of all personal property, debris, tenants and occupants. If Landlord is delayed delivering possession of Expansion Space One or Expansion Space Two, as applicable, beyond the applicable Expansion Delivery Date due to the holdover or unlawful possession of Expansion Space One or Expansion Space Two, as applicable, by any party, or otherwise, Landlord shall use reasonable efforts to obtain possession of, and deliver to Tenant, Expansion Space One or Expansion Space Two, as applicable, and the commencement of the term for Expansion Space One or Expansion Space Two, as applicable, and Tenant's obligation to pay Rent therefor shall be postponed accordingly. If Landlord is unable to deliver an Expansion Space under this Section 42.02 by the date which is ninety (90) days following the applicable Expansion Delivery Date, Tenant shall have the right to withdraw its notice to expand the Premises by the addition of such Expansion Space at any time thereafter, but prior to delivery of such Expansion Space in the condition required hereunder, by thirty (30) days' notice to Landlord of such withdrawal; provided, however, such notice of withdrawal shall be of no force or effect if, prior to the end of such thirty (30) days, Landlord delivers the Expansion Space to Tenant in the condition required hereunder.

42.03 Expansion Amendment . If Tenant exercises an expansion option under Section 41.01 and/or Section 42.02, Landlord shall prepare an amendment (an " **Expansion Amendment** ") adding the applicable expansion space to the Premises on the terms set forth above and reflecting the changes in the Base Rent, Rentable Square Footage of the Premises, Tenant's Proportionate Share of Taxes and Tenant's Proportionate Share of Expenses and other appropriate terms. A copy of the Expansion Amendment shall be sent to Tenant and, subject to Landlord and Tenant agreeing upon any reasonable changes requested by Tenant, Tenant shall execute and return the expansion Amendment to Landlord within thirty (30) days thereafter, and Landlord shall deliver a copy thereof executed by Landlord to Tenant, but an otherwise valid exercise of an expansion option shall be fully effective, whether or not an Expansion Amendment is executed.

42.04 Bentley Space . In the event Tenant is offered and elects to sublease the "Bentley" space consisting of 13,294 rentable square feet of space on the 7th floor of Tower Ill, designated by Landlord as Space #3701, from the tenant thereof, Landlord will consent to such sublease to Tenant and provide Tenant the option to add the sublease space to the Premises upon expiration of such sublease on the terms then in effect under this Lease, and if Tenant adds the sublease space to the Premises, Tenant shall receive an improvement allowance with respect to the expansion space at a rate of $60.00 (not $68.04) per rentable square foot of such space multiplied by the ratio of the number of months remaining in the term of this Lease at the date such space becomes a part of the Premises to the number of months in the original term of this Lease, such improvement allowance to be administered on the same terms as the Allowance under ARTICLE 38, but only disbursed to the extent of Qualified Costs related to the Bentley space, without the right to apply any unused portion to free rent.

ARTICLE 43.
RIGHT OF FIRST OFFER

43.01 Grant of Option; Conditions . Tenant shall have a continuing right of first offer (the " **Right of First Offer** ") with respect to the following space in the Office Section:

(i) Commencing on the date hereof, all space in Tower IV other than on the first floor;

(ii) Commencing on the date hereof, any space in Tower Ill that is contiguous to the then Premises, whether on a floor above or below the Premises (including SSB Expansion Space and Early Expansion Space not added under Section 41.01 and any expansion space under Section 41.02) or on the same floor as a portion of the Premises, but in Tower Ill;

(iii) Commencing July 1, 2019, any space in Tower I, but subject to the rights, existing as of the date of this Lease, of other tenants of the Building.

Any such space that becomes available as hereinafter described is referred to herein as the " **Offering Space** ". If during the Term Landlord determines (in Landlord's sole judgment) that Offering Space is available to lease to a third party other than the existing tenant or licensee of the Offering Space, then Landlord shall so advise Tenant (the " **Advice** "). Tenant may lease such Offering Space in its entirety only, under the applicable terms described below, by delivering written notice of exercise to Landlord (the " **Notice of Exercise** ") within ten business (10) days after the date of the Advice. In any event, Tenant's delivery of a Notice of Exercise shall be deemed to be the irrevocable exercise by Tenant of its Right of First Offer subject to and in accordance with the provisions of this ARTICLE 43. Any reference to the Advice below shall be a reference to the Advice with respect to which a Notice of Exercise was given.

Notwithstanding the foregoing, Tenant shall have no such Right of First Offer and Landlord need not provide Tenant with an Advice, if:

(a) A material default is then continuing at the time that Landlord would otherwise deliver the Advice; or

(b) Tenant herein named (or a transferee pursuant to a Related Party Transfer, as defined in ARTICLE 17 of this Lease) is not in occupancy of at least 70% of the Premises initially leased at the time Landlord would otherwise deliver the Advice; or

(c) This Lease has been assigned (other than pursuant to a Related Party Transfer) prior to the date Landlord would otherwise deliver the Advice.

43.02 Terms for Offering Space . The term for the Offering Space shall commence upon the commencement date stated in the Advice and shall thereafter continue for the balance of the Term of this Lease as the same may be extended; provided, however, in the event the commencement date for Offering Space as set forth in the Advice is to commence on or after July 1, 2019, the term of the lease with respect to the Offering Space shall be the term set forth in the Advice with respect thereto. The Offering Space shall be added to the then Premises under

this Lease on all of the terms and conditions of this Lease as the same may be amended from time to time except as hereinafter provided and except as provided in the immediately preceding sentence. In the event the Offering Space becomes a part of the Premises prior to July 1, 2019, as of the date the Offering Space term commences (i) the amount added to Base Rent on account of the Offering Space shall be the Annual Base Rent per Rentable Square Foot set forth in Section 1.11 of this Lease multiplied by the rentable square feet in the Offering Space and (ii) the Tenant's Proportionate Expanse Share and Tenant's Proportionate Tax Share shall be increased to reflect the additional square footage in the Premises and (iii) Tenant shall receive an improvement allowance to be used for Qualified Costs with respect to the Offering Space at a rate of $60.00 per rentable square foot in the Offering Space multiplied by the ratio of the number of months in the Offering Space term to the number of months in the original Term of this Lease, such improvement allowance to be administered on the same terms as the Allowance under ARTICLE 38, but only disbursed to the extent of Qualified Costs related to the Offering Space, without the right to apply any unused portion to rent and such improvement allowance must be requisitioned by the date which is fifteen (15) months following the date of delivery of the Offering Space, but the Offering Space shall be otherwise delivered in the condition set forth in the Advice. In the event the Offering Space becomes a part of the Premises after June 30, 2019, Base Rent under this Lease shall be increased by the Prevailing Market Rent (as hereinafter defined) for the Offering Space and the terms and conditions under which the Offering Space shall be leased (including, without limitation, the duration of the term for the Offering Space) shall otherwise be as set forth in the Advice with respect to the Offering Space.

43.03 Definition of Prevailing Market Rent . " **Prevailing Market Rent** " for purposes of this ARTICLE 43 shall mean the rent (base rent and additional rent adjusted, if necessary, to reflect the base years to be used for the applicable period) per rentable square foot for similar office space in the Building and in comparable buildings as reasonably located in the City of Boston (i) taking into account (A) any difference in the base years between the Offering Space and the compared space for measurement of additional rent on account of taxes and expenses, (B) the magnitude of any free rent or buildout allowance included in rent for the compared space, (C) length of lease, (D) building amenities in the respective buildings, (E) the location and floor levels of the Offering Space and the compared space, (F) services provided in the respective buildings, (G) surrender rights, if any, in the compared space (H) parking rights and obligations, (I) free rent, tenant allowances or other concessions in the compared space and (J) all other relevant market factors and (iii) taking into account the brokerage commissions, if any, to be paid in connection with the leasing the respective spaces.

43.04 Determination of Prevailing Market Rent . Within thirty (30) days after Landlord's receipt of the Notice of Exercise, if Base Rent is to be determined with reference to Prevailing Market Rent, Landlord shall provide Tenant with its good faith estimate of the Prevailing Market Rent. If, within thirty (30) days after Tenant's receipt of Landlord's estimate, Tenant shall not have notified Landlord of its objection to Landlord's estimate and of Tenant's estimate of Prevailing Market Rent, the estimate of Prevailing Market Rent quoted by Landlord shall be deemed to be the Prevailing Market Rent for the Offering Space. If Tenant so notifies Landlord of its objection, the parties shall discuss the matter in good faith for thirty (30) days after Tenant's objection notice. If within such thirty (30) day period the parties have not agreed on the Prevailing Market Rent rate in writing, then Landlord and Tenant shall, during the ensuing fifteen (15) days, attempt to agree on an arbitrator not affiliated with either party (and if they are

unable to do so, either party may request that the President of the American Arbitration Association in Boston choose an arbitrator, as promptly as possible, meeting the criteria set forth below; provided, however, the parties shall have the right during the ten (10) day period following the end of the fifteen (15) day period to submit the names of not more than two (2) potential arbitrators meeting the said criteria and if the parties or either of them makes such a submission, the choice of the President of the American Arbitration Association shall be made from the arbitrators so submitted). Such arbitrator shall have a period of thirty (30) days to determine which of Landlord's estimate of Prevailing Market Rent or Tenant's estimate of Prevailing Market Rent hereunder more closely corresponds to the Prevailing Market Rent and the estimate of Prevailing Market Rent which more closely corresponds to the arbitrator's estimate of Prevailing Market Rent shall be the Prevailing Market Rent for purposes hereof with respect to the subject Offering Space and the determination shall be binding upon the parties. The arbitrator must choose either the Prevailing Market Rent estimate submitted by Landlord or the Prevailing Market Rent Estimate submitted by Tenant. Such arbitrator shall have at least ten (10) years' experience in the valuation and appraisal of first-class office rents for real estate in the City of Boston, be experienced with leasing transactions exceeding 100,000 square feet within the downtown Boston area, and have no then contractual relationship with either Landlord or Tenant. The expenses of the arbitrator shall be borne equally by the Landlord and the Tenant.

43.05 Condition of Offering Space . The Offering Space (including improvements therein) shall be delivered to Tenant broom-clean and free of occupants and personal property but otherwise in its condition and as-built configuration existing on the earlier of the date Tenant takes possession of the Offering Space or as of the date the term for such Offering Space commences. If Landlord is delayed delivering possession of the Offering Space due to the holdover or unlawful possession of the Offering Space by any party, or otherwise, Landlord shall use reasonable efforts to obtain possession of the Offering Space, and the commencement of the term for the Offering Space and Tenant's obligation to pay Rent for such Offering Space shall be postponed until the date Landlord delivers possession of the Offering Space to Tenant free from occupancy by any party and otherwise in the condition required hereunder. If Landlord is unable to deliver an Offering Space under this Article 43 by the date which is ninety (90) days following the commencement date set forth in the applicable Advice, Tenant shall have the right to withdraw its notice to add the Offering Space to the Premises at any time thereafter, but only prior to delivery of such Expansion Space in the condition required hereunder, by thirty (30) days' notice to Landlord of such withdrawal; provided, however, such notice of withdrawal shall be of no force or effect if, prior to the end of such thirty (30) days, Landlord delivers the Offering Space to Tenant in the condition required hereunder.

43.06 Offering Amendment . If Tenant exercises its Right of First Offer, Landlord shall prepare an amendment (an " **Offering Amendment** ") adding the Offering Space to the Premises on the terms set forth in the Advice and reflecting the changes in the Base Rent, Rentable Square Footage of the Premises, Tenant's Proportionate Share of Taxes and Tenant's Proportionate Share of Expenses and other appropriate terms. A copy of the Offering Amendment shall be sent to Tenant and, subject to Landlord and Tenant agreeing upon any reasonable changes requested by Tenant, Tenant shall execute and return the Offering Amendment to Landlord within thirty (30) days thereafter, but an otherwise valid exercise of a Right of First Offer shall be fully effective, whether or not an Offering Amendment is executed.

ARTICLE 44.
ROOFTOP COMMUNICATIONS

Landlord hereby grants to Tenant a license to use space on the roof of the Building for communications infrastructure, Tenant shall have the right to access and use the roof of the Building (such right being referred to herein as a " **Roof License** "), commencing on the Commencement Date, in accordance with the following terms and conditions:

A. During the term of a Roof License, Tenant, at no additional cost other than the costs incurred by Tenant in connection with installation and maintenance, may use the Roof Space (as hereinafter defined) for the purpose of installing, operating and maintaining microwave dishes, antennae and/or other communication devices approved by the Landlord (each, a " **Dish/Antenna** "), such approval not to be unreasonably withheld, conditioned or delayed. Tenant shall have no right to use the Roof Space under a Roof License subsequent to the Termination Date. Tenant may elect to terminate the use of the Roof Space and so terminate the Roof License under which Tenant is using the Roof Space by giving not less than thirty (30) days notice to Landlord of Tenant's intention to cease using the Roof Space, complying with its obligations relating to removal of the Dish/Antenna Items (as defined below) not later than such date. The exact location of the space on the roof to be used by Tenant under a Roof License shall be reasonably designated by Landlord (the " **Roof Space** "). Landlord reserves the right at Landlord's sole cost and expense and without material disruption to Tenant, to relocate the Roof Space as reasonably necessary during the Term. Landlord's designation shall take into account Tenant's use of the Dish/Antenna Items. Notwithstanding the foregoing, Tenant's right to install the Dish/Antenna shall be subject to the reasonable approval rights of Landlord and Landlord's architect and/or engineer with respect to the plans and specifications of the Dish/Antenna Items (as hereinafter defined) including without limitation appearance, the size of the Dish/Antenna, the manner in which the Dish/Antenna is attached to the roof of the Building and the manner in which any cables are run to and from the Dish/Antenna, it being understood that Tenant shall have the right at its cost and expense to run conduit to connect the Premises to the Dish/Antenna, provided that Tenant installs such conduit in existing chases reasonably designated by Landlord, installs such conduit in a manner that avoids, and at times that do not result in, interference with other tenants of the Building as of the date of this Lease and their equipment and installations and performs such installation in compliance with rules with respect thereto from time to time promulgated by Landlord using contractors approved by Landlord and providing such insurance coverage as Landlord may reasonably require. The Dish/Antenna must be tagged with weatherproof labels showing manufacturer, model, frequency range, and name of Tenant. In addition, the cable between the Dish/Antenna and the Premises, and any other cable connected to the Dish/Antenna (the " **Dish/Antenna Cable** ") must be tagged in the telecom closet on each floor with a label showing Tenant's name, phone number and suite number. The precise specifications and a general description of the Dish/Antenna along with all documents Landlord reasonably requires to review the installation of the Dish/Antenna Items (the " **Communications Plans and Specifications** ") shall be submitted to Landlord for Landlord's written approval no later than twenty (20) days before Tenant commences to install the Dish/Antenna. Tenant shall be solely responsible for obtaining all necessary governmental and regulatory approvals and for the cost of installing, operating, maintaining and removing the Dish/Antenna. Tenant shall notify Landlord upon completion of the installation of the Dish/Antenna Items. If Landlord determines that the Dish/Antenna does not comply with the approved Communications Plans and

Specifications, that the Building has been damaged during installation of the Dish/Antenna Items or that the installation was defective, Landlord shall notify Tenant of any noncompliance or detected problems and Tenant shall act promptly with the application of diligence to cure the defects. If the Tenant fails to promptly cure the defects, Tenant shall pay to Landlord upon demand the cost, as reasonably determined by Landlord, of correcting any defects and repairing any damage to the Building caused by such installation. If at any time Landlord, in its sole but reasonable discretion, deems it necessary, Tenant shall provide and install, at Tenant's sole cost and expense, appropriate aesthetic screening, reasonably satisfactory to Landlord, for the Dish/Antenna (the " **Aesthetic Screening** ").

B. Landlord agrees that during the term of a Roof License, Tenant, upon reasonable prior written notice to Landlord, shall have access to the Building and the Roof Space for the purpose of installing, maintaining, repairing and removing the Dish/Antenna, Dish/Antenna Cable, the appurtenances and the Aesthetic Screening, if any (collectively, the " **Dish/Antenna Items** "), all of which shall be performed by Tenant or Tenant's authorized representative or contractors, which shall be approved by Landlord (such approval not to be unreasonably withheld, conditioned or delayed), at Tenant's sole cost and risk. It is agreed, however, that only authorized engineers, employees or properly authorized contractors of Tenant, FCC inspectors, or persons under their direct supervision will be permitted to have access to the roof of the Building and the Roof Space. Tenant further agrees to exercise such control over the people requiring access to the roof of the Building and the Roof Space as is necessary to keep to a minimum the number of people having access to the roof of the Building and the Roof Space and the frequency of their visits.

C. It is further understood and agreed that the installation, maintenance, operation and removal of the Dish/Antenna Items are not permitted to damage the Building or the roof thereof, or unreasonably interfere with the use of the Building and roof by Landlord or other tenants of the Building. Tenant shall be responsible for any material damage caused to the roof or any other part of the Building, to the extent caused by Tenant or any of its agents or representatives as a result of Tenant's exercise of its rights under a Roof License under this ARTICLE 44. Tenant agrees that at all times during the term of a Roof License, it will keep the roof of the Building and the Roof Space free of all trash or waste materials produced by Tenant or Tenant's agents, employees or contractors.

D. Tenant agrees to install only Dish/Antenna Items of types and frequencies which will not cause unreasonable interference to Landlord or existing tenants of the Building. If Tenant's Dish/Antenna Items cause such interference, Tenant will change the frequency on which it transmits and/or receives and take any other steps necessary to eliminate the interference including relocating the Dish/Antenna to another location on the roof of the Building made available by Landlord. If said interference cannot be eliminated within a reasonable period of time, in the reasonable judgment of Landlord, then Tenant agrees to remove the Dish/Antenna from the Roof Space and to remove such other Dish/Antenna Items as Landlord may request, but may reinstall the same, at Tenant's sole cost and expense, when it has demonstrated that such reinstallation will not result in interference.

E. Tenant, at its sole cost and expense, and at its sole risk, shall install, operate and maintain the Dish/Antenna Items in a good and workmanlike manner, and in compliance with all

building, electric, communication, and safety codes, ordinances, standards, regulations and requirements, now in effect or hereafter promulgated, of the Federal Government, including, without limitation, the Federal Communications Commission (the " **FCC** "), the Federal Aviation Administration (" **FAA** ") or any successor agency of either the FCC or FAA having jurisdiction over radio or telecommunications, and of the state, city and county in which the Building is located. Landlord and its agents assume no responsibility for the licensing, operation and/or maintenance of the Dish/Antenna Items. Tenant has the responsibility of carrying out the terms of its FCC license in all respects. The Dish/Antenna shall be connected to Landlord's power supply in strict compliance with all applicable building, electrical, fire and safety codes. Neither Landlord nor its agents shall be liable to Tenant for any stoppages or shortages of electrical power furnished to the Dish/Antenna or the Roof Space because of any act, omission or requirement of the public utility serving the Building, or the act or omission of any other tenant, invitee or licensee or their respective agents, employees or contractors, or for any other cause beyond the reasonable control of Landlord, and Tenant shall not be entitled to any rental abatement for any such stoppage or shortage of electrical power. Except as may arise from the negligence of the Landlord, neither Landlord nor its agents shall have any responsibility or liability for the conduct or safety of any of Tenant's representatives or repair, maintenance and engineering personnel while in or on any part of the Building or the Roof Space in connection with installing or maintaining the Dish/Antenna Items. No failure of service under a Roof License shall constitute a Service Failure under this Lease.

F. The Dish/Antenna Items shall remain the personal property of Tenant, and shall be removed by Tenant at its own expense at the expiration or earlier termination of a Roof License or Tenant's right to possession hereunder. Tenant shall repair any damage caused by such removal, including the patching of any holes. Tenant agrees to maintain all of the Dish/Antenna Items placed on or about the roof or in any other part of the Building in proper operating condition and maintain same in satisfactory condition as to safety in Landlord's sole discretion. Such maintenance and operation shall be performed in a manner to avoid any unreasonable interference with any other tenants or Landlord.

G. In light of the specialized nature of the Dish/Antenna, Tenant shall be permitted to utilize the services of its choice for installation, operation, removal and repair of the Dish/Antenna Items, subject to the reasonable approval of Landlord. Notwithstanding the foregoing, Tenant must provide Landlord with prior written notice of any such installation, removal or repair and coordinate such work with Landlord in order to avoid voiding or otherwise adversely affecting any warranties granted to Landlord with respect to the roof. If necessary, Tenant, at its sole cost and expense, shall retain any contractor having a then existing warranty in effect on the roof to perform such work (to the extent that it involves the roof), or, at Tenant's option, to perform such work in conjunction with Tenant's contractor. If Landlord contemplates roof repairs that could affect Tenant's Dish/Antenna, or which may result in an interruption of the Tenant's telecommunication service, Landlord shall formally notify Tenant at least thirty (30) days in advance (except in cases of an emergency) prior to the commencement of such contemplated work in order to allow Tenant to make other arrangements for such service and Landlord shall diligently perform (or cause the performance of) such roof repairs so as to minimize the interference of Tenant's Dish/Antenna.

H. Tenant shall not allow any provider of telecommunication, video, data or related services ("Communication Services") to locate any equipment on the roof of the Building or in the Roof Space for any purpose whatsoever unrelated to Tenant's (or its permitted subtenants') own use, nor may Tenant use the Roof Space and/or Dish/Antenna to provide Communication Services to an unaffiliated tenant, occupant or licensee of another building, or to facilitate the provision of Communication Services on behalf of another Communication Services provider to an unaffiliated tenant, occupant or licensee of the Building or any other building.

I. Tenant acknowledges that Landlord may at some time establish a standard license agreement (" **Standard License Agreement** ") with respect to the use of roof space by tenants of the Building. Tenant, upon request of Landlord, shall enter into such Standard License Agreement with Landlord provided that such agreement does not materially alter the rights or obligations of Tenant for a Roof License hereunder with respect to the Roof Space.

J. Tenant specifically acknowledges and agrees that the terms and conditions of ARTICLE 14 regarding indemnification and waiver of claims shall apply with full force and effect to Roof Space and any other portions of the roof accessed or utilized by Tenant, its representatives, agents, employees or contractors.

K. If Tenant defaults under any of the terms and conditions of this ARTICLE 44, and Tenant fails to cure said default within any applicable cure period provided for in this Lease, the same shall be an Event of Default under ARTICLE 24 of this Lease, but Landlord's sole remedies for such a default shall be to terminate a then-existing Roof License on notice to Tenant and, in addition, Landlord may perform any non-monetary obligations of Tenant hereunder, including, without limitation the obligations of Tenant to remove all or any of the Dish/Antenna Items, and restore the Building and the Roof Space to the condition that existed prior to the installation of the Dish/Antenna Items. Tenant shall be liable for all out of pocket costs and expenses Landlord incurs in removing such Dish/Antenna Items and repairing any damage to the Building, the roof of the Building and the Roof Space caused by the installation, operation or maintenance of the Dish/Antenna Items. In such event, Tenant shall reimburse Landlord for all such costs incurred by Landlord as aforesaid together with an administrative charge equal to 10% of the cost of the work performed by Landlord. The amount to be reimbursed hereunder shall be paid together with interest from the date such cost is paid by Landlord (as evidenced by paid invoices supplied by Landlord to Tenant) at the rate of 12% per annum.

ARTICLE 45.
EMERGENCY GENERATOR

A. In addition to Tenant's rights under ARTICLE 44 of this Lease, Landlord hereby grants to Tenant the right to install in a location or locations (collectively " **Location** ") in the lower level of the Building mutually agreeable to Landlord and Tenant, a standby generator and related equipment. The generator and such equipment installed by Tenant, together with the equipment already referred to in said ARTICLE 44, shall be included in the definition of Equipment for all purposes of this Lease. Notwithstanding anything elsewhere in this Lease to the contrary, the generator and related equipment need not be removed by Tenant prior to the Termination Date but shall be removed by Tenant no later than the Termination Date. Obligations with respect to removal shall survive any termination of this Lease.

B. Landlord agrees that Tenant, upon reasonable prior written notice to Landlord, shall have access to the Location for the purpose of installing, maintaining, repairing and removing the generator and related equipment, all of which shall be performed by Tenant or Tenant's authorized representative or contractors, which shall be approved by Landlord (such approval to be not unreasonably withheld, conditioned or delayed), at Tenant's sole cost and risk. It is agreed, however, that only authorized engineers, employees or properly authorized contractors of Tenant or persons under their direct supervision will be permitted to have access to the Location. Tenant further agrees to exercise firm control over the people requiring access to the Location in order to keep to a minimum the number of people having access to the Location and the frequency of their visits.

C. Tenant agrees to be responsible for any damage caused to the Location or any other part of the Building, which may be caused by Tenant or any of its agents or representatives as a result of Tenant's exercise of its rights under this ARTICLE 45.

D. Tenant, at its sole cost and expense, and at its sole risk, shall install, operate and maintain the generator and related equipment in a good and workmanlike manner, and in compliance with all building and safety codes, ordinances, standards, regulations and requirements, now in effect or hereafter promulgated. Landlord and its agents assume no responsibility for the licensing, operation and/or maintenance of the generator and related equipment. Except as may arise from the negligence of the Landlord, neither Landlord nor its agents shall have any responsibility or liability for the conduct or safety of any of Tenant's representatives or repair, maintenance and engineering personnel while in or on any part of the Building or the Location in connection with installing or maintaining the generator and related equipment. No failure of service hereunder shall constitute a Service Failure under this Lease.

E. Tenant agrees to maintain all of the generator and related equipment placed on or about the Location or in any other part of the Building in proper operating condition and maintain same in satisfactory condition as to safety in Landlord's sole, reasonable discretion. Such maintenance and operation shall be performed in a manner to avoid any unreasonable interference with any other tenants or Landlord.

F. In light of the specialized nature of the generator and related equipment, Tenant shall be permitted to utilize the services of its choice for installation, operation, removal and repair of the generator and related equipment, subject to the reasonable approval of Landlord. Notwithstanding the foregoing, Tenant must provide Landlord with prior written notice of any such installation, removal or repair and coordinate such work with Landlord in order to avoid voiding or otherwise adversely affecting any warranties granted to Landlord with respect to the Location.

G. Tenant specifically acknowledges and agrees that the terms and conditions of ARTICLE 14 regarding indemnification and waiver of claims shall apply with full force and effect to the Location and any other portions of the Building accessed or utilized by Tenant, its representatives, agents, employees or contractors.

H. If Tenant defaults under any of the terms and conditions of this ARTICLE 45, and Tenant fails to cure said default within any applicable cure period provided for in this Lease, the

same shall be an Event of Default under ARTICLE 24 of this Lease, but Landlord's sole remedies for such a default shall be to terminate the rights hereunder on notice to Tenant and Tenant and, in addition, Landlord may perform any non-monetary obligations of Tenant hereunder, including, without limitation the obligations of Tenant to remove all or any of the generator and related equipment, and restore the Location to the condition that existed prior to the installation of the generator and related equipment. Tenant shall be liable for all out of pocket costs and expenses Landlord incurs in removing the generator and related equipment and repairing any damage to the Building caused by the installation, operation or maintenance of the generator and/or related equipment. In such event, Tenant shall reimburse Landlord for all such costs incurred by Landlord as aforesaid together with an administrative charge equal to 10% of the cost of the work performed by Landlord. The amount to be reimbursed hereunder shall be paid together with interest from the date such cost paid is by Landlord (as evidenced by paid invoices supplied by Landlord to Tenant) at the rate of 12% per annum.

{Signatures on Next Page]

Executed as a sealed instrument as of the date first above written.

LANDLORD:

COPLEY PLACE ASSOCIATES, LLC, a Delaware limited liability company

By: SPG COPLEY ASSOCIATES, a Delaware limited liability company, its Managing Member

By: /s/ David Simon
David Simon
Hereunto duly authorized

TENANT:

WAYFAIR LLC

By: /s/ Nicholas Malone
its: CFO and not individually
Hereunto duly authorized

EXHIBIT A

OFFICE LEASE

FOR

WAYFAIR LLC

COPLEY PLACE

BOSTON, MASSACHUSETTS

PREMISES

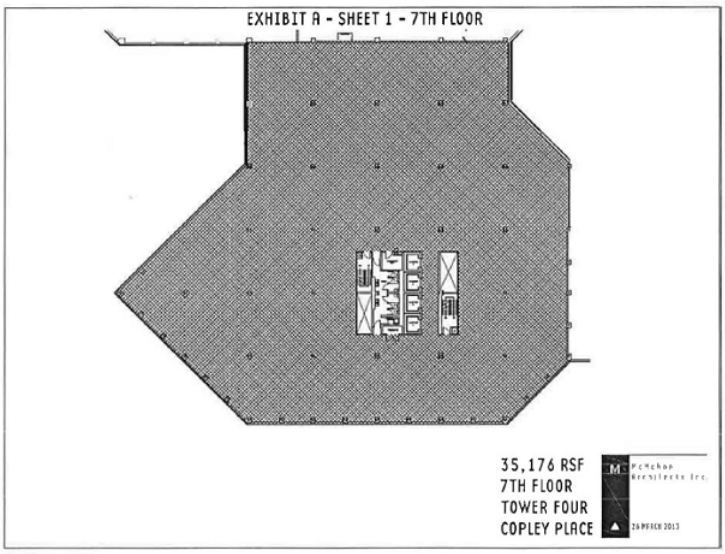

EXHIBIT A - SHEET 1 - 7TH FLOOR
35,176 RSF
7TH FLOOR
TOWER FOUR
COPLEY PLACE

Exhibit A-2

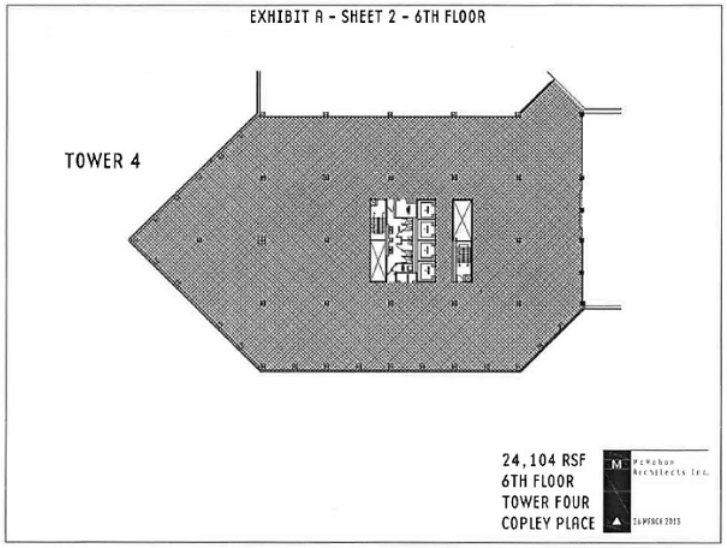
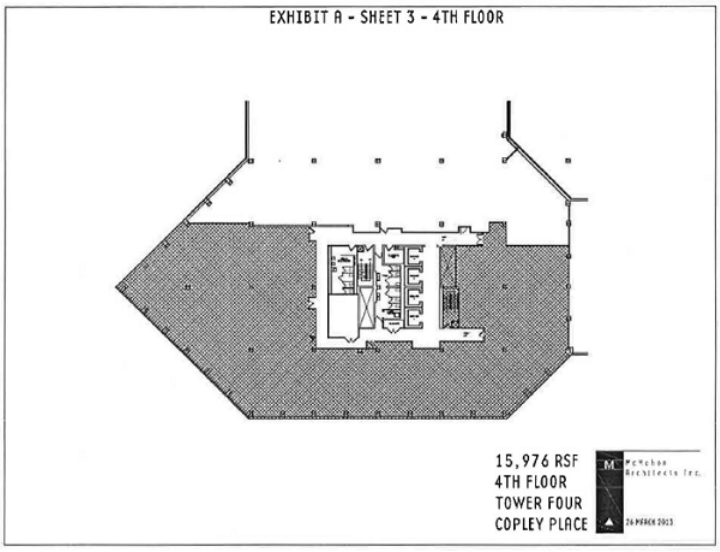

EXHIBIT A - SHEET 2 - 6TH FLOOR
TOWER 4
24,104 RSF
6TH FLOOR
TOWER FOUR
COPLEY PLACE

Exhibit A-3


EXHIBIT A - SHEET 3 - 4TH FLOOR
15,976 RSF
4TH FLOOR
TOWER FOUR
COPLEY PLACE

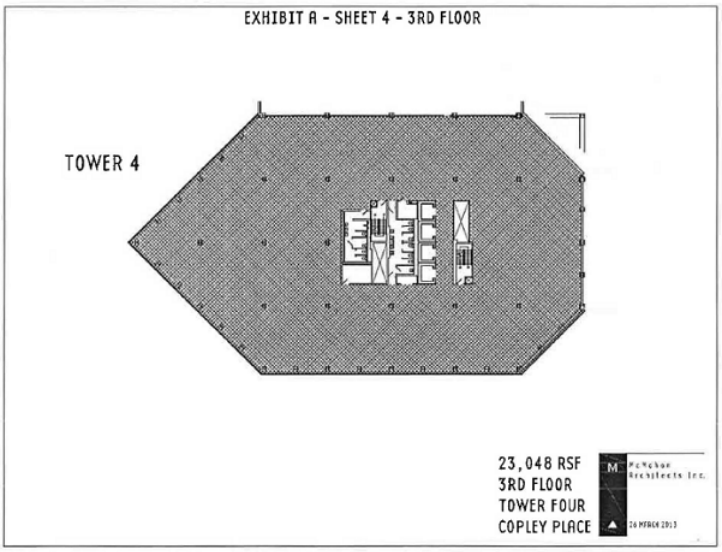


Exhibit A-5

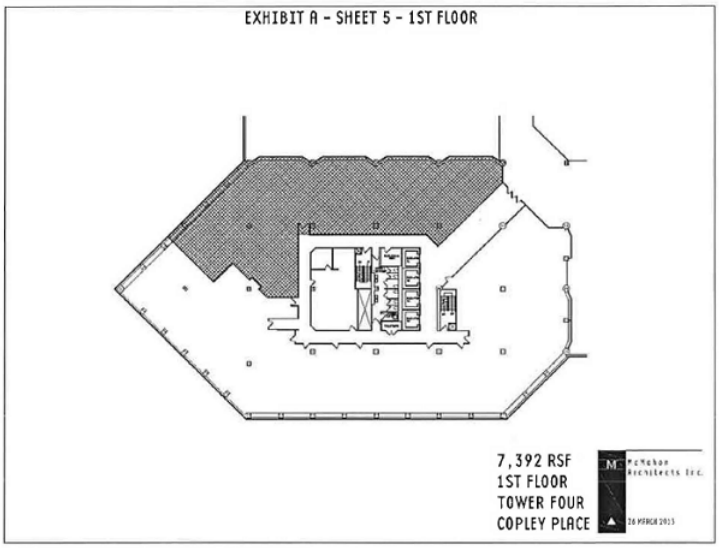


Exhibit A-6

EXHIBIT A-1

OFFICE LEASE

FOR

WAYFAIR LLC

COPLEY PLACE

BOSTON, MASSACHUSETTS

EARLY EXPANSION SPACES

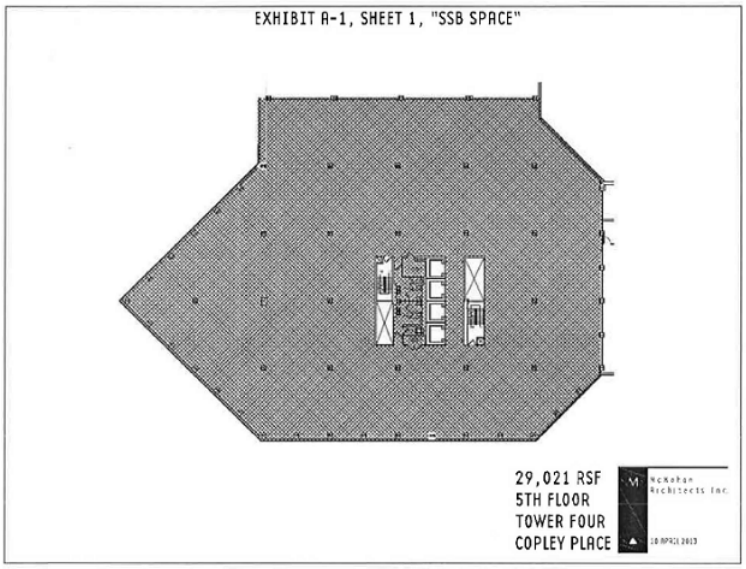
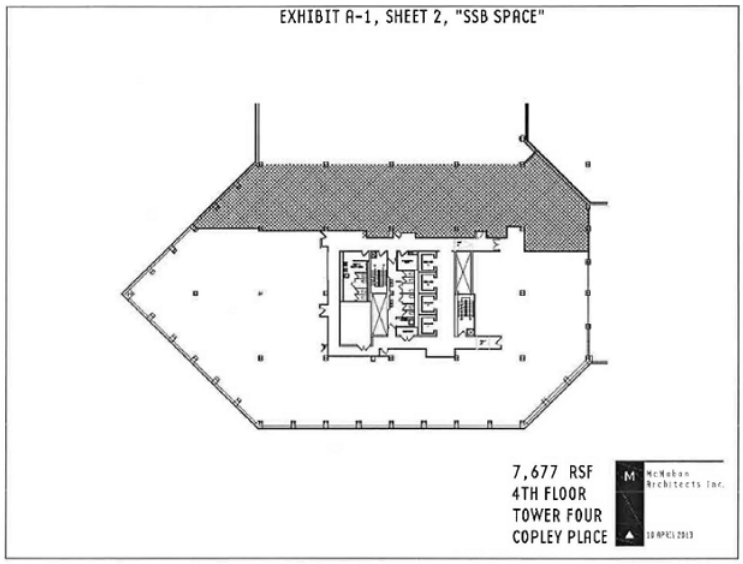

EXHIBIT A-1, SHEET 1, "SSB SPACE"
29,021 RSF
5TH FLOOR
TOWER FOUR
COPLEY PLACE
McNahon
Architects Inc.

Exhibit A-1-2


EXHIBIT A-1, SHEET 2, "SSB SPACE"
7,677 RSF
4TH FLOOR
TOWER FOUR
COPLEY PLACE
McMahon Architects Inc.
10 APRIL 2013

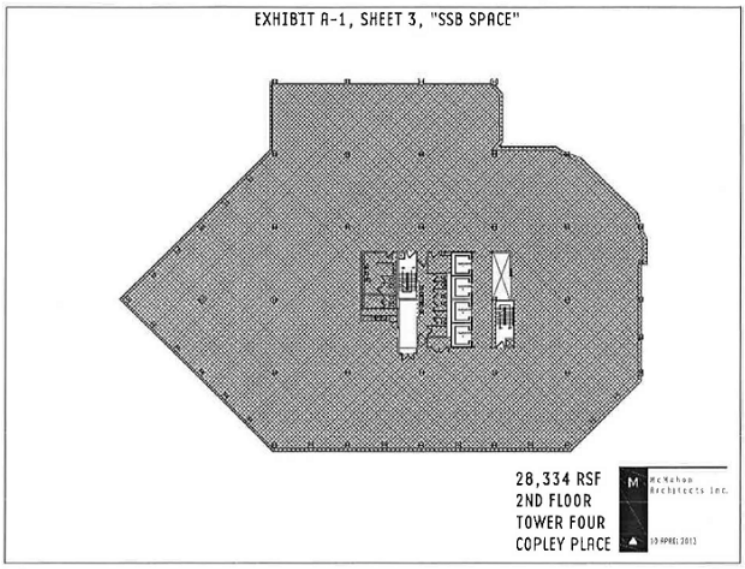

EXHIBIT A-1, SHEET 3, "SSB SPACE"
28,334 RSF
2ND FLOOR
TOWER FOUR
COPLEY PLACE
McNahon Architects Inc.
19 APRIL 2013

Exhibit A-1-4

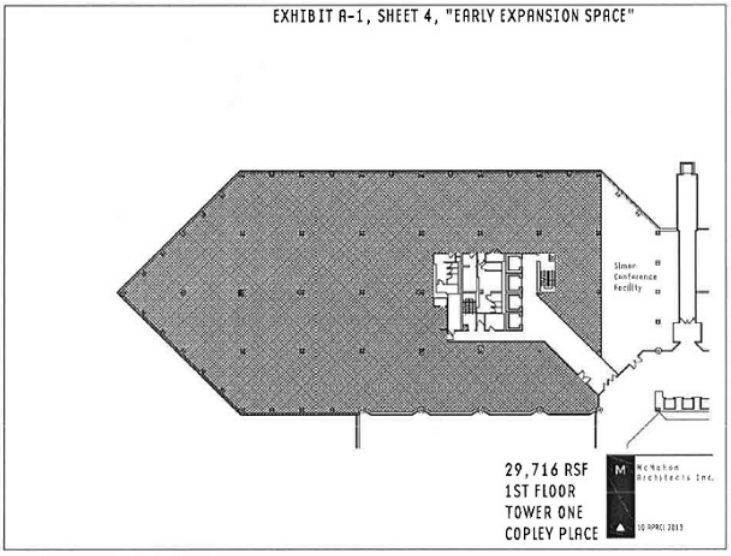

EXHIBIT A-1, SHEET 4, "EARLY EXPANSION SPACE"
Simon Conference Facility
29,716 RSF
1ST FLOOR
TOWER ONE
COPLEY PLACE
McMahon Architects Inc.
10 APRIL 2013

EXHIBIT A-2

OFFICE LEASE

FOR

WAYFAIR LLC

COPLEY PLACE

BOSTON, MASSACHUSETTS

ROOF DECK PLAN

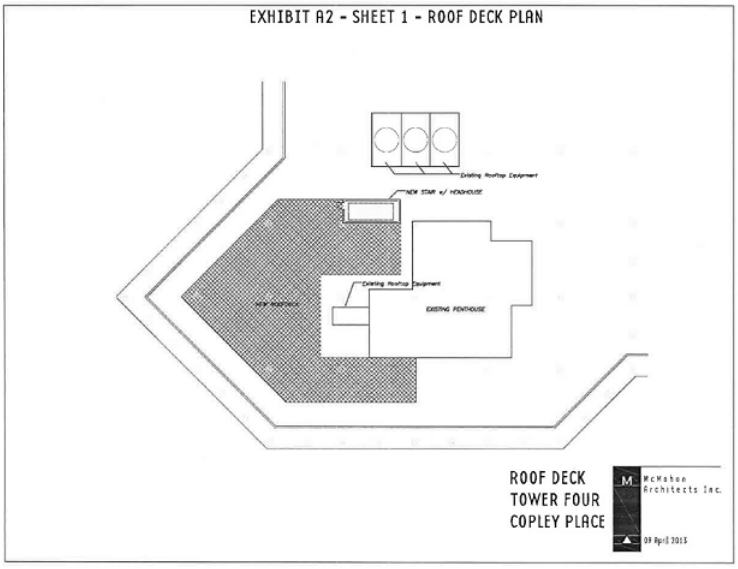

EXHIBIT A2 - SHEET 1 - ROOF DECK PLAN
Existing Rooftop Equipment
NEW STAIR w/ HEADHOUSE
Existing Rooftop Equipment
EXISTING PENTHOUSE
ROOF DECK
TOWER FOUR
COPLEY PLACE
McMahon
Architects Inc.
09 April 2015

Exhibit A-2-2

EXHIBIT A-3

OFFICE LEASE

FOR

WAYFAIR LLC

COPLEY PLACE

BOSTON, MASSACHUSETTS

EXPANSION SPACE ONE AND EXPANSION SPACE TWO

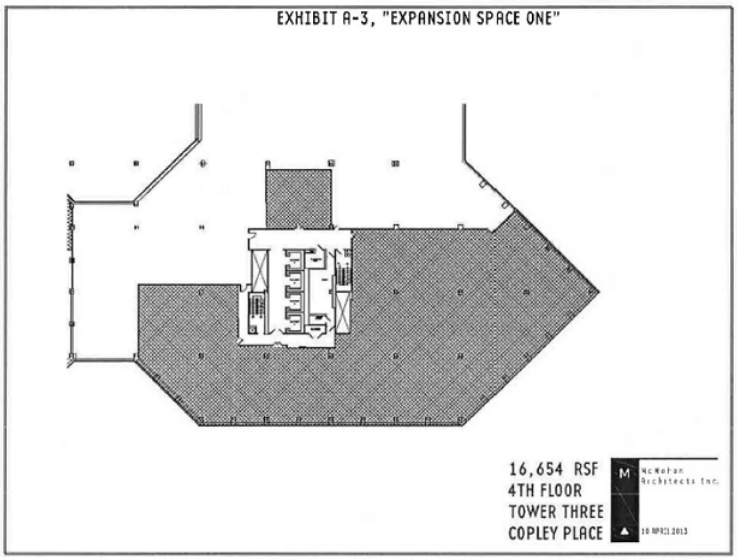


Exhibit A-3-2

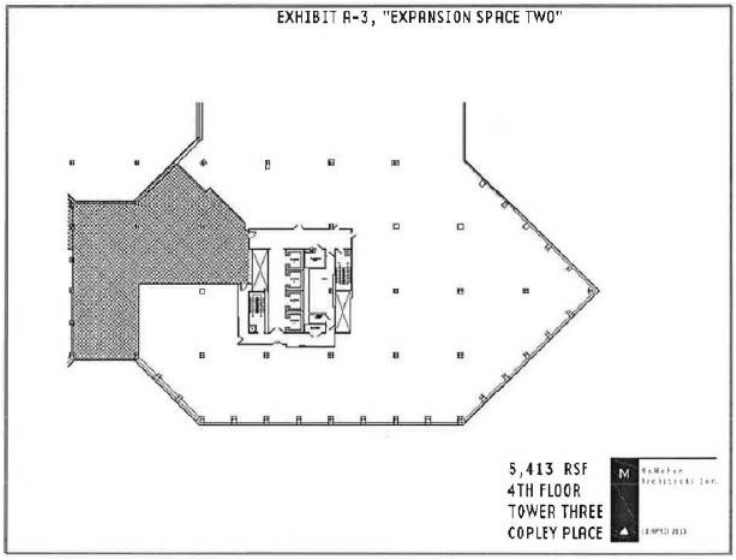


Exhibit A-3-3

EXHIBIT B-1

OFFICE LEASE

FOR

WAYFAIR LLC

COPLEY PLACE

BOSTON, MASSACHUSETTS

SHELL WORK

- Removal of floor surface to concrete slab, including all raised access flooring and ramps;
- Removal of ceiling surfaces and lighting, perimeter soffit and linear diffuser to remain;
- Installation of temporary lighting;
- Removal of HVAC diffusers and ductwork back to VAV/Fan Powered Terminal Boxes;
- Removal of all supplemental HVAC equipment and piping associated with existing tenant computer rooms;
- Plumbing to be cut, capped and removed back to risers;
- Fire alarm system devices secured to structure or Building elements;
- Removal of office(s), and partitions, doors, sidelights and interior glass;
- Electrical distribution in the Premises to be made safe and removed back to tenant distribution panel. All supplemental electrical panels and electrical equipment located within the open space to be removed back to core tenant distribution panels;
- Removal of all existing tenant tel/data cabling;
- Gypsum soffits with linear diffusers to remain;
- Gypsum Columns to remain;
- Infill existing floor cores;
- Code compliant tenant demising walls to be provided throughout space.

EXHIBIT B-2

OFFICE LEASE

FOR

WAYFAIR LLC

COPLEY PLACE

BOSTON, MASSACHUSETTS

LANDLORD'S WORK

Landlord shall be responsible for all demising work with respect to the Initial Premises at its sole cost and expense. Landlord shall also be responsible at its sole cost and expense for all restroom renovations on any floor of any Tower on which Tenant has leased, initially or during the Term, more than 50% of the floor area of such floor. Men's and women's restroom renovations, compliant with ADA (if necessary, including construction of additional handicap restrooms), will include plumbing fixtures, hot and cold running water, ceramic tile floors and wall surfaces, accessories and dividers, and ceilings and lighting.

EXHIBIT C

OFFICE LEASE

FOR

WAYFAIR LLC

COPLEY PLACE

BOSTON, MASSACHUSETTS

RULES AND REGULATIONS

RULES AND REGULATIONS. Tenant agrees to observe the rights reserved to Landlord in the Lease and agrees, for itself, its employees, agents, clients, customers, invitees and guests, to comply with the following rules and regulations and with such reasonable modifications thereof and additions thereto as Landlord may make, from time to time, for the Building.

(a) Any sign, lettering, picture, notice, or advertisement installed within Tenant's Premises (including but not limited to Tenant identification signs on doors to the Premises) which is visible outside of the Premises shall be installed at Tenant's cost and in such manner, character and style as Landlord may approve in writing. No sign, lettering, picture, notice or advertisement shall be placed on any outside window or in any position so as to be visible from outside the Building or from any atrium or lobbies of the Building.

(b) Tenant shall not use the name of the Building or use pictures or illustrations of the Building in advertising or other publicity, without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

(c) Tenant, its customers, invitees, licensees, and guests shall not obstruct sidewalks, entrances, passages, courts, corridors, vestibules, halls, elevators and stairways in and about the Building. Tenant shall not place objects against glass partitions or doors or windows or adjacent to any open common space which would be unsightly from the Building corridors or from the exterior of the Building, and will promptly remove the same upon notice from Landlord.

(d) Tenant shall not make noises, cause disturbances, create vibrations, odors or noxious fumes or use or operate any electrical or electronic devices or other devices that emit sound, waves or are dangerous to other tenants and occupants of the Building or that would interfere with the operation of any

device or equipment or radio or television broadcasting or reception from or within the Building or elsewhere, or with the operation of roads or highways in the vicinity of the Building and shall not place or install any projections, antennae, aerials or similar devices inside or outside of the Premises.

(e) Tenant shall not make any room to room canvass to solicit business from other tenants in the Building, and shall not exhibit, sell or offer to sell, use, rent or exchange any item or services in or from the Premises unless ordinarily embraced within Tenant's use of the Premises as specified in its lease.

(f) Tenant shall not waste electricity or water and agrees to cooperate fully with Landlord to assure the most effective operation of the Building's heating and air conditioning and shall refrain from attempting to adjust any controls. Tenant shall keep doors from the Premises to the public corridor doors closed when not in use.

(g) Door keys for doors in the Premises will be furnished at the commencement of the Lease by Landlord. Tenant shall not affix additional locks on doors and shall purchase duplicate keys only from Landlord. When the Lease is terminated, Tenant shall return all keys to Landlord and will provide to Landlord the means of opening any safes, cabinets or vaults left in the Premises.

(h) Tenant assumes full responsibility for protecting its space from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Premises closed and secured.

(i) Peddlers, solicitors and beggars shall be reported to the office of the Building or as Landlord otherwise requests.

(j) Tenant shall not install nor operate machinery or any mechanical devices of a nature not directly related to Tenant's ordinary use of the Premises without the written permission of Landlord.

(k) No person or contractor not employed by Landlord shall be used to perform window washing, cleaning, decorating, repair or other work in the Premises.

(l) Tenant shall not, and Tenant shall not permit or suffer anyone to:

(1) Cook in the Premises (other than through the use of microwave or toaster oven(s)), but nothing herein shall prevent the use of customary coffee stations;

(2) Place vending or dispensing machines of any kind in or about the Premises for use by other than its employees, guests and business invitees;

(3) At any time sell, purchase or give away, or permit the sale, purchase or gift of, food in any form other than to employees, guests and business invitees;

(m) Tenant shall not:

(1) Use the Premises for lodging, manufacturing or for any immoral or illegal purposes.

(2) Use the Premises to engage in the manufacture or sale of any spirituous, fermented, intoxicating or alcoholic beverages.

(3) Use the Premises to engage in the manufacture or sale of, or permit the use of, any illegal drugs on the Premises.

(n) In no event shall any person bring into the Building inflammables such as gasoline, kerosene, naphtha and benzene, or explosives or firearms or any other article of intrinsically dangerous nature. If by reason of the failure of Tenant to comply with the provisions of this paragraph, any insurance premium payable by Landlord for all or any part of the Building shall at any time be increased above normal insurance premiums for insurance not covering the items aforesaid, Landlord shall have the option to either terminate the Lease or to require Tenant to make immediate payment for the whole of the increased insurance premium.

(o) Tenant shall comply with all applicable federal, state and municipal laws, ordinances and regulations and building rules, and shall not directly or indirectly make any use of the Premises which may be prohibited thereby or which shall be dangerous to person or property or shall increase the cost of insurance or require additional insurance coverage.

(p) If Tenant desires signal, communication, alarm or other utility or service connection installed or changed, the same shall be made at the expense of Tenant, with approval and under direction of Landlord.

(q) Bicycles shall not be permitted in the Building in other than Landlord designated locations.

(r) Tenant shall cooperate and participate in all security programs affecting the Building.

(s) In the event Landlord allows one or more tenants in the Building to do any act prohibited herein, Landlord shall not be precluded from denying any other tenant the right to do any such act.

(t) Tenant, or the employees, agents, servants, visitors or licensees of Tenant shall not at any time place, leave or discard any rubbish, paper, articles, or objects of any kind whatsoever outside the doors of the Premises or in the corridors or passageways of the Building. No animals or birds shall be brought or kept in or about the Building.

(u) Landlord shall have the right to prohibit any advertising by Tenant which, in Landlord's opinion, tends to impair the reputation of the Building or its desirability for offices, and, upon written notice from Landlord, Tenant will refrain from or discontinue such advertising.

(v) Except as permitted under the Lease or in connection with the installation of any Tenant improvements and office decorations, Tenant shall not mark, paint, drill into, or in any way deface any part of the Building or the Premises. No boring, driving of nails or screws, cutting or stringing of wires shall be permitted, except with the prior written consent of Landlord, and as Landlord may direct. Tenant shall not install any resilient tile or similar floor covering in the Premises except with the prior approval of Landlord. The use of cement or other similar adhesive material is expressly prohibited.

(w) Landlord shall have the right to limit or control the number and format of listings on the main Building directory.

EXHIBIT D

OFFICE LEASE

FOR

WAYFAIR LLC

COPLEY PLACE

BOSTON, MASSACHUSETTS

CLEANING SPECIFICATIONS

I. CLEANING -TENANT'S AREAS

A. NIGHTLY- MONDAY THROUGH FRIDAY HOLIDAYS EXCLUDED

1. DUST MOP, ALL STONE, CERAMIC, TILE, TERRAZZO, AND OTHER TYPES OF UNWAXED FLOORING, USING A TREATED MOP.

2. DUST MOP ALL VINYL, ASBESTOS, ASPHALT, RUBBER AND SIMILAR TYPES OF FLOORING, USING A TREATED MOP. THIS INCLUDES REMOVAL OF GUM AND OTHER SIMILAR SUBSTANCES USING A SCRAPING DEVICE.

3. VACUUM ALL CARPETED AREAS.

4. DUST MOP ALL PRIVATE AND PUBLIC STAIRWAYS AND VACUUM IF CARPETED.

5. HAND DUST AND WIPE CLEAN ALL HORIZONTAL SURFACES INCLUDING FURNITURE, FILE CABINETS, FIXTURES, AND WINDOW SILLS, USING A CHEMICALLY TREATED DUST CLOTH. PAPERS ON DESK SHALL REMAIN UNDISTURBED.

6. DUST AND SANITIZE ALL TELEPHONES USING A DISINFECTANT SOLUTION.

7. REMOVE FINGER MARKS FROM ALL PAINTED SURFACES NEAR LIGHT SWITCHES, ENTRANCE DOORS, ETC.

8. REMOVE ALL GUM AND FOREIGN MATTER ON SIGHT.

9. EMPTY AND CLEAN ALL WASTE RECEPTACLES AND REMOVE WASTE PAPER AND WASTE MATERIALS TO A DESIGNATED AREA. REPLACE LINERS IN EACH RECEPTACLE.

10. DAMP DUST INTERIORS OF ALL WASTE DISPOSAL RECEPTACLES AND WASH AS NECESSARY.

11. CLEAN AND SANITIZE USING A DISINFECTANT SOLUTION, ALL WATER FOUNTAINS AND WATER COOLERS. SINKS/FLOORS ADJACENT TO SINKS/FOUNTAINS TO BE WASHED NIGHTLY.

12. SPOT MOP FLOORS FOR SPILLAGES, ETC.

13. EMPTY AND DAMP CLEAN ALL ASH TRAYS AND SCREEN ALL SAND URNS.

14. REMOVE FINGER MARKS AND DUST DOORS OF ELEVATOR HATCHWAYS.

15. CLEAN ALL LOW LEDGES, SHELVES, BOOKCASES, CHAIR RAILS, TRIM, PICTURES, CHARTS, ETC., WITHIN REACH.

16. CLEAN SINKS, TOILETS, AND RELATED PLUMBING FIXTURES.

17. CLEAN MIRRORS, METALWORK, AND GLASS TABLE TOPS.

18. UPON COMPLETION OF WORK, ALL SLOP SINKS ARE TO BE THOROUGHLY CLEANED AND ALL CLEANING EQUIPMENT AND SUPPLIES STORED NEATLY IN LOCATIONS DESIGNATED BY THE OFFICE OF THE BUILDING.

19. ALL CLEANING OPERATIONS SHALL BE SCHEDULED SO THAT A MINIMUM OF LIGHTS ARE TO BE LEFT ON AT ANY TIME. UPON COMPLETION OF CLEANING ALL LIGHTS ARE TO BE TURNED OFF. ALL ENTRANCE DOORS ARE TO BE KEPT LOCKED DURING THE CLEANING OPERATION.

B. WEEKLY

1. HAND DUST ALL DOOR LOUVERS AND OTHER VENTILATING LOUVERS WITHIN REACH.

2. DUST ALL BASEBOARDS.

3. MOVE AND VACUUM UNDERNEATH ALL FURNITURE THAT CAN BE MOVED.

4. IN HIGH TRAFFIC AREAS, DAMP MOP IF NECESSARY AND APPLY SPRAY BUFFING SOLUTION IN A FINE MIST AND BUFF WITH A SYNTHETIC PAD.

5. BUFF TRAFFIC AREAS AND PIVOT POINTS.

6. DAMP MOP ALL NON-CARPETED AND PUBLIC STAIRWAYS.

7. WIPE CLEAN ALL BRIGHT WORK.

8. CLEAN INTERIOR GLASS PARTITIONS AND DOORS.

9. DUST ALL CHAIR RAILS.

C. QUARTERLY

1. VACUUM UPHOLSTERED FURNITURE.

2. MACHINE SCRUB FLOORING.

3. WASH AND APPLY ONE COAT OF APPROVED FLOOR FINISH TO COMPOSITION FLOORING.

4. DUST ALL VERTICAL SURFACES SUCH AS WALLS, FURNITURE, PARTITIONS, AND SURFACES NOT REACHED IN NIGHTLY CLEANING.

5. DUST EXTERIOR OF LIGHTING FIXTURES.

6. WASH ALL BASEBOARDS.

7. STRIP ALL RESILIENT FLOORING USING DILUTED STRIPPING SOLUTION. MACHINE SCRUB FLOOR USING PAD TO REMOVE ALL FLOOR FINISH. THOROUGHLY RINSE WITH CLEAR WATER AND APPLY TWO COATS OF FLOOR FINISH.

II. LAVATORIES

A. NIGHTLY- MONDAY THROUGH FRIDAY

1. POLICE LAVATORIES DURING THE DAY WITH MATRON OR PORTER TO PICK UP WASTE AND REPLENISH MATERIALS.

2. CLEAN, SANITIZE (USING DISINFECTANT SOLUTION), AND POLISH ALL VITREOUS FIXTURES INCLUDING TOILET BOWLS, URINALS, AND WASH BASINS.

3. SWEEP AND WASH FLOORING WITH APPROVED GERMICIDAL SOLUTION.

4. WASH AND POLISH MIRRORS, POWDER SHELVES, DISPENSERS, HAND DRYERS, BRIGHTWORK, INCLUDING FLUSHOMETERS, PIPING, AND TOILET SEAT HINGES.

5. CLEAN AND SANITIZE BOTH SIDES OF TOILET SEATS.

6. EMPTY ALL CONTAINERS AND DISPOSAL UNITS AND INSERT NEW LINERS WHERE REQUIRED.

7. WASH AND SANITIZE (USING A DISINFECTANT SOLUTION) EXTERIOR OF ALL CONTAINERS.

8. EMPTY, CLEAN, AND SANITIZE ALL SANITARY NAPKIN DISPOSAL UNITS.

9 DUST AND SPOT WASH, WHERE NECESSARY, PARTITIONS, TILE WALLS, DISPENSERS, CEILINGS, LIGHTS, SWITCHES AND RECEPTACLES.

10. REFILL ALL DISPENSERS TO NORMAL LIMITS INCLUDING NAPKINS, SOAP, TISSUE, TOWELS, ETC.

11. VACUUM ENTIRE CARPETED AREAS, IF ANY.

12. REMOVE ALL RUBBISH.

B. WEEKLY

1. WET MOP ALL TILE FLOORS AND WASH BASEBOARDS.

2. MACHINE SCRUB FLOORS, HAND BRUSH CORNERS, AND HAND BRUSH TOILET EDGES WITH APPROVED GERMICIDAL DETERGENT SOLUTION.

C. MONTHLY

1. WASH ALL PARTITIONS, TILE WALLS, AND ENAMEL SURFACES WITH APPROVED GERMICIDAL DETERGENT SOLUTION.

D. QUARTERLY

1. DUST ALL HVAC GRILLS AND LOUVERS.

E. OTHER

1. CLEANING OF COMPUTER ROOMS AND KITCHENS WILL BE THE RESPONSIBILITY OF INDIVIDUAL TENANTS.

III. PUBLIC CORRIDORS, STAIRWELLS, AND SERVICE AREAS:

A. NIGHTLY

1. VACUUM AND SPOT CLEAN CARPETING.

2. SWEEP AND DAMP MOP PUBLIC AREA CONCRETE FLOORS.

3. SWEEP AND DAMP MOP PUBLIC STAIRWELLS AND LANDINGS.

4. CLEAN BASEBOARDS OF SCUFFS AND MARKS.

5. EMPTY AND CLEAN ASHTRAYS AND SAND URNS.

6. CLEAN ALL DIRECTORIES AND LOBBY SECURITY CONSOLE.

7. CLEAN CORRIDOR GLASS AND METAL WORK.

8. SPOT CLEAN WALLS, CEILINGS, LIGHTS, ETC.

9. REMOVE TRASH TO COMPACTOR.

10. CLEAN TELEPHONES, TELEPHONE BOOTH AREAS AND MAIL DROPS.

11. KEEP SLOP SINKS, CLOSETS, SUPPLY ROOMS, AND OTHER JANITORIAL AREAS IN A CLEAN CONDITION.

12. KEEP ELECTRICAL AND TELEPHONE CLOSETS CLEAN AND FREE OF STORAGE.

13 CLEAN AND SANITIZE ALL PUBLIC DRINKING FOUNTAINS.

14. SWEEP AND WASH ALL FLOORS IN PUBLIC LOBBY.

15. CLEAN AND VACUUM CARPETING IN PASSENGER ELEVATOR CABS AND SPOT CLEAN AS NECESSARY.

16. DUST AND WIPE CLEAN WALLS, DOORS AND METAL WORK ON ALL PASSENGER ELEVATORS.

17. CLEAN FLOORS AND WALLS OF SERVICE ELEVATORS.

18. CLEAN AND REMOVE ANY DEBRIS FROM CEILING FIXTURES IN PASSENGER ELEVATORS.

19. WASH ALL LOBBY WALK OFF MATS.

B. WEEKLY

1. CLEAN ALL DOOR VENTS.

2. DUST ALL VERTICAL SURFACES WITHIN REACH.

C. MONTHLY

1. DRY SHAMPOO ALL LOBBY CARPETING.

D. QUARTERLY

1. STEAM CLEAN ALL LOBBY CARPETING.

2. VACUUM ALL CEILING GRILLS AND AIR LOUVERS.

IV. WINDOW CLEANING

A. WINDOWS WILL BE CLEANED AS NECESSARY, BUT NOT LESS THAN THE FOLLOWING FREQUENCIES:

EXTERIOR OF EXTERIOR GLASS - NOT LESS THAN 5 TIMES/YEAR.

INTERIOR OF EXTERIOR GLASS - NOT LESS THAN 2 TIMES/YEAR.

EXTERIOR OF INTERIOR GLASS - NOT LESS THAN 1 TIMES/YEAR.

INTERIOR OF INTERIOR GLASS - NOT LESS THAN 2 TIMES/YEAR.

EXHIBIT E

OFFICE LEASE

FOR

WAYFAIR LLC

COPLEY PLACE

BOSTON, MASSACHUSETTS

MEASUREMENT STANDARDS

I. Measurement Standards- Single Tenancy Floors. Three steps, in sequence, are to be followed to determine the Total Rentable Area: (i) compute gross area, (ii) deduct certain areas, and (iii) add applicable share of areas to be apportioned (see paragraph C below).

A. Gross Area: The gross area of a floor shall be the entire area within the exterior walls. If the exterior wall consists in whole or part of windows, fixed clear glass or other transparent material, the measurement along the entire such wall shall be taken to a line established by the vertical plan of the inside of the glass or other transparent material. If it consists solely of a nontransparent material, the measurement shall be taken to the inside surface of the outer building wall. If a floor has no exterior wall within the property line, measurements shall be taken to the property line. If a floor has no full-height enclosure wall, measurement shall be taken to the edge of the floor slab.

B. Deductions from Gross Area: The following non-rentable building areas with one-half of their enclosing walls are to be deducted.

1. Public elevator shafts and associated elevator machine rooms.

2. Required egress stairways.

3. Areas within the gross area which are to be apportioned pursuant to paragraph (C) below.

C. Areas to be apportioned (" **Attributable Area** "):

1. Common facilities including, without limitation, all heating, ventilating, air conditioning, mechanical, electrical, cooling tower, telephone and other service floors, rooms or areas, containing equipment or supplies (exclusive of any tenant special air conditioning or mechanical area or facilities) and all public lobbies (including monumental stair and/or escalator), loading and other common service areas, throughout and within the Building including one-half of their enclosing walls, are to be apportioned.

2. Whenever the height of any room or space used for a heating, ventilating, air conditioning, mechanical, or electrical facility above the ground floor shall exceed the average story height in the Building by more than 25 percent, then the floor area of such room or space shall be determined by multiplying the actual floor area by the percentage that the height of the room or space exceeds the average story height, and adding the area so determined to the actual floor area of such room or space; however, if any such rooms or spaces penetrate the next higher floor, then the entire area of such room or space on both floors shall be apportioned under this paragraph (C).

II. Measurement Standards - Multiple Occupancy Floors. The sum of the Total Rentable Area for two or more tenants on a floor shall be the Total Rentable Area for that floor as computed in the manner for single tenancy floors. Three steps are to be followed to determine the Total Rentable Area for each tenant on a multiple occupancy floor: (i) compute the Net Rentable Area for such floor pursuant to (a) below, (ii) compute the Net Rentable Area for each tenant pursuant to (b) below, and (iii) multiply the Total Rentable Area of such floor by a fraction whose numerator is the Net Rentable Area for such tenant and whose denominator is the Net Rentable Area for such floor.

A. Net Rentable Area for Any Floor: The Net Rentable Area shall be the gross area as described for single tenancy floors less the entire core area (measured to the finished enclosing walls thereof, but excluding any part of the core rented to a tenant) and corridors (measured to the corridor side of the finished enclosing walls of the corridor).

B. Net Rentable Area for Each Tenant: Exterior walls are to be measured as described in the procedure for gross area. Demising walls between tenants are to be equally divided. Corridor walls to the finished corridor side are to be included in the Net Rentable Area of each tenant.

III. Rentable Calculation. Rentable Area is determined by measuring gross area less deductions (assuming all full floor occupants) and multiplying by 1.165.

EXHIBIT F

OFFICE LEASE

FOR

WAYFAIR LLC

COPLEY PLACE

BOSTON, MASSACHUSETTS

LETTER OF CREDIT FORM

[Name of Financial Institution]

Irrevocable Standby
Letter of Credit
No.
Issuance Date:
Expiration Date:
Applicant:

Beneficiary

Copley Place Associates, LLC
Simon Property Group, L.P.
Attention: Property Manager
Two Copley Place, Suite 100
Boston, MA 02116-6502

Ladies/Gentlemen:

We hereby establish our Irrevocable Standby Letter of Credit in your favor for the account of the above referenced Applicant in the amount of U.S. Dollars($) available for payment at sight by your draft drawn on us when accompanied by the following documents:

1. The original of this Irrevocable Standby Letter of Credit.

2. Beneficiary's dated statement purportedly signed by an authorized signatory reading:

"This draw in the amount of U.S. Dollars($) under your Irrevocable Standby Letter of Credit No. represents funds due and owing to us pursuant to the terms of that certain lease by and between , as landlord, and , as tenant, and/or any amendment to the lease or any other agreement between such parties related to the lease."

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT IS DEEMED TO BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR PERIOD(S) OF ONE YEAR EACH FROM THE CURRENT EXPIRY DATE HEREOF, OR ANY FUTURE EXPIRATION DATE, UNLESS AT LEAST SIXTY (60) DAYS PRIOR TO ANY EXPIRATION DATE, WE NOTIFY YOU BY REGISTERED MAIL OR OVERNIGHT COURIER AT THE ABOVE LISTED ADDRESS THAT WE ELECT NOT TO CONSIDER THIS LETTER OF CREDIT EXTENDED FOR ANY SUCH ADDITIONAL PERIOD.

ANY SUCH NOTICE SHALL BE EFFECTIVE WHEN SENT BY US AND UPON SUCH NOTICE TO YOU, YOU MAY DRAW AT ANY TIME PRIOR TO THE THEN CURRENT EXPIRATION DATE, UP TO THE FULL AMOUNT THEN AVAILABLE HEREUNDER, AGAINST YOUR DRAFT(S) DRAWN ON US AT SIGHT AND THE ORIGINAL OF THIS LETTER OF CREDIT AND ALL AMENDMENTS THERETO, ACCOMPANIED BY YOUR STATEMENT, SIGNED BY AN AUTHORIZED OFFICER ON YOUR LETTERHEAD STATING THAT YOU ARE IN RECEIPT OF BANK OF AMERICA, N.A.'S NOTICE OF NON-EXTENSION UNDER LETTER OF CREDIT NO. AND THE APPLICANT'S OBLIGATION TO YOU REMAINS.

THIS LETTER OF CREDIT IS TRANSFERABLE IN FULL AND NOT IN PART. ANY TRANSFER MADE HEREUNDER MUST CONFORM STRICTLY TO THE TERMS HEREOF AND TO THE CONDITIONS OF RULE 6 OF THE INTERNATIONAL STANDBY PRACTICES (ISP98) FIXED BY THE INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 590. SHOULD YOU WISH TO EFFECT A TRANSFER UNDER THIS CREDIT, SUCH TRANSFER WILL BE SUBJECT TO THE RETURN TO US OF THE ORIGINAL CREDIT INSTRUMENT, ACCOMPANIED BY OUR FORM OF TRANSFER, PROPERLY COMPLETED AND SIGNED BY AN AUTHORIZED SIGNATORY OF YOUR FIRM, BEARING YOUR BANKERS STAMP AND SIGNATURE AUTHENTICATION. ANY TRANSFER FEE SHALL BE FOR THE ACCOUNT OF THE APPLICANT AND FAILURE TO PAY BY THE APPLICANT WILL NOT AFFECT THE TRANSFERABILITY BY THE BENEFICIARY. SUCH TRANSFER FORM IS AVAILABLE UPON REQUEST.

DRAFT(S) MUST STATE: "DRAWN UNDER BANK OF AMERICA, N.A. STANDBY L/C NO. DATED ."

DRAFTS AND DOCUMENTS MUST BE PRESENTED AT OUR OFFICE ADDRESSED: BANK OF AMERICA, N.A., l FLEET WAY, SCRANTON, PA 18507-1999, ATTN: GTO- STANDBY DEPT.

This Irrevocable Standby Letter of Credit is subject to the International Standby Practices (ISP98) ICC Publication No. 590.

We hereby engage with you to honor drafts and documents drawn under and in compliance with the terms of this Irrevocable Standby Letter of Credit.

All communications to us with respect to this Irrevocable Standby Letter of Credit must be addressed to our office located at to the attention of .

Very truly yours,

SCHEDULE 8.01

OFFICE LEASE

FOR

WAYFAIR LLC

COPLEY PLACE

BOSTON, MASSACHUSETTS

TENANT'S HVAC REQUIREMENTS

OUTDOOR DESIGN CONDITIONS (ASHRAE 1%)

A.	Summer:	91 F dry bulb 73 F wet bulb
B.	Winter:	9F

INDOOR DESIGN CONDITIONS

A.	Summer:	74 F dry bulb 50% RH
B.	Winter:	72 F dry bulb 20% RH

VENTILATION

Minimum Outside Air:	In accordance with the Massachusetts Building Code, 7th Edition
	7 people per 1000sf for office / @ 20cfm per person 50 people per 1000sf for conference room / @20cfm per person

INTERNAL HEAT GAIN

Occupants:	150sf/person reusable sf
Lighting:	2.0 watts/reusable sf
Power:	3.5 watts/reusable sf

Exhibit 10.10

AGREEMENT OF LEASE

between

DISTRIBUTION I PATENT TENANT LLC,
a Delaware limited liability company, Landlord

and

WAYFAIR LLC,
a Delaware limited liability company, Tenant

Premises: The entire Building

Building: Building J at Park West International known as 1405 Worldwide Boulevard Hebron, Kentucky

Date: As of December 31, 2013

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EXHIBITS

Exhibit A — Site Plan
Exhibit B — Insurance Schedule
Exhibit C — Form Letter of Credit
Exhibit D — Rules and Regulations

THIS LEASE (this " **Lease** ") is made and dated as of the 31st day of December, 2013 by and between DISTRIBUTION I PATENT TENANT LLC, a Delaware limited liability company, having an address c/o Interventure Advisors LP, 810 Seventh Avenue, Suite 3601, New York, New York 10019 (" **Landlord** ") and WAYFAIR LLC, a Delaware limited liability company, having an office at (" **Tenant** ").

W I T N E S S E T H:

ARTICLE 1
BASIC DATA AND DEFINITIONS

Section 1.01 **Basic Data and Definitions** . The following sets forth basic data and, where appropriate, constitutes definitions of the terms hereinafter listed.

(a) " **Building** " The building, fixtures, equipment and other improvements and appurtenances now or hereafter located or erected known as Building J at Park West International having a street address of 1405 Worldwide Boulevard, Hebron, Kentucky.

(b) " **Property** " The Building and the land appurtenant thereto or upon which the Building is situated identified on the site plan attached hereto and made a part hereof as Exhibit A .

(c) " **Permitted Use** " Tenant shall use the Premises solely for the purpose of general office and warehouse sales use in connection with the operation of its business and otherwise subject to the express terms and conditions contained herein, and for no other use or purpose whatsoever. (Article 6).

(d) " **Premises** " The entire Building shown on Exhibit A attached hereto and made a part hereof deemed to contain approximately 525,000 rentable square feet.

(e) " **Commencement Date** " January 1, 2014.

(f) " **Lease Year** " As defined in Section 3.01(a) herein.

(g) " **Expiration Date** " March 31, 2019

(h) " **Base Rent** " Shall be defined and paid as follows:

Term/Months	Base Rental per Rentable Square Foot	Monthly Base Rental	Annual Base Rent
January 1, 2014 — December 31, 2014	$ 2.80	$ 122,500.00	$ 1,470,000.00(1)
January 1, 2015 — December 31, 2015	$ 2.90	$ 126,875.00	$ 1,522,500.00
January 1, 2016 — December 31, 2016	$ 3.00	$ 131,250.00	$ 1,575,000.00
January 1, 2017 — December 31, 2017	$ 3.10	$ 135,625.00	$ 1,627,500.00
January 1, 2018 — December 31, 2018	$ 3.20	$ 140,000.00	$ 1,680,000.00
January 1, 2019 — March 31, 2019	$ 3.30(2)	$ 144,375.00	

(1) The annual Base Rent for this period is subject to abatement pursuant to the express tens of Section 4.04 hereof.
(2) The annual Base Rent for this period is payable for less than a full calendar year.

(i) " **Security Deposit** " $122,500.00 (Article 27)

(j) " **Term** " The period commencing on the Commencement Date and ending on the Expiration Date, as more particularly described in Section 3.01 of this Lease.

(k) " **Broke** r" Collectively, Cassidy Turley and Richards Barry Joyce Partners. (Article 29)

(l) " **Landlord's Notice Address** "

Distribution I Patent Tenant LLC
c/o Interventure Advisors LP
810 Seventh Avenue, Suite 3601
New York, New York 10019
Attention: Ms. Teresa Tsai (Article 30)

(m) " **Landlord's Rent Payment Address** "

(i) Via ACH or Wire Transfer:

Bank Name:	Branch Banking & Trust
ABA Number:	054001547
Attention:	Grace Wiley
Fax Number:	(202) 835-9258
Account Name:	Distribution I Patent Owner (Collection)
Account Number:	5162-738-609

(ii) Payment by mail:

Distribution I Patent Tenant LLC
c/o Colliers International
4135 South Stream Boulevard, Suite 550
Charlotte, North Carolina 28217
Attention: Christopher O. Perry
Phone: (704) 910-8448

(n) " **Tenant's Notice Address** " Wayfair LLC
at the Premises (Article 30)

(o) " **Tenant's Share** " 100% (Section 8.13)

(p) " **Landlord's Contribution** " Up to a maximum of $393,750.00, as more particularly set forth in Article 5 of this Lease.

(q) " **Renewal Option** " Two (2) options of five (5) years each pursuant to Section 3.03 herein.

ARTICLE 2
DEMISE

Landlord hereby demises and leases to Tenant, and Tenant leases, rents, and agrees to accept from Landlord, the Premises, upon the terms and conditions set forth in this Lease. Notwithstanding anything to the contrary contained in this Lease, all parts (except surfaces facing the interior of the Premises) of all walls, windows and doors bounding the Premises (including exterior Building walls, core corridor walls, doors and entrances), all balconies, terraces and roofs adjacent to the Premises, all space in or adjacent to the Premises used for shafts, stacks, stairways, chutes, pipes, conduits, ducts, fan rooms, heating, air conditioning, ventilating, plumbing, electrical, telecommunication and other mechanical facilities, closets, service closets and other facilities serving the Building or the Property, and the use thereof, as well as access thereto through the Premises for the purposes of operation, maintenance, alteration and repair, are hereby reserved to Landlord.

ARTICLE 3
TERM; DELIVERY

Section 3.01 **Term; Lease Year** . The Term shall commence on the Commencement Date and, unless sooner terminated or extended as provided in this Lease, shall terminate on the Expiration Date. The term " **Lease Year** " as used in this Lease shall mean the period of twelve (12) full calendar months commencing on the Commencement Date and each twelve (12) month period thereafter.

Section 3.02 **Early Entry by Tenant for Tenant's Work** . Except as hereinafter expressly provided, neither Tenant nor its agents, employees, invitees or independent contractors shall enter the Premises prior to the Commencement Date. Notwithstanding the foregoing sentence, upon the granting of consent by Landlord, which shall not be unreasonably withheld, Tenant or its agents may enter the Premises prior to the Commencement Date to perform Tenant's Work however, such entry shall be deemed under all the terms, covenants and conditions of this Lease including, without limitation, the obligation to pay for utilities and services such as electricity and life and safety and to provide evidence of insurance required under this Lease, but excluding the covenant to pay Base Rent and Tenant's Share of Operating Expenses and Tenant's Share of Taxes. In the event Tenant or Tenant's contractor shall enter upon the Premises or any other part of the Property, as may be above permitted by Landlord, Tenant agrees to indemnify and save Landlord harmless from and against any and all Liabilities arising from or claimed to arise from (i) any act, neglect or failure to act of Tenant or anyone entering the Premises or the Property with Tenant's permission, (ii) the performance of Tenant's Work, and/or (iii) any other reason whatsoever arising out of said entry upon the Premises or the Property.

Section 3.03 **Renewal Option** .

(a) Tenant shall have the right to extend the Term of this Lease for two (2) successive periods of five (5) years each (the " **First Renewal Term** " and the " **Second Renewal Term** ", respectively, and each is sometimes referred to herein as a " **Renewal Term** "), provided that Tenant shall notify Landlord, in writing, at least twelve (12) months but not more than fifteen

(15) months prior to the expiration of the original Term or the expiration of the First Renewal Term, as applicable, of Tenant's intention to exercise such option, and provided further that, both at the time of notice of such renewal and on the commencement date of the applicable Renewal Term, (i) Tenant is not in default hereunder beyond any applicable notice or cure periods, (ii) Tenant has not been in monetary default or material non-monetary default hereunder beyond any applicable notice or cure periods in the preceding twelve (12) month period, and (iii) Tenant and/or its permitted Successors and Related Entities (both as hereinafter defined) are in occupancy of the Premises, are open and conducting business in the Premises and have not otherwise subleased the Premises or any part thereof or assigned this Lease. Time is of the essence with respect to the giving of any such notice. The First Renewal Term shall commence on the day immediately following the Expiration Date and shall expire on the fifth (5 th) anniversary thereof unless the First Renewal Term shall sooner end pursuant to any of the terms, covenants or conditions of this Lease or pursuant to law. The Second Renewal Term, if applicable, shall commence on the day immediately following the expiration of the First Renewal Term and shall expire on the fifth (5 th) anniversary thereof. The terms and conditions of each Renewal Term shall be the same as the terms and conditions of this Lease, except that: (x) Tenant shall have no further right of renewal after the expiration of the Second Renewal Term or if Tenant shall fail to exercise any option to extend for any Renewal Term strictly in accordance with the terms of this Section; and (y) the Base Rent payable during each Renewal Term shall be the Prevailing Market Rate for the Premises as determined below.

(b) Landlord shall provide Tenant with a written proposal setting forth its determination of the Prevailing Market Rate for the Premises for the applicable Renewal Term within thirty (30) days of receipt of Tenant's respective notice to extend. Tenant shall have ten (10) days from its receipt of Landlord's proposal to either accept such proposal or to reject such proposal, in which case, the Prevailing Market Rate shall be determined pursuant to the express terms of Section 3.03(c) below. The " **Prevailing Market Rate** " shall mean the then prevailing market rate for new leases and lease renewals and extensions in the Building and in similar buildings in the vicinity of the Building comparable to this Lease and the Premises, which shall be determined by Landlord or the applicable broker(s) pursuant to Section 3.03(c) below, as applicable, based on all factors Landlord or such broker(s), as applicable, deems relevant in its sole but reasonable discretion.

(c) If Tenant rejects Landlord's determination of the Prevailing Market Rent for the applicable Renewal Term, Landlord and Tenant shall use their good faith efforts to agree upon the Prevailing Market Rent of the Premises for the applicable Renewal Term. In the event Landlord and Tenant cannot reach agreement within fifteen (15) days after the date of Tenant's notice rejecting Landlord's determination of the Prevailing Market Rent, Landlord and Tenant shall each select a reputable qualified, licensed real estate broker, who has at least ten (10) years experience in Hebron, Kentucky and who is familiar with the rentals then being charged in the Building and in comparable buildings in Hebron, Kentucky (respectively, " **Landlord's Renewal Broker** " and " **Tenant's Renewal Broker** ") who shall confer promptly after their selection by Landlord and Tenant and shall use all commercially reasonable efforts to agree upon the Prevailing Market Rent of the Premises for the applicable Renewal Term; it being agreed that any decision of the arbitrators pursuant to this Section 3.03 shall be binding on the parties hereto. If Landlord's Renewal Broker and Tenant's Renewal Broker cannot reach agreement within fifteen (15) days after the date such brokers have been selected, then, within ten (10) days

thereafter, they shall designate a third reputable, licensed real estate broker, who has at least ten (10) years experience in Hebron, Kentucky and who is familiar with the rentals then being charged in the Building and in comparable buildings in Hebron, Kentucky (the " **Independent Broker** "). Upon the failure of Landlord's Renewal Broker and Tenant's Renewal Broker to agree upon the designation of the Independent Broker, then the Independent Broker shall be appointed by any court having jurisdiction. Concurrently with such appointment, Landlord's Broker and Tenant's Broker shall each submit a letter to the Independent Broker, with a copy to Landlord and Tenant, setting forth such broker's estimate of the Prevailing Market Rent of the Premises during the applicable Renewal Term (respectively, " **Landlord's Broker's Letter** " and " **Tenant's Broker's Letter** "). The Independent Broker shall conduct such investigations and hearings as he/she may deem appropriate and shall, within fifteen (15) days after the date of his/her designation, choose either the rental set forth in Landlord's Broker's Letter or Tenant's Broker's Letter to be the Base Rent for the Premises during the applicable Renewal Term, and such choice shall be binding upon Landlord and Tenant. Landlord and Tenant shall each pay the fees and expenses of its respective broker. The fees and expenses of the Independent Broker shall be shared equally by Landlord and Tenant.

(d) In the event the applicable Renewal Term shall commence prior to a determination of the Base Rent during the applicable Renewal Term having been made in accordance with this Article, then the Base Rent to be paid by Tenant to Landlord until such determination has been made shall be the greater of (i) the fair market rental value as set forth in Landlord's Broker's Letter plus all sums payable pursuant to Article 8 of this Lease, or as otherwise provided herein, as Additional Rent, or (ii) the annual Base Rent for the twelve (12) month period immediately preceding the commencement of the applicable Renewal Term, including all escalations or Additional Rent payable pursuant to Article 8 hereof or as otherwise provided herein. After such determination has been made for the Base Rent for the applicable Renewal Term, any excess rental for the applicable Renewal Term theretofore paid by Tenant to Landlord shall be credited by Landlord against the next ensuing monthly Rent payable by Tenant to Landlord and any deficiency in Rent due from Tenant to Landlord during the Renewal Term shall be immediately paid.

(e) The parties hereto agree to enter into amendment(s) of this Lease confirming the exercise of Tenant's option to extend the term of this Lease and the amount of the Base Rent payable during the Renewal Term(s), as applicable within thirty (30) days of request of the other; provided, however, if Landlord and Tenant fail to execute and deliver any such amendment within thirty (30) days of Landlord's request, the Term shall be deemed extended at the Base Rent determined pursuant to the provisions of this Section 3.03 .

(f) Tenant's rights and privileges described in this Section 3.03 are personal to the specific party originally identified as the "Tenant" under this Lease and assignees which are Successors or Related Entities of the party originally identified as the "Tenant" under this Lease, and may not be assigned, transferred or otherwise conveyed other than to assignees which are Successors or Related Entities of the party originally identified as the "Tenant" under this Lease, without Landlord's prior written consent, which consent Landlord may grant or withhold in its sole and absolute discretion.

ARTICLE 4
RENTAL

Section 4.01 **Rental** . The rents reserved under this Lease (collectively, the " **Rental** ") shall consist of Base Rent and all other sums that are due and payable by Tenant to Landlord under this Lease, including, without limitation, all amounts payable by Tenant under Article 8 herein (collectively, " **Additional Rent** "). Tenant shall pay all Rental in lawful money of the United States to Landlord at Landlord's Rent Payment Address via ACH or wire transfer as set forth hereinabove, or at such other place or in such other manner as Landlord may designate in writing from time to time, without any notice, deduction, reduction, abatement, recoupment or set-off whatsoever.

Section 4.02 **Base Rent** . Throughout the Term, Tenant shall pay to Landlord the annual Base Rent as set forth in Section 1.01 in twelve (12) equal monthly installments on the first day of each calendar month throughout the Term, in advance, without any notice or demand therefor and prorated on the basis of a thirty (30) day month for any partial calendar month during the Term. Base Rent payable for the first full calendar month following the Commencement Date shall be paid by Tenant to Landlord together with Tenant's execution and delivery of this Lease.

Section 4.03 **Interest and Late Charge** . If Tenant shall fail to pay any Rental when due, Tenant shall pay to Landlord, as Additional Rent, interest on the unpaid Rental at the rate of the lower of (such lower rate being herein referred to as the " **Default Rate** "): (a) thirteen (13%) percent per annum and (b) the highest rate per annum chargeable to Tenant pursuant to law, from the date due until the date paid. In addition, if Tenant shall fail to pay when due any Rental within five (5) days of the date due, then Tenant shall pay to Landlord, as Additional Rent, a late charge equal to five (5%) percent of the unpaid Rental plus reasonable attorneys fees incurred by Landlord by reason of Tenant's failure to timely pay Rental, as an agreed and liquidated amount as compensation for Landlord's additional administrative expenses relating to such late payment (provided in the case of the first two such failures in the Term only, such failures shall not result in a late charge hereunder unless and until Tenant fails to cure such defaults within five (5) days following notice thereof). The provisions of this Section are in addition to any other remedies available to Landlord with respect to non-payment of Rental.

Section 4.04 **Abatement** . Notwithstanding anything to the contrary contained in this Lease,, provided that this Lease is in full force and effect and no Abatement Event of Default (as hereinafter defined) shall have occurred, Tenant shall be entitled to a credit against the Base Rent in the aggregate amount of $367,500.00 for the three (3) month period commencing on the Commencement Date and ending three (3) months thereafter (the " **Rent Abatement Period** "), which credit shall be applied against the Base Rent in three (3) equal monthly installments of $122,500.00 each. During the Rent Abatement Period, Tenant shall otherwise be required to comply with all of the other terms, covenants and conditions of this Lease on Tenant's part to be observed and performed, including, but not limited to, the obligation to make all payments of Additional Rent hereunder (including, without limitation, the Additional Rent payable under Article 8). If at any time during the Term, an Abatement Event of Default shall occur, then, in addition to all other damages and remedies to which Landlord may be otherwise entitled, Landlord shall also be entitled to the repayment in full of all Rental which has theretofore been

allowed as a credit under the provisions of this Section 4.04 of this Lease, which repayment Tenant shall make promptly following demand therefor. As used herein, the term " **Abatement Event of Default** " shall mean a monetary default or material non-monetary default under this Lease shall have occurred and Tenant shall not have cured same: (a) prior to the expiration of the applicable cure period (it being understood that if the default in question is of such a nature that it cannot be completely remedied within the applicable cure period, then Tenant shall not be deemed to be in default beyond the applicable cure period pursuant to this Section 4.04(a) if: (i) Tenant shall, after being given notice of the default and within the applicable cure period, advise Landlord in writing of Tenant's intention to institute all steps necessary to remedy such situation, (ii) Tenant shall, within the applicable cure period, institute and thereafter diligently prosecute to completion all steps necessary to remedy the same, and (iii) Tenant shall remedy the same within a reasonable time after the date of the giving of said notice by Landlord, not to exceed sixty (60) days in the aggregate), and (b) within ten (10) days following a second notice to Tenant of such default. Landlord's second notice to Tenant shall contain a statement that "TENANT'S FAILURE TO CURE THE DEFAULT WITHIN THE TEN (10) DAY CURE PERIOD, SHALL RESULT IN THE LOSS OF TENANT'S RENT ABATEMENT".

Section 4.05 **Failure to Pay** . If an Event of Default occurs, Landlord may require that all subsequent rent payments be made by wire transfer or by an automatic payment from Tenant's bank account to Landlord's account, without cost to Landlord. Landlord shall have no obligation to accept less than the full amount of any installment of Rental which is due and owing by Tenant to Landlord, and if Landlord shall accept less than the full amount owing, Landlord may apply the sums received towards any of Tenant's obligations at Landlord's discretion. Landlord's failure to timely bill Tenant shall in no way excuse Tenant from its payment obligations or constitute a waiver of Landlord's entitlement to any charges not timely billed by Landlord.

ARTICLE 5
CONDITION OF PREMISES

Section 5.01 **Condition of Premises** . Tenant has examined and inspected the Premises and the physical condition thereof. Landlord has not made and does not make any representation as to the physical condition or any other matter affecting or relating to the Premises, the Building or the Property, except as is in this Lease specifically set forth, and Tenant specifically acknowledges that no such representations have been made. Tenant hereby acknowledges that Landlord has afforded Tenant the opportunity for a full and complete investigation, examination, and inspection of the Premises and Tenant agrees to accept the Premises (including all building and mechanical systems serving the Premises) "as is" on the date hereof, with all faults, Landlord shall not be required to perform any work or render any service to make the Premises or the Property ready or suitable for Tenant's use and occupancy, AND TENANT WAIVES ANY IMPLIED WARRANTY OF SUITABILITY, HABITABILITY, MERCHANTABILITY OR OTHER IMPLIED WARRANTIES THAT LANDLORD WILL MAINTAIN OR REPAIR THE PREMISES OR ITS APPURTENANCES EXCEPT AS MAY BE CLEARLY AND EXPRESSLY PROVIDED IN THIS LEASE.

Section 5.02 **Tenant's Work** .

(a) Subject to the provisions of Article 12 herein, Tenant shall, at Tenant's sole cost, perform or cause the performance of all alterations, installations, additions and improvements that shall be required to be made in or to the Premises in order to prepare the Premises, or any portion thereof, for Tenant's initial occupancy for the Permitted Use (" **Tenant's Work** "). All materials used in connection with Tenant's Work shall be new and first quality and Tenant's Work shall be performed in a good and workmanlike manner. Tenant's Work shall constitute Tenant's Changes (as hereinafter defined) and is subject to all of the terms and conditions set forth in Article 12 hereof attached hereto. Tenant shall deliver copies of all of its detailed plans, drawings and specifications for Tenant's Work to Landlord for its review and approval promptly following the mutual execution and delivery of this Lease. Tenant shall be in default hereunder if Tenant fails to complete Tenant's Work pursuant to the terms and conditions contained herein within twelve (12) months after Landlord's approval of said detailed plans, drawings and specifications for Tenant's Work.

(b) Provided this Lease shall be in full force and effect and no Event of Default (as hereinafter defined) shall have occurred and be continuing, Landlord shall reimburse Tenant for the cost of Tenant's Work actually incurred by Tenant which constitute Qualified Alterations (as hereinafter defined), as approved by Landlord pursuant hereto and which are actually made by Tenant within six (6) months of the Commencement Date up to a maximum amount of Landlord's Contribution. As used herein, the term " **Qualified Alterations** " shall mean the labor and materials used by Tenant to construct Tenant's Changes which are permanent leasehold improvements in and to the Premises in compliance with this Lease after the date hereof including electrical work, replacement of existing lighting, painting and the installation of carpeting, and Soft Costs (as hereinafter defined), subject to the limitations set forth herein. Qualified Alterations shall expressly exclude (and Landlord's Contribution shall not be applied to) architect's and engineer's fees and costs of permits (collectively, " **Soft Costs** ") in excess of Nineteen Thousand Six Hundred Eighty-Seven and 50/100 ($19,687.50) Dollars in the aggregate, the cost of interest or late charges, or labor and materials and such services used to furnish trade fixtures, furniture, furnishings, moveable business equipment, and any personal property whatsoever. Except as otherwise expressly set forth herein, Tenant shall complete Tenant's Work in accordance with the plant approved in writing by Landlord, whether or not Landlord's Contribution is sufficient to fund such completion. To the extent that the Qualified Alterations are less than Landlord's Contribution, Tenant shall not be entitled to receive any such excess, whether as a credit, refund, abatement or otherwise.

(c) Provided this Lease is in full force and effect and Tenant has not defaulted hereunder, Landlord shall make Landlord's Contribution to Tenant in one lump sum payment within thirty (30) days after the completion of Tenant's Work and upon Tenant's submission to Landlord of an invoice therefore together with the following items: (i) an invoice for payment of Landlord's Contribution together with paid receipts (or such other proof of payment as Landlord shall reasonably require) for work done in connection with Tenant's Work, (ii) final lien waivers (in recordable form and form otherwise satisfactory to Landlord) from the architects, contractors, subcontractors and materialmen furnishing labor or materials in connection with Tenant's Work releasing Landlord and Tenant from all liability for all such work, (iii) certificates by Tenant's architect and Tenant certifying that Tenant's Work has been properly performed in accordance

with the plans and specifications approved by Landlord and incorporated into the Premises and that all such work has been fully paid for and performed and (iv) all sign-offs, inspection certificates and permits required to be issued by any governmental entities having jurisdiction thereover, including a certificate of occupancy and/or certificate of completion for the Premises if same is required pursuant to applicable Laws (as hereinafter defined). Notwithstanding anything to the contrary contained herein, in no event shall Landlord be required to pay Landlord's Contribution or any portion thereof pursuant to any invoice submitted by or on behalf of Tenant more than seven (7) months following the Commencement Date, time being of the essence.

ARTICLE 6
USE AND OPERATION OF THE PREMISES

Section 6.01 **Use**. Tenant shall use the Premises during the Term for the Permitted Use and for no other use or purpose whatsoever. Tenant shall diligently operate Tenant's business in the Premises for the Permitted Use in a first class manner.

Section 6.02 **Compliance With Laws**. Except as otherwise expressly set forth herein, Tenant, at its sole cost, shall promptly comply with all present and future laws, statutes, codes, ordinances, rules, regulations, judgments, orders, writs or decrees of any governmental authority having jurisdiction over the Premises affecting or applicable to the Premises or to the use or occupancy thereof or the business conducted therein, including, without limitation, The Americans With Disabilities Act of 1990, as amended (collectively, " **Laws** "), whether or not any such Laws are foreseen or unforeseen, ordinary or extraordinary, shall necessitate Structural or Exterior Changes (as hereinafter defined in Section 12.01) or shall interfere with the use and enjoyment of the Premises. Tenant shall deliver to Landlord true and complete copies of any and all permits, licenses, inspection and/or certificates required for the lawful conduct of Tenant's business in the Premises. Tenant shall obtain at its sole cost, all licenses, permits, and certificates (including temporary and permanent certificates of occupancy) required in connection with Tenant's Work and other Tenant's Changes and the operation of Tenant's business. Upon Landlord's written request, Tenant shall deliver to Landlord true and complete copies of any and all such licenses, permits and certificates. Tenant shall reasonably cooperate with any effort to obtain LEED, Green Globes, Energy Star (or similar) certification for the Building; provided that Tenant shall not be obligated to incur any additional cost or expense in connection therewith (other than a de minimis costs and expenses). Tenant, at its sole cost, shall comply with any and all provisions, recommendations and requirements of (i) any national or local Board of Fire Underwriters (or other similar body) having jurisdiction over the Premises and (ii) any insurance policy(ies) covering or applicable to the Premises or Building and any issuer(s) of such insurance policy(ies) (collectively, " **Insurance Requirements** ").

Section 6.03 **Manner of Use**. In no event shall the Premises or any portion thereof be used: (a) in violation of any Laws, Insurance Requirements or the certificate of occupancy or other licenses or certificates covering the Premises; (b) in a manner which creates or permits a nuisance or trespass; (c) in a manner which produces or transmits sounds audible outside the Premises; (d) in a manner which obstructs or encumbers the sidewalks or any other portion of the Common Area; (e) in a hazardous or wasteful manner; (f) in a manner which exceeds the floor load which such floor was designed, or is permitted by Laws, to carry; (g) in any manner which

causes or permits any noise, odors, fumes, dust or vapors to be dispelled from the Premises; (h) for any form of assignation or lewdness, or any form of establishment employing partially or totally nude entertainers, employees, waiters or waitresses, or any usage as an adult entertainment facility, massage parlor, bathhouse, or facility which caters to the prurient sale of books, magazines, other periodicals, or sex-centered objects; (i) for any retail or manufacturing purposes, or (j) in any other manner which, in Landlord's reasonable judgment, adversely affects the character, operation, reputation or appearance of the Property.

Section 6.04 Refuse and Pests. Tenant shall, at its sole cost and expense, maintain the Premises in a clean, safe and sanitary condition. Tenant shall keep all garbage, trash or other refuse in sealed metal or water-tight rubber plastic containers which are rat-proof and shall remove and dispose of such garbage, trash, rubbish and refuse from the Premises each day that the Premises are open for business to the disposal area designated by Landlord and otherwise in accordance with all applicable Laws, including any recycling Laws. Tenant shall separately contract with a trash removal contractor approved by Landlord for the removal and disposal of Tenant's rubbish and trash from the Premises and shall be responsible for all charges relating to all trash removal. Tenant shall keep the Premises free from all pests, insects and vermin and shall arrange for appropriate extermination at Tenant's expense on a regular basis or at more frequent intervals to the extent Landlord reasonably determines a need for the same.

Section 6.05 Hazardous Substances. Except for normal cleaning solvents and office supplies used in connection with Tenant's business (which shall at all times be used, handled, transported, stored, generated and disposed of in compliance with all applicable Laws), Tenant shall not cause or permit any Hazardous Substance (as hereinafter defined) to be used, handled, transported, stored, generated or disposed of on, in or from the Property by Tenant, its agents, employees, contractors, invitees or licensees. If Hazardous Substances are used, handled, transported, stored, generated or disposed of on the Premises or the Property by Tenant, its agents, employees, contractors, invitees or licensees, or if the Premises or the Property (or any portion thereof) becomes contaminated in any manner as a result of the acts or omissions (or alleged acts or omissions) of Tenant, its agents, employees, contractors, invitees or licensees or if Tenant shall otherwise breach (or permit a breach) of its obligations under this Section 6.05, Tenant shall indemnify, hold harmless and defend Landlord and the other Landlord Indemnitees (as hereinafter defined) from and against any and all legal action, claims, expenses, costs, damages, loss, liability, penalties, fees and other expenses, including, without limitation, reasonable legal fees and disbursements (collectively, "**Liabilities**"), which shall include, without limitation, a decrease in value of the Property, damages due to loss or restriction of leasable or usable space and damages due to adverse impact on marketing of the Building or the Property, arising during or after the Term and relating to such contamination. Such indemnification shall include, without limitation, all costs incurred by Landlord duo to any investigation of the Property or any part thereof or any cleanup, removal or restoration, whether or not required by laws. If Tenant causes or permits the presence or release of any Hazardous Substance on the Property. Tenant shall promptly, at its sole expense, take all action necessary to return the Property to the condition existing prior to the presence or release of such Hazardous Substance or Landlord may (hut shall have no obligations to) remove or remediate same at Tenant's sole cost. Tenant shall obtain Landlord's prior consent to any such action and such action shall constitute Tenant's Changes to be performed strictly in accordance with the terms and conditions of Article 12. Notwithstanding anything to the contrary contained in this Lease,

Tenant shall not be responsible for clean-up, handling, removing, abating or remediating (collectively, " **Remediation** ") of any Hazardous Substances which are present in the Premises prior to the delivery of the Premises to Tenant or which Landlord releases in the Premises, unless and to the extent same are released as a result of the acts or omissions of, through or under Tenant or result in connection with Tenant's Changes, and no cost incurred in connection with the Remediation of such Hazardous Materials shall be allocated to or payable by Tenant. As used in this Lease, " **Hazardous Substance** " means any substance (a) defined under any Environmental Law as a hazardous substance, hazardous waste, hazardous material, pollutant, solid waste or contaminant, (b) a petroleum hydrocarbon, including crude oil or any fraction thereof, including, without limitation, asbestos, polychlorobiphenyls (" **PCBs** "), petroleum products or derivatives, (c) hazardous, toxic corrosive, flammable, explosive, infectious, radioactive, carcinogenic or a reproductive toxicant, (d) otherwise regulated pursuant to any Environmental Law and (e) hazardous substances, solid wastes, hazardous wastes or toxic substances, as such terms are defined in (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 1802); (ii) the Resource Conservation Recovery Act (42 U.S.C. Section 6901, et. seq.), as amended; (iii) local, state and Federal laws governing conservation and protection of the environment and (iv) the rules and regulations adopted and promulgated pursuant to any such codes or acts. The terms and conditions of this Section shall survive the termination of this Lease. As used in this Lease, " **Environmental Law** " means all federal, state and local laws, statutes, ordinances, regulations, rules, judicial and administrative orders and decrees, permits, licenses, approvals, authorizations and similar requirements of all federal, state and local governmental agencies or other governmental authorities pertaining to the protection of human health and safety or the environment, or regulating the use, storage, treatment, disposal, transportation, management or reuse of Hazardous Substances, now existing or later adopted during the Term.

ARTICLE 7
COMMON AREA

Tenant agrees not to encumber or obstruct, or allow to be encumbered or obstructed, the sidewalks, curbs and roadways adjacent or leading to the Building or the Premises.

ARTICLE 8
OPERATING EXPENSES AND TAX ESCALATION

Section 8.01 Operating Expenses .

(a) " **Operating Expenses** " shall mean the total costs and expenses paid or incurred by or on behalf of Landlord including, without limitation, costs of repairs, maintenance and replacement obligations under Section 11.01 hereof (whether directly or through independent contractors) on an accrual basis consistently applied in respect of the operation, maintenance, repair, replacement, protection, insuring, improvement and management of the Property (inclusive of all parking areas) which, in accordance with the accounting practices used by Landlord and the terms hereof, are chargeable as an Operating Expense, including, without limitation, the financial expenses incurred in connection therewith, such as reasonable attorneys' fees and disbursements, but specifically excluding (i) Taxes (hereinafter defined), (ii) capital improvements except to the extent provided herein, (iii) to perform the HVAC Unit Replacement

(as hereinafter defined), (iv) leasing commissions, attorneys' fees and other expenses incurred in connection with the negotiations or disputes with or leasing to tenants or prospective tenants, (v) costs incurred for tenant installations and decorations in connection with preparing space for a new tenant, (vi) mortgage interest and the costs of financing and refinancing, (vii) franchise or income taxes imposed on Landlord, (viii) ground rent, if any, (ix) goods and services furnished to an individual tenant of the Building which are separately reimbursed directly to Landlord, and (x) expenses for repair or maintenance to the extent the same have been reimbursed to Landlord pursuant to warranties.

(b) If any capital improvement is made: (i) to comply with Laws or the terms of Section 11.01 hereof (other than the HVAC Unit Replacement subject to the terms of Section 11.01), (ii) in lieu of a repair required in accordance with prudent real estate management practices as reasonably determined by Landlord, (iii) to provide or maintain building standards or (iv) to save or reduce Operating Expenses; then the cost of such improvement shall be included in Operating Expenses; provided, however, if the cost of such improvement is required to be capitalized for federal income tax purposes, such cost shall be amortized on a straight-line basis over the useful life of the improvement, 'together with interest on the unamortized balance at the higher of eight percent (8%) per annum calculated on a cumulative, compounded basis or the rate as may have been paid by Landlord on borrowed funds and same shall be deemed an Operating Expense in each of the years during which the cost of the improvement is amortized.

Section 8.02 Taxes . " **Taxes** " shall mean the amount of all real property taxes, assessments, business taxes, excises, water charges, sewer rents, fees, levies, charges and other taxes of every kind and nature whatsoever, general or special, extraordinary and ordinary, foreseen and unforeseen, including, without limitation, interest on all installment payments, which may be levied or assessed against or arise in connection with the ownership, use, occupancy, operation or possession of the Property by any governmental or quasi-governmental authority (including, without limitation, personal property taxes for property that is owned by Landlord and used in connection with the Property). Taxes shall also include all taxes, levies and charges which may be assessed, levied or imposed in substitution of, or in addition to, all or any part of real property taxes, or which are assessed in lieu of a tax increase, or paid as rent under any ground lease and all expenses incurred in determining or attempting to obtain a reduction of Taxes. Taxes shall not include any Taxes measured in whole or in part by, rents or gross receipts or in the nature of an excise, franchise, gift, estate, succession, inheritance or capital levy tax or tax on Landlord's income or profits (unless any of the foregoing taxes shall be in addition to or in lieu of so called "real estate taxes" in which case such taxes shall be included in the definition of Taxes).

Section 8.03 Tenant's Payment . Commencing on the Commencement Date and continuing on the first day of each calendar month in advance during the Term, Tenant shall pay to Landlord, as Additional Rent, such amount as Landlord shall reasonably estimate to equal one-twelfth (1/12 th) of Tenant's Share of Operating Expenses and Tenant's Share of Taxes for the then current calendar and/or fiscal year, as applicable, which estimate shall be determined by multiplying Landlord's estimate of each of the monthly Operating Expenses and Taxes by Tenant's Share.

Section 8.04 **Year End Adjustment** . After the expiration of each calendar and/or fiscal year, Landlord shall deliver to Tenant one or more statements prepared by Landlord of Tenant's Share of Operating Expenses and Tenant's Share of Taxes for such year showing in reasonable detail the calculation of Tenant's Share of Operating Expenses and/or Tenant's Share of Taxes for such calendar or fiscal year, as applicable (each, a " **Statement** "). If on the basis of a Statement, Tenant owes an amount that is less than the estimated payments for such year with respect to Operating Expenses or Taxes previously made by Tenant, Landlord shall credit such excess amount against the next payment(s) of Rental due from Tenant hereunder, of if the Term has expired or otherwise terminated (other than in connection with a Tenant default) and if no Rental shall be payable hereunder, Landlord shalt promptly pay such excess amount to Tenant. If on the basis of a Statement, Tenant owes an amount that is more than the estimated payment for such year with respect to Operating Expenses or Taxes previously made by Tenant, Tenant shall pay the deficiency to Landlord within fifteen (15) days after delivery of the Statements. Tenant's Share of Operating Expenses and Tenant's Share of Taxes shall be prorated for any partial month or partial Lease Year occurring in the Term. The obligations of Landlord and Tenant under the provisions of this Article with respect to any Additional Rent payable by Tenant, or any credit to which Tenant may be entitled, shall survive the expiration or any sooner termination of the Term. All sums payable by Tenant under this Article shall be collectible by Landlord in the same manner as-Base Rent.

Section 8.05 **Audit Rights** . Any statement of Tenant's Share of Operating Expenses sent to Tenant shall be conclusively binding upon Tenant unless, Tenant shall: (a) timely pay to Landlord the amount set forth in such Statement, without prejudice to Tenant's right to dispute the same, and (b) within sixty (60) days after such Statement is sent, send a written notice to Landlord objecting to such Statement and specifying the particular respects in which such Statement is claimed to be incorrect (the " **Dispute Notice** "). If Tenant shall timely pay all amounts in a Statement and shall timely deliver a Dispute Notice to Landlord, the parties shall meet in good faith and attempt to resolve the dispute. If the parties shall not be able to resolve such dispute (Tenant being required to give Landlord reasonable opportunity to substantiate the accuracy of the Statement being disputed by Tenant), then, provided Tenant shall have theretofore timely paid to Landlord the amount shown to be due to Landlord on the disputed Statement, Tenant shall have the right, during reasonable business hours and upon not less than ten (10) business days prior written notice, to have its accountants and/or auditors inspect the relevant portion of Landlord's books and records. Tenant shall have sixty (60) days from the giving of the foregoing notice to audit, at Landlord's offices, Landlord's books and records for the applicable year concerning the Operating Expenses in dispute, but only to the extent reasonably necessary to verify such disputed Operating Expenses, subject to the following conditions: (i) there is no uncured default under this Lease; (ii) the audit shall be performed by an independent certified public accounting firm of recognized national or regional standing; (iii) in no event shall any audit be performed by a firm retained on a "contingency fee" basis; (iv) the audit shall commence within thirty (30) days after Landlord makes Landlord's books and records available to Tenant's auditor and shall conclude within sixty (60) days after commencement; (v) the audit shall be conducted where Landlord maintains its books and records and shall not interfere with the conduct of Landlord's business; and (vi) Tenant shall (and shall cause its accounting firm to) treat any information learned or observed in connection with the audit confidential and Tenant shall (and shall cause its accounting firm to) execute a confidentiality agreement for Landlord's benefit in form reasonably acceptable to Landlord prior

to commencing the audit. In the event Tenant's accountants and/or auditors dispute the correctness of any Statement and specify in writing the particular respects in which the Statement is claimed to be incorrect, the parties shall meet in good faith and attempt to resolve the dispute and Tenant shall give Landlord reasonable opportunity to substantiate the accuracy of the Statement being disputed by Tenant. This Section 8.05 shall not be construed, to limit, suspend or abate Tenant's obligation to pay Rental when due, including estimated Operating Expenses pending resolution of any dispute. Landlord shall credit any overpayment of Operating Expenses determined by the final approved audit report against the next Rental due and owing by Tenant or, if no further Rental is due, promptly refund such overpayment of Operating Expenses directly to Tenant. Similarly, Tenant shall pay Landlord any underpayment of Operating Expenses determined by the final approved audit report within thirty (30) days of determination. If Tenant does not elect to audit the Operating Expenses for any year as herein expressly set forth, the Operating Expenses for the applicable year shall be deemed approved for all purposes, and Tenant shall have no further right to review or contest the same. The fees and expenses of any such audit shall be borne by Tenant, unless Landlord's charges are found to be overstated for the applicable year by more than five percent (5%), in which case Landlord shall bear the costs of the audit. In no event shall Tenant have the right to audit Landlord's books and records more than once during any twelve (12) month period, nor shall any assignee or subtenant of Tenant have any right to perform such an audit.

Section 8.06 **Calculation of Charges** . Landlord and Tenant agree that each provision of this Lease for determining charges, amounts and Additional Rent (including Operating Expense payments) by Tenant is commercially reasonable.

ARTICLE 9
UTILITIES

Section 9.01 **Utilities** . Tenant shall arrange to obtain in its own name and pay directly to the appropriate supplier the cost of all utilities and services serving the Premises, including gas and electric, together with all fees, charges, deposits and assessments related to the hook-up, furnishing, consumption, maintenance and installation of all utilities or services and any meters measuring the same (collectively, " **Utilities** ") attributable or serving the Premises whether located inside or outside of the Premises. Landlord shall have no obligation to provide any utilities or services to the Premises except to the extent expressly provided for in this Lease. If any utilities or services are jointly metered within the Building, such as water/sewer and common area electric, Tenant shall be billed an amount equal to Tenant's Share as part of Operating Expenses for the same pursuant to Article 8 . Tenant shall not install or utilize any equipment which may exceed or overload the capacity of any Utilities furnished or servicing the Premises or the Building. All work performed by Tenant under this Section shall be deemed Tenant's Changes and shall be subject to Article 12 herein. Landlord shall have no liability to Tenant or any other party for any inadequacy, cessation, or interruption of any utilities and may temporarily suspend service of the heating, plumbing, and electric systems, when necessary, by reason of accident or emergency or an Unavoidable Delay, or for repairs, alterations, replacements or improvements which in Landlord's sole judgment are desirable or necessary without the same constituting an eviction of Tenant in whole or in part, and the Rental shall not abate while such repairs, alterations, improvements, or additions are being made, by reason of loss or interruption of business of Tenant, or otherwise.

Section 9.02 **Sprinklers**. Tenant shall be responsible at its cost for the installation, maintenance, operation, repair and replacement of the sprinkler system (and all components thereof) serving the Premises in compliance with applicable Laws. If, in Landlord's discretion, Landlord shall elect to maintain same in writing, Tenant shall pay to Landlord, as Additional Rent hereunder, Landlord's costs of any sprinkler system maintenance contract for the Building together with any taxes, permit and inspection costs, testing, and any other expenses incurred with respect to the sprinkler system during the Term within fifteen (15) days of billing therefor by Landlord, provided, that such contribution by Tenant shall not derogate from Tenant's obligations under this Section with respect to the sprinkler system serving the Premises. Notwithstanding anything contained herein to the contrary, if any governmental authority requires or recommends the installation of a sprinkler system or that any changes, modifications, alterations, or additional sprinkler heads or other equipment be made or supplied in an existing sprinkler system (collectively, " **Sprinkler Alterations** "), or if any such Sprinkler Alterations become necessary to prevent the imposition of a penalty or charge against the full allowance for a sprinkler system in the fire insurance rate set by the applicable authority or by any insurer, Tenant shall, at Tenant's expense, promptly make such Sprinkler Alterations, whether the work involved shall be structural or non-structural in nature and shall be responsible for any increased costs incurred by Landlord with respect to the Sprinkler Alterations.

ARTICLE 10
PARKING

Tenant shall be entitled to the exclusive use of the parking spaces in the parking area serving the Building, at no additional cost to Tenant, provided that such use complies with all applicable Laws and Insurance Requirements and all rules and regulations that may be imposed by Landlord. No parking shall be permitted on any of the streets or roadways located within the Property, if any. Tenant acknowledges that all parking is in non-secured areas and that Landlord shall not provide any security for the same during the Term. Accordingly, Tenant hereby acknowledges that Tenant shall use the parking areas at its own risk and hereby releases Landlord and its agents from any liability arising from any damage or injury incurred by Tenant, or its employees, customers and/or invitees, arising from their use of the parking areas.

ARTICLE 11
MAINTENANCE AND REPAIRS

Section 11.01 **Landlord's Obligations**. Landlord shall: (a) keep in good working order and repair the exterior grounds and landscaping, façade and roof of the Building, the base building systems (i.e., the base Building plumbing, drainage, sewer, and electrical equipment), and the foundation and other structural elements of the Premises, (b) provide reasonable and customary snow removal services to the Building and (c) replace the five (5) existing rooftop heating, ventilation and air conditioning (" **HVAC** ") units with new building standard HVAC units (the " **HVAC Unit Replacement** "), as required; provided, however, that, notwithstanding anything to the contrary contained herein, Landlord shall not be required to make any repairs or replacements caused by the acts or omissions of Tenant, or its agents, employees, licensees, sublessees, invitees or contractors or resulting in connection with Tenant's Changes; it being agreed that such repairs and replacements shall be performed by Tenant at Tenant's cost (or, at Landlord's election, by Landlord, at Tenant's cost). The costs of Landlord's performance

pursuant to Section 11.01(a) and Section 11.01(b) shall constitute Operating Expenses (subject to the express limitations contained in Article 8 hereof). Landlord shall not be required to make any other improvements or perform any other repairs of any kind upon the Premises or the Building and appurtenances.

Section 11.02 Tenant's Obligations. Except as otherwise expressly set forth in Section 11.01 above, Tenant, at Tenant's sole cost, shall keep and maintain in first class appearance, safe order, condition and repair the Building and every part thereof, including, without limitation all doors, door frames, door checks, other entrances, windows, window frames, glass and any security grill, electrical, heating and air conditioning systems and units (except as otherwise expressly set forth herein), whether or not any such units are located outside the Premises including any roof top HVAC units, plumbing, sewage, life safety systems, security, sprinkler systems, fire alarm systems, and any other mechanical or other Building systems serving the Premises, wall and floor coverings, ceilings, and Tenant's Changes, and, except as otherwise expressly set forth in Section 11.01, shall perform all preventative maintenance and make all other repairs, replacements, renewals and restorations, interior and exterior, ordinary and extraordinary, foreseen and unforeseen, required to be made in and to the Building and the Premises. Tenant, at its sole cost, shall secure from a licensed and reputable HVAC contractor a service and maintenance contract for the HVAC system or units serving the Premises and acceptable to Landlord. Upon Landlord's request, Tenant shall procure at its cost an annual written report of the condition thereof and deliver the same to Landlord. The securing of such service contract by Tenant shall not relieve Tenant of its obligation to maintain and repair such equipment as above provided. The term "repair" as used herein shall include replacements and/or renovations, when necessary. Tenant shall surrender the Premises at the expiration of the Term broom clean and in as good condition as when Tenant's Work was completed or in such better condition as the Premises may be put during the Term, excepting only deterioration caused by ordinary wear and tear.

ARTICLE 12
TENANT'S CHANGES

Section 12.01 Tenant's Changes. " **Tenant's Changes** " shall mean any and all alterations, installations, additions or improvements made or to be made by or on behalf of Tenant, and shall include Tenant's Work. " **Structural or Exterior Changes** " shall mean any and all Tenant's Changes which (a) affect the exterior of the Premises or are visible from outside the Premises, or (b) affect the structure of the Premises or any of its outer walls, any of its inner walls or columns which are load bearing, its foundation or roof, or (c) affect any of the building or service systems located in the Premises or the Building, including, without limitation, the mechanical, electrical, heating, ventilating and air-conditioning, plumbing, sprinkler and other service systems. " **Cosmetic Changes** " shall mean any Tenant's Changes to the interior of the Premises of a purely cosmetic or decorative nature (i.e., wall, floor and ceiling coverings and window treatments) that do not require a building permit or any similar authority, license or permit under applicable Laws provided that (i) the aggregate cost of such Cosmetic Changes will not exceed $150,000.00 in any one instance (or in any series of instances effectuating a single alteration plan), (ii) Landlord shall have received, at least ten (10) days prior to the commencement of the Cosmetic Changes, notice of performance of the same and the identity of the contractors performing the Cosmetic Changes (together with certificates of insurance

required to be maintained by such contractors), which contractors shall be subject to the reasonable approval of Landlord, and (iii) the terms, conditions and provisions of this Lease regarding Tenant's Changes are otherwise fully complied with.

Section 12.02 Requirements.

(a) Tenant shall obtain Landlord's prior written consent to any Tenant's Changes that are not Cosmetic Changes, which consent with respect to Tenant's Changes which are not Structural or Exterior Changes shall not be unreasonably withheld, conditioned or delayed. As a condition to obtaining Landlord's consent to any Tenant's Change that requires Landlord's consent, Tenant shall deliver to Landlord detailed drawings, plans and specifications for the proposed Tenant's Changes together with other information reasonably requested by Landlord in connection therewith.

(b) All Tenant's Changes shall be performed pursuant to the following terms and conditions:

(i) Tenant, at its expense, shall obtain all necessary permits and approvals required under applicable Laws for Tenant's Changes (both as a condition to performance and in connection with final sign offs and inspections) (collectively, the "**Approvals**") prior to commencement of any Tenant's Changes and upon completion of any Tenant's Changes, as applicable. Landlord may obtain all necessary Approvals (and complete at Tenant's expense any work required in order to obtain them) at Tenant's expense upon Tenant's failure to obtain the same;

(ii) Tenant shall perform Tenant's Changes strictly in accordance with full plans and specifications previously approved by Landlord pursuant hereto (to the extent a permit, license or other certificate is required under applicable Laws for the performance of such Tenant's Changes) in a good and workmanlike manner in compliance with all applicable Laws and the reasonable rules adopted by Landlord for construction in the Building from time to time;

(iii) Tenant shall perform Tenant's Changes using licensed and reputable contractors approved by Landlord in advance (which approval shall not be unreasonably withheld, conditioned or delayed by Landlord);

(iv) Prior to the commencement of any Tenant's Changes, Tenant shall, at its sole cost, carry and deliver evidence to Landlord of additional insurance required under Article 14 and all such assurances to Landlord as Landlord shall reasonably require to assure payment of the costs thereof, including, without limitation, notices of non-responsibility, performance bonds, and funded construction escrows;

(v) Tenant shall obtain lien waivers from all contractors, laborers and materialmen and shall discharge or bond, in accordance with the

provisions of Section 12.04, any liens filed against the Premises, the Building or the Property;

(vi) In no event shall any Tenant's Changes result in the reduction of any environmental rating for the Building or the Property which may now or hereafter be made, such as made pursuant to LEED, Green Globes or Energy Star;

(vii) Tenant shall pay to Landlord, within ten (10) business days of request therefor, the reasonable out-of-pocket costs incurred by Landlord in connection with any of Tenant's Changes including costs of Landlord's review of Tenant's drawings and specifications for Tenant's Changes. No review or approval by Landlord of Tenant's plans and specifications shall constitute any representation or warranty by Landlord as to the adequacy, correctness, efficiency, compliance with Laws or any other aspect of such drawings and specifications;

(viii) Tenant shall hold harmless, indemnify and defend Landlord from and against any and all Liabilities arising from or relating to Tenant's Changes; and

(ix) If Tenant shall need to make any roof penetrations whatsoever to the Building in connection with Tenant's Changes, and if Landlord shall approve same, Tenant shall utilize Landlord's roofing contractor at Tenant's expense in order to preserve Landlord's roof warranty.

Section 12.03 Removal. All Tenant's Changes shall, unless Landlord elects otherwise in writing at any time prior to the expiration of the Term, become the property of Landlord, and shall be surrendered with the Premises, at the expiration or sooner termination of the Term of this Lease. Notwithstanding the foregoing, Tenant may, at the time that Tenant submits plans and specifications for any Tenant's Changes to Landlord for Landlord's approval, request in writing that Landlord waive its right to compel Tenant to remove the Tenant's Changes identified on such plans and specifications. If Landlord waives its right to compel Tenant to remove such Tenant's Changes, in whole or in part, Landlord shall notify Tenant at the time of Landlord's approval of such plans and specifications of those Tenant's Changes which Tenant may be required to remove in accordance with the terms of this Article prior to the expiration or earlier termination of the Term of this Lease and Tenant shall upon such expiration or earlier termination of the Term, unless instructed otherwise by Landlord, be required to remove only such Tenant's Changes specified in Landlord's notice. Subject to the terms of the preceding sentence, any Tenant's Changes which Landlord shall designate shall be removed by Tenant prior to the expiration or earlier termination of this Lease, together with all of Tenant's wiring, cabling and conduits serving the Premises, and Tenant, at its expense, shall repair any damage to the Premises and the Building caused by such removal. In addition, prior to the expiration or termination of this Lease, Tenant shall remove all of Tenant's Property from the Building and shall repair and restore in a good and workerlike manner to original condition existing on the Commencement Date (reasonable wear and tear excepted) any damage to the Property caused by the removal of Tenant's Property. Any Tenant's Property and/or Tenant's Changes that are not

removed by the last day of the Term or the earlier termination of this Lease shall be deemed abandoned and Landlord shall have the right to take legal title to same, or to dispose of same, at Tenant's cost, without further notice to Tenant. Notwithstanding anything to the contrary contained herein. Landlord, at Landlord's option, exercised by notice given prior to the Expiration Date or any sooner termination of the Term, may require Tenant to leave all cables, wiring and conduits installed as Tenant's Changes, in which event all such cables, wiring and conduits shall remain in the Premises and the Building and become the property of Landlord, at no cost and expense to Landlord.

Section 12.04 Liens. Tenant shall promptly pay all persons or entities furnishing labor or materials in connection with Tenant's Changes and shall not permit any liens to be filed against the Premises, the Building, the Property or any portion thereof. Tenant shall immediately cause any lien to be vacated and canceled of record within thirty (30) days after the filing thereof in a manner reasonably satisfactory to Landlord; provided that in the event of a bonafide dispute, Tenant may bond over such lien to discharge same or to remove same from title in satisfaction of this requirement in a manner reasonably acceptable to Landlord. If Tenant has not so removed said lien, then, Landlord, in addition to any other of its rights or remedies hereunder, may, hut shall not be obligated to, vacate or release such lien, whereupon Tenant shall pay to Landlord, on demand, all sums incurred by Landlord in connection therewith, including, without limitation, reasonable attorneys' fees, together with interest thereon at the Default Rate from the date incurred until the date paid.

Section 12.05 Close Out Requirements. Promptly following the substantial completion of any Tenant's Changes, Tenant shall submit to Landlord: (a) final, "as-built" plans for the Premises showing all such Tenant's Changes and demonstrating that such Tenant's Changes were performed substantially in accordance with plans and specifications approved by Landlord in a format reasonably requested by Landlord; (b) an itemization of Tenant's total construction costs, detailed by contractor, subcontractors, vendors and materialmen; bills, receipts, lien waivers and releases from all contractors, subcontractors, vendors and materialmen; architects'; and (c) Tenant's certification of completion, payment and acceptance, and all governmental approvals and confirmations of completion for such Tenant's Changes.

Section 12.06 Labor Harmony. Tenant shall not, at any time prior to or during the Term hereof, directly or indirectly employ, or permit the employment of, any contractor, mechanic or laborer in or for the Premises, whether in connection with any Tenant's Changes or otherwise, if such employment will interfere or cause any conflict with other contractors, mechanics or laborers engaged in the construction, maintenance or operation of the Building or the Property by Landlord, Tenant or others. In the event of any such interference or conflict, Tenant, upon demand of Landlord, shall cause all contractors, mechanics or laborers causing such interference or conflict to leave the Building or the Property immediately.

Section 12.07 Coordination. Upon Landlord's demand, Tenant shall from time to time pay Landlord as Additional Rent a fee established by Landlord for any supervisory, administrative and/or coordination services that Landlord may (but shall not be obligated to) perform in connection with any of Tenant's Changes.

ARTICLE 13
SIGNS

Tenant shall not install, affix or erect any sign, plaque, lettering, banner or pendant on the exterior of the Building, or the Premises without Landlord's prior written consent and otherwise subject to obtaining all necessary permits and approvals including those required by applicable Laws at Tenant's expense. Notwithstanding the foregoing, Landlord hereby approves the relocation of the existing sign from outside the building at 2055 Global Way to the Building (the " **Existing Sign** "), subject to applicable Laws, permits and approvals and the terms of this Lease. Any changes or replacements to any signage also require Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed if such replacement is substantially comparable to the Existing Sign, subject to applicable Laws, permits and approvals and the terms of this Lease. Any request by Tenant for Landlord's consent hereunder shall include detailed plans and specifications of the proposed signage, which shall include color, illumination, copy, material, etc. Tenant shall maintain all of its signs in good condition and repair during the Term. Upon vacating the Premises, Tenant shall remove all of its signs and repair any damage caused by such removal. Any signs placed by Tenant in violation of this Article may be removed by Landlord at Tenant's cost upon five (5) business days prior notice and without such removal constituting a breach of this Lease or entitling Tenant to claim damages on account thereof.

ARTICLE 14
INSURANCE AND INDEMNITY

Section 14.01 Tenant's Insurance.

(a) Tenant covenants and agrees that from and after the Commencement Date (or the date of early access or delivery of the Premises to Tenant if earlier), and at all times during the Term of this Lease and any renewal thereof, if applicable, Tenant, at its sole expense, shall obtain and keep in force the following insurance:

(i) "All Risk" insurance insuring all Tenant alterations and improvements, including without limitation, Tenant's Work, Tenant's interest in the Premises and all property located in the Premises, including furniture, equipment, fittings, installations, fixtures, signs, supplies and all other personal property (collectively, " **Tenant's Property**), leasehold improvements and Tenant's Changes in an amount equal to the full replacement value; it being understood that no lack or inadequacy of insurance by Tenant shall in any event make Landlord subject to any claim by virtue of any theft of or loss or damage to any uninsured or inadequately insured property;

(ii) Business Interruption insurance in an amount at least equal to the rental value of the Premises for at least twenty-four (24) months (that is, the aggregate amount of all Rent and other consideration pay able under this Lease by Tenant);

(iii) Commercial general liability insurance written on an occurrence basis including personal injury, bodily injury, broad form property damage, contractual liability, with a cross liability clause and a severability of interests clause to cover Tenant's indemnities set forth herein, and products and completed operations liability, in limits not less than $1,000.000 inclusive per occurrence and $2,000,000 per location annual aggregate, or such higher limits as Landlord may require from time to time during the Term and such insurance policies will be written as primary policies, not contributing with and not supplemental to the coverage that Landlord may carry and will not be subject to a deductible and umbrella liability insurance in excess of the underlying coverage listed in herein, with limits of not less than $10,000,000 per occurrence/$10,000,000 aggregate;

(iv) Worker's Compensation and Employer's Liability insurance, with a waiver of subrogation endorsement, in form and amount as required by applicable Law;

(v) in the event Tenant performs any Tenant's Changes or repairs in the Premises, Builder's Risk insurance on an "All Risk" basis (including collapse) on a completed value (non-reporting) form for full replacement value covering all work incorporated in the Property and all materials and equipment in or about the Premises;

(vi) Auto Liability Insurance for owned, hired, or non-owned vehicles with a limit of liability not less than $1,000,000 combined limit for bodily injury and property damage; and

(vii) any other form or forms of insurance or any changes or endorsements to the insurance required herein, consistent with that of comparable buildings, as Landlord, or any mortgagee or lessor of Landlord, may reasonably require, from time to time, in form or in amount.

(b) The insurance required in this Article 14 above shall be subject to the following provisions:

(i) Tenant shall have the right to include the insurance required by this Section 14.01 under Tenant's policies of "blanket insurance," provided that no other loss which may also be insured by such blanket insurance shall affect the insurance coverages required hereby and further provided that Tenant delivers to Landlord a certificate specifically stating that such coverages apply to Landlord, the Premises, the Building and the Property.

(ii) All such policies of insurance or certificates thereof shall name Landlord, Landlord's manager, and all mortgagees and lessors of Landlord, of which Tenant has been notified, including without limitation, the parties specified on Exhibit B annexed hereto and made a part hereof, as

additional insureds, all as their respective interests may appear. All insurance required under this Section 14.01 shall be issued by such good and reputable insurance companies acceptable to Landlord and qualified to do and doing business in the State of Kentucky and having a rating not less than A:VIII as rated in the most current copy of A.M. Best's Insurance Report in a form satisfactory to Landlord.

(iii) Tenant shall deliver to Landlord certificates with copies of insurance policies, together with satisfactory evidence of payment of premiums for such policies, simultaneously with delivery of execution counterparts of this Lease to Landlord and, with respect to renewals of such policies, not later than five (5) days prior to the end of the expiring term of coverage. All policies of insurance shall be primary and non-contributory.

(iv) All policies and certificates shall (A) contain an agreement by the insurers that the policies will not be invalidated as they affect the interests of Landlord and Landlord's mortgagees by reason of any breach or violation of warranties, representations, declarations or conditions contained in the policies and (B) include a clause or endorsement denying the insurer any rights of subrogation against Landlord. Tenant shall notify Landlord and any mortgagee or lessor of Landlord in writing, by certified U.S. mail, return receipt requested, not less than thirty (30) days before any material change, reduction in coverage, cancellation, including cancellation for nonpayment of premium, or other termination thereof or change therein.

(c) If Tenant shall hire or bring a contractor onto the Premises or the Property to perform any Tenant's Changes or other work, Tenant agrees to have a written agreement with such contractor whereby it will be required to carry the same insurance coverages for Commercial General Liability, Auto and Worker's Compensation and Employer's Liability insurance required pursuant to this Section 14.01 . Tenant shall also require that such contractors insurance meet the additional terms as required of Tenant herein with regards to adding Landlord and Landlord's manager and mortgagee(s) as additional insureds, maintaining primary and non-contributory coverage, waiving all rights of recovery and subrogation, and making certificates of insurance available as evidence of all policies during the term of their work and in advance of all applicable renewals.

(d) Landlord shall not be required to carry insurance of any kind on Tenant's Changes or Tenant's Property, and Tenant hereby agrees that Tenant shall have no right to receive any proceeds from any property insurance policies carried by Landlord.

(e) Tenant shall not knowingly conduct or permit to be conducted in the Premises any activity, or place any equipment in or about the Premises, the Building or the Property, which will invalidate the insurance coverage in effect or increase the rate of casualty insurance or other insurance on the Premises, the Building or the Property, and Tenant shall comply with all requirements and regulations of Landlord's casualty and liability insurer. If any invalidation of coverage or increase in the rate of casualty insurance or other insurance occurs or is threatened by any insurance company due to any act or omission by Tenant, or its agents, employees,

representatives or contractors, such statement or threat shall be conclusive evidence that the increase in such rate is due to such act of Tenant or the contents or equipment in or about the Premises, and as a result thereof, Tenant shall be liable for such increase and such amount shall be considered Additional Rent payable with the next monthly installment of Base Rent due under this Lease. In no event shall Tenant introduce or permit to be kept on the Premises or brought into the Building any dangerous, noxious, radioactive or explosive substance.

(f) Landlord shall take all reasonably prudent measures and safeguards to prevent any injury, loss or damage to persons or property in the event of an incident in the Premises.

(g) Landlord shall not be liable for any injury or damage to persons or property resulting from unknown fire, explosion, falling plaster, steam, gas, electricity, electrical or electronic emanations or disturbance, water, rain or snow or leaks from any part of the Building or the Property or from the pipes, or caused by dampness or mold, vandalism, theft, malicious mischief, operations in the construction of any private, public or quasi-public work, any latent defect in the Building or in the Premises, any temporary closing or darkening of any windows of the Premises or any inconvenience or annoyance to Tenant or injury to or interruption of Tenant's business by reason of any of the events or occurrences referred to above or by any other cause of whatever nature, except to the extent of Landlord's gross negligence or willful misconduct. Tenant shall take all reasonably prudent measures and safeguards to prevent any injury, loss or damage to persons or property in the event of an incident in the Premises.

(h) Any insurance limits required by this Lease are minimum limits only and not intended to restrict the liability imposed on Tenant or any contractor for work performed under the contract or otherwise.

Section 14.02 Landlord's Rights. If Tenant fails to maintain any insurance required under this Lease, or fails to carry any other insurance required by Laws and such failure is not cured by Tenant within five (5) days of written notice thereof by Landlord, Landlord may (but without obligation to do so), and without further notice, procure such insurance and pay the premiums therefor on Tenant's behalf, in which event Tenant shall pay to Landlord, as Additional Rent, all reasonable costs or expenses incurred by Landlord in connection therewith, together with interest thereon at the Default Rate from the date incurred until the date paid. Tenant shall not use the Premises in a manner which will in any way impair or invalidate any policy of insurance covering the Premises or the Building. Tenant shall pay upon demand, as Additional Rent, any increase in premiums for insurance Landlord may reasonably elect to carry on the Premises or the Building, resulting from the Permitted Use or Tenant's manner of use of the Premises.

Section 14.03 Waiver of Subrogation. Notwithstanding anything to the contrary contained in this Lease, each party shall look first to any insurance in its favor before making any claim against the other party for recovery for loss or damage resulting from fire or other casualty, and to the extent that such insurance is in force and collectible and to the extent permitted by law, Landlord and Tenant each hereby releases and waives all right of recovery against the other or any one claiming through or under each of them by way of subrogation or otherwise. The foregoing release and waiver shall be in force only if both releasors' insurance policies contain a clause providing that such a release or waiver shall not invalidate the insurance and both parties

hereto shall obtain such clause, provided that such a clause can be obtained without additional premiums. The waiver set forth in this Section 14.03 shall be in addition to, and not in substitution for, any other waivers, indemnities or exclusions of liability set forth in this Lease. This Article 14 shall survive the expiration or earlier termination of this Lease.

ARTICLE 15
CASUALTY

Section 15.01 Restoration .

(a) If the Premises shall be partially or totally damaged or destroyed by fire or other casualty (a " **Casualty** "), Tenant shall immediately notify Landlord of the details of the Casualty and, if this Lease is not terminated pursuant to the provisions of this Article, Landlord shall promptly repair and restore the exterior walls and the roof and structural support columns of the Premises and the gas, electric, water and sanitary lines, if any, servicing the Premises up to the point of connection thereto to substantially the condition existing on the Commencement Date (subject to this Article) solely to the extent of the net insurance proceeds therefor paid to Landlord under Landlord's property damage insurance policy covering the Premises or the Building and otherwise made available by Landlord's mortgagee, plus the amount of any deductible. In no event shall Landlord be required to repair or replace any Tenant's Changes (including Tenant's Work), or Tenant's Property.

(b) If this Lease is not terminated by Landlord or Tenant pursuant to the provisions of this Article, then promptly after completion of Landlord's restoration work, Tenant shall, at its sole cost, repair and restore Tenant's Changes (including Tenant's Work), and Tenant's Property and perform all repairs and restoration not required to be performed by Landlord in a manner and to a condition at least equal to that existing prior to the Casualty and recommence the operation of Tenant's business in the Premises. All restoration work performed by or on behalf of Tenant shall be deemed to be Tenant's Changes and shall be performed in accordance with Article 12 herein. Notwithstanding anything to the contrary contained herein, any restoration work that would be considered a Structural and Exterior Change or is located outside the Premises but is Tenant's responsibility to restore under this Lease such as any loading dock shall be performed by Landlord at Tenant's expense, and Tenant shall, within ten (10) days after Landlord's request therefor, shall deliver the funds necessary to perform such restoration work, as determined by Landlord in its reasonable judgment.

Section 15.02 Termination Rights .

(a) If (i) the Premises shall be totally or substantially damaged or rendered wholly or substantially untenantable by a Casualty and Landlord elects not to restore the same, (ii) the Building shall be so damaged that Landlord determines that substantial alteration or reconstruction of the Building or the Premises shall be required, (iii) any mortgagee shall require that the insurance proceeds payable as a result of a casualty be applied to the payment of the mortgage debt or in the event of any material uninsured loss to the Building, then Landlord may terminate this Lease upon written notice to Tenant.

(b) If the Premises are substantially damaged by a Casualty or are rendered substantially untenantable thereby, and if Landlord shall not elect to terminate this Lease pursuant to Section 15.02(a) above, Landlord shall, within seventy-five (75) days following the Casualty, cause its contractor or architect to give written notice to Tenant of the date by which the restoration of the Premises shall be substantially completed (the " **Estimated Restoration Date** "). If such notice shall indicate that the Estimated Restoration Date shall not occur within one hundred eighty (180) days following the receipt of the insurance proceeds (the " **Restoration Date** "), then Tenant may terminate this Lease by giving notice to Landlord not later than fifteen (15) days after receiving such notice and in such event this Lease shall terminate on the date specified in Tenant's notice for the termination of this Lease (which date shall not be more than thirty (30) days after the giving of such notice). If Tenant shall not so elect to terminate this Lease, but Landlord shall thereafter fail to substantially complete the restoration of the Premises on or before the Restoration Date (subject to Unavoidable Delays), Tenant may terminate this Lease by giving written notice to Landlord at any time within thirty (30) days following the Restoration Date but prior to Landlord's actual delivery of the Premises to Tenant in substantially complete condition. In addition, if the Premises are substantially damaged by a Casualty or are rendered substantially untenantable thereby during the last year of the Term, and balance of the Term remaining after the Estimated Restoration Date is estimated to be less than six (6) months, either Landlord or Tenant may terminate this Lease upon thirty (30) days prior written notice to the other party.

Section 15.03 Rent Abatement . If the Premises shall be partially or totally damaged by a Casualty, Base Rent and Additional Rent for Taxes and Operating Expenses shall be abated in proportion to that portion of the Premises rendered untenantable by the Casualty and thereafter actually not used by Tenant for the conduct of its business, such abatement to commence on the date of the Casualty and to continue until the earlier date of substantial completion of Landlord's restoration work described in this Article. No abatement shall occur if Tenant continues to use the damaged area. If the Premises or any other portion of the Building is damaged by Casualty resulting from the fault or negligence of, through or under Tenant or any of Tenant's agents, employees, invitees, assignees or sublessees, the Base Rent and Additional Rent for Taxes and Operating Expenses shall not be abated during the repair of such damage and Tenant shall be liable to Landlord for the cost of the repair and restoration of the Building caused thereby to the extent such costs and expenses are not covered by insurance proceeds. No damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business, or annoyance arising from or relating to any Casualty or restoration work relating thereto.

Section 15.04 Express Agreement . The provisions of this Article 15 shall be considered an agreement of the parties governing in the event of any damage to or destruction of the Premises by a Casualty, and any Laws now or hereinafter in effect providing for such a contingency in the absence of an express agreement shall have no application.

ARTICLE 16
EMINENT DOMAIN

Section 16.01 Total and Partial Condemnation If the whole or substantially all of the Premises shall be taken by any public authority under the power of eminent domain or is conveyed in lieu or in settlement thereof (a " **Taking** "), then the Term shall cease on the date of

the vesting of title, and any Rental paid in advance of such date shall be refunded to Tenant. If the part of the Premises shall be so acquired or condemned then, except as otherwise expressly provided in this Article, this Lease shall continue in force and effect. If there is a Taking of only part of the Building or the Premises and if the part so acquired or condemned shall contain more than twenty-five (25%) percent of the total area of the Premises or the Building, as applicable, immediately prior to the Taking, or if by reason of such Taking, Tenant no longer has reasonable means of access to the Premises (other than temporarily), either Landlord or Tenant, may at its option, give the other within sixty (60) days following the date upon which Tenant shall have received notice of vesting of title, a thirty (30) day notice of termination of this Lease. If any such notice of termination is given, this Lease shall end and expire upon the expiration of said thirty (30) days with the same effect as if the date of expiration of said thirty (30) days were the Expiration Date.

Section 16.02 Abatement; Reward. If neither party hereto shall terminate this Lease, Tenant shall continue in possession of the portion of the Premises not taken under the same terms and conditions as are herein provided, except that the Base Rent reserved herein and Tenant's Share shall each be reduced in direct proportion to the amount of the Premises so taken. All damages awarded for such Taking shall belong to Landlord, whether such damages be awarded as compensation for diminution in value of the leasehold or to the fee of the Premises; provided, however, Tenant may file a separate claim for Tenant's Property and moving expenses provided that same does not reduce the award which would otherwise be available to Landlord.

ARTICLE 17
ASSIGNMENT AND SUBLETTING

Section 17.01 Assignment or Subletting. Except as otherwise expressly provided for in this Article, Tenant covenants not to assign or transfer this Lease or to hypothecate or mortgage the same or sublet the Premises or any part thereof or interest therein (whether as a concession, franchise, license, or otherwise) without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed subject to the express terms of this Article 17. Neither this Lease nor any interest herein shall be assigned by operation of law or otherwise without the prior written consent of Landlord. Sales or transfers aggregating fifty percent (50%) or more of the capital or voting stock of Tenant (if Tenant is a nonpublic corporation) or transfers aggregating fifty percent (50%) or more of Tenant's partnership interests (if Tenant is a partnership) or transfers aggregating fifty percent (50%) or more of the other ownership interests in Tenant (if Tenant shalt be a limited liability company or other legal entity) shall be deemed to be an assignment of this Lease. Any assignment, subletting, transfer or other act prohibited under this Article shall be null and void and constitute a default under this Lease.

Section 17.02 Tenant's Notice. If Tenant shall desire to assign this Lease or sublet all or any part of the Premises or any interest therein (each, a " **Transfer** "), Tenant shall, at least thirty (30) days prior to the effective date of any proposed Transfer, by written notice (" **Tenant's Notice** "), furnish Landlord with (a) the name and address of the proposed subtenant, assignee or other transferee (each, a " **Transferee** "); (b) a description identifying the space to be sublet, if applicable; (c) the terms, conditions and consideration of the proposed Transfer; (d) the nature and character of the business of the proposed Transferee and its proposed use of the Premises;

(e) current financial information with respect to the proposed Transferee, including, without limitation, a current financial report (audited if available); and (f) any other information as Landlord may reasonably request with respect to the proposed Transferee.

Section 17.03 Landlord's Option. Except with respect to the Transfers expressly referred to in Section 17.09 or Section 17.10 hereof, if the proposed Transfer is for all or substantially all of the remaining Term, Tenant's Notice shall be deemed an offer from Tenant to Landlord whereby Landlord may, at its option, terminate this Lease (the " **Recapture Right** ") exercisable by delivery of written notice thereof to Tenant within thirty (30) days after Landlord's receipt of Tenant's Notice. If Landlord exercises its Recapture Right, then this Lease shall end on the date that such Transfer was to be effective or commence, as the case may be, and the Rental shall be paid and apportioned to such date.

Section 17.04 Landlord's Consent. Upon Tenant's compliance with the provisions of Section 17.02 , if Landlord shall not exercise the Recapture Right, Landlord's consent to the proposed Transfer shall not be unreasonably withheld, conditioned or delayed, provided and upon condition that: (a) the proposed Transferee shall have a financial condition reasonably acceptable to Landlord; (b) the proposed Transferee shall have a good business reputation in Landlord's reasonable opinion; (c) the Transferee proposes to use the Premises for the Permitted Use, or such other use as permitted by Laws that (i) would not violate or conflict with any restrictions or prohibitions then affecting the Building, and (ii) in Landlord's reasonable opinion would be appropriate for the Building; (d) the proposed Transferee is not an entity who is then a tenant in the Building or an entity with which Landlord is then negotiating or within six (6) months has negotiated for space in the Building; (e) no Event of Default shall be continuing under this Lease either at the time Landlord's consent to such Transfer is requested or on the effective date of the Transfer; (f) the proposed Transferee shall not be entitled to diplomatic or sovereign immunity and shall be subject to the service of process in, and the jurisdiction of the courts of state in which the Property is located, and (g) the proposed Transferee shall deposit with Landlord such additional security as Landlord may reasonably request, including, without limitation, a guaranty by one or more of the principals of the proposed Transferee.

Section 17.05 Approved Sublettings. Tenant shall deliver to Landlord a copy of an executed counterpart of each sublease within five (5) days after the of its execution and as a condition to the effectiveness of such sublease, which sublease shall be in form and substance reasonably satisfactory to Landlord and shall contain the following provisions: (a) the sublease term shall end not later than one (1) day prior to the Expiration Date, (b) the sublease is subject to all of the obligations of Tenant under this Lease, (c) the sublease specifically provides that there shall be no further subletting of the sublet premises or an assignment thereof, and (d) the sublease is subject and subordinate to this Lease and to the matters to which this Lease is or shall be subordinate, and that in the event of a termination, re-entry or dispossession by Landlord under this Lease, Landlord may, at its option, succeed to all of the right, title and interest of Tenant, as sublessor under such sublease, and such subtenant shall, at Landlord's option, attorn to Landlord pursuant to the then executory provisions of such sublease, provided, however, that Landlord shall not (i) be liable for any previous act or omission of Tenant under such sublease, (ii) be Subject to any offset not expressly set forth in such sublease which theretofore accrued to such subtenant against Tenant, (iii) be liable for any work, alterations, allowances or other concessions required to be performed or provided by Tenant as sublessor under such sublease, or

(iv) be bound by any previous prepayment of more than one month's fixed rent under such sublease.

Section 17.06 Approved Assignments. Tenant shall furnish Landlord with a counterpart of each assignment within five (5) days of the date of its execution as a condition to the effectiveness of the assignment, which assignment shall be in form and substance reasonably satisfactory to Landlord. No assignment shall be binding upon Landlord and no assignee shall take possession of the Premises or any part thereof (including, without limitation, a permitted assignee under Section 17.09 , hereof) unless Tenant shall, concurrent with the delivery of an executed counterpart of such assignment, deliver to Landlord an agreement executed by the assignee, in form and substance satisfactory to Landlord and otherwise in appropriate form for recording, whereby such assignee agrees unconditionally to be bound by and to perform all of the obligations of Tenant under this Lease arising after the date of the assignment and further agrees that the provisions of this Article 17 shall continue to be binding upon such assignee with respect to all future assignments and transfers.

Section 17.07 Landlord's Costs. Except for Transfers expressly described in Section 17.09 , Tenant shall pay to Landlord, as Additional Rent, a $1,500.00 administrative fee for processing Tenant's request plus a sum equal to Landlord's reasonable costs incurred in connection with any proposed Transfer, whether or not consented to by Landlord, including, without limitation, reasonable attorneys' fees and credit checks. Such Additional Rent shall be payable by Tenant within ten (10) days after Landlord's demand therefor and as a condition of Landlord's consent to such Transfer.

Section 17.08 Excess Consideration. If Landlord consents to a proposed Transfer, fifty percent (50%) of the sums or other economic consideration received by Tenant as a result of such Transfer, whether denominated as rent or otherwise under the sublease or assignment, which exceed, in the aggregate, the total sums which Tenant is obligated to pay Landlord under this Lease on a per square footage basis, plus the commercially reasonable costs incurred by Tenant in connection with such assignment or sublease for brokerage commissions and to pay for work performed by Tenant to prepare the Premises for initial occupancy by such Transferee, shall be payable to Landlord as Additional Rent under this Lease immediately upon such sums becoming payable to Tenant or to any subtenant or other person claiming by, through or under Tenant without affecting or reducing other obligations of Tenant hereunder. The sums payable under this Section shall be paid to Landlord as and when payable to Tenant by the Transferee, as the case may be.

Section 17.09 Corporate Transfers. If Tenant is a corporation other than a Public Corporation (as hereinafter defined), the provisions of Sections 17.01 and 17.02 shall apply to a Transfer (by one or more Transfers) of a majority of the stock of Tenant as if such Transfer of a majority of the stock of Tenant were an assignment of this Lease, subject to the express terms of Section 17.10 below. As used herein, the term " **Public Corporation** " shall mean a corporation whose stock is listed and traded on a nationally recognized stock exchange.

Section 17.10 Permitted Transfers. Notwithstanding anything to the contrary contained in this Lease, as long as the named Tenant or a Successor or Related Entity (both as hereinafter defined) of the named Tenant is the Tenant under this Lease, Tenant (or such

Successor or Related Entity, as applicable), may without Landlord's consent, but upon not less than ten (10) days prior written notice to Landlord, permit a Successor or Related Entity of the named Tenant (or such Successor or Related Entity of the named Tenant, as applicable), to sublet all or a portion of the Premises or to take an assignment of this Lease for any of the purposes permitted to Tenant, subject however to compliance with Tenant's obligations under this Lease, provided that: (a) no Event of Default shall have occurred and be continuing, (b) prior to such subletting or assignment, Tenant furnishes Landlord with the name of any such Successor or Related Entity, as the case may be, and in the case of a Transfer to a Related Entity Tenant delivers to Landlord a certification of Tenant, and such other evidence that is reasonably satisfactory to Landlord, that such subtenant or assignee is a Related Entity, (c) the Successor or Related Entity, as the case may be, shall have a tangible net worth at least equal to the greater of: (i) the tangible net worth of Tenant on the date hereof and (ii) the tangible net worth of Tenant (or such Successor or Related Entity of Tenant, as applicable) immediately prior to the Transfer, and Landlord shall have been provided with evidence reasonably satisfactory to Landlord thereof, and (d) the transfer was made for a legitimate independent purpose and, if this Lease is being transferred, not merely for the purpose of transferring this Lease. No such assignment or sublease shall be effective until a copy of the executed assignment, sublease or other applicable agreement has been delivered to Landlord and Tenant has established to Landlord's reasonable satisfaction that the applicable provisions of this Article 17 are fully complied with. Such subletting shall not be deemed to vest in any such Successor or Related Entity, as the case may be, any right or interest in this Lease or the Premises, nor shall any such subletting or assignment relieve, release, impair or discharge any of Tenant's obligations hereunder. Notwithstanding anything to the contrary contained herein, neither the Recapture Right nor Tenant's obligation to share excess consideration with Landlord pursuant to the terms of Section 17.08 hereof shall apply to Transfers pursuant to Section 17.09 and Section 17.10 . As used herein, the following terms shall be defined as follows:

(i) " **Successor** " shall mean (v) any entity into which Tenant is merged, or consolidated or which merges or consolidates into Tenant, (w) any person or entity which acquires all or substantially all of the assets or stock of Tenant, or (x) any person or entity which acquires a controlling interest in the stock or other ownership interests of Tenant, (y) a corporate entity constituting Tenant (other than a Public Corporation) following a Transfer of a majority of the stock or ownership interests of Tenant or (z) any successor pursuant to a Transfer in connection with a public offering of Tenant;

(ii) " **Related Entity** " shall mean any partnerships, professional corporations, limited liability entities or other business entities (but not including governmental entities or authorities) which control, are controlled by, or are under common control with Tenant; and

(iii) " **control** " for purposes of this Article 17 shall mean (x) ownership of not less than fifty (50%) percent of all of the voting stock of such corporation or not less than fifty (50%) percent of all of the legal and equitable interest in any other business entities or (y) the ability to direct the major business

decisions of such entity without prior approval of Tenant's shareholders, partners or other equity holders.

Section 17.11 Tenant Remains Liable. Notwithstanding any Transfer, Tenant shall remain directly and primarily liable for the payment of the Rental due and to become due under this Lease and the terms, provisions, and conditions contained in this Lease on the part of Tenant to be performed from and after the effective date of the Transfer for the balance of the Term. The consent by Landlord to a Transfer shall not in any way be construed to relieve Tenant from its obligation to obtain the consent in writing of Landlord to any further Transfer. If Tenant assigns, Transfers, mortgages or encumbers this Lease or any interest therein or sublets all or any portion of the Premises in violation of the provisions of this Article, or if the Premises are occupied by anyone other than Tenant, Landlord may collect rent from any such assignee, sublessee or anyone who claims a right to this Lease or who occupies the Premises, and Landlord may apply the net amount collected to the Rental, and no such collection shall be deemed a waiver by Landlord of any of the terms and conditions contained in this Article nor an acceptance by Landlord of any such assignee, sublessee, claimant or occupant as Tenant, nor be deemed to release Tenant from the further performance of all of Tenant's obligations under this Lease. Whether or not Landlord consents to any proposed Transfer, Tenant shall indemnify and hold harmless and defend Landlord from and against any Liabilities arising from or relating to any claims that may be made against Landlord by the proposed Transferee or by any brokers or other persons claiming a commission or similar compensation in connection with the proposed assignment or sublease.

ARTICLE 18
EVENTS OF DEFAULT

Section 18.01 Events of Default. Each of the following events shall be an event of default (" **Event of Default** ") by Tenant under this Lease whether the same occurs prior to or after occupancy by Tenant of the Premises:

(a) Tenant shall fail to pay any installment of Base Rent or any Additional Rent when due and Tenant shalt fail to remedy such default within five (5) days after notice by Landlord to Tenant of such default; or

(b) if Tenant shall default in the observance or performance of any term, covenant or condition of this Lease (other than the covenants for the payment of Base Rent or Additional Rent) and Tenant shall fail to remedy such default within thirty (30) days after notice by Landlord to Tenant of such default, or if such default is of such a nature that it cannot be completely remedied within said period of thirty (30) days if Tenant (i) shall not, within thirty (30) days after being given such notice, advise Landlord in writing of Tenant's intention duly to institute all steps necessary to remedy such situation, (ii) shall not, within thirty (30) days, institute and thereafter diligently prosecute to completion all steps necessary to remedy the same, and (iii) shall not remedy the same within a reasonable time after the date of the giving of said notice by Landlord, nor to exceed sixty (60) days in the aggregate;

(c) or if Tenant vacates, abandons or deserts the Premises (Landlord's claim that Tenant has vacated, abandoned or deserted the Premises shall not be defeated solely because Tenant may have left all or any part of Tenant's Property in the Premises); or

(d) if Tenant, any parent or affiliate of Tenant, or any guarantor shall default in the performance of any term, covenant or condition on Tenant's, such parent's or affiliate's or such guarantor's part to be observed or performed under any other tease or license agreement with Landlord, or under any guaranty (as applicable) and such default shall continue beyond any grace period set forth in such other lease, license agreement or guaranty for the remedying of such default; or

(e) if Tenant's interest in this Lease shall devolve or pass to any person or entity whether by operation of law or otherwise except as expressly permitted under Article 17 ; or

(f) any event described under Section 18.02 ; or

(g) any death, disability or adjudicated incompetence of any individual surety or guarantor of this Lease, or any liquidation or dissolution of any corporate, partnership, limited liability company, or other business entity surety or guarantor of this Lease unless Tenant, within ten (10) days after such occurrence, shall provide a substitute guaranty from a substitute guarantor or other adequate security for the payment and performance of Tenant's obligations, acceptable to Landlord in Landlord's sole and absolute discretion.

Section 18.02 Bankruptcy . If the estate created hereby shall be taken in execution or by other process of law, or if Tenant shall be adjudicated insolvent or bankrupt pursuant to the provisions of any state or federal insolvency or bankruptcy law, or if a receiver or trustee of the property of Tenant shall be appointed, or if any assignment shall be made of Tenant's Property for the benefit of creditors or if a petition shall be filed by or against Tenant seeking to have Tenant adjudicated insolvent or bankrupt pursuant to the provisions of any state or federal insolvency or bankruptcy law and such petition shall not be withdrawn and the proceedings dismissed within ninety (90) days after the filing of the petition, then and in any of such events, Landlord may terminate this Lease by written notice to Tenant; provided, however, if the order of the court creating any of such disabilities shall not be final by reason of the pendency of such proceedings or appeal from such order, or if the petition shall not have been withdrawn or the proceedings dismissed within ninety (90) days after the filing of the petition, then Landlord shall not have the right to terminate this Lease so long as Tenant performs its obligations hereunder. If, as a matter of law, Landlord has no right on the bankruptcy of Tenant to terminate this Lease, then, if Tenant, as debtor, or its trustee wishes to assume or assign this Lease, in addition to curing or adequately assuring the cure of all defaults existing under this Lease on Tenant's part on the date of filing of the proceeding (such assurances being defined below), Tenant, as debtor, or the trustee or assignee, must also furnish "adequate assurances" of future performance under this Lease (as defined below). " **Adequate assurance** " of curing defaults means the posting with Landlord of a sum in cash sufficient to defray the cost of such a cure. " **Adequate assurance** " of future performance under this Lease means posting a deposit equal to three (3) months Base Rent, and all other charges payable by Tenant hereunder, such as the amounts pay able pursuant to Article 8 , and, in the case of an assignee, assuring Landlord that the assignee is financially capable of assuming this Lease, and that its use of the Premises will not be detrimental to the

other tenants in the Building, if any, or Landlord. In reorganization under Chapter 11 of the Bankruptcy Code, the debtor or trustee must assume this Lease or assign it within one hundred twenty (120) days from the filing of the proceeding, or such debtor or trustee shall be deemed to have rejected and terminated this Lease.

ARTICLE 19
REMEDIES

Section 19.01 Landlord's Remedies .

(a) If any Event of Default occurs, Landlord may, at its option and in addition to any and all other rights or remedies provided Landlord in this Lease or at law or equity, immediately, or at any time thereafter, and without demand or notice (except as provided herein):

(i) immediately (through its agents or otherwise) re-enter the Premises or any part thereof, without notice, either by summary proceedings or by any other applicable action or proceeding, or, to the extent permitted by applicable Laws, by force or otherwise (without being liable to indictment, prosecution or damages therefor), and repossess the Premises and dispossess Tenant and any other persons from the Premises and remove any of its or their property and effects from the Premises and in no event shall re-entry be deemed an acceptance of surrender of this Lease or a waiver of the Event of Default;

(ii) give to Tenant notice of intention to end the Term at the expiration of three (3) days from the date of the giving of such notice, and, in the event such notice is given, this Lease and the Term and estate hereby granted shall terminate upon the expiration of said three (3) days with the same effect as if that day were the expiration of the Term, and Tenant shall then quit and surrender the Premises to Landlord but Tenant shall remain liable as hereinafter set forth; and/or

(iii) relet the whole or any part or parts of the Premises from time to time, either in the name of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the expiration of the Term of this Lease; at such rental and upon such other conditions, which may include concessions and free rent periods, as Landlord, in its sole discretion, may determine. Except and to the extent expressly provided in Section 19.01(e) below, Landlord shall have no obligation to relet the Premises or any part thereof and shall in no event be liable for refusal or failure to relet the Premises or any part thereof, or, in the event of any such reletting, for refusal or failure to collect any rent due upon any such reletting, and no such refusal or failure shall operate to relieve Tenant of any liability under this Lease or otherwise to affect any such liability. Landlord, at Landlord's option, may make such repairs, replacements, alterations, additions, improvements, decorations and other physical changes in and to the Premises as Landlord, in its sole discretion,

considers advisable or necessary in connection with any such reletting, without affecting or relieving Tenant of any liability under this Lease.

(b) Notwithstanding any termination of this Lease or termination of Tenant's rights to possession, whether by summary proceedings or otherwise, Tenant shall pay and be liable for (on the days originally fixed herein for the payment thereof) the installments of all Rental as if this Lease had not been terminated and as if Landlord had not entered and whether the Premises are relet or remain vacant in whole or in part, but if the Premises is relet by Landlord, Tenant shall be entitled to a credit in the net sum of rents received by Landlord in reletting after deduction of all expenses incurred in reletting the Premises, and in collecting such rents. In no event shall Tenant be (i) entitled to receive any excess of net Rental received by Landlord in any reletting over the sums payable by Tenant to Landlord hereunder or (ii) entitled in any suit for the collection of damages pursuant to this Article to a credit in respect of any net Rental from a reletting except to the extent that such net Rental is actually received by Landlord prior to the commencement of such suit.

(c) In the event of a reletting, Landlord may apply the rent therefrom first to the payment of Landlord's expenses including reasonable attorney's fees incurred, expenses of reletting, repairs, including, but not limited to, brokerage fees, costs of subdividing, renovation or alteration of the Premises and then to the payment of Rental due from Tenant hereunder, and Tenant shall remain liable for any deficiency. If the Premises or any part thereof should be relet in combination with other space, then proper apportionment on a square foot area basis shall be made of the rent received from such reletting and of the expenses of reletting.

(d) In lieu of the payments to be made to Landlord under subparagraph (b) above, Landlord shall, at its option, be entitled to recover from Tenant as and for liquidated damages with respect to any termination of this Lease, an amount equal to the Base Rent and the Additional Rent reserved hereunder, for the remainder of the Term had this Lease not been terminated. In the computation of such damages, all such Rental payable hereunder after the date of termination shall be discounted from the date installments of Rental would be due hereunder if this Lease had not been terminated to the date of payment at the rate of one percent (1%) per annum. In no event shall Tenant be entitled to any rents collected or payable under any reletting, whether or not such rents shall exceed the Base Rent in effect immediately prior to the date upon which this Lease and the term hereof shall have expired and come to an end or the date of re-entry upon the Premises by Landlord, as the case may be.

(e) All rights and remedies of Landlord hereunder shall be cumulative and none shall be exclusive of any other rights and remedies allowed by law. Notwithstanding anything contained in this Lease to the contrary, if this Lease shall terminate due to a Tenant default, Landlord shall use its reasonable efforts to lease the Premises; it being agreed that any such duty to lease the Premises shall be satisfied and Landlord shall be deemed to have used reasonable efforts to lease the Premises by doing the following: (i) posting a "For Lease" sign on the Premises; (ii) advising Landlord's leasing agent of the availability of the Premises; or (iii) advising at least one outside commercial brokerage entity of the availability of the Premises; provided, however, in no event shall Landlord be required to (v) give priority to the Premises over other premises owned or managed by Landlord or its affiliates, (w) agree to any lease terms that it deems to be unacceptable, (x) relet the Premises for less than market rent, (y) relet to a

tenant (or for a use) which is not in keeping with the character of the Building, or (z) expend any monies to refurbish, renovate or build-out the space, as may be requested by a prospective tenant, unless Landlord, in its sole discretion, approves both the lease terms and the character and credit of such prospective tenant. Except as otherwise expressly set forth in this Lease, nothing contained in this Article shall be deemed to limit, prevent or preclude Landlord from recovering from Tenant the maximum amount to which Landlord is entitled as damages by any statute or rule of law or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in this Article.

(f) Tenant on its own behalf and on behalf of all persons claiming through or under Tenant, including all creditors, hereby waives any and all rights and privileges, insofar as is permitted by law, which Tenant and all such persons might otherwise have under any present or future law, to (i) the service of any notice of intention to re-enter or to institute legal proceedings to that end, (ii) redeem the Premises, (iii) reenter or repossess the Premises, or (iv) restore the operation of this Lease, after Tenant shall have been dispossessed by a judgment or by warrant of any court or judge, or after any re-entry by Landlord, or after any expiration or termination of this Leave and the term, whether such dispossess, re-entry, expiration or termination shall be by operation of law or pursuant to the provisions of this Lease. The words "re-enter", "re-entry" and "re-entered" as used in this Lease shall not be deemed to be restricted in their technical legal meanings.

(g) If, on account of any breach or default by, through or under Tenant under this Lease, it shall become necessary or appropriate for Landlord to employ or consult with an attorney or collection agency concerning or to enforce or defend any of Landlord's rights or remedies arising under this Lease or to collect any sums due from Tenant. Tenant agrees to pay all costs and fees so incurred by Landlord, including, without limitation, reasonable attorneys' fees and costs. **TENANT EXPRESSLY WAIVES ANY RIGHT TO: (i) TRIAL BY JURY OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, BETWEEN LANDLORD AND TENANT ARISING OUT OF THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS RELATED HERETO; AND (ii) SERVICE OF ANY NOTICE REQUIRED BY ANY PRESENT OR FUTURE LAW OR ORDINANCE APPLICABLE TO LANDLORDS OR TENANTS BUT NOT REQUIRED BY THE TERMS OF THIS LEASE** . Any action or claim to enforce or interpret the provisions of this Lease or otherwise arising out of or related to this Lease or to Tenant's use and occupancy of the Premise, regardless of the theory of relief or recovery and regardless of whether third parties are involved in the action, may only be brought in the State and County where the Premises are located, and Landlord and Tenant irrevocably consent to personal jurisdiction in such State for purposes of any such action or claim.

ARTICLE 20
WAIVER

Tenant hereby waives (a) all right and privilege, under, or by mason of, any present or future Laws, to redeem the Premises or to have a continuance of this Lease for the Term after being dispossessed or ejected therefrom by process of law, and (b) any right to interpose any

noncompulsory counterclaim in any summary action of proceeding brought by Landlord in connection with this Lease. In addition, Tenant and Landlord hereby waive trial by jury in any action, proceeding or counterclaim brought by Landlord against Tenant or tenant against Landlord, as the case may be, with respect to any matter whatsoever in connection with this Lease, or the use or occupancy of the Premises.

ARTICLE 21
INDEMNIFICATION

TENANT AGREES TO ASSUME ALL RISK OF LOSS OR DAMAGE TO ANY MACHINERY, EQUIPMENT, FIXTURES, AND OTHER PERSONAL PROPERTY BROUGHT ONTO THE PREMISES FOLLOWING THE DATE HEREOF . Tenant shall indemnify, defend and hold Landlord and its managing agent and their respective parent companies and/or corporations, their respective controlled, associated, affiliated and subsidiary companies and/or corporations and their respective representatives, shareholders, members, officers, directors, partners, agents, trustees, consultants, servants, employees, successors and assigns (collectively, the " **Landlord Indemnitees** ") harmless from and against all Liabilities arising in connection with: (a) any occurrence in, upon, around or at the Premises or the occupancy or use by, through or under Tenant of the Premises or any part thereof, (b) all acts, failures, omissions or negligence of Tenant, its agents, employees, contractors, sublessees and invitees which occur in the Premises, or outside of the Premises but anywhere within or about the Building or the Property or (c) any breach, violation or non-performance of any term, covenant or condition of this Lease on the part of Tenant to be performed and observed hereunder. Tenant further agrees to indemnify, defend and hold harmless Landlord and the Landlord Indemnitees of and from all Liabilities in connection with or arising from any claims by any persons by reason of loss or life injury to persons or damage to property occasioned by any use, occupancy, act, omission or negligence referred to in the preceding sentence, except to the extent resulting from Landlord's negligence or willful misconduct. Tenant shall give prompt notice to Landlord of any occurrence within the Premises, the Building or the Property for which Tenant may be liable to Landlord. Any indemnity contained in this Lease for the benefit of Landlord shall also be deemed to inure to the benefit of the other Landlord Indemnitees. For the purpose hereof, the Premises shall include any loading dock or loading platform area allocated to Tenant's use, if any, and any adjacent sidewalks. Tenant expressly acknowledges that Landlord shall have no obligation whatsoever to provide any security services with respect to the Property or the Premises. If Landlord or any Landlord Indemnitee shall, without fault, be made a party to any litigation commenced by or against Tenant, or if Landlord or any such party shall, in its sole discretion, determine that it must intervene in such litigation Nation to protect its interests, then Tenant shall pay all costs, expenses and reasonable attorneys' fees incurred or paid by such party in connection with such litigation. The provisions of this Article shall survive the expiration or sooner termination of this Lease.

ARTICLE 22
ESTOPPEL & ATTORNMENT AND SUBORDINATION

Section 22.01 **Estoppel Certificates** . Within ten (10) business days after written request from Landlord. Tenant shall, without charge, deliver to Landlord for the benefit of such persons or entities as Landlord may request a duly executed and acknowledged certificate indicating:

(a) that this Lease is unmodified and in full force and effect, or, if there has been any modification, stating any such modification; (b) the Commencement Date and the Expiration Date; (c) that the Rental is paid currently without any off-set or defense thereto; (d) the dates to which the Rental has been paid, and the amount of Rental, if any, paid in advance; (e) whether or not there is then existing any claim of Landlord's or, to Tenant's knowledge, of Tenant's default under this Lease and, if so, the nature thereof; and (f) any other reasonable matters. Such certificate may be relied upon by Landlord and any of the named parties stated therein and said certificate shall be binding upon Tenant and its successors and assigns. Tenant irrevocably agrees that if Tenant fails to execute and deliver an estoppel certificate within ten (10) business days as aforesaid, Landlord or Landlord's beneficiary or agent may execute and deliver such certificate on Tenant's behalf, and such certificate shall be fully binding on Tenant.

Section 22.02 Attornment. If any proceedings are brought for the foreclosure of, or in the event of the conveyance by deed in lieu of foreclosure of, or in the event of exercise of the power of sale under, any mortgage made by Landlord covering the Premises, or if Landlord sells, conveys or otherwise transfers its interest in the Property or an portion thereof containing the Premises, or in the event the lessor under any ground or superior lease shall succeed to Landlord's interests under this Lease, this Lease shall remain in full force and effect and Tenant hereby attorns to, and covenants and agrees to execute an instrument in writing reasonably satisfactory to the new owner whereby Tenant attorns to such successor in interest and recognizes such successor as the Landlord under this Lease. Upon such attornment, this Lease shall continue in full force and effect as, or as if it were, a direct lease between the successor landlord and Tenant upon all of terms and conditions and covenants as are set forth in this Lease, except that the successor landlord shall not: (a) be liable for any previous act or omissions of Landlord under this Lease; (b) be subject to any offset not provided for in this Lease, which shall have theretofore accrued to Tenant against Landlord; and (c) be bound by any previous modification of this Lease not provided for in this Lease, or by any previous prepayment of more than one month's Base Rent, unless such modification or prepayment shall have been approved in writing by the lessor of such superior lease or the holder of such mortgage through or by reason of which the successor landlord shall have succeeded to the rights of Landlord under this Lease.

Section 22.03 Notices to Lessors and Mortgagees. In the event of any act or omission of Landlord which would give Tenant the right, immediately or upon notice, to terminate this Lease, or to claim a partial or total eviction, Tenant shall not exercise such right (a) until it has given written notice of such act or omission to the holder of each mortgage and the lessor of each ground or superior lease whose name and address shall previously have been furnished to Tenant in writing, and (b) until a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice (which reasonable period shall in length be equal to the came less the period to which Landlord would be entitled under this Lease or otherwise, after similar notice, to effect such remedy), provided, however that such period shall run consecutively (and not concurrently) with Landlord's cure period.

Section 22.04 Subordination. This Lease shall to subordinate at all times to all covenants, restrictions, easements and encumbrances now or hereafter affecting the Property and to any ground or superior leases or mortgages that are now, or may hereafter be, placed upon the Premises (and any advances made thereunder), and to the interest thereon, and to all

amendments, renewals, replacements and extensions thereof, provided, that the holder of such interest shall agree not to disturb Tenant absent an Event of Default hereunder, provided further, however, that any mortgagee may elect to have this Lease constitute a lien prior to its mortgage, and in the event of such election and upon notification by such mortgagee to Tenant to that effect, this Lease shall be deemed prior in lien to such mortgage, whether this Lease is dated prior to or subsequent to the date of such mortgage. The aforesaid provisions shall be self-operative and no further instrument of subordination shall be necessary unless required by the holder of any ground or superior lease or mortgage. Upon the request of Landlord, any ground or superior lessor or any mortgagee, Tenant shall execute whatever instruments may be reasonably required by Landlord, ground or superior lessor or mortgagee to carry out the intent of this Section (provided that such instrument contains the non-disturbance protection referenced above) and, in addition, shall execute and deliver such further instruments containing modifications of this Lease, so long as such modifications do not materially increase Tenant's monetary obligations under this Lease or otherwise materially and adversely affect Tenant's rights or privileges under this Lease. Landlord shall obtain, at Tenant's sole cost, a subordination, non-disturbance and attornment agreement on Landlord's existing mortgagee's standard form, provided that Tenant shall execute same within ten (10) days following receipt thereof. Tenant shall pay all actual out-of-pocket legal and other costs incurred in connection with a non-disturbance agreement and/or non-disturbance protection promptly following Landlord's demand therefor.

Section 22.05 Remedies. Tenant's failure to execute and deliver any reasonable statements, certificates or instruments necessary or desirable to effectuate the provisions of this Article within ten (10) days after written request so to do by Landlord, shall constitute a material breach of this Lease.

ARTICLE 23
CURING TENANT'S DEFAULTS

Landlord may, but shall not be obligated to cure, at any time, after the expiration of any applicable notice or cure periods (or immediately in the event of an emergency, without prior notice to Tenant), any default by Tenant under this Lease; and whenever Landlord so elects, all of Landlord's Expenses (hereinafter defined) shall be paid by Tenant to Landlord on demand, and shall be recoverable as Additional Rent and shall include, without limitation, reasonable attorneys' fees and disbursements together with a ten (10%) percent administrative charge on the amount of Landlord's Expenses so incurred. " **Landlord's Expenses** " shall mean all costs, expenses and disbursements of every kind and nature whatsoever incurred by Landlord in connection with any performance by it for the account of Tenant, including, without limitation, reasonable attorneys' fees, involved in collecting or endeavoring to collect the Rental or any part thereof not paid when due or enforcing or endeavoring to enforce any rights against Tenant, under or in connection with this Lease, or pursuant to Laws, including without limitation, any cost, reasonable expense and disbursement involved in re-entering the Premises, instituting and prosecuting summary proceedings, as well as bills for any property, material, labor, or services provided, furnished, or rendered, by Landlord or at its instance to Tenant (all of which expenses shall constitute items of Additional Rent) or any insurance policies or service contracts procured or maintained by Landlord to comply with Tenant's obligations under this Lease.

ARTICLE 24
ACCESS

Upon prior reasonable notice (which may be oral or telephonic), except in cases of emergency, in which case no notice shall be required, Tenant shall permit Landlord or its agents may enter the Premises at all reasonable times to examine the same and to show them to prospective purchasers or mortgagees and to make such repairs, alterations, improvements or additions as Landlord may deem necessary or desirable to the Premises and/or the Building (including, without limitation, such measures as maybe necessary or desirable to cure Tenant's default as provided for herein) and Landlord shall be allowed to take all material into and upon the Premises that may be required therefor without the same constituting an eviction of Tenant in whole or in part, and the Rental shall not abate while such repairs, alterations, improvements, or additions are being made, by reason of loss or interruption of business of Tenant, or otherwise. Landlord may, at reasonable times upon reasonable written notice during the twelve (12) months prior to the Expiration Date, exhibit the Premises to prospective tenants and post therein "for let" signs visible from the exterior of the Premises which Tenant shall not remove. Landlord shall use reasonable efforts not to unreasonably interfere with Tenant's business by virtue of the foregoing. At Tenant's request and provided that Tenant shall make a representative available upon request, Landlord shall be accompanied by a representative of Tenant when Landlord or its agents are in the Premises. Landlord shall be permitted to enter the Premises without notice and at all times in connection with an emergency.

ARTICLE 25
TENANT'S PROPERTY

Tenant shall be responsible for, and shall pay, prior to delinquency, any and all taxes, assessments, levies, fees and other governmental charges of every kind or nature (collectively " **Charges** ") levied or assessed by and municipal, county, state, federal or other taxing or assessing authority upon, against or with respect to (a) the Premises or any leasehold interest therein, or any use thereof, including, without limitation, any use and/or occupancy tax, (b) all of Tenant's Property, and (c) all or any portion of the Rentals payable by Tenant to Landlord; irrespective of whether any such items described in clauses (a) through (c) above are assessed as Tenant's real or personal property, and irrespective of whether any of such items are assessed to or against Landlord or Tenant. If at any time during the Term any of such Charges are not levied and assessed separately and directly to Tenant (for example, if the same are levied or assessed to Landlord, or upon or against the Building and/or the Property), Tenant shall pay to Landlord Tenant's reasonable share thereof as reasonably determined by Landlord.

ARTICLE 26
HOLDING OVER

If this Lease is not renewed or extended or a new lease is not entered into between the parties, and if Tenant shall then hold over after the Expiration Date or earlier termination of this Lease, irrespective of whether or not Landlord accepts Rental from Tenant for a period beyond the Expiration Date, Tenant's occupancy of the Premises after the Expiration Date shall be upon all the terms set forth in this Lease except Tenant shall pay (a) for the first sixty (60) days of such holdover, an amount equal to one hundred fifty percent (150%) of (i) the applicable Base Rent in

effect immediately before the holdover period began, and (ii) all applicable Additional Rent which would have been applicable had the Term continued through the period of such holding over by Tenant and (b) thereafter, two hundred percent (200%) of (i) the applicable Base Rent in effect immediately before the holdover period began, and (ii) all applicable Additional Rent which would have been applicable had the Term continued through the period of such holding over by Tenant. If Tenant shall holdover or remain in possession of any portion of the Premises beyond the Expiration Date, whether or not Landlord accepts any Rental for a period beyond the Expiration Date, Tenant shall be subject not only to summary proceeding and all damages related thereto, but also to any damages arising out of any lost opportunities (and/or new leases) by Landlord to relet the Premises (or any part thereof). Tenant hereby agrees to indemnify, defend and hold Landlord harmless against any liability resulting from delay by Tenant in surrendering the Premises upon the expiration or sooner termination of this Lease, including, without limitation, any claims made by any succeeding tenant or prospective tenant founded upon such delay. All damages to Landlord by reason of such holding over by Tenant may be the subject of a separate action and need not be asserted by Landlord in any summary proceedings against Tenant. The terms of this Article shall survive the expiration or earlier termination of this Lease.

ARTICLE 27
SECURITY DEPOSIT

Section 27.01 Deposit. As security for the full and faithful performance by Tenant of all of the terms, covenants and conditions of this Lease, Tenant shall pay to Landlord simultaneously with Tenant's execution of this Lease the Security Deposit by bank or certified check. Landlord shall not be required to keep the Security Deposit separate from its general funds and Tenant shall not be entitled to any interest thereon. Landlord shall not be obligated to apply the Security Deposit to Rental in arrears or damages for Tenant's default, although Landlord may so apply the Security Deposit, at its option. The Security Deposit, if not applied toward the payment of Rental in arrears or toward the payment of damages suffered by Landlord by reason of Tenant's default, shall be returned to Tenant without interest, except as required by Laws, when this Lease is terminated or as otherwise provided in this Lease once Tenant has vacated the Premises and delivered possession thereof to Landlord in accordance with the terms and provisions hereof. If Landlord repossesses the Premises because of Tenant's default, Landlord may apply the Security Deposit to damages suffered to the date of such repossession and may apply the Security Deposit to such damages as may be suffered or shall accrue thereafter by reason of Tenant's default. If Landlord applies the Security Deposit in whole or in part, Tenant shall, upon demand by Landlord, deposit sufficient funds to maintain the Security Deposit in an amount equal to $122,500.00. Failure of Tenant to deposit such additional security shall entitle Landlord to avail itself of the remedies provided in this Lease for nonpayment of Rental by Tenant. Tenant covenants that it will not assign or encumber or attempt to assign or encumber any Security Deposit hereunder and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

Section 27.02 Letter of Credit. In lieu of a cash deposit by Tenant for the Security Deposit, Tenant may deposit with Landlord a clean, irrevocable and unconditional letter of credit issued by and drawn upon any commercial bank reasonably acceptable to Landlord with offices for banking purposes in the City of New York and having a net worth of not less than One

Billion ($1,000,000,000.00) Dollars, which letter of credit shall be in the form annexed hereto as Exhibit C (the " **Letter of Credit** ") and in the amount of the Security Deposit set forth in Article 1 hereof. In addition, the Letter of Credit shall provide that it is assignable by Landlord without charge and shall either (i) expire on the date which is sixty (60) days after the expiration or earlier termination of this Lease (the " **LC Date** ") or (ii) be automatically self-renewing until the LC Date. At any time that Tenant is in default under this Lease beyond any applicable notice and grace period, Landlord shall have the right to draw down the entire Letter of Credit in whole or in part as necessary to apply the proceeds thereof in accordance with the provisions of this Article 27. Landlord shall also have the right to draw down the Letter of Credit in the event that Landlord fails to receive a replacement Letter of Credit on or prior to the thirtieth (30th) day preceding the expiration date thereof or if Tenant holds over in the Premises without the consent of Landlord after the expiration or earlier termination of this Lease. If Landlord shall have drawn down the Letter of Credit and applied all or a portion thereof in accordance with the terms of this Article 27, then Tenant shall deposit with Landlord, within three (3) days after notice from Landlord, a sufficient amount of cash to bring the balance of the cash held by Landlord under this Article 27 to the amount of the Security Deposit. The failure by Tenant to deposit such additional amount within the foregoing time period shall be deemed an Event of Default under this Lease.

ARTICLE 28
LANDLORD'S LIABILITY

Section 28.01 **Transfer of Landlord's Interest** . In the event of any sale, assignment or transfer(s) of Landlord's interest in the Property, the Building or the Premises, the transferor shall be automatically relieved of all obligations on the part of Landlord accruing from and after the date of such transfer, provided that (a) the interest of the transferor, as Landlord, in any funds then in the hands of Landlord in which Tenant has an interest shall be turned over, subject to such interest, to the then transferee; and (b) notice of such sale or other transfer shall be delivered to Tenant if required by Laws. No lessor under a superior or ground lease, holder of a mortgage or beneficiary of a deed of trust to which this Lease is or may be subordinate, shall be responsible for the Security Deposit, unless such lessor, mortgagee or beneficiary of such deed of trust shall have actually received the Security Deposit.

Section 28.02 **Limitation of Landlord's Liability** . Notwithstanding anything to the contrary provided in this Lease, there shall be absolutely no personal liability on the part of Landlord or any officer, director, shareholder, partner, member, employee or agent of Landlord, whether disclosed or undisclosed (or any successor corporate landlord or any partner of any limited or general partnership which may become Landlord or any individual or other entity), with respect to any of the terms, covenants and conditions of this Lease, and Tenant shall look solely to Landlord's interest in the Building for the satisfaction of each and every remedy of Tenant in the event of a breach or default by Landlord of any of the terms, covenants and conditions of this Lease, such exculpation of personal liability to be absolute and without any exception whatsoever. No other property or assets of Landlord, any successor to Landlord, or any officer, director, shareholder, partner, member, employee or agent of Landlord or any successor to Landlord, shall be subject to judgment, levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease or the use

or occupancy of the Premises. Notwithstanding anything to the contrary contained in this Lease, in no event shall Landlord be liable for consequential damages.

ARTICLE 29
BROKER

Each party represents and warrants to the other that it has dealt with no broker or agent in connection with this Lease other than the Broker and agrees to indemnify, hold harmless and defend the other party from and against any and all Liabilities arising from or relating to a breach of the foregoing representation and warranty. Landlord shall pay any commission due the Broker pursuant to separate agreement.

ARTICLE 30
NOTICES

Unless specifically stated to the contrary in this Lease, any notice, demand, request or other instrument which may be or is required to be given by Tenant or Landlord under this Lease or by Laws (" **Notices** ") shall be in writing and sent by nationally recognized overnight delivery service or by United States certified mail, return receipt requested, postage prepaid, and shall be deemed to have been given, if sent by national overnight delivery service, as of the first (1 st) weekday upon which delivery is first attempted and, if sent by United States certified mail, on the date of delivery or refusal. Notices given in accordance with this Section shall be addressed to Landlord and Tenant at their respective addresses set forth in Section 1.01 herein together with copies to the parties identified in said Section, as appropriate. Each party may designate another notice address by notice given in accordance with this Section. Notices may be given by the attorneys for the respective parties.

ARTICLE 31
MISCELLANEOUS

Section 31.01 **Successors and Assigns** . All rights and liabilities given to or imposed under this Lease upon the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and permitted assigns of such parties, and if there shall be more than one Tenant, they shall all be bound jointly and severally by the terms, covenants and conditions of this Lease.

Section 31.02 **Rules and Regulations** . Tenant shall comply with and observe all reasonable rules and regulations established by Landlord from time to time for the Property (collectively, the " **Rules** "), including, without limitation, the Rules currently in effect at the Property and attached hereto and made a part hereof as Exhibit D . Tenant's failure to keep and observe the Rules shall constitute a breach of the terms of this Lease in the same manner as if such Rules were contained herein as covenants. In the case of any conflict between the terms and conditions of the Rules and the terms and conditions of this Lease, the terms and conditions of this Lease shall be controlling.

Section 31.03 **Joint and Several Liability** . If more than one person or entity is executing, this Lease as Tenant, each such person or entity shall be jointly and severally liable for the obligations of Tenant under this Lease.

Section 31.04 **Consent**. In any instance where the obtaining of Landlord's consent or approval shall be required under this Lease, the failure of Landlord to give such consent or approval shall not render Landlord liable for damages, and Tenant's sole remedy in such event shall be an action for specific performance or injunction, and such remedy shall be available only in those cases where Landlord has agreed not to unreasonably withhold its consent or where, as a matter of law Landlord may not unreasonably withhold its consent.

Section 31.05 **Covenant of Quiet Enjoyment**. Upon payment by Tenant of the Rental and upon the observance and performance of all of the covenants, terms and conditions on Tenant's part to be observed and performed under this Lease, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term, without hindrance or interruption by Landlord or any other person or persons lawfully or equitably claiming by, through or under Landlord, subject, nevertheless, to the terms and conditions of this Lease, and any mortgage, deed of trust or lease to which this Lease is subordinate.

Section 31.06 **Waiver**. The subsequent acceptance of Rental by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any of the terms, covenants or conditions of this Lease, other than the failure of Tenant to pay the particular Rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rental. In particular, but without limitation, if Tenant assigns or transfers its interest in this Lease contrary to the terms of this Lease, any acceptance by Landlord of such assignee's or transferee's payment shall not be deemed to be a waiver of the restrictions set forth in this Lease. One or more waivers of a breach of any covenant or condition shall not be construed as a waiver of a subsequent breach of the same covenant or condition, and the consent to or approval of any act requiring consent or approval shall not be deemed to render unnecessary the obtaining of consent to or approval of any subsequent similar act. Landlord's failure to insist upon the strict performance of any of the terms, covenants or conditions contained in this Lease shall not be deemed a waiver of any rights or remedies that Landlord may have and shall not be deemed a waiver of any subsequent breach or default in the performance of the terms, covenants or conditions herein contained. No breach by Tenant of a covenant or condition of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing and signed by Landlord. No act or thing done by Landlord or Landlord's agents shall be deemed an acceptance of surrender of the Premises and no agreement to accept such surrender shall be valid unless in writing signed by Landlord.

Section 31.07 **Interpretations**. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, and neither the method of computation of Rental, nor any other provision contained herein, nor any acts of the parties hereto shall be deemed to create any relationship other than the relationship of Landlord and Tenant. Whenever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.

Section 31.08 **Unavoidable Delays**. " **Unavoidable Delays** " shall mean delays caused by force majeure events which shall include, but not be limited to, strikes, lockouts, acts of God, inability to obtain labor or materials, laws, statutes, decrees, rules, orders, ordinances, directions, regulations; restrictions and requirements of federal, state, county and municipal authorities,

unusually severe weather conditions, litigation that results in an injunction prohibiting or otherwise delaying the continuity of construction or other acts related thereto, commotion caused by civil or foreign event, or war, fire, unavoidable casualty or any other cause, whether similar or dissimilar, in each case, beyond the reasonable control of either Landlord or Tenant, but shall not, in any event, include (a) unavailability of funds or (b) any monetary obligation that can be satisfied by the payment of a fixed sum.

Section 31.09 Captions and Section Numbers. The captions, section numbers, article numbers, and index appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections or articles of this Lease, nor in any way affect this Lease.

Section 31.10 Recording. Tenant shall not record this Lease or any short form memorandum thereof without the prior written consent of Landlord, which consent Landlord may grant or withhold in its sole discretion.

Section 31.11 Furnishing of Financial Statements. Upon Landlord's request in connection with a sale, refinancing or other capital event, Tenant shall promptly furnish Landlord, from time to time, but not more frequently than once in any twelve (12) month period, financial statements reflecting Tenant's current financial condition. Tenant hereby consents to Landlord conducting a credit check against Tenant (and any guarantor) from time to time as Landlord deems necessary or reasonably advisable.

Section 31.12 Accord and Satisfaction. Payment by Tenant or receipt by Landlord of a lesser amount than the Rental may, at Landlord's sole option, be deemed to be on account of the earliest due Rental or deemed to be on account of Rental owing for the current period only, notwithstanding any instructions by or on behalf of Tenant to the contrary, which instructions shall be null and void, and no endorsement or statement on any check or any letter accompanying any check or payment as Rental shall be deemed an accord and satisfaction except with Landlord's written consent, and Landlord shall accept such check or payment without prejudice to Landlord's right to recover the balance of such Rental or pursue any other remedy in this Lease or at law or in equity against Tenant unless otherwise agreed in writing.

Section 31.13 Execution of Lease; No Option. The submission of this Lease to Tenant shall be for examination purposes only, and does not and shall not constitute a reservation of or option for Tenant to lease, or otherwise create any interest of Tenant in the Premises or any other premises situated in the Building. The return to Landlord of Tenant-executed copies of this Lease shall not be binding upon Landlord, notwithstanding any preparation or anticipatory reliance or expenditures by Tenant or any time interval, until Landlord has in fact executed and actually delivered a fully-executed copy of this Lease to Tenant.

Section 31.14 Governing Law. This Lease shall be governed by and construed in accordance with the laws of the state of in which the Property is located. If any provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each remaining provision of the Lease shall be valid and enforceable to the fullest extent permitted by Law.

Section 31.15 **Certain Rules of Construction**. Time is of the essence in this Lease. Landlord and Tenant have had substantial experience with the subject matter of this Lease and have each fully participated in the negotiation and drafting of this Lease. Accordingly, this Lease shall be construed without regard to the rule that ambiguities in a document are to be construed against the drafter.

Section 31.16 **Authority**. Tenant represents and warrants to Landlord that (a) it is a duly formed and validly existing limited liability company and is qualified to conduct business in the state in which the Property is located, (b) its franchise, corporate and/or all other taxes to both the state of formation and the state in which the Property is located have been paid to date, (c) it has the full right, power and authority to enter into and perform the obligations, terms and covenants contained in this Lease on the part of Tenant, and (d) each person signing this Lease is authorized to do so and to bind Tenant to the terms of this Lease.

Section 31.17 **Limitation of Warranties**. LANDLORD AND TENANT EXPRESSLY AGREE THAT THERE ARE AND SHALL BE NO IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OF ANY OTHER KIND A RISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THOSE EXPRESSLY SET FORTH IN THIS LEASE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TENANT EXPRESSLY ACKNOWLEDGES THAT LANDLORD HAS MADE NO WARRANTIES OR REPRESENTATIONS CONCERNING ANY HAZARDOUS MATERIALS OR OTHER ENVIRONMENTAL MATTERS AFFECTING ANY PART OF THE PROPERTY AND LANDLORD HEREBY EXPRESSLY DISCLAIMS AND TENANT WAIVES ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO ANY SUCH MATTERS.

ARTICLE 32
CONTINGENCY

This Lease and the transactions contemplated herein are subject to and conditioned upon the mutual execution and unconditional delivery of a surrender agreement (the " **Surrender Agreement** ") with respect to that certain Lease Agreement dated as of June 30, 2011 between Landlord, as landlord, and Tenant, formerly known as CSN Stores, LLC, as tenant, covering a portion of Building E at 2055 Global Way, Hebron, Kentucky. In the event the Surrender Agreement shall fail of execution or unconditional delivery on or prior to the Commencement Date for any reason whatsoever, including, but not limited to, Landlord's arbitrary refusal to enter into the Surrender Agreement or to agree to any term or condition thereof, upon Landlord's or Tenant's notice to the other, this Lease shall be deemed null and void and of no further force or effect.

IN WITNESS WHEREOF , Landlord and Tenant have duly executed this Lease as of the date first above written.

Landlord:

DISTRIBUTION I PATENT TENANT LLC,
a Delaware limited liability company

By: /s/Priyanka Garg
Name: Priyanka Garg
Title: Sr. Vice President

Tenant:

WAYFAIR LLC,
a Delaware limited liability company

By: /s/ Nicholas Malone
Name: Nicholas Malone
Title: CAO and Treasurer

Exhibit A

SITE PLAN

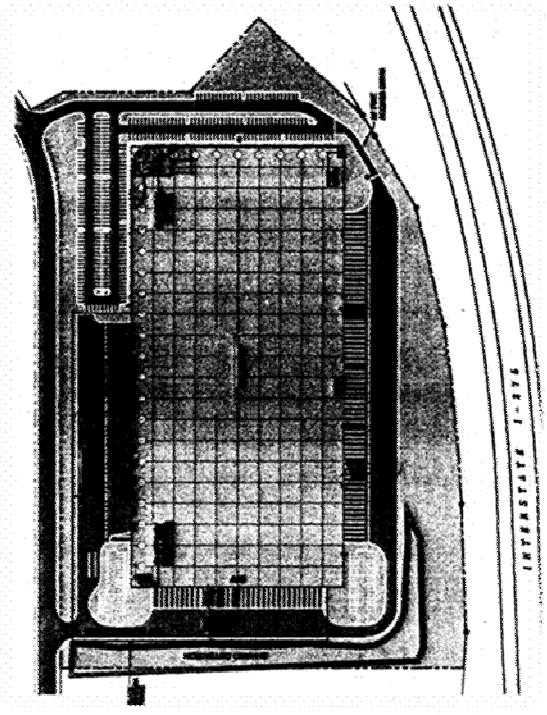


Exhibit B

INSURANCE SCHEDULE

CERTIFICATE HOLDER

Distribution I Patent Owner LLC
c/o Colliers International Real Estate Management Services (VA), LLC
625 Eye Street NW, Suite 700
Washington, DC 20006

ADDITIONAL INSUREDS

Distribution I Patent Tenant LLC
c/o Colliers International Real Estate Management Services (VA), LLC
625 Eye Street NW, Suite 700
Washington, DC 20006

CFC Transactions, as
sub-servicer c/o Cohen Financial
2 LaSalle Street
Chicago, Illinois 60606

Cassidy Turley Commercial Real Estate Services, Inc.
221 E. 4th Street
26th Floor
Cincinnati, OH 45202

Colliers International Real Estate Management Services (VA), LLC
625 Eye Street NW, Suite 700
Washington, DC 20006

Exhibit C

FORM LETTER OF CREDIT

DRAFT

IRREVOCABLE STANDBY LETTER OF CREDIT

NO. xxxx

BENEFICIARY :

Distribution I Patent Tenant LLC
c/o Interventure Advisors LP
810 Seventh Avenue, Suite 3601
New York, New York 10019

APPLICANT :

Wayfair LLC
177 Huntington Avenue
Suite 6000
Boston, MA 02115

Issue Date:
Expiration Date: January 1, 2015 (at least one year from Lease Commencement Date)
Final Expiration Date: May 31, 2019 (at least 60 days after Expiration Date)

Ladies and Gentlemen:

We hereby issue in your favor our irrevocable letter of credit No. XXX for account of Wayfair LLC ("Applicant"), for a sum not to exceed U.S. $122,500.00 in the aggregate effective immediately available against presentation of this original standby letter of credit and any amendments along with your draft(s) drawn on us at sight in the form of Annex 1 hereto, with blanks completed and signed by your authorized signatory.

Partial draws are authorized from time to time under this Letter of Credit. If your demand represents a partial drawing hereunder, we will endorse the original Letter of Credit to show the amount paid by us and the date of payment and return same to you for possible future claims. If, however, your demand represents a full drawing or if such drawing is presented on the day of the relevant expiration date hereof, we will hold the original for our files and remove same from circulation.

This Letter of Credit is transferable in its entirety one or more times to any transferee or successor under the Lease that you may from time to time designate without any fee to Beneficiary. We shall not recognize any transfer of this Letter of Credit until an executed transfer form in the form of Annex 2 hereto, completed and signed by your authorized signatory, is delivered to us, along with the return of the original standby letter of credit and all amendments, if any, to our office located at 3 Terry Drive, Suite 102, Mail Code: 70-106-IT1, Newtown, PA 18940, attn.: Standby Letter of Credit Department. Upon our receipt of the foregoing, we will transfer our Letter of Credit to your transferee or assignee. Our transfer charges of ¼ of 1%, minimum $250.00 are solely for the account of Applicant, and Transferor's failure to make such payment shall not prevent the transfer of this Letter of Credit.

Pursuant to the laws of the U.S. and regulations of the United States Treasury, Department of Commerce and Office of Foreign Assets Control, request to transfer this Letter of Credit to any party in violation of such laws and/or regulations is strictly prohibited and will not be honored.

This Letter of Credit is valid for presentation at our offices located at 3 Terry Drive, Suite 102, Mail Code: 70-106-1T1, Newtown, PA 18940, attn.: Standby Letter of Credit Department via nationally-recognized overnight courier service on or before the close of business on (Expiry Date) or by personal delivery to our New York Office located at 551 Fifth Avenue, 25th Floor, New York, NY 10176 at which time any draw documents will be forwarded by us to our Newtown office for examination at the address above stated.

It is a condition of this Letter of Credit that it shall be automatically extended without amendment for a period of one year from the current or any future expiration date, unless at least sixty (60) days prior to the then current expiration date, we shall notify you in writing by registered or certified mail return receipt requested, or nationally-recognized overnight courier service at the above listed address (or such other address of which you notify us in writing from time to time) of our intention not to renew this Letter of Credit for such additional period. Upon your receipt of such notice, you may draw drafts on us at sight for an amount not to exceed the remaining balance in this Irrevocable Letter of Credit within the then applicable expiry date.

Except as expressly stated herein, payment under this Letter of Credit is not subject to any conditions or qualifications.

This Letter of Credit is governed by and construed in accordance with the laws of the State of New York and, except as otherwise expressly stated herein, subject to the International Standby Practices, ICC Publication No. 590 and in the event of any conflict, the laws of the State of New York will control without regard to principles of conflict of law.

We hereby agree with you and each drawer, endorser, and bona fide holder of drafts drawn under this Letter of Credit that that drafts drawn under and in compliance with the terms of this Letter of Credit shall be duly honored on presentation to us as provided herein.

SANTANDER BANK, N.A., Issuing Bank

Authorized Signature
Name and Title

ANNEX 1

LETTER OF CREDIT

SIGHT DRAFT

[Date]

FOR VALUE RECEIVED

PAY ON DEMAND $ Dollars at sight to Account of [Insert Name of Issuer] Irrevocable Letter of Credit No.

dated

To: [Insert name and address of Issuer]

[Name of Beneficiary]

By: _____

ANNEX 1

LETTER OF CREDIT

[Date]

[Insert Name and Address of Issuer]

Attention:

Re: Letter of Credit No .

Gentlemen:

For value received, the undersigned beneficiary hereby irrevocably transfers to:

(Name of Transferee)
(Address)

all rights of the undersigned beneficiary to draw under the above Letter of Credit in its entirety.

By this transfer, all rights of the undersigned beneficiary in such Letter of Credit are transferred to the transferee and the transferee shall have the sole rights as beneficiary thereof, including sole rights relating to any amendments, whether now existing or hereafter made. All amendments are to be advised directly to the transferee without necessity of any consent of or notice to the undersigned beneficiary.

Yours very truly,

SIGNATURE AUTHENTICATED

[Insert Name of Beneficiary]

(Bank)

Signature of Beneficiary

(Authorized Signature)

Exhibit D

RULES AND REGULATIONS

1. The following rules and regulations shall apply to the Premises, the Building, the Property, the parking areas associated therewith, and the appurtenances thereto:

2. Sidewalks, doorways, vestibules, halls, stairways, loading dock areas and associated overhead doors, and other similar areas (each, to the extent applicable to the Property) shall not be obstructed by tenants or used by any tenant for purposes other than ingress and egress to and from their respective leased premises and for going from one to another part of the Building.

3. Plumbing (including but not limited to outside drains and sump pumps), fixtures and appliances shall be used only for the purposes for which designed, and no sweepings, rubbish, rags or other unsuitable material shall be thrown or deposited therein. Damage resulting to any such fixtures or appliances from misuse by a tenant or its agents, employees or invitees, shall be paid by such tenant.

4. Except as consented to in writing by Landlord or as expressly set forth in the Lease or in accordance with Tenant's building standard improvements, no draperies, curtains, blinds, shades, screens or other devices shall be hung at or used in connection with any window or exterior door or doors of the Premises. No awning shall be permitted on any part of the Premises. Tenant shall not place anything against or near glass partitions or doors, or windows which might appear unsightly from outside the Premises.

5. Landlord may prescribe reasonable weight limitations and determine the locations for safes and other heavy equipment or items, which shall in all cases be placed in the Building so as to distribute weight in a manner acceptable to Landlord which may include the use of such supporting devices as Landlord may require. All damage to the Building caused by the installation or removal of any property of a tenant, or done by a tenant's property while in the Building, shall be repaired by such tenant.

6. Tenant shall not make or permit any vibration or improper, objectionable or unpleasant noises or odors in the Building.

7. Landlord will not be responsible for lost or stolen personal property, money or jewelry from tenant's leased premises or public or common areas regardless of whether such loss occurs when the area is locked against entry or not, except to the extent of Landlord's willful misconduct.

8. Tenant shall not conduct any activity on or about the Property, the Premises or the Building which will draw pickets, demonstrators, or the like.

9. All vehicles are to be currently licensed, in good operating condition, parked for business purposes having to do with Tenant's business operated in the Premises, parked within designated parking spaces, one vehicle to each space. No vehicle shall be parked as a "billboard" vehicle in the parking lot. Any vehicle parked improperly may be towed away. Tenant, Tenant's agents,

employees, vendors and customers who do not operate or park their vehicles as required shall subject the vehicle to being towed at the expense of the owner or driver.

10. No birds or animals (other than seeing-eye dogs or other service animals as described under the Americans with Disabilities Act) shall be brought into or kept in, on or about any tenant's premises. No portion of any tenant's premises may at any time be used or occupied as sleeping or lodging quarters.

11. Unless otherwise agreed in writing by Landlord, each tenant must contract for the removal of trash and other debris from its premises and provide a dumpster or other suitable trash receptacle adjacent to its premises for removal of trash; no trash or other debris may be left outside any tenant's receptacle.

12. Tenant shall not permit storage outside the Premises or dumping of waste or refuse or permit any harmful materials to be placed in any drainage system or sanitary system in or about the Premises.

13. Tenant shall not install or operate on the Premises any machinery or mechanical devices of a nature not directly related to Tenant's ordinary use of the Premises, except to the extent reasonably required for Tenant's construction of alterations and improvements.

14. Tenant will not permit any Tenant Party to bring onto the Property any handgun, firearm or other weapons of any kind or illegal drugs.

Exhibit 10.11



May 6, 2014

[Employee Address]

Dear [Employee]:

On behalf of Wayfair LLC (the "Company"), I am pleased to offer your continued employment as the Company's [Title] on the terms and conditions set forth below in our agreement (the "Agreement"). You agree that this Agreement amends and restates, in its entirely, the employment agreement between you and the Company, dated June 21, 2011.

1. Title and Responsibilities. As the [Title], you will have supervision and control over and responsibility for the day-to-day [technology-related] business and affairs of the Company and shall have such other powers and duties as may from time to time be prescribed by the [Chief Executive Officer/Board of Managers] of the Company. You agree to devote your full working time and efforts to the business and affairs of the Company.

2. Salary. The Company will pay you an annual salary of $80,000, retroactive to January 1, 2014, subject to periodic increase (but not subject to decrease) at the discretion of the Board.

3. Benefits. You will be eligible to participate in any employee benefits and insurance programs generally made available by the Company to its full-time employees.

4. Confidential Information, Noncompetition and Cooperation.

A. Confidential Information. As used in this Agreement, "Confidential Information" means information belonging to the Company which is of value to the Company in the course of conducting its business and the disclosure of which could result in a competitive or other disadvantage to the Company. Confidential Information includes, without limitation, financial information, reports, and forecasts; inventions, improvements and other intellectual property; trade secrets; know-how; designs, processes or formulae; software; market or sales information or plans; customer lists; and business plans, prospects and opportunities (such as possible acquisitions or dispositions of businesses or facilities) which have been discussed or considered by the management of the Company. Confidential Information includes information developed by you in the course of your employment by the Company, as well as other information to which you may have access in connection with your employment. Confidential Information also includes the confidential information of others with which the Company has a business relationship. Notwithstanding the foregoing, Confidential Information does not include information in the public domain, unless due to breach of your duties under Section 4.B.

B. Confidentiality. You understand and agree that your employment creates a relationship of confidence and trust between you and the Company with respect to all Confidential Information. At all times, both during your employment with the Company and after its termination, you will keep in confidence and trust all such Confidential Information, and will not use or disclose any such Confidential Information without the written consent of the Company, except as may be necessary in the ordinary course of performing your duties for the Company.

C. Documents, Records, etc. All documents, records, data, apparatus, equipment and other physical property, whether or not pertaining to Confidential Information, which are

furnished to you by the Company or are produced by you in connection with your employment will be and remain the sole property of the Company. You will return to the Company all such materials and property as and when requested by the Company. In any event, you will return all such materials and property immediately upon termination of your employment for any reason. You will not retain any such material or property or any copies thereof after such termination.

D. Noncompetition and Nonsolicitation. During your employment with the Company and for 24 months thereafter (such 24 month period referred to herein as the "Non Compete Period"), regardless of the reason for the termination, you will not (i) directly or indirectly, whether as owner, partner, shareholder, consultant, agent, employee, co-venturer or otherwise, engage, participate, assist or invest in any Competing Business (as hereinafter defined); (ii) solicit, entice, attempt to persuade any other employee or consultant of the Company to leave the Company's employment for any reason or otherwise participate in or facilitate the hire, directly or through another entity, of any person who is employed or engaged by the Company, provided, however, that the restriction in this sub-section (ii) shall not apply to (a) persons hired via general advertisements and other similar broad forms of solicitation (including through the use of employment agencies) or (b) persons who affirmatively seek employment through no solicitation or enticement on your part; or (iii) solicit or encourage any supplier to terminate or otherwise modify adversely its business relationship with the Company. You understand that the restrictions set forth in this Section 4.D are intended to protect the Company's interest in its Confidential Information and established employee and supplier relationships and goodwill, and agrees that such restrictions are reasonable and appropriate for this purpose. For purposes of this Agreement, the term "Competing Business" shall mean a business conducted anywhere in the world where the Company conducts business which is competitive with any business which the Company or any of its affiliates conducts or proposes to conduct at any time during your employment to the extent you were aware of such plans, including, but in no way limited to any internet-based retail business focused on home-related products. Notwithstanding the foregoing, (a) you may own up to two percent (2%) of the outstanding stock of a publicly held corporation which constitutes or is affiliated with a Competing Business (b) you may invest in early stage e-commerce entities and investment funds which hold equity interests in a Competing Business, provided, however, that the aggregate amount of any such investment in any such early stage e-commerce entity shall not exceed $500,000 and your aggregate direct and indirect equity interest in any such entity shall at no time exceed ten percent (10%); and (c) you may invest in venture capital, private equity, mutual or similar investment funds that invest in Competing Businesses, provided, that you do not control any such fund and are not otherwise involved in the investment decision process of any such fund.

E. Severance. In the event you are terminated by the Company without Cause (as defined below) or you terminate your employment for Good Reason (as defined below), then you shall be entitled (to the extent you elect) to receive medical and/or dental benefits pursuant to the provisions of the Consolidated Omnibus Budget Reconciliation Act ("COBRA") for yourself and/or any qualifying beneficiaries as set forth below:

1. The Company shall pay on your behalf, or reimburse you for, the amount of the applicable COBRA for the same level of coverage immediately prior to the date of termination.

2. Payments under this paragraph shall cease upon the earlier of (i) the end of the first month in which you are no longer eligible for COBRA for any reason (other than death or eligibility for Medicare, provided that COBRA coverage continues for any qualified beneficiary), or (ii) on the last day of the Non-Compete Period.

3. For purposes of this Agreement, the following shall constitute "Cause": (a) acts or omissions constituting gross negligence, recklessness or willful misconduct on your part with respect to your obligations or otherwise relating to the business of Company, provided the Company provides you with notice of such act or omission within 30 days of such act or omission, and the same is not cured by you within 30 days of such notice; or (b) your conviction or entry of a plea of nolo contendere for fraud, misappropriation or embezzlement, or any felony or crime of moral turpitude. For purposes of this Agreement, "Good Reason" is defined as: (a) a material diminution in your base salary; or (b) a material diminution in your title, authority, or responsibility, provided in either case that you provide written notice to the Company within 30 days of any act or omission constituting "Good Reason," and the Company fails to cure such condition within 30 days.

F. Third-Party Agreements and Rights . You hereby confirm that you are not bound by the terms of any agreement with any previous employer or other party which restricts in any way your use or disclosure of information or your engagement in any business. You represent to the Company that your execution of this Agreement, your employment with the Company and the performance of your proposed duties for the Company will not violate any obligations you may have to any such previous employer or other party. In your work for the Company, you will not disclose or make use of any information in violation of any agreements with or rights of any such previous employer or other party, and you will not bring to the premises of the Company any copies or other tangible embodiments of non-public information belonging to or obtained from any such previous employment or other party.

G. Litigation and Regulatory Cooperation. During and after your employment, you shall cooperate fully with the Company in the defense or prosecution of any claims or actions now in existence or which may be brought in the future against or on behalf of the Company which relate to events or occurrences that transpired while you were employed by the Company. Your full cooperation in connection with such claims or actions shall include, but not be limited to, being available to meet with counsel to prepare for discovery or trial and to act as a witness on behalf of the Company at mutually convenient times. During and after your employment, you also shall cooperate fully with the Company in connection with any investigation or review of any federal, state or local regulatory authority as any such investigation or review relates to events or occurrences that transpired while you were employed by the Company. The Company shall reimburse you for any reasonable out-of-pocket expenses incurred in connection with your performance of obligations pursuant to this Section 4.G and shall pay you an agreed upon hourly wage for cooperation conducted after your employment

H. Injunction . You agree that it would be difficult to measure any damages caused to the Company which might result from your breach of the promises set forth in this Section 4, and that in any event money damages would be an inadequate remedy for any such breach.

Accordingly, subject to Section 5 of this Agreement, you agree that if you breach, or propose to breach, any portion of this Agreement, the Company shall be entitled, in addition to all other remedies that it may have, to an injunction or other appropriate equitable relief to restrain any such breach without showing or proving any actual damage to the Company.

5. Arbitration . Any controversy or claim arising out of or relating to this Agreement or the breach thereof or otherwise arising out your employment or the termination of that employment (including, without limitation, any claims of unlawful employment discrimination whether based on age or otherwise) shall, to the fullest extent permitted by law, be settled by arbitration in any forum and form agreed upon by the parties or, in the absence of such an agreement, under the auspices of the American Arbitration Association ("AAA") in Boston, Massachusetts in accordance with the Employment Dispute Resolution Rules of the AAA, including, but not limited to, the rules and procedures applicable to the selection of arbitrators, with the fees of any arbitrator to be borne exclusively by the Company. In the event that any person or entity other than you or the Company may be a party with regard to any such controversy or claim, such controversy or claim shall be submitted to arbitration subject to such other person or entity's agreement. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. This Section 5 shall be specifically enforceable. Notwithstanding the foregoing, this Section 5 shall not preclude either party from pursuing a court action for the sole purpose of obtaining a temporary restraining order or a preliminary injunction in circumstances in which such relief is appropriate; provided that any other relief shall be pursued through an arbitration proceeding pursuant to this Section 5.

6. 409A Compliance .

A. It is the intention of both you and the Company that the benefits and rights to which you are entitled pursuant to this Agreement are exempt from or comply with Section 409A of the Internal Revenue Code of 1986, as amended, and the formal guidance issued thereunder ("Section 409A"), to the extent that the requirements of Section 409A are applicable thereto, and the provisions of this Agreement shall be construed in a manner consistent with that intention. If you or the Company believe, at any time, that any such benefit or right that is subject to Section 409A does not so comply, you or the Company shall promptly advise the other and shall negotiate reasonably and in good faith to amend the terms of such benefits and right such that they comply with Section 409A (with the most limited possible economic effect on you and the Company).

B. With respect to any reimbursement of expenses of, or any provision of in- kind benefits to, you, as specified under this Agreement, such reimbursement of expenses or provision of in-kind benefits shall be subject to the following conditions: (I) the expenses eligible for reimbursement or the amount of in-kind benefits provided in one taxable year shall not affect the expenses eligible for reimbursement or the amount of in-kind benefits provided in any other taxable year, except for any medical reimbursement arrangement providing for the reimbursement of expenses referred to in Section 105(b) of the Code; (2) the reimbursement of an eligible expense shall be made no later than the end of the year after the year in which such expense was incurred; and (3) the right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit.

C. To the extent required to comply with Section 409A, any payment or benefit required to be paid under this Agreement on account of your termination of employment or

separation from service (or any other similar term) as used in this Agreement shall be made only in connection with your "separation from service" within the meaning of Section 409A.

D. For purposes of Section 409A, the right to a series of installment payments under this Agreement shall be treated as a right to a series of separate payments.

E. Neither the Company nor you, individually or in combination, may accelerate any payment or benefit that is subject to Section 409A, except in compliance with Section 409A and the provisions of this Agreement, and no amount that is subject to Section 409A will be paid prior to the earliest date on which it may be paid without violating Section 409A.

F. Notwithstanding any time of payment otherwise designated in this Agreement, if on your "separation from service" date you are a "specified employee" within the meaning of Section 409A, any amount of "deferred compensation" (as defined by Section 409A, after giving effect to any applicable exemptions) payable to you by reason of your "separation from service" with the Company will not be paid to you until the date that is 6 months and one day following your separation from service to the extent required by Section 409A.

7. Miscellaneous .

A. To the extent there is a conflict between this Agreement and the Non- competition, Non-solicitation, Non-disclosure and Invention Assignment Agreement for key employees between you and the Company (the "Existing Agreement"), the provisions of this Agreement shall prevail. Notwithstanding the foregoing, the parties expressly agree that Section C of the Existing Agreement ("Non-Competition/Non-Solicitation") is superseded by the provisions hereof and shall be of no further force or effect.

B. This Agreement, and the Existing Agreement, set forth the entire agreement between you and the Company regarding the terms and conditions of your employment and replaces all prior and contemporaneous communications, agreements and understandings, written or oral, with respect to the terms and conditions of your employment.

C. Your employment with the Company shall be on an at-will basis. In other words, you or the Company may terminate employment for any reason and at any time, with or without notice.

D. This Agreement shall be construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to the conflict of laws principles thereof. Subject to Section 5, the federal and state courts for the Commonwealth of Massachusetts shall have exclusive jurisdiction with respect to any disputes arising from this Agreement and you hereby agree to the personal jurisdiction of such courts over you.

E. If any portion or provision of this Agreement (including, without limitation, any portion or provision of any section of this Agreement) shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

F. All forms of compensation referred to in this Agreement are subject to reduction to reflect applicable withholding and payroll taxes and other deductions required by law. You hereby acknowledge that the Company does not have a duty to design its

compensation policies in a manner that minimizes your tax liabilities, and you will not make any claim against the Company or its Board related to tax liabilities arising from your compensation.

G. The provisions of this Agreement shall survive the termination of this Agreement and/or the termination of your employment to the extent necessary to effectuate the terms contained herein.

H. This Agreement may be amended or modified only by a written instrument signed by you and by a duly authorized representative of the Company.

I. The Company's offer of employment to you is contingent upon your submission of satisfactory proof of your identity and your legal authorization to work in the United States.

If you accept these terms, please sign your name below.

Very Truly Yours,

Wayfair LLC:

By: _____
Name:
Title:

[Employee]

_____

Exhibit 10.12



Wayfair, LLC., 177 Huntington Avenue, Boston MA 02115;
T: (617) 502-7500; F: (617) 391-4611

October 2, 2013

Mr. Michael Fleisher
(917) 365-0599
michael@fleishers.net

Dear Michael,

We are pleased to offer you a position with Wayfair, LLC ("Wayfair"), as the Chief Financial Officer, commencing on October 21, 2013. The purpose of this letter is to describe the general terms and conditions of your employment with Wayfair.

Job Responsibilities :

You will be treated for all purposes of your employment, including without limitation, compensation and benefits, as a Senior Vice President of Wayfair, you will be a member of the Company's senior management team and you will report to Niraj Shah, President and CEO. You will be responsible for all of the activities of the firm as they relate to Finance, Legal, Investor Relations, and Human Resources.

Compensation :

Your starting annual salary shall be $350,000 per year, less applicable tax and other withholdings in accordance with the Company's normal payroll procedure. Your salary may be reviewed and adjusted from time to time. The Company will pay your salary in its regularly scheduled payroll cycle.

Equity:

As a benefit to our employees, Wayfair provides employees with an equity interest in the Company pursuant to a formal equity plan. We will provide you with an equity award of 568,000 Deferred Units, which will be issued to you pending quarterly board approval and which will vest over a five year period of time. You will receive the documentation relating to the Wayfair equity plan upon your commencement of work at Wayfair.

Bonus :

You will be eligible to participate in the Company's bonus and profit sharing plans. Your bonus will be between 0- 20% of your annual salary. All bonus amounts will be pro-rated for the portion of the calendar year that you were an employee. Bonuses are paid in the first quarter of the year for the calendar year that just ended and you must be an employee at time of payment to receive the bonus.

Fringe Benefits :

You will be entitled to receive the fringe benefits generally available to the Company's employees. The Company, of course, may amend, terminate, or enhance the benefits provided to you and our other employees from time to time as it deems appropriate.

Paid Time Off:

You shall be entitled to 21 days paid time off per year.

Internal Policies :

During your employment with the Company, you will be required to follow all of the Company's internal policies and to conduct your business activities at all times in accordance with the highest legal, ethical and professional standards.

Employment At Will :

Your employment with the Company shall be at will. As such, your employment is for no definite period of time, and you or the Company may terminate your employment relationship with or without notice at any time and for any reason, or without a reason or cause. The Company is not bound to follow any policy, procedure, or process in connection with employee discipline, employment termination or otherwise.

Notwithstanding the above, if you are terminated for anything but cause in the 12 months following your employment start date, you will be eligible for 6 months of severance based on your salary at the time of termination. For purposes of this Agreement, "Cause" shall mean any of following by the employee:

1. Theft, dishonesty, willful misconduct, breach of fiduciary duty for personal profit, or falsification of any company documents or records;
2. The material failure to abide by the company's code of conduct or other policies, (including, without limitation, policies relating to confidentiality and reasonable workplace conduct);
3. The unauthorized use, misappropriation, destruction or diversion of any tangible or intangible asset or corporate opportunity of the Company (including without limitation the improper use or disclosure of the Company's confidential or proprietary information);
4. Any intentional act which has a material detrimental effect on the Company's reputation or business;
5. The repeated failure or inability to perform any reasonable assigned duties after written notice from the Company and after a reasonable opportunity to cure such failure or inability;
6. Any material breach of an employment or service agreement between employee and Company which breach is not cured pursuant to the terms of such agreement;
7. The conviction (including any plea of guilty or nolo contendere) of any criminal act involving fraud, dishonesty, misappropriation or moral turpitude, or which impairs the ability to perform the duties of the employee

Full Time Employment .

Your employment with the Company will be on a full-time basis. You will devote your full time and effort during normal business hours to the business of the Company.

No Conflicting Obligation/Conflicts of Interest .

You hereby represent and warrant to the Company that you are not presently under and will not hereafter become subject to any obligation to any person or entity which is inconsistent or in conflict with this agreement or which would prevent, limit or impair in any way your performance of your duties to the Company as described herein. Specifically you represent and warrant that you have not brought with you any confidential or proprietary information of any former employer, and you are not subject to any agreement or obligation with a former employer which would prohibit your employment by the Company. Further, during the term of your employment, you will not engage in any activity on behalf of, nor accept any salary, commissions, fee or compensation of any kind (other than investment income) from any person, firm or corporation competing with the Company.

Non-Competition, Non-Solicitation, Non-Disclosure And Invention Assignment Agreement

As a condition of your employment, you will be required to sign a Non-Compete, non-solicitation, non-Disclosure and Invention Agreement. Among other things, the Agreement will provide that the Company owns your work product and all developments made by you related to the Company's business; that you shall hold all non-public information regarding the Company confidential; and that you will not solicit, hire, divert or take away any employee, contractor, customer or supplier of the Company.

Conditions of Employment :

This offer is contingent upon your providing satisfactory documentation to the Company concerning your employment eligibility as required by Congress under the Immigration Reform and Control Act of 1986. This documentation must be received and accepted by the Company within three (3) business days of your date of hire. Your employment is also contingent upon the Company's completion of a satisfactory investigation of your background. You agree to release the Company, its employees and agents and any individuals who may provide the Company with information regarding your background from any liability in connection with this background check.

Governing Law:

This letter shall be governed, construed and enforced in accordance with the laws of Massachusetts, without regard to principles of choice or conflicts of law.

Entire Understanding:

This letter contains our entire understanding regarding the terms and conditions of your employment and supersedes any prior statements regarding your employment made to you at any time by any representative of the Company. Your signature below acknowledges your understanding that your employment with Wayfair is at-will, as described above, and that neither this letter, Wayfair practice, or other oral or written policies or statements of Wayfair or its agents shall create an employment contract, guarantee a definite term of employment, or otherwise modify in any way the agreement and understanding that employment with Wayfair is at-will. No representative of Wayfair, except Wayfair' President in writing signed by the President and you, has any authority to enter into any agreement contrary to the foregoing.

If the foregoing offer is acceptable to you, please acknowledge your acceptance by signing below and returning one copy of this letter to me.

Very truly yours,

Wayfair, LLC

By: /s/ Niraj Shah
Niraj Shah
Its President and CEO

ACCEPTED:

/s/ Michael Fleisher — 10.7.13
Mr. Michael Fleisher — Date

/s/ Michael Fleisher — 10.21.13

Addendum to Employment Agreement

This Addendum to Employment Agreement (this "Addendum") is entered into this 5 day of May 2014 and is an addendum to the employment letter (the "Agreement"), dated October 2, 2013 between Wayfair LLC ("Wayfair") and Michael Fleisher ("Employee"). Terms used by not defined in this Addendum shall have the meaning ascribed to such terms in the Agreement. In the event of a conflict between this Addendum and the Agreement, the terms of this Addendum shall prevail. Other than as expressly stated in this Addendum, all provisions of the Agreement shall remain in full force and effect.

Whereas, the parties wish to memorialize their understanding as to certain benefits which Wayfair has agreed to provide to Employee;

Now therefore, the parties agree as follows:

1. Housing. During Employee's employment with Wayfair, Wayfair agrees to pay the reasonable leasing costs of renting an apartment in Boston for Employee's use, which costs shall be based on mutually agreed location and lease terms.

2. Commuting Expenses. Wayfair shall pay or reimburse the Employee's reasonable cost of weekly travel between his home and Wayfair's Boston office and/or Employee's Boston apartment, which travel will be consistent with Wayfair's travel and expense policy.

3. Tax Withholding. All payments made to Employee pursuant to this Addendum may be subject to applicable tax withholding; provided that reimbursement for expenses set forth in Section 1 and Section 2 will be grossed up so that Wayfair will pay Employee such additional amounts necessary to ensure Employee's receipt of the full amount which he would have been reimbursed but for the withholding or deduction.

4. Section 409A. The potential severance payable to Employee under the Agreement as a result of Employee's termination of employment without cause in the 12 months following October 2, 2013 shall be paid as salary continuation payments over the six month period following such termination and only if such termination also results in Employee's "separation from service" from the Company within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended ("Section 409A"), which severance is intended to be exempt from Section 409A. In addition, to the extent that any reimbursements under this Addendum are subject to Section 409A, any such reimbursements shall be paid to Employee as soon as reasonably practicable but in no event later than December 31 of the year following the year in which the expense was incurred.

For the avoidance of doubt, these terms shall apply retroactively to Employee's start date at Wayfair.

IN WITNESS WHEREOF, the parties have caused this Addendum to be signed below.

Wayfair LLC: Michael Fleisher

By: _____ _____
Name:
Title:

Bank of America

LOAN AGREEMENT

This Agreement dated as of October 29, 2012, is between Bank of America, NA (the "Bank") and WAYFAIR LLC. Delaware limited liability company, (the "Borrower").

1. FACILITY NO. 1: LINE OF CREDIT AMOUNT AND TERMS

1.1 Line of Credit Amount.

(a) During the availability period described below, the Bank will provide a line of credit to the Borrower ("Facility No. 1"). The amount of the Facility No 1 commitment (the "Facility No. 1 Commitment") is Ten Million and 00/100 Dollars ($10,000,000.00). As of the date hereof, FIA Services, Inc. has agreed to provide a card program to the Borrower ("Card Program") in the amount of Ten Million Dollars ($10,000,000.00). In no event shall the Facility No. 1 Commitment together with the commitment under the Card Program exceed at any time Twenty Million Dollars ($20,000,000.00).

(b) The Facility No. 1 is a revolving line of credit. During the availability period, the Borrower may repay principal amounts and reborrow them subject to the maximum amount limitations set forth in paragraph (a) above.

(c) The Borrower agrees not to permit the principal balance outstanding under Facility No. 1 to exceed the Facility No. 1 Commitment as such commitment may be reduced from time to time by the Card Program. If the Borrower exceeds the applicable limitation, the Borrower will immediately pay the excess to the Bank upon the Bank's demand.

1.2 Availability Period . The Facility No. 1 is available between the date of this Agreement and October 28, 2013, or such earlier date as the availability may terminate as provided in this Agreement (the "Facility No. 1 Expiration Date").

The availability period for this line of credit will be considered renewed if and only if the Bank has sent to the Borrower a written notice of renewal for the Facility No. 1 (the "Renewal Notice"). If the Facility No. 1 is renewed, it will continue to be subject to all the terms and conditions set forth in this Agreement except as modified by the Renewal Notice (as such modified terms are agreed to by the Borrower). If the Facility No. 1 is renewed, the term "Facility No. 1 Expiration Date shall mean the date set forth in the Renewal Notice as the Expiration Date and the same process for renewal will apply to any subsequent renewal of the Facility No. 1. A renewal fee may be charged at the Bank's option. The amount of the renewal fee will be specified in the Renewal Notice.

1.3 Repayment Terms .

(a) The Borrower will pay interest on any principal amounts outstanding under the Facility No. 1 on October 31, 2012, and then on the last day of each month thereafter until payment in full of any principal outstanding under the Facility No. 1.

(b) The Borrower will repay in full any principal, interest or other charges outstanding under the Facility No. 1 no later than the Facility No. 1 Expiration Date. Any interest period for an optional interest rate (as described below) shall expire no later than the Facility No. 1 Expiration Date,

1.4 Interest Rate .

(a) The interest rate is a rate per year equal to the BBA LIBOR Daily Floating Rate plus 1.75 percentage point(s).

(b) The BBA LIBOR Daily Floating Rate is a fluctuating rate of interest which can change on each banking day. The rate will be adjusted on each banking day to equal the British Bankers Association LIBOR Rate ("BBA LIBOR") for U.S. Dollar deposits for delivery on the date in question for a one month term beginning on that date. The Bank will use the BBA LIBOR Rate as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as selected by the Bank from time to time) as determined at approximately 11:00 a.m. London time two (2) London Banking Days prior to the date in question, as adjusted from time to time in the Bank's sole discretion for reserve requirements, deposit insurance assessment rates and other regulatory costs. If such rate is not available at such time for any reason, then the rate will be determined by such alternate method as reasonably selected by the Bank. A "London Banking Day" is a day on which banks in London are open for business and dealing in offshore dollars.

1.5 Optional Interest Rates . Instead of the interest rate based on the rate stated in the paragraph entitled "Interest Rate" above, the Borrower may elect the optional interest rates listed below for this Facility No. 1 during Interest periods agreed to by the Bank end the Borrower. The optional interest rates shall be subject to the terms and conditions described later in this Agreement. Any principal amount bearing interest at an optional rate under this Agreement is referred to as a "Portion." The following optional interest rates are available:

(a) The LIBOR Rate plus 1.75 percentage point(s).

2. OPTIONAL INTEREST RATES

2.1 Optional Rates . Each optional Interest rate is a rate per year. Interest will be paid on any principal amounts outstanding under the Facility No. 1 on October 31, 2012, and then on the same day of each month thereafter until payment in full of any principal outstanding under the Facility No. 1. No Portion will be converted to a different interest rate during the applicable Interest period. Upon the occurrence of an event of default under this Agreement, the Bank may terminate the availability of optional Interest rates for Interest periods commencing after the default occurs. At the end of each interest period, the Interest rate will revert to the rate stated in the paragraph(s) entitled "Interest Rate" above, unless the Borrower has designated another optional Interest rate for the Portion.

2.2 LIBOR Rate . The election of LIBOR Rates shall be subject to the following terms and requirements:

(a) The Interest period during which the LIBOR Rate will be in effect will be one month, two months or three months. The first day of the interest period must be a day other than a Saturday or a Sunday on which banks are open for business in New York and London and dealing in offshore dollars (a "LIBOR Banking Day"). The last day of the Interest period and the actual number of days during the Interest period will be determined by the Bank using the practices of the London inter-bank market.

(b) Each LIBOR Rate portion will be for an amount not less than One Hundred Thousand and 00/100 Dollars ($100,000.00).

(c) The "LIBOR Rate" means the interest rate determined by the following formula. (All amounts in the calculation will be determined by the Bank as of the first day of the interest period.)

$$\text{LIBOR Rate} = \frac{\text{London Inter-Bank Offered Rate}}{(1.00 = \text{Reserve Percentage})}$$

Where,

(i) "London Inter-Bank Offered Rate" means for any applicable interest period, the rate per annum equal to the British Bankers Association LIBOR Rate BBA LIBOR"), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as selected by the Bank from time to time) at approximately 11:00 a.m., London time two (2) London Banking Days before the commencement of the interest period for U.S. Dollar deposits (for delivery on the first day of such interest period) with a term equivalent to such Interest period. If such rate is not available at such time for any reason then the rate for that interest period will be determined by such alternate method as reasonably selected by the Bank. A "London Banking Day" is a day on which banks in London are open for business and dealing in offshore dollars.

(ii) "Reserve Percentage" means the total of the maximum reserve percentages for determining the reserves to be maintained by member banks of the Federal Reserve System for Eurocurrency Liabilities, as defined in Federal Reserve Board Regulation D, rounded upward to the nearest 1/100 of one percent. The percentage will be expressed as a decimal, and will include, but not be limited to, marginal, emergency, supplemental, special, and other reserve percentages.

(d) The Borrower shall irrevocably request a LIBOR Rate Portion no later than 12:00 noon Eastern time on the LIBOR Banking Day preceding the day on which the London Inter-Bank Offered Rate will be set, as specified above. For example, if there are no intervening holidays or weekend days in any of the relevant locations, the request must be made at least three days before the LIBOR Rate takes effect.

(e) The Bank will have no obligation to accept an election for a LIBOR Rate Portion if any of the following described events has occurred and is continuing:

(i) Dollar deposits in the principal amount, and for periods equal to the Interest period, of a LIBOR Rate Portion are not available in the London inter-bank market; or

(ii) The LIBOR Rate does not accurately reflect the cost of a LIBOR Rate Portion.

(f) Each prepayment of a LIBOR Rate Portion, whether voluntary, by reason of acceleration or otherwise, will be accompanied by the amount of accrued interest on the amount prepaid and a prepayment fee as described below. A "prepayment' is a payment of an amount on a date earlier than the scheduled payment date for such amount as required by this Agreement.

(g) The prepayment fee is Intended to compensate the Bank for the funding costs of the prepaid credit, if any. The prepayment fee will be determined by calculating the funding costs incurred by the Bank, used on the cost of funds at the time the interest rate was fixed, and subtracting the interest income which can be earned by the Bank by reinvesting the prepaid funds at the Reinvestment Rate. The calculation is defined more fully below.

(h) The "Fixed interest Rate Period" is the period during which the interest rate in effect at the time of the prepayment does not change, if the Fixed Interest Rate Period does not extend for the entire remaining life of the credit, then the following rules will apply:

(i) For any portion of the prepaid principal for which the scheduled payment date is after the end of the Fixed Interest Rate Period, the prepayment fee for that portion shall be calculated based only on the period through the end of the Fixed Interest Rate Period, as described below.

(ii) If a prepayment is made on a date on which the interest rate resets, then there will be no prepayment fee.

(i) The prepayment fee calculation is made separately for each Prepaid Installment. A "Prepaid Installment is the amount of the prepaid principal that would have been due on a particular scheduled payment date (the "Scheduled Payment Date"). However, as explained in the preceding paragraph, all amounts of the credit which would have been paid after the end of the Fixed interest Rate Period shall be considered a single Prepaid Installment with a Scheduled Payment Date (for the purposes of this calculation) equal to the last day of the Fixed Interest Rate Period.

(j) The prepayment fee for a particular Prepaid Installment will be calculated as follows:

(i) Calculate the monthly interest payments that would have accrued on the Prepaid installment through the applicable Scheduled Payment Date, if the prepayment had not been made. The interest payments will be calculated using the Original Cost of Funds Rate.

(ii) Next, calculate the monthly interest income which could be earned on the Prepaid Installment if it were reinvested by the Bank at the Reinvestment Rate through the Scheduled Payment Date.

(iii) Calculate the monthly differences of the amounts calculated in (i) minus the amounts calculated in (ii).

(iv) If the remaining term of the Fixed Interest Rate Period is greater than one year, calculate the present value of the amounts calculated in (iii), using the Reinvestment Rate. The result of the present value calculation is the prepayment fee for the Prepaid Installment.

(k) Finally, the prepayment fees for all of the Prepaid Installments are added together. The sum, if greater than zero, is the total prepayment fee due to the Bank.

(l) The following definitions will apply to the calculation of the prepayment fee:

(i) "Original Cost of Funds Rate" means the fixed interest rate per annum, determined solely by the Bank, at which the Bank would be able to borrow funds in the bank Funding Markets for the duration of the Fixed Interest Rate Period in the amount of the prepaid principal and with a term, interest payment frequency, and principal repayment schedule matching the prepaid principal

(ii) "Bank Funding Markets" means one or more wholesale funding markets available to the Bank, including the LIBOR, Eurodollar, and SWAP markets as applicable and available, or such other appropriate money market as determined by the Bank in its sole discretion.

(iii) "Reinvestment Rate" means the fixed rate per annum, determined solely by the Bank, as the rate at which the Bank would be able to reinvest funds in the amount of the Prepaid Installment in the Bank Funding Markets on the date of prepayment for a period of time approximating the period starting on the date of prepayment and ending on the Scheduled Payment Date.

(m) The Original Cost of Funds Rate and the Reinvestment Rate are the Bank's estimates only and the Bank is under no obligation to actually purchase or match funds for any transaction or reinvest any prepayment. The Bank may adjust the Original Cost of Funds Rate and the Reinvestment Rate to reflect the compounding, accrual basis, or other costs of the prepaid amount. The rates shall include adjustment for reserve requirements, federal deposit insurance and any other similar adjustment which the Bank deems appropriate. These rates are not fixed by or related in any way to any rate the Bank quotes or pays for deposits accepted through its branch system.

3. FEES AND EXPENSES

3.1 Fees .

(a) Late Fee . To the extent permitted by law, the Borrower agrees to pay a late fee in an amount not to exceed four percent (4%) of any payment that is more than fifteen (15) days late; provided 'that such late fee shall be reduced to three percent (3%) of any required principal and interest payment that is not paid within fifteen (15) days of the date it is due the loan is secured by a first or subordinate lien on real property consisting of four or fewer separate households. The imposition and payment of a late fee shall not constitute a waiver of the Bank's rights with respect to the default.

4. DISBURSEMENTS, PAYMENTS AND COSTS

4.1 Disbursements and Payments .

(a) Each payment by the Borrower will be made in U.S. Dollars and immediately available funds, without setoff or counterclaim. Payments will be made by debit to a deposit account, if direct debit is provided for in this Agreement or is otherwise authorized by the Borrower. For payments not made by direct debit, payments will be made by mail to the address shown on the Borrowers statement, or by such other method as may be permitted by the Bank.

(b) The Bank may honor instructions for advances or repayments given by the Borrower (if an individual), or by any one of the individuals authorized to sign loan agreements on behalf of the Borrower, or any other individual designated by any one of authorized signers (each an "Authorized Individual"),

(c) For any payment under this Agreement made by debit to a deposit account, the Borrower will maintain sufficient immediately available funds in the deposit account to cover each debit. If there are insufficient immediately available funds in the deposit account on the date the Bank enters such debit authorized by this Agreement, the Bank may reverse the debit.

(d) Each disbursement by the Bank and each payment by the Borrower will be evidenced by records kept by the Bank. In addition, the Bank may, at its discretion, require the Borrower to sign one or more promissory notes.

(e) Prior to the date each payment of principal and interest and any fees from the Borrower becomes due (the "Due Date"), the Bank will send to the Borrower a statement of the amounts that will be

due on that Due Data (the "Billed Amount"). The calculations in the bill will be made on the assumption that no new extensions of credit or payments will be made between the date of the billing statement and the Due Date, and that there will be no changes in the applicable interest rate. If the Billed Amount differs from the actual amount due on the Due Date (the "Accrued Amount"), the discrepancy will be treated as follows:

(i) If the Billed Amount is less than the Accrued Amount, the Billed Amount for the following Due Date will be increased by the amount of the discrepancy. The Borrower will not be in default by reason of any such discrepancy.

(ii) If the Billed Amount is more than the Accrued Amount, the Billed Amount for the following Due Date will be decreased by the amount of the discrepancy.

Regardless of any such discrepancy, interest will continue to accrue based on the actual amount of principal outstanding without compounding. The Bank will not pay the Borrower interest on any overpayment

4.2 Borrower's Instructions .

(a) The Bank may honor instructions for advances or repayments or for the designation of optional interest rates given, or purported to be given, by any one of the Authorized individuals. Such instructions may be given in writing or by telephone, telefax or internet and intranet websites designated by the Bank with respect to separate products or services offered by the Bank. The Bank's obligation to act on such instructions is subject to the terms, conditions and procedures stated elsewhere in this Agreement.

(b) Except as specified elsewhere in this Agreement or as otherwise agreed between the Bank and the Borrower, advances will be deposited in and repayments will be withdrawn from account number MA-46834434352 owned by the Borrower or such other of the Borrower's accounts with the Bank as designated in writing by the Borrower.

(c) The Borrower will indemnify and hold the Bank harmless from all liability, loss, and costs in connection with any act resulting from instructions the Bank reasonably believes are made by any Authorized Individual, whether such instructions are given in writing or by telephone, telefax or electronic communications (including e-mail, internet and intranet websites). This paragraph will survive this Agreements termination, and will benefit the Bank and its officers, employees, and agents.

4.3 Direct Debit .

(a) The Borrower agrees that on the Due Date the Bank will debit the Billed Amount from deposit account number MA-4634434352 owned by the Borrower or such other of the Borrower's accounts with the Bank as designated in writing by the Borrower (the "Designated Account").

(b) The Barrower may terminate this direct debit arrangement at any time by sending written notice to the Bank at the address specified at the end of this Agreement.

4.4 Banking Days . Unless otherwise provided in this Agreement, a banking day is a day other than a Saturday, Sunday or other day on which commercial banks are authorized to close, or are in fact closed, in the state where the Bank's lending office is located, and, if such day relates to amounts bearing interest at an offshore rate (if any), means any such day on which dealings in dollar deposits are conducted among banks in the offshore dollar Interbank market. All payments and disbursements which would be due on a

day which is not a banking day will be due on the next banking day. All payments received on a day which is not a banking day will be applied to the credit on the next banking day.

4.5 Interest Calculation. Except as otherwise stated in this Agreement, all interest and fees, if any, will be computed on the basis of a 360-day year and the actual number of days elapsed, This results in more interest or a higher fee than if a 365-day year is used. Installments of principal which are not paid when due under this Agreement shall continue to bear interest until paid.

4.6 Default Rate. Upon the occurrence of any default or after maturity or after judgment has been rendered on any obligation under this Agreement, all amounts outstanding under this Agreement, including any unpaid interest, fees, or costs, will at the option of the Bank bear Interest at a rate which is 2.0 percentage points) higher than the rate of Interest otherwise provided under this Agreement. This may result in compounding of interest. This will not constitute a waiver of any default.

5. CONDITIONS

Before the Bank is required to extend any credit to the Borrower under this Agreement, it must receive any documents and other items it may reasonably require, in form and content acceptable to the Bank, including any items specifically listed below.

5.1 Authorizations. If the Borrower or any guarantor is anything other than a natural person, evidence that the execution, delivery and performance by the Borrower and/or such guarantor of this Agreement and any instrument or agreement required under this Agreement have been duly authorized.

5.2 Governing Documents. If required by the Bank, a copy of the Borrower's organizational documents.

5.3 Good Standing. Certificates of good standing for the Borrower from its state of formation and from any other state in which the Borrower is required to qualify to conduct its business.

5.4 Insurance. Evidence of insurance coverage, as required in the "Covenants" section of this Agreement.

6. REPRESENTATIONS AND WARRANTIES

When the Borrower signs this Agreement, and until the Bank is repaid in full, the Borrower makes the following representations and warranties, Each request for an extension of credit constitutes a renewal of these representations and warranties as of the date of the request:

6.1 Formation. If the Borrower is anything other than a natural person, it is duly formed and existing under the laws of the state or other Jurisdiction where organized.

6.2 Authorization. This Agreement, and any instrument or agreement required hereunder, are within the Borrowers powers, have been duly authorized, and do not conflict with any its organizational papers.

6.3 Enforceable Agreement. This Agreement is a legal, valid and binding agreement of the Borrower, enforceable against the Borrower in accordance with its terms, and any Instrument or agreement required hereunder, when executed and delivered, will be similarly legal, valid, binding and enforceable.

6.4 Good Standing. In each state in which the Borrower does business, It is properly licensed, in good standing, and, where required, in compliance with fictitious name statutes.

6.5 No Conflicts . This Agreement does not conflict with any law, agreement, or obligation by which the Borrower is bound.

6.6 Financial information . All financial and other information that has been or will be supplied to the Bank is sufficiently complete to give the Bank accurate knowledge of the Borrower's (and any guarantor's) financial condition, including all material contingent liabilities. Since the date of the most recent financial statement provided to the Bank, there has been no material adverse change in the business condition (financial or otherwise), operations, properties or prospects of the Borrower (or any guarantor). If the Borrower is comprised of the trustees of a trust, the foregoing representations shall also pertain to the trustor(s) of the trust.

6.7 Lawsuits . There is no lawsuit, tax claim or other dispute pending or threatened against the Borrower which, if lost, would impair the Borrower's financial condition or ability to repay the loan, except as have been disclosed in writing to the Bank.

6.8 Permits, Franchises . The Borrower possesses all permits, memberships, franchises, contracts and licenses required and all trademark rights, trade name rights, patent rights, copyrights and fictitious name rights necessary to enable it to conduct the business in which it is now engaged.

6.9 Other Obligations . The Borrower is not in default on any obligation for borrowed money, any purchase money obligation or any other material lease, commitment, contract, instrument or obligation, except as have been disclosed in writing to the Bank.

6.10 Tax Matter . The Borrower has no knowledge of any pending assessments or adjustments of its income tax for any year and all taxes due have been paid, except as have been disclosed in writing to the Bank.

6.11 No Event of Default . There is no event which is, or with notice or lapse of time or both would be, a default under this Agreement.

6.12 Insurance . The Borrower has obtained, and maintained in effect, the insurance coverage required in the "Covenants" section of this Agreement.

7. COVENANTS

The Borrower agrees, so long as credit is available under this Agreement and until the Bank is repaid in full:

7.1 Use of Proceeds .

(a) To use the proceeds of Facility No. 1 only for working capital and general corporate purposes.

7.2 Financial Information . To provide the following financial information and statements in form and content acceptable to the Bank, and such additional information as requested by the Bank from time to time. The Bank reserves the right, upon written notice to the Borrower, to require the Borrower to deliver financial information and statements to the Bank more frequently than otherwise provided below, end to use such additional information and statements to measure any applicable financial covenants in this Agreement.

(a) Within one hundred eighty (180) days of the fiscal year end, the annual financial statements of the Borrower, certified and dated by an authorized financial officer. These financial statements must be audited (with an opinion satisfactory to the Bank) by a Certified Public Accountant

acceptable to the Bank, and accompanied by a final certified compliance certificate as described in paragraph (c) below. The statements shall be prepared on a consolidated basis.

(b) Within forty-five (45) days after each periods end (including the last period in each fiscal year), quarterly financial statements of the Borrower, certified and dated by an authorized financial officer. These financial statements may be company-prepared. The statements shall be prepared on a consolidated basis.

(c) Within forty-five (45) days of the end of each quarter (including the last period in each fiscal year), a compliance certificate of the Borrower signed by an authorized financial officer, and setting forth whether there existed as of the date of such financial statements and whether there exists as of the date of the certificate, any Event of Default under this Agreement applicable to the party submitting the information and, if any such Event of Default exists, specifying the nature thereof and the action the party is taking and proposes to take with respect thereto.

7.3 Minimum Unencumbered Liquid Assets . To maintain Unencumbered Liquid Assets having an aggregate market value of not less than Twenty Million and 00/100 Dollars (20,000,000.00) plus the amount of any borrowings under the Facility No. 1 Commitment for the period December 31, 2012 and thereafter.

This covenant will be tested quarterly and annually.

"Unencumbered Liquid Assets" means the following assets (excluding assets of any retirement plan) which (i) are not the subject of any lien, pledge, security Interest or other arrangement with any creditor to have his claim satisfied out of the asset (or proceeds thereof) prior to the general creditors of the owner of the asset, (ii) are held solely in the name of one or more credit parties subject to this covenant (with no other persons or entities having ownership rights therein). The Unencumbered Liquid Assets shall be held in a Bank of America depository account.

7.4 Tangible Net Worth . To maintain on a consolidated basis Tangible Net Worth, for the twelve-month period ending as of each fiscal quarter, equal to at least Twenty Million and 00/100 Dollars ($20,000,000.00) for the period December 31, 2012 and thereafter.

This covenant will be tested quarterly, annually and measured at an all times basis.

"Tangible Net Worth" means the value of total assets (including leaseholds and leasehold improvements and reserves against assets but excluding goodwill, patents, trademarks, trade names, organization expense, unamortized debt discount and expense, capitalized or deferred research and development costs, deferred marketing expenses, and other like intangibles (other than domain names), and monies due from affiliates, officers, directors, employees, shareholders, members or managers) less total liabilities, including but not limited to accrued and deferred income taxes, but excluding the non-current portion of Subordinated Liabilities.

"Subordinated Liabilities" means liabilities subordinated to the Borrower's obligations to the Bank in a manner acceptable to the Bank in its sole discretion.

7.5 Capitalized terms not defined in paragraphs 7.3 and 7.4 shall have the meaning applied to such terms under generally acceptable accounting principles.

7.6 Bank as Principal Depository . To maintain the Bank or one of its affiliates as its principal depository bank including for the maintenance of business, cash management, operating and administrative deposit accounts.

7.7 Other Debts . Not to have outstanding or incur any direct or contingent liabilities or lease obligations (other than those to the Bank or to any affiliate of the Bank), or become liable for the liabilities of others, without the Bank's written consent, not to be unreasonably withheld, conditioned or delayed. This does not prohibit:

(a) Acquiring goods, supplies, or merchandise on normal trade credit.

(b) Endorsing negotiable instruments received in the usual course of business.

(c) Obtaining surety bonds in the usual course of business.

(d) Liabilities, lines of credit and leases in existence on the date of this Agreement disclosed in writing to the Bank.

(e) Additional debts and lease obligations for the acquisition of fixed assets, to the extent permitted elsewhere in this Agreement.

(f) Additional unsecured indebtedness not to exceed One Hundred Thousand and 00/100 Dollars ($100,000.00).

7.8 Other Liens . (i) Not to enter into any agreement with any other creditor wherein Borrower agrees not to create, assume, or allow a security interest or lien to exist on any of its assets; and (ii) not to create, assume, or allow any security interest or lien (including judicial liens) on property the Borrower now or later owns, except:

(a) Liens and security interests in favor of the Bank or any affiliate of the Bank.

(b) Liens for taxes, fees, assessments or other government charges or levies, either not delinquent or being contested in good faith.

(c) Liens outstanding on the date of this Agreement disclosed in writing to the Bank.

(d) Additional purchase money security interests in assets acquired after the date of this Agreement.

(e) Liens of carriers, warehousemen, suppliers, or other persons that are possessory in nature arising in the ordinary course of business.

(f) Liens to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business (other than Liens imposed by ERISA).

(g) Leases or subleases of real property granted in the ordinary course of business, and leases, subleases, non-exclusive licenses or sublicenses of property (other than real property and intellectual properly) granted in the ordinary course of Borrower's business.

(h) (i) Non-exclusive licenses of intellectual property granted to third parties in the ordinary course of business, and (ii) other licenses of intellectual property that would not result in a legal transfer of title of the licensed property.

(i) Liens arising from attachments or judgments, orders or decrees in circumstances not constituting an Event of Default under Section 8.9.

7.9 Maintenance of Assets .

(a) Not to sell, assign, tease, transfer or otherwise dispose of any part of the Borrower's business or the Borrower's assets except in the ordinary course of the Borrower's business,

(b) Not to sell, assign, lease, transfer or otherwise dispose of any assets for ICES than fair market value, or enter into any agreement to do so,

(c) Not to enter into any sale and leaseback agreement covering any of its fixed assets,

(d) To maintain and preserve all rights, privileges, and franchises the Borrower now has.

(e) To make any repairs, renewals, or replacements to keep the Borrower's properties in good working condition.

7.10 Investments . Not to have any existing, or make any new, investments in any individual or entity, or make any capital contributions or other transfers of assets to any individual or entity, except for

(a) Existing Investments disclosed to the Bank in writing,

(b) Investments in the Borrower's current subsidiaries.

(c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of Borrower.

(d) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business.

(e) Investments in any of the following:

(i) certificates of deposit;

(ii) U.S. treasury bills and other obligations at the federal government

(iii) readily marketable securities (including commercial paper, but excluding restricted stock and stock subject to the provisions of Rule 144 of the Securities and Exchange Commission).

7.11 Loans . Not to make any loans, advances or other extensions of credit to any Individual or entity, except for:

(a) Existing extensions of credit disclosed to the Bank in writing.

(b) Extensions of credit to the Borrower's current subsidiaries.

(c) Extensions of credit in the nature of accounts receivable or notes receivable arising from the sale or lease of goods or services in the ordinary course of business to non-affiliated entities.

(d) Extensions of credit consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower pursuant to employee stock purchase plans or agreements approved by Borrower's board of directors.

7.12 Change of Management or Ownership . Not to make any substantial change in the executive roles of Niraj Shah and Steven Conine; not to pause or permit Neel Shah or Steven Conine to change their direct or indirect capital ownership of the Borrower to be lean than a majority ownership interest in Borrower.

7.13 Additional Negative Covenants . Not to, without the Bank's written consent, not to be unreasonably withheld, conditioned or delayed:

(a) Enter into any consolidation, merger, or other combination.

(b) Engage in any business activities substantially different from the Borrower's present business.

(c) Liquidate or dissolve the Borrower's business.

(d) Voluntarily suspend the Borrower's business for more than seven (7) days in any thirty (30) day period.

7.14 Notices to Bank . To promptly notify the Bank in writing of:

(a) Any lawsuit over One Million and 00/100 Dollars ($1,000,000.00) against the Borrower or any Obligor.

(b) Any substantial dispute between any governmental authority and the Borrower or any Obligor.

(c) Any Event of Default under this Agreement, or any event which, with notice or lapse of time or both, would constitute an Event of Default.

(d) Any material adverse change in the Borrower's or any Obligor's financial condition, operations or properties, or ability to repay the credit.

(e) Any change in the Borrower's or any Obligor's name, legal structure, principal residence (for an individual), state of registration (for a registered entity), piece of business, or chief executive office if the Borrower or any Obligor has more than one place of business.

(f) Any actual contingent liabilities of the Borrower or any Obligor, and any such contingent liabilities which are reasonably foreseeable.

For purposes of this Agreement, "Obligor shall mean any guarantor, or any party pledging collateral to the Bank, or, if the Borrower is comprised of the trustees of a trust, any trustor.

7.15 Insurance .

(a) General Business Insurance . To maintain insurance as is usual for the business it is in.

7.16 Compliance with Laws . To comply with the laws (including any fictitious or trade name statute), regulations, and orders of any government body with authority over the Borrower's business. The Bank shall have no obligation to make any advance to the Borrower except in compliance with all applicable laws and regulations and the Borrower shall fully cooperate with the Bank in complying with all such applicable laws and restrictions.

7.17 ERISA Plans . Promptly during each year, to pay and cause any subsidiaries to pay contributions adequate to meet at least the minimum funding standards under ERISA with respect to each and every Plan; file each annual report required to be titled pursuant to ERISA in connection with each Plan for each

year; and notify the Bank within ten (10) days of the occurrence of any Reportable Event that might constitute grounds for termination of any capital Plan by the Pension Benefit Guaranty Corporation or for the appointment by the appropriate United States District Court of a trustee to administer any Plan. "ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, Capitalized terms in this paragraph shall have the meanings defined within ERISA.

7.18 Books and Records . To maintain adequate books and records.

7.19 Audits . To allow the Bank and its agents to inspect the Borrower's properties and examine, audit, and make copies of books and records at any reasonable time. If any of the Borrower's properties, books or records are in the possession of a third party, the Borrower authorizes that third party to permit the Bank or its agents to have access to perform inspections or audits and to respond to the Bank's requests for information concerning such properties, books and records.

7.20 Cooperation . To take any action reasonably requested by the Bank to carry out the intent of this Agreement.

8. DEFAULT AND REMEDIES

If any of the following occur (each, an 'Event of Default"), the Bank may do one or more of the following: declare the Borrower in default, stop making any additional credit available to the Borrower, and require the Borrower to repay its entire debt immediately and without prior notice. If an event which, with notice or the passage of time, will constitute an Event of Default has occurred and is continuing, the Bank has no obligation to make advances or extend additional credit under this Agreement. In addition, if any Event of Default occurs, the Bank shall have all rights, powers and remedies available under any Instruments and agreements required by or executed in connection with this Agreement, as well as all rights and remedies available at law or in equity. If an Event of Default occurs under the paragraph entitled "Bankruptcy," below, with respect to the Borrower, then the entire debt outstanding under this Agreement will automatically be due Immediately.

8.1 Failure to Pay . The Borrower fails to make a payment under this Agreement when due.

8.2 Other Breach Under Agreement . A default occurs under any other term or condition of this Agreement not specifically referred to in this Article and such default, if susceptible of cure, remains uncured for 30 days. This Section 8.2 includes any failure or anticipated failure by the Borrower (or any other party named in the Covenants section) to comply with the financial covenants set forth in this Agreement, whether such failure is evidenced by financial statements delivered to the Bank or is otherwise known to the Borrower or the Bank. The 30 day cure period shall not apply to financial covenant defaults.

8.3 Other Bank Agreements . Any default occurs under any other agreement the Borrower (or any Obligor) or any of the Borrowers related entities or affiliates has with the Bank or any affiliate of the Bank and such default remains uncured beyond any applicable grace or cure period.

8.4 Cross-default . Any default occurs under any agreement in connection with any credit in excess of $250,000.00 that the Borrower (or any Obligor) or any of the Borrowers related entities or affiliates has obtained from anyone else or which the Borrower (or any Obligor) or any of the Borrower's related entitles or affiliates has guaranteed.

8.5 False Information . The Borrower or any Obligor has given the Bank false or misleading information or representations.

8.6 Bankruptcy . The Borrower, any Obligor, or any general partner of the Borrower or of any Obligor flies a bankruptcy petition, a bankruptcy petition is filed against any of the foregoing parties, and such petition has not been dismissed or stayed within sixty (60) days of such filing, or the Borrower, any Obligor, or any general partner of the Borrower or of any Obligor makes a general assignment for the benefit of creditors.

8.7 Receivers . A receiver or similar official is appointed for a substantial portion of the Borrower's or any Obligor's business, or the business is terminated, or, if any Obligor is anything other than a natural person, such Obligor is liquidated or dissolved.

8.8 Lien Priority . The Bank fails to have an enforceable first lien (except for any prior liens to which the Bank has consented in writing) on or security interest in any property given as security for this Agreement (or any guaranty).

8.9 Judgments . Any judgments or arbitration awards are entered against the Borrower or any Obligor, or the Borrower or any Obligor enters into any settlement agreements with respect to any litigation or arbitration, in an aggregate amount of One Million and 00/100 Dollars ($1,000,000.00) or more in excess of any insurance coverage.

8.10 Material Adverse Change . A material adverse change occurs, or is reasonably likely to occur, in the Borrower's (or any Obligor's) business condition (financial or otherwise), operations, properties or prospects, or ability to repay the credit; or the Bank determines that it is insecure for any other reason.

8.11 Government Action . Any government authority takes action that the Bank believes materially adversely affects the borrowers or any Obligors financial condition or ability to repay.

8.12 ERISA Plans . Any one or more of the following events occurs with respect to a Plan of the Borrower subject to Title IV of ERISA, provided such event or events could reasonably be expected, in the judgment of the Bank, to subject the Borrower to any tax, penalty or liability (or any combination of the foregoing) which, in the aggregate, could have a material adverse effect on the financial condition of the Borrower;

(a) A reportable event shall occur under Section 4043(c) of ERISA with respect to a Plan.

(b) Any Plan termination (or commencement of proceedings to terminate a Plan) or the full or partial withdrawal from a Plan by the Borrower or any ERISA Affiliate.

9. ENFORCING THIS AGREEMENT; MISCELLANEOUS

9.1 GAAP . Except as otherwise stated in this Agreement, all financial Information provided to the Bank and all financial covenants will be made under generally accepted accounting principles, consistently applied.

9.2 Governing Law . This Agreement is governed by and shall be interpreted according to federal law and the laws of Massachusetts. If state or local law and federal law are Inconsistent, or if state or local law is preempted by federal law, federal law governs. If the Bank has greater rights or remedies under federal law, whether as a national bank or otherwise, this paragraph shall not be deemed to deprive the Bank of such rights and remedies as may be available under federal law.

9.3 Successors and Assigns . This Agreement is binding on the Borrowers and the Banks successors and assignees. The Borrower agrees that it may not assign this Agreement without the Bank's prior consent, not to be unreasonably withheld, conditioned or delayed. The Bank may sell participations in or

assign this loan, and may exchange information about the Borrower (including, without limitation, any information regarding any hazardous substances) with actual or potential participants or assignees. If a participation is sold or the loan is assigned, the purchaser will have the right of set-off against the Borrower.

9.4 Dispute Resolution Provision . This paragraph, including the subparagraphs below, is referred to as the "Dispute Resolution Provision." This Dispute Resolution Provision is a material inducement for the parties entering into this agreement.

(a) This Dispute Resolution Provision concerns the resolution of any controversies or claims between the parties, whether arising in contract, tort or by statute, including but not limited to controversies or claims that arise out of or relate to: (i) this agreement (including any renewals, extensions or modifications); or (ii) any document related to this agreement (collectively a "Claim"). For the purposes of this Dispute Resolution Provision only, the term "parties" shall include any parent corporation, subsidiary or affiliate of the Bank involved in the servicing, management or administration of any obligation described or evidenced by this agreement.

(b) At the request of any party to this agreement, any Claim shall be resolved by binding arbitration in accordance with the Federal Arbitration Act (Title 9, U.S. Code) (the "Act"). The Act will apply even though this agreement provides that it is governed by the law of a specified state.

(c) Arbitration proceedings will be determined in accordance with the Act, the then-current rules and procedures for the arbitration of financial services disputes of the American Arbitration Association or any successor thereof ("AAA"), end the terms of this Dispute Resolution Provision, in the event of any inconsistency, the terms of this Dispute Resolution Provision shall control. If AAA is unwilling or unable to (i) serve as the provider of arbitration or (ii) enforce any provision of this arbitration clause, the Bank may designate another arbitration organization with similar procedures to serve as the provider of arbitration.

(d) The arbitration shall be administered by AAA and conducted, unless otherwise required by law, in any U.S. state where real or tangible personal property collateral for this credit is located or if there is no such collateral, in the state specified in the governing law section of this agreement. All Claims shall be determined by one arbitrator, however, if Claims exceed Five Million Dollars ($5,000,000.00), upon the request of any party, the Claims shall be decided by three arbitrators. All arbitration hearings shall commence within ninety (90) days of the demand for arbitration and close within ninety (90) days of commencement and the award of the arbitrator(s) shall be issued within thirty (30) days of the close of the hearing. However, the Arbitrator(s), upon a showing of good cause, may extend the commencement or the hearing for up to an additional sixty (60) days. The arbitrator(s) shall provide a concise written statement of reasons for the award. The arbitration award may be submitted to any Court having jurisdiction to be confirmed and have judgment entered and enforced.

(e) The arbitrator(s) will give effect to statutes of limitation in determining any Claim and shall dismiss the arbitration if the Claim is barred under the applicable statutes of limitation. For purposes of the application of any statutes of limitation, the service on AAA under applicable AAA rules of a notice of Claim is the equivalent of the filing of a lawsuit. Any dispute concerning this arbitration provision or whether a Claim is arbitrable shall be determined by the arbitrator(s), except as set forth at subparagraph (h) of this Dispute Resolution Provision. The arbitrator(s) shall have the power to award legal fees pursuant to the terms of this agreement

(f) This paragraph does not limit the right of any party to: (i) exercise self-help remedies, such as but not limited to setoff; (ii) initiate judicial or non-Judicial foreclosure against any real or personal

property collateral; (iii) exercise any judicial or power of sale rights, or (iv) act in a court of law to obtain an interim remedy, such as but not limited to, injunctive relief, writ of possession or appointment of a receiver, or additional or supplementary remedies.

(g) The filing of a court action is not intended to constitute a waiver of the right of any party, including the suing party, thereafter to require submittal of the Claim to arbitration.

(h) Any arbitration or court trial (whether before a Judge or jury) of any Claim will take place on an individual basis without resort to any form of class or representative action (the "Class Action Waiver"). The Class Action Waiver precludes any party from participating in or being represented in any class or representative action regarding a Claim. Regardless of anything else in this Dispute Resolution Provision, the validity and effect of the Class Action Waiver may be determined only by a court and not by an arbitrator. The parties to this agreement acknowledge that the Class Action Waiver is material and essential to the arbitration of any disputes between the parties and is nonseverable from the agreement to arbitrate Claims. If the Class Action Waiver is limited, voided or found unenforceable, then the parties' agreement to arbitrate shall be null and void with respect to such proceeding, subject to the right to appeal the limitation or invalidation of the Class Action Waiver. The Parties acknowledge and agree that under no circumstances will a class action be arbitrated.

(i) By agreeing to binding arbitration, the parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of any Claim. Furthermore, without intending in any way to limit this agreement to arbitrate, to the extent any Claim is not arbitrated, the parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of such Claim. This waiver of jury trial shall remain in effect even if the Class Action Waiver is limited, voided or found unenforceable. **WHETHER THE CLAIM IS DECIDED BY ARBITRATION OR BY TRIAL BY A JUDGE, THE PARTIES AGREE AND UNDERSTAND THAT THE EFFECT OF THIS AGREEMENT IS THAT THEY ARE GIVING UP THE RIGHT TO TRIAL BY JURY TO THE EXTENT PERMITTED BY LAW.**

9.5 Severability; Waivers . If any part of this Agreement is not enforceable, the rest of the Agreement may be enforced. The Bank retains all rights, even if it makes a loan after default. If the Bank waives a default, it may enforce a later default. Any consent or waiver under this Agreement must be in writing.

9.6 Attorneys' Fees . The Borrower shall reimburse the Bank for any reasonable costs and attorneys' fees incurred by the Bank in connection with the enforcement or preservation of any rights or remedies under this Agreement and any other documents executed in connection with this Agreement and in connection with any amendment, waiver, "workout" or restructuring under this Agreement. In the event of a lawsuit or arbitration proceeding, the prevailing party is entitled to recover costs and reasonable attorneys' fees incurred in connection with the lawsuit or arbitration proceeding, as determined by the court or arbitrator. In the event that any case is commenced by or against the Borrower under the Bankruptcy Code (Title 11, United States Code) or any similar or successor statute, the Bank is entitled to recover costs and reasonable attorneys' fees incurred by the Bank related to the preservation, protection, or enforcement of any rights of the Bank in such a case. As used in this paragraph, "attorneys' fees" includes the allocated costs of the Bank's in-house counsel.

9.7 Set-Off.

(a) In addition to any rights and remedies of the Bank provided by law, upon the occurrence and during the continuance of any event of default under this Agreement, the Bank is authorized, at any time, to set off and apply any and all Deposits of the Borrower or any Obligor held by the Bank or its affiliates against any and all Obligations owing to the Bank. The set-off may be made

irrespective of whether or not the Bank shall have made demand under this Agreement or any guaranty, and although such Obligations may be contingent or unmatured or denominated in a currency different from that of the applicable Deposits and without regard for the availability or adequacy of other collateral. Any Deposits may be converted, sold or otherwise liquidated at prevailing market prices in order to effect such set-off.

(b) The set-off may be made without prior notice to the Borrower or any other party, any such notice being waived by the Borrower (on its own behalf and on behalf of each Obligor) to the fullest extent permitted by few. The Bank agrees promptly to notify the Borrower after any such set-off and application; provided , however , that the failure to give such notice shall net effect the validity of such set-off and application.

(c) For the purposes of this paragraph, "Deposits" means any deposits (genera] or special, time or demand, provisional or final, individual or Joint) as well as any money, instruments, securities, credits, claims, demands, income or other property, rights or interests owned by the Borrower or any Obligor which come into the possession or custody or under the control of the Bank or its affiliates. "Obligations" means all obligations, now or hereafter existing, of the Borrower to the Bank under this Agreement and under any other agreement or instrument executed in connection with this Agreement, and the obligations to the Bank of any Obligor, **TO THE EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS TO REQUIRE THE BANK TO EXERCISE ITS REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE OBLIGATIONS PRIOR TO EXERCISING ITS RIGHT OF SET OFF WITH RESPECT TO SUCH DEPOSITS ARE HEREBY VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVED** .

9.8 One Agreement . This Agreement and any related security or other agreements required by this Agreement, collectively:

(a) represent the sum of the understandings and agreements between the Bank and the Borrower concerning this credit;

(b) replace any prior oral or written agreements between the Bank and the Borrower concerning this credit; and

(c) are Intended by the Bank and the Borrower as the final, complete end exclusive statement of the terms agreed to by them.

In the event of any Conflict between this Agreement and any other agreements required by this Agreement, this Agreement will prevail. Any reference in any related document to a "promissory note' or a "note" executed by the Borrower and dated as of the date of this Agreement shall be deemed to refer to this Agreement, as now in effect or as hereafter amended, renewed, or restated.

9.9 Waiver of Confidentiality . The Borrower authorizes the Bank to discuss the Borrower's financial affairs and business operations with any accountants or auditors employed by the Borrower, and authorizes such parties to discuss to the Bank such financial and business Information or reports (including management letters) concerning the Borrower as the Bank may request.

9.10 Indemnification . The Borrower will indemnify and hold the Bank harmless from any loss, liability, damages, judgments, and costs of any kind relating to or arising directly or indirectly out of (a) this Agreement or any document required hereunder, (b) any credit extended or committed by the Bank to the Borrower hereunder, and (c) any litigation or proceeding related to or arising out of this Agreement, any such document, or any such credit. This indemnity includes but is not limited to attorneys' fees

(including the allocated cost of in-house counsel). This indemnity extends to the Bank, its parent, subsidiaries, affiliates and all of their directors, officers, employees, agents, successors, attorneys, and assigns. This indemnity will survive repayment of the Borrower's obligations to the Bank. All sums due to the Bank hereunder shall be obligations of the Borrower, due and payable immediately without demand.

9.11 Notices. Unless otherwise provided in this Agreement or in another agreement between the Bank and the Borrower, all notices required under this Agreement shall be personally delivered or sent by first class mail, postage prepaid, or by overnight courier, to the addresses on the signature page of this Agreement, or sent by facsimile to the fax numbers listed on the signature pages, or to such other addresses as the Bank and the Borrower may specify from time to time in writing. Notices and other communications shall be effective (i) if mailed, upon the earlier of receipt or five (5) days after deposit in the U.S. mail, first class, postage prepaid, (if) if telecopied, when transmitted, or (iii) if hand-delivered, by courier or otherwise (including telegram, lettergram or mailgram), when delivered,

9.12 Headings. Article and paragraph headings are for reference only and shall not affect the interpretation or meaning of any provisions of this Agreement.

9.13 Counterparts. This Agreement may be executed in as many counterparts as necessary or convenient, and by the different parties on separate counterparts each of which, when so executed, shall be deemed an original but all such counterparts shall constitute but one and the same agreement. Delivery of an executed counterpart of this Agreement (or of any agreement or document required by this Agreement and any amendment to this Agreement) by telecopy or other electronic imaging means shall be as effective as delivery of a manually executed counterpart of this Agreement provided, however, that the telecopy or other electronic image shall be promptly followed by an original if required by the Bank.

9.14 Borrower Information; Reporting to Credit Bureaus. The Borrower authorizes the Bank at any time to verify or check any information given by the Borrower to the Bank, check the Borrowers credit references, verify employment, and obtain credit reports. The Borrower agrees that the Bank shall have the right at all times to disclose and report to credit reporting agencies and credit rating agencies such information pertaining to the Borrower and/or all guarantors as is consistent with the Bank's policies and practices from time to time in effect.

9.15 Amendment and Restatement of Prior Agreement. This Agreement is an amendment and restatement, in its entirety, of the Loan Agreement entered into as of October 12, 2010, between the Bank and CSN Stores LLC, now known as Wayfair LLC, and any indebtedness outstanding thereunder shall be deemed to be outstanding under this Agreement. Nothing in this Agreement shall be deemed to be a repayment or novation of the indebtedness, or to release or otherwise adversely affect any lien, mortgage or security interest securing such indebtedness or any rights of the Bank against any guarantor, surety or other party primarily or secondarily liable for such indebtedness.

9.16 Limitation of Interest and Other Charges. If, at any time, the rate of interest, together with all amounts which constitute interest and which are reserved, charged or taken by the Bank as compensation for fees, services or expenses incidental to the making, negotiating or collection of the loan evidenced hereby, shall be deemed by any competent court of law, governmental agency or tribunal to exceed the maximum rate of Interest permitted to be charged by the Bank to the Borrower under applicable law, then, during such time as such rate of interest would be deemed excessive, that portion of each sum paid attributable to that portion of such interest rate that exceeds the maximum rate of interest so permitted shall be deemed a voluntary prepayment of principal. As used herein, the term "applicable laws shall mean the law in effect as of the date hereof; provided, however, that in the event there is a change in the law which results in a higher permissible rate of interest, then this Agreement shall be governed by such new law as of its effective date.

The Borrower executed this Agreement as of the date stated at the top of the first page, intending to create an instrument executed under seal.

Bank:

Bank of America, NA,

By: /s/ CP Busconi
Christopher P . Busconi, Senior Vice President

Borrower:

WAYFAIR LLC

By: /s/ Nicholas Malone (Seal)
Nicholas C. Malone, Chief Financial Officer

/s/ Marie Moynihan
Witness

Address where notices to WAYFAIR LLC are to be sent
177 Huntington Ave
Boston, MA 02115

Telephone: (617) 532-6100
Email: legal@wayfair.com

Address where notices to the Bank are to be sent
Doc Retention-CF
CT2-515-BB-03
70 Batterson Park Road
Farmington, CT 06032

Federal law requires Bank of America, N.A. (the "Bank"), to provide the following notice. The notice is not part of the foregoing agreement or instrument and may not be altered. Please read the notice carefully.

(1) USA PATRIOT ACT NOTICE

Federal law requires all financial Institutions to obtain, verify and record information that identifies each person who opens an account or obtains a loan. The Bank will ask for the Borrower's legal name, address, tax ID number or social security number and other identifying information. The Bank may also ask for additional information or documentation or take other actions reasonably necessary to verify the identity or the Borrower, guarantors or other related persons.

Bank of America

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AMENDMENT NO. 1 TO LOAN AGREEMENT

This Amendment No. 1 (the "Amendment") dated as of October 29, 2013, is between Bank of America, N.A. (the "Bank") and Wayfair LLC (the "Borrower").

RECITALS

(A) The Bank and the Borrower entered into a certain Loan Agreement dated as of October 29, 2012 (together with any previous amendments, the "Agreement"). The current commitment amount of Facility No. 1 is Ten Million and 00/100 Dollars ($10,000,000.00) and the current commitment amount under the Card Program is Fifteen Million and 00/100 Dollars ($15,000,000.00).

(B) The Bank and the Borrower desire to amend the Agreement.

AGREEMENT

1. Definitions . Capitalized terms used but not defined in this Amendment shall have the meaning given to them in the Agreement.

2. Amendments . The Agreement is hereby amended as follows:

2.1. Paragraph 1.1 is hereby amended to read in its entirety as follows:

1.1 Line of Credit Amount.

(a) During the availability period described below, the Bank will provide a line of credit to the Borrower ("Facility No. 1"). The amount of the Facility No. 1 commitment (the Facility No. 1 Commitment") is Ten Million and 00/100 Dollars ($10,000,000.00). As of the date hereof, FIA Services, Inc. has agreed to provide a card program to the Borrower ("Card Program") in the amount of Fifteen Million and 00/100 Dollars ($15,000,000.00). In no event shall the Facility No. 1 Commitment together with the commitment under the Card Program exceed at any time Twenty Five Million and 00/100 Dollars ($25,000,000.00).

(b) The Facility No. 1 is a revolving line of credit. During the availability period, the Borrower may repay principal amounts and reborrow them subject to the maximum amount limitations set forth in paragraph (a) above.

(c) The Borrower agrees not to permit the principal balance outstanding under Facility No. 1 to exceed the Facility No. 1 Commitment as such commitment maybe reduced from time to time by the Card Program. If the Borrower exceeds the applicable limitation, the Borrower will immediately pay the excess to the Bank upon the Bank's demand.

2.2 In Paragraph 1.2, the date "October 28,2013" is changed to "October 28, 2014".

3. Representations and Warranties . When the Borrower signs this Amendment, the Borrower represents and warrants to the Bank that: (a) there is no event which is, or with notice or lapse of time or both would be, a default under the Agreement except those events, if any, that have been disclosed in writing to the Bank or waived in writing by the Bank (b) the representations and warranties in the Agreement are true as of the date of this Amendment as if made on the date of this Amendment, (c) this

Amendment does not conflict with any law, agreement, or obligation by which the Borrower is bound, and (d) if the Borrower is a business entity or a trust, this Amendment is within the Borrower's powers, has been duly authorized, and does not conflict with any of the Borrower's organizational papers.

4. Conditions. This Amendment will be effective when the Bank receives the following items, in form and content acceptable to the Bank:

4.1 If the Borrower or any guarantor is anything other than a natural person, evidence that the execution, delivery, and performance by the Borrower and/or such guarantor of this Amendment and any instrument or agreement required under this Amendment have been duly authorized.

5. Effect of Amendment. Except as provided in this Amendment, all of the terms and conditions of the Agreement, including but not limited to the Dispute Resolution Provision, shall remain in full force and effect.

6. Counterparts. This Amendment may be executed in counterparts, each of which when so executed shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

7. **FINAL AGREEMENT. BY SIGNING THIS DOCUMENT EACH PARTY REPRESENTS AND AGREES THAT: (A) THIS DOCUMENT REPRESENTS THE ANAL AGREEMENT BETWEEN PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF,(B) THIS DOCUMENT SUPERSEDES ANY COMMITMENT LETTER, TERM SHEET OR OTHER WRITTEN OUTLINE OF TERMS AND CONDITIONS RELATING TO THE SUBJECT MATTER HEREOF, UNLESS SUCH COMMITMENT LETTER, TERM SHEET OR OTHER WRITTEN OUTLINE OF TERMS AND CONDITIONS EXPRESSLY PROVIDES TO THE CONTRARY, (C) THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES, AND (D) THIS DOCUMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR UNDERSTANDINGS OF THE PARTIES.**

The parties executed this Amendment as of the date stated at the beginning of this Amendment, intending to create an instrument executed under seal.

Bank of America, N.A.

By: /s/ Christopher P. Busconi
Christopher P. Busconi, Senior Vice President

BORROWER(S) :

Wayfair LLC

By: /s/ Nicholas C. Malone
Nicholas C. Malone, Chief Administrative Officer

/s/ Marie Moynihan
Witness

Exhibit 21.1

Subsidiary Name	State or Other Jurisdiction of Incorporation or Organization
Wayfair LLC	Delaware
Wayfair Australia Pty Limited	Australia
Wayfair Stores Limited	Ireland
Wayfair (BVI) Ltd.	British Virgin Islands
Wayfair (UK) Limited	United Kingdom
Wayfair GmbH	Germany

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Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the reference to our firm under the caption "Experts" and to the use of our report dated May 7, 2014, with respect to the consolidated financial statements of Wayfair LLC included in the Registration Statement (Form S-1) and related prospectus of Wayfair Inc. dated August 15, 2014.

/s/ Ernst & Young LLP

Boston, Massachusetts
August 15, 2014

QuickLinks

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm