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

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended June 30, 2020

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from to

Commission file number: 001-33520

comScore, Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

54-1955550

(I.R.S. Employer Identification Number)

11950 Democracy Drive, Suite 600

Reston, Virginia 20190

(Address of Principal Executive Offices)

(703) 438-2000

(Registrant's Telephone Number, Including Area Code)

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

Title of Each Class	Trading Symbol	Name of Each Exchange on Which Registered
Common Stock, par value \$0.001 per share	SCOR	NASDAQ Global Select Market

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes No

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

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

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

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

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date: As of August 6, 2020, there were 71,219,621 shares of the registrant's Common Stock outstanding.

COMSCORE, INC.
QUARTERLY REPORT ON FORM 10-Q
FOR THE QUARTER ENDED JUNE 30, 2020

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CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

We may make certain statements, including in this Quarterly Report on Form 10-Q, or 10-Q, including the information contained in [Item 2](#), "Management's Discussion and Analysis of Financial Condition and Results of Operations" of this 10-Q, and the information incorporated by reference in this 10-Q, that constitute forward-looking statements within the meaning of federal and state securities laws. Forward-looking statements are all statements other than statements of historical fact. We attempt to identify these forward-looking statements by words such as "may," "will," "should," "could," "might," "expect," "plan," "anticipate," "believe," "estimate," "target," "goal," "predict," "intend," "potential," "continue," "seek" and other comparable words. Similarly, statements that describe our business strategy, goals, prospects, opportunities, outlook, objectives, plans or intentions are also forward-looking statements. These statements may relate to, but are not limited to, expectations of future operating results or financial performance; expectations regarding the impact on our business of the COVID-19 pandemic and global measures to mitigate the spread of the virus; macroeconomic trends that we expect may influence our business, including any recession resulting from the COVID-19 pandemic; plans for business continuity, financing and capital expenditures; expectations regarding liquidity, customer payments and compliance with financing covenants and other payment obligations; expectations regarding the introduction of new products; effects of restructuring, remote work arrangements and other employment actions; regulatory compliance and expected changes in the regulatory or privacy landscape affecting our business; expected impact of litigation and regulatory proceedings; plans for stabilization, growth and future operations; effects of acquisitions, divestitures and partnerships; as well as assumptions relating to the foregoing.

Forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified. These statements are based on expectations and assumptions as of the date of this 10-Q regarding future events and business performance and involve known and unknown risks, uncertainties and other factors that may cause actual events or results to be materially different from any future events or results expressed or implied by these statements. These factors include those set forth in the following discussion and within [Item 1A](#), "Risk Factors" of this 10-Q and elsewhere within this report; those identified within [Item 1A](#), "Risk Factors" of our Annual Report on Form 10-K for the year ended December 31, 2019 and [Item 1A](#), "Risk Factors" of our Quarterly Report on Form 10-Q for the quarter ended March 31, 2020; and those identified in other documents that we file from time to time with the U.S. Securities and Exchange Commission, or SEC.

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

PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

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

	As of June 30, 2020 (Unaudited)	As of December 31, 2019
Assets		
Current assets:		
Cash and cash equivalents	\$ 35,899	\$ 46,590
Restricted cash	19,611	20,183
Accounts receivable, net of allowances of \$2,772 and \$1,919, respectively (\$2,406 and \$2,698 of accounts receivable attributable to related parties, respectively)	64,026	71,853
Prepaid expenses and other current assets (\$1,156 and \$1,180 attributable to related parties, respectively)	14,755	15,357
Total current assets	134,291	153,983
Property and equipment, net	30,362	31,693
Operating right-of-use assets	31,484	36,689
Other non-current assets	3,652	2,979
Deferred tax assets	1,868	2,374
Intangible assets, net	65,790	79,559
Goodwill	416,172	416,418
Total assets	\$ 683,619	\$ 723,695
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable (\$1,084 and \$2,510 attributable to related parties, respectively)	\$ 36,178	\$ 44,804
Accrued expenses (\$7,666 and \$6,902 attributable to related parties, respectively)	51,071	55,507
Contract liability (\$1,800 and \$1,519 attributable to related parties, respectively)	55,422	58,158
Customer advances	8,432	9,886
Warrants liability	3,832	7,725
Current operating lease liabilities	6,994	6,764
Other current liabilities	6,723	7,393
Total current liabilities	168,652	190,237
Secured term note	12,488	12,463
Financing derivatives (related parties)	16,900	21,587
Senior secured convertible notes (related parties)	188,275	184,075
Non-current operating lease liabilities	39,480	42,497
Non-current contract liability	6,165	291
Deferred tax liabilities	407	287
Other non-current liabilities	11,245	13,284
Total liabilities	443,612	464,721
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, \$0.001 par value per share; 5,000,000 shares authorized at June 30, 2020 and December 31, 2019; no shares issued or outstanding as of June 30, 2020 and December 31, 2019	—	—
Common stock, \$0.001 par value per share; 150,000,000 shares authorized as of June 30, 2020 and December 31, 2019; 77,629,871 shares issued and 70,865,075 shares outstanding as of June 30, 2020, and 76,829,926 shares issued and 70,065,130 shares outstanding as of December 31, 2019	71	70
Additional paid-in capital	1,615,284	1,609,358
Accumulated other comprehensive loss	(13,642)	(12,333)
Accumulated deficit	(1,131,722)	(1,108,137)
Treasury stock, at cost, 6,764,796 shares as of June 30, 2020 and December 31, 2019	(229,984)	(229,984)
Total stockholders' equity	240,007	258,974
Total liabilities and stockholders' equity	\$ 683,619	\$ 723,695

See accompanying Notes to Condensed Consolidated Financial Statements.

COMSCORE, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS

(Unaudited)

(In thousands, except share and per share data)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Revenues ⁽¹⁾	\$ 88,566	\$ 96,888	\$ 178,094	\$ 199,182
Cost of revenues ^{(1) (2) (3) (4)}	44,949	51,994	90,747	105,401
Selling and marketing ^{(2) (3) (4)}	16,007	23,329	35,220	48,169
Research and development ^{(2) (3) (4)}	9,765	16,883	19,901	35,099
General and administrative ^{(1) (2) (3) (4)}	13,741	16,932	29,284	36,477
Investigation and audit related	—	2,354	—	3,196
Amortization of intangible assets	6,846	8,076	13,764	16,181
Impairment of goodwill	—	224,272	—	224,272
Impairment of intangible asset	—	17,308	—	17,308
Settlement of litigation, net	—	5,000	—	5,000
Impairment of right-of-use and long-lived assets	—	—	4,671	—
Restructuring ⁽³⁾	—	2,949	—	2,879
Total expenses from operations	91,308	369,097	193,587	493,982
Loss from operations	(2,742)	(272,209)	(15,493)	(294,800)
Interest expense, net ⁽¹⁾	(8,856)	(8,242)	(17,702)	(15,001)
Other income (expense), net	1,477	(3,081)	8,671	(112)
Loss from foreign currency transactions	(944)	(464)	(140)	(426)
Loss before income taxes	(11,065)	(283,996)	(24,664)	(310,339)
Income tax benefit	664	4,463	1,079	3,292
Net loss	\$ (10,401)	\$ (279,533)	\$ (23,585)	\$ (307,047)
Net loss per common share:				
Basic and diluted	\$ (0.15)	\$ (4.61)	\$ (0.34)	\$ (5.09)
Weighted-average number of shares used in per share calculation - Common Stock:				
Basic and diluted	70,554,326	60,697,608	70,340,658	60,315,528
Comprehensive loss:				
Net loss	\$ (10,401)	\$ (279,533)	\$ (23,585)	\$ (307,047)
Other comprehensive loss:				
Foreign currency cumulative translation adjustment	1,564	677	(1,309)	56
Total comprehensive loss	\$ (8,837)	\$ (278,856)	\$ (24,894)	\$ (306,991)

(1) Transactions with related parties are included in the line items above (refer to [Footnote 8](#), Related Party Transactions, of the Notes to Condensed Consolidated Financial Statements for additional information).

(2) Excludes amortization of intangible assets, which is presented as a separate line item.

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

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Cost of revenues	\$ 487	\$ 636	\$ 696	\$ 1,484
Selling and marketing	720	1,087	1,329	2,403
Research and development	375	668	431	1,394
General and administrative	764	1,913	2,548	5,976
Restructuring	—	(266)	—	(266)
Total stock-based compensation expense	\$ 2,346	\$ 4,038	\$ 5,004	\$ 10,991

(4) Lease cost, net of sublease income, is included in the line items above as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Operating lease cost				
Cost of revenues	\$ 945	\$ 1,155	\$ 1,836	\$ 2,256
Selling and marketing	1,045	1,218	2,144	2,382
Research and development	716	787	1,317	1,536
General and administrative	507	339	1,190	718
Total operating lease cost	<u>\$ 3,213</u>	<u>\$ 3,499</u>	<u>\$ 6,487</u>	<u>\$ 6,892</u>
Amortization of right-of-use assets				
Cost of revenues	\$ 288	\$ 578	\$ 573	\$ 999
Selling and marketing	41	85	82	146
Research and development	44	80	88	141
General and administrative	21	44	41	75
Total amortization of right-of-use assets	<u>\$ 394</u>	<u>\$ 787</u>	<u>\$ 784</u>	<u>\$ 1,361</u>

See accompanying Notes to Condensed Consolidated Financial Statements.

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

	Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Treasury stock, at cost	Total Stockholders' Equity
	Shares	Amount					
Balance as of December 31, 2019	70,065,130	\$ 70	\$ 1,609,358	\$ (12,333)	\$ (1,108,137)	\$ (229,984)	\$ 258,974
Net loss	—	—	—	—	(13,184)	—	(13,184)
Foreign currency translation adjustment	—	—	—	(2,873)	—	—	(2,873)
Restricted stock units vested	157,384	—	—	—	—	—	—
Common stock received from tax withholding	(15,597)	—	(65)	—	—	—	(65)
Amortization of stock-based compensation	—	—	2,609	—	—	—	2,609
Balance as of March 31, 2020	70,206,917	\$ 70	\$ 1,611,902	\$ (15,206)	\$ (1,121,321)	\$ (229,984)	\$ 245,461
Net loss	—	—	—	—	(10,401)	—	(10,401)
Foreign currency translation adjustment	—	—	—	1,564	—	—	1,564
Restricted stock units vested	659,244	1	2,241	—	—	—	2,242
Common stock received from tax withholding	(1,086)	—	(3)	—	—	—	(3)
Amortization of stock-based compensation	—	—	1,144	—	—	—	1,144
Balance as of June 30, 2020	70,865,075	\$ 71	\$ 1,615,284	\$ (13,642)	\$ (1,131,722)	\$ (229,984)	\$ 240,007

	Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Treasury stock, at cost	Total Stockholders' Equity
	Shares	Amount					
Balance as of December 31, 2018	59,389,830	\$ 59	\$ 1,561,208	\$ (10,621)	\$ (769,095)	\$ (229,984)	\$ 551,567
Adoption of ASC 842	—	—	—	—	(46)	—	(46)
Net loss	—	—	—	—	(27,514)	—	(27,514)
Foreign currency translation adjustment	—	—	—	(621)	—	—	(621)
Exercise of common stock options	68,259	—	1,191	—	—	—	1,191
Restricted stock units vested	552,651	1	4,610	—	—	—	4,611
Common stock received from tax withholding	(52,853)	—	(1,138)	—	—	—	(1,138)
Amortization of stock-based compensation	—	—	5,888	—	—	—	5,888
Balance as of March 31, 2019	59,957,887	\$ 60	\$ 1,571,759	\$ (11,242)	\$ (796,655)	\$ (229,984)	\$ 533,938
Net loss	—	—	—	—	(279,533)	—	(279,533)
Foreign currency translation adjustment	—	—	—	677	—	—	677
Issuance of common stock in connection with CVI Warrants	2,728,513	3	7,575	—	—	—	7,578
Common stock warrants exercised	323,448	—	—	—	—	—	—
Interest paid in Common Stock	243,261	—	5,134	—	—	—	5,134
Restricted stock units vested	46,078	—	—	—	—	—	—
Common stock received from tax withholding	(7,218)	—	(72)	—	—	—	(72)
Amortization of stock-based compensation	—	—	2,354	—	—	—	2,354
Balance as of June 30, 2019	63,291,969	\$ 63	\$ 1,586,750	\$ (10,565)	\$ (1,076,188)	\$ (229,984)	\$ 270,076

See accompanying Notes to Condensed Consolidated Financial Statements.

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

	Six Months Ended June 30,	
	2020	2019
Operating activities:		
Net loss	\$ (23,585)	\$ (307,047)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	6,788	6,111
Non-cash operating lease expense	2,978	2,747
Amortization expense of finance leases	784	1,361
Amortization of intangible assets	13,764	16,181
Bad debt expense	1,590	—
Impairment of goodwill	—	224,272
Impairment of intangible asset	—	17,308
Stock-based compensation	5,004	10,991
Deferred tax provision (benefit)	324	(3,983)
Change in fair value of financing derivatives	(4,687)	(1,100)
Change in fair value of warrants liability	(3,893)	—
Change in fair value of investment in equity securities	—	2,016
Impairment of right-of-use and long-lived assets	4,671	—
Accretion of debt discount	3,617	3,042
Amortization of deferred financing costs	739	525
Other	(6)	(20)
Changes in operating assets and liabilities:		
Accounts receivable	5,836	4,442
Prepaid expenses and other assets	(779)	3,190
Accounts payable, accrued expenses and other liabilities	(13,948)	20,176
Contract liability and customer advances	2,330	(6,552)
Operating lease liabilities	(3,319)	(4,364)
Net cash used in operating activities	(1,792)	(10,704)
Investing activities:		
Proceeds from sale of investment in equity securities	—	705
Purchases of property and equipment	(45)	(1,893)
Capitalized internal-use software costs	(7,836)	(5,619)
Net cash used in investing activities	(7,881)	(6,807)
Financing activities:		
Proceeds from private placement, net of issuance costs paid	—	19,894
Proceeds from sale-leaseback financing transaction	—	4,252
Proceeds from the exercise of stock options	—	1,191
Payments for taxes related to net share settlement of equity awards	(68)	(1,210)
Principal payments on finance leases	(823)	(1,417)
Principal payments on software license arrangements	(155)	(1,662)
Net cash (used in) provided by financing activities	(1,046)	21,048
Effect of exchange rate changes on cash, cash equivalents and restricted cash	(544)	91
Net (decrease) increase in cash, cash equivalents and restricted cash	(11,263)	3,628
Cash, cash equivalents and restricted cash at beginning of period	66,773	50,198
Cash, cash equivalents and restricted cash at end of period	\$ 55,510	\$ 53,826

	As of June 30,	
	2020	2019
Cash and cash equivalents	\$ 35,899	\$ 48,963
Restricted cash	19,611	4,863
Total cash, cash equivalents and restricted cash	\$ 55,510	\$ 53,826

	Six Months Ended June 30,	
	2020	2019
Supplemental cash flow disclosures:		
Interest paid (\$12,240 and \$3,046 attributable to related party, respectively)	\$ 13,551	\$ 3,413
Income taxes paid, net of refunds	771	373

Supplemental disclosures of non-cash activities:		
Settlement of restricted stock unit liability	\$ 2,241	\$ 4,611
Right-of-use assets obtained in exchange for new operating lease liabilities	669	397
Change in accounts payable and accrued expenses related to capital expenditures	456	1,630
Leasehold improvements acquired through lease incentives	218	1,427
Fair value of warrants issued in private placement	—	10,798
Interest paid in common stock	—	5,134
Right-of-use assets obtained in exchange for new finance lease liabilities	—	3,487

See accompanying Notes to Condensed Consolidated Financial Statements.

COMSCORE, INC.**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS****1. Organization**

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

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

Uses and Sources of Liquidity and Management's Plans

The Company's primary need for liquidity is to fund working capital requirements and capital expenditures of its business. The Company has secured the following long-term financing in order to increase its available working capital:

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

As of June 30, 2020, the Company was in compliance with its covenants under the senior secured convertible notes and the Secured Term Note, inclusive of the Company's restricted cash balances.

The COVID-19 pandemic and related government mandates and restrictions have had a significant impact on the media, advertising and entertainment industries in which the Company operates. To date, the COVID-19 pandemic has had some impact on the Company's business, including with respect to the timing of executing new or renewal contracts, the impact of closed movie theaters on the Company's customers, customer payment delays and requests to modify contractual payment terms. These conditions have negatively impacted the Company's liquidity, net loss, and cash flows to some extent and are expected to continue to have an impact in future periods. In addition, the spread of COVID-19 has led to disruption and volatility in global capital and credit markets, which, depending on future developments, could impact the Company's ability to access capital resources on terms acceptable to the Company or allowable under its current financing arrangements, or at all. Liquidity could also be negatively affected by a decrease in demand for the Company's products and services or by additional losses from operations, whether related to the COVID-19 pandemic or otherwise. While the Company has taken, and continues to take, actions to reduce costs and mitigate the impact of COVID-19, these steps may not be successful or adequate to offset declines in cash collections. If the Company's efforts to manage costs are not sufficient, or if cash collection efforts are further impacted by the COVID-19 pandemic, the Company may not be able to maintain compliance with the affirmative and negative covenants in its senior secured convertible notes and Secured Term Note or to meet its financial obligations to vendors or others.

On March 27, 2020, Congress enacted the Coronavirus Aid, Relief and Economic Security Act ("CARES Act"). The CARES Act, among other things, includes tax provisions for the deferral of certain employer payroll tax liabilities, refundable employee retention credits, rollbacks of Tax Cuts and Jobs Act ("TCJA") limitations on net operating losses, the acceleration of alternative minimum tax credit refunds, modifications to the net interest deduction limitations and technical corrections to tax depreciation methods for qualified improvement property. The Company began deferring certain payroll taxes starting in April 2020, as permitted by the CARES Act. In addition, the Company began claiming the refundable employee retention credit created by the CARES Act during 2020. The Company continues to assess the effect of the CARES Act and additional legislation and government guidance related to the COVID-19 pandemic.

The Company's liquidity could be significantly affected if the Company is unable to maintain compliance with the covenants in its senior secured convertible notes and Secured Term Note, including the minimum cash balance requirements described in [Footnote 4, Long-term Debt](#). If the Company fails to comply with its covenants, it could be required to redeem the senior secured convertible notes and the Secured Term Note at a premium. As of June 30, 2020, there was \$217.0 million outstanding under the senior secured convertible notes and the Secured Term Note. The source of funds for any redemption of the notes would be the Company's available cash and other financing, to the extent available. Based on the Company's current plans, including continued cost management and other actions within management's control, the Company does not anticipate a breach of these covenants that would result in an event of default under the senior secured convertible notes or the Secured Term Note; however, during the quarter ended June 30, 2020, the holders of the senior secured convertible notes questioned the Company's compliance with the minimum cash balance requirements therein. As noted, any breach of covenants under the senior secured convertible notes could have a material impact on the Company's liquidity.

The Company continues to be focused on maintaining flexibility in terms of sources, amounts, and timing of any potential financing, refinancing or strategic transaction, in order to best position the Company for future success. The Company believes that its sources of funding, after taking into account the financing transactions described above and the cost-reduction initiatives undertaken by management in 2020, will be sufficient to satisfy the Company's estimated liquidity needs and allow the Company to remain in compliance with its covenants under the senior secured convertible notes and the Secured Term Note for at least one year after the date that these financial statements are issued. However, the Company cannot predict with certainty the outcome of its actions to generate liquidity, including the availability of additional financing, or whether such actions would generate the expected liquidity as currently planned. The Company also cannot predict the duration and magnitude of the COVID-19 pandemic or its effects on the Company's business or liquidity or any action that may be taken by the holders of the senior secured convertible notes, as described above.

2. Summary of Significant Accounting Policies

Basis of Presentation and Consolidation

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

Reclassification

Certain amounts in the prior year financial statements have been reclassified to conform to the current quarter presentation. Specifically, current accrued litigation settlements have been aggregated within other current liabilities on the Condensed Consolidated Balance Sheets. In addition, non-current contract liability is now separately reported from other non-current liabilities on the Condensed Consolidated Balance Sheets.

Unaudited Interim Financial Information

The interim Condensed Consolidated Financial Statements included in this quarterly report have been prepared by the Company and are unaudited, pursuant to the rules and regulations of the United States Securities and Exchange Commission ("SEC"). Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles in the United States ("GAAP") have been condensed or omitted pursuant to such rules and regulations. However, the Company believes that the disclosures contained in this quarterly report comply with the requirements of Section 13(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), for a quarterly report on Form 10-Q and are adequate to make the information presented not misleading. The interim Condensed Consolidated Financial Statements included herein reflect all adjustments (consisting of normal recurring adjustments) which are, in the opinion of management, necessary for a fair presentation of the financial position, results of operations and cash flows for the interim periods presented. These interim Condensed Consolidated Financial Statements should be read in conjunction with the Consolidated Financial Statements and Notes thereto contained in the Company's Annual Report on [Form 10-K](#) for the year ended December 31, 2019 (the "2019 10-K"). The Condensed Consolidated Results of Operations for the three and six months ended June 30, 2020 are not necessarily indicative of the results to be anticipated for the entire year ending December 31, 2020 or thereafter. All references to June 30, 2020 and 2019 in the Notes to Condensed Consolidated Financial Statements are unaudited.

Use of Estimates and Judgments in the Preparation of the Condensed Consolidated Financial Statements

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the reported amounts of revenue and expense during the reporting periods. Significant estimates and judgments are inherent in the analysis and the measurement of management's standalone selling price, principal versus agent revenue recognition, determination of performance obligations, determination of transaction price, including the determination of variable consideration and allocation of transaction price to performance obligations, deferred tax assets and liabilities, including the identification and quantification of income tax liabilities due to uncertain tax positions, the valuation and recoverability of goodwill, intangible and other long-lived assets, the determination of appropriate discount rates for lease accounting, the probability of exercising either lease renewal or termination clauses, the assessment of potential loss from contingencies, the fair value determination of financing derivative liabilities and warrants, the allowance for doubtful accounts, and valuation of options, performance-based and market-based stock awards. Management bases its estimates and assumptions on historical experience and on various other factors that are believed to be reasonable under the circumstances. For the three and six months ended June 30, 2020, management specifically considered the impact of the COVID-19 pandemic and related matters in evaluating the Company's goodwill, intangible and other long-lived assets, lease accounting, contingencies, fair value determinations and allowance for doubtful accounts.

Due to the inherent uncertainty involved in making estimates, particularly in the current environment, actual results reported in future periods may be affected by changes in those estimates. The Company evaluates its estimates and assumptions on an ongoing basis.

Other Income (Expense), Net

<i>(In thousands)</i>	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Change in fair value of financing derivatives	\$ 2,300	\$ (3,000)	\$ 4,687	\$ 1,100
Change in fair value of warrants liability	(758)	—	3,893	—
Change in fair value of investment in equity securities	—	(304)	—	(2,016)
Other	(65)	223	91	804
Total other income (expense), net	\$ 1,477	\$ (3,081)	\$ 8,671	\$ (112)

Loss Per Share

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

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

	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Stock options, stock appreciation rights, restricted stock units, deferred stock units, senior secured convertible notes and warrants	16,719,624	9,209,577	16,564,285	8,511,550

Goodwill and Intangible Assets

In June 2019, the Company concluded that it was more likely than not that the estimated fair value of its reporting unit was less than its carrying value. In its assessment, the Company considered the sustained decline in the Company's stock price and market capitalization, changes in management, and lower revenue, among other factors. The Company performed a quantitative goodwill impairment test using a discounted cash flow model, supported by a market approach. The Company's reporting unit failed the goodwill impairment test; and as a result the Company recorded a \$224.3 million non-cash impairment charge.

Also in June 2019, the Company recorded a \$17.3 million non-cash impairment charge for the full carrying value of its strategic alliance intangible asset. Changes in the Company's projected revenue in certain non-U.S. geographic markets due to the changing international competitive landscape as well as significant reductions in international staffing during the quarter, resulted in a change in the Company's long-term view of the viability of the intangible asset. As such, the Company's assessment yielded that the benefit of the alliance would not be realized. The fair value of the strategic alliance intangible asset was estimated using an income approach.

There were no comparable charges in the three or six months ended June 30, 2020.

Impairment of Right-of-use ("ROU") and Long-lived Assets

The Company applies the provisions of Accounting Standards Codification ("ASC") 360, *Property, Plant and Equipment*, to determine whether ROU and related long-lived assets may be impaired. The Company evaluates its ROU and long-lived assets for impairment whenever events or changes in circumstances indicate the carrying value of such assets may not be recoverable. For facility lease ROU and related long-lived assets, the Company compares the estimated undiscounted cash flows generated by a sublease to the current carrying value of the ROU and related long-lived assets. If the undiscounted cash flows are less than the carrying value of the ROU and related long-lived assets, the Company records an impairment loss equal to the excess of the ROU and long-lived assets' carrying value over their fair value consistent with other long-lived assets.

The Company performed an interim analysis as of March 31, 2020, as changes in market conditions indicated the carrying value of certain facility lease ROU and other long-lived assets may not be recoverable, and determined that certain ROU assets, and related leasehold improvements, were impaired.

The Company recorded a \$4.7 million non-cash impairment charge related to its ROU assets, and related leasehold improvements, for the three months ended March 31, 2020, with corresponding reductions of \$2.8 million and \$1.9 million to the operating lease ROU asset and property and equipment, net line items, respectively, in the Condensed Consolidated Balance Sheet as of March 31, 2020. The impairment charge was driven by changes in the Company's projected undiscounted cash flows for certain properties, primarily as a result of changes in the real estate market related to the COVID-19 pandemic, that led to an increase in the estimated marketing time, and a reduction of expected receipts, for properties currently on the market for sublease. The fair value of these ROU assets, and related leasehold improvements, was estimated using an income approach and a discount rate of 12.0%.

Although the Company believes that the carrying values of its long-lived assets are appropriately stated as of June 30, 2020, future changes in strategy or market conditions, significant technological developments or significant changes in legal or regulatory factors could significantly impact these judgments and require adjustments to recorded asset balances.

Allowance for Doubtful Accounts

The Company generally grants uncollateralized credit terms to its customers and maintains an allowance for doubtful accounts to reserve for uncollectible receivables. Allowances are based on management's judgment, which considers historical collection experience adjusted for current conditions or expected future conditions based on reasonable and supportable forecasts, a specific review of all significant outstanding receivables, an assessment of company-specific credit conditions and general economic conditions. For the six months ended June 30, 2020, management considered the impact of the COVID-19 pandemic, including customer payment delays and requests from customers to revise contractual payment terms, in determining the Company's allowance for doubtful accounts.

The table below summarizes the change in balance of the allowance for doubtful accounts:

<i>(In thousands)</i>	Six Months Ended June 30,	
	2020	2019
Beginning Balance	\$ (1,919)	\$ (1,597)
Bad debt expense	(1,590)	—
Recoveries	(55)	(331)
Write-offs	792	330
Ending Balance	\$ (2,772)	\$ (1,598)

Accounting Standards Recently Adopted

In June 2016, the Financial Accounting Standards Board ("FASB") issued ASU 2016-13, *Financial Instruments - Credit Losses* (Topic 326), which requires the measurement and recognition of expected credit losses for financial assets held at amortized cost. ASU 2016-13 replaces the existing incurred loss impairment model with an expected loss model which requires consideration of forward-looking information to calculate credit loss estimates. These changes will result in an earlier recognition of credit losses. The amendment is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. The Company adopted the new standard effective January 1, 2020, and the standard did not have a material impact on the Condensed Consolidated Financial Statements or related disclosures based on historical collection trends, the financial condition of payment partners, and external market factors.

In August 2018, the FASB issued ASU 2018-13, *Fair Value Measurement* (Topic 820), which removes and modifies certain disclosure requirements under Topic 820. The amendments are effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. An entity is permitted to early adopt any removed or modified disclosures upon issuance of the update and to delay adoption of the additional disclosures until their effective date. The Company adopted the new standard effective January 1, 2020, and the standard did not have a material impact on the Condensed Consolidated Financial Statements or related disclosures.

Recently Issued Accounting Pronouncements

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

3. Revenue Recognition

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

(In thousands)	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
By solution group:				
Ratings and Planning ⁽¹⁾	\$ 63,779	\$ 68,922	\$ 127,300	\$ 139,499
Analytics and Optimization ⁽¹⁾	16,894	17,293	32,395	38,751
Movies Reporting and Analytics	7,893	10,673	18,399	20,932
Total	\$ 88,566	\$ 96,888	\$ 178,094	\$ 199,182
By geographical market:				
United States	\$ 77,527	\$ 83,971	\$ 154,673	\$ 171,947
Europe	6,417	7,504	13,900	15,916
Canada	2,011	1,758	3,573	3,598
Latin America	1,477	2,284	3,497	4,686
Other	1,134	1,371	2,451	3,035
Total	\$ 88,566	\$ 96,888	\$ 178,094	\$ 199,182
By timing of revenue recognition:				
Products and services transferred over time	\$ 68,576	\$ 75,180	\$ 140,493	\$ 151,641
Products and services transferred at a point in time	19,990	21,708	37,601	47,541
Total	\$ 88,566	\$ 96,888	\$ 178,094	\$ 199,182

⁽¹⁾ In the second quarter of 2020, the Company began classifying revenue from certain new and extended custom agreements for services that utilize its syndicated data set, previously classified under Analytics and Optimization, as Ratings and Planning. The impact was not material to either solution group.

Contract Balances

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

(In thousands)	As of	As of
	June 30, 2020	December 31, 2019
Accounts receivable, net	\$ 64,026	\$ 71,853
Current and non-current contract assets	389	1,035
Current and non-current contract costs	472	799
Current contract liability	55,422	58,158
Current customer advances	8,432	9,886
Non-current contract liability	6,165	291

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

(In thousands)	Contract Liability (Current)	
	Six Months Ended June 30,	
	2020	2019
Revenue recognized that was included in the opening contract liability balance	\$ (39,497)	\$ (50,758)
Cash received or amounts billed in advance and not recognized as revenue	47,596	44,780

For the six months ended June 30, 2020, the Company recorded \$5.9 million in amounts billed in advance, but not yet recognized as revenue, within non-current contract liabilities.

Transaction Price Allocated to the Remaining Performance Obligations

As of June 30, 2020, approximately \$240.0 million of revenue is expected to be recognized from remaining performance obligations that are unsatisfied (or partially unsatisfied) for non-cancelable contracts. The Company expects to recognize revenue on approximately 37% of these remaining performance obligations during the remainder of 2020, approximately 40% in 2021, and approximately 17% in 2022, with the remainder recognized thereafter.

Costs to Obtain or Fulfill a Contract

As of June 30, 2020 and December 31, 2019, the Company had \$0.5 million and \$0.8 million, respectively, in capitalized contract costs. For the three months ended June 30, 2020 and 2019, amortized and expensed contract costs were \$0.4 million and \$0.8 million, respectively. For the six months ended June 30, 2020 and 2019, amortized and expensed contract costs were \$0.7 million and \$1.4 million, respectively.

4. Long-term Debt

Issuance and Sale of Initial Notes

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

The conversion price for the Notes (the "Conversion Price") is equal to a 30.0% premium to the volume weighted average trading prices ("VWAP") of the Common Stock on each trading day during the 10 consecutive trading days commencing on January 16, 2018, subject to a Conversion Price floor of \$28.00 per share. In accordance with the foregoing, the Conversion Price was set at \$31.29.

The Notes mature on January 16, 2022. Based upon the determination of the Conversion Price, interest on the Notes accrued at 6.0% per year through January 30, 2019, when the interest rate reset to 12.0% per year through January 30, 2020. The interest rate reset on January 30, 2020 and will remain at 12.0% (subject to certain conditions) until February 1, 2021 (the "Interest Reset Date"). On the Interest Reset Date, the interest rate on the Notes will reset, and interest will thereafter accrue at a minimum of 4.0% per year and a maximum of 12.0% per year, based upon the then-applicable conversion premium in accordance with the terms of the Notes.

Interest on the Notes is payable on a quarterly basis in arrears from April 1, 2018, at the option of the Company, in cash, or, subject to certain conditions, through the issuance by the Company of additional shares of Common Stock ("PIK Interest Shares"). Any PIK Interest Shares so issued will be valued at the arithmetic average of the VWAP of the Common Stock on each trading day during the 10 consecutive trading days ending immediately preceding the applicable interest payment date. On each of January 2, 2020, April 1, 2020 and July 1, 2020, the Company paid quarterly accrued interest of \$6.1 million in cash. The accrued interest liability of \$6.1 million as of June 30, 2020 was classified within accrued expenses in the Condensed Consolidated Financial Statements.

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

Issuance and Sale of Option Notes

On May 17, 2018, the Notes Option was exercised by Starboard, pursuant to which the Company issued and sold to Starboard \$50.0 million of Option Notes in exchange for \$15.0 million in cash and 1,400,000 shares of Common Stock valued at \$35.0 million. Based upon the fair value of the Common Stock on the closing date of the Option Notes issuance, May 17, 2018, which was \$21.75 per share, the difference of \$4.6 million was recorded as an issuance discount to the Option Notes. The Option Notes have the same terms, including maturity, interest rate, convertibility, and security, as the Initial Notes, except with regard to the date from which interest began to accrue, which was May 17, 2018.

Financing Derivatives

The Notes contain an interest rate reset feature, make-whole change of control redemption feature, and a qualifying change of control redemption feature which the Company determined represent embedded derivatives that must be bifurcated and accounted for separately from the Notes. Refer to [Footnote 6, Fair Value Measurements](#), for further information on the Level 3 inputs utilized for the determination of the fair value of the derivatives.

The balance of the Notes as of June 30, 2020 and December 31, 2019 was as follows:

	As of June 30, 2020					
<i>(In thousands, except interest rates)</i>	Stated Interest Rate	Effective Interest Rate	Face Value	Issuance Discount	Deferred Financing Costs	Net Carrying Value
Initial Notes, due January 16, 2022	12.0%	18.8%	\$ 153,500	\$ (11,599)	\$ (2,153)	\$ 139,748
Option Notes, due January 16, 2022	12.0%	14.9%	50,500	(1,852)	(121)	48,527
Total			\$ 204,000	\$ (13,451)	\$ (2,274)	\$ 188,275

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

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

The Company amortized \$0.3 million and \$0.6 million in deferred financing costs related to the Notes during the three and six months ended June 30, 2020, respectively; and \$0.3 million and \$0.5 million during the three and six months ended June 30, 2019, respectively. The Company accreted \$1.8 million and \$3.6 million in issuance discount related to the Notes during the three and six months ended June 30, 2020, respectively; and \$1.7 million and \$3.0 million during the three and six months ended June 30, 2019, respectively.

The estimated fair value of the Notes, using Level 3 inputs based on interest rates available for debt with terms and maturities similar to the Company's Notes, was \$171.0 million as of June 30, 2020.

Guarantee and Security of Notes

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

Issuance of Secured Term Note

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

The Secured Term Note contains certain affirmative and restrictive covenants with which Rentrak B.V. must comply, including (i) maintenance of a minimum cash collateral balance of \$14.8 million, (ii) provision of certain financial statements, (iii) limitations on additional indebtedness and liens, (iv) limitations on repayment of debt, (v) limitations on repurchase of stock, and (vi) limitations on disposition of assets. Rentrak B.V. is in compliance with the Secured Term Note covenants as of June 30, 2020.

The balance of the Secured Term Note as of June 30, 2020 and December 31, 2019 was as follows:

	As of June 30, 2020				
<i>(In thousands, except interest rates)</i>	Stated Interest Rate	Effective Interest Rate	Face Value	Deferred Financing Costs	Net Carrying Value
Secured Term Note	9.75%	12.8%	\$ 13,000	\$ (512)	\$ 12,488

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

The Company amortized \$0.1 million and \$0.2 million in deferred financing costs related to the Secured Term Note during the three and six months ended June 30, 2020, respectively.

The estimated fair value of the Secured Term Note, using Level 2 inputs based on interest rates available for debt with terms and maturities similar to the Company's Secured Term Note, was \$14.9 million as of June 30, 2020.

Letters of Credit

In 2018, the Company entered into a Security Agreement with Wells Fargo Bank, N.A. to issue standby letters of credit. As of June 30, 2020, \$3.3 million in letters of credit are outstanding and are cash collateralized under the Security Agreement with Wells Fargo Bank, N.A.

Failed Sale-Leaseback Transaction

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

The Company concluded the leaseback would be classified as a financing lease. Therefore, the transaction was deemed a failed sale-leaseback and was accounted for as a financing arrangement. The assets continue to be depreciated over their useful lives, and payments are allocated between interest expense and repayment of the financing liability. The remaining financing liability of \$2.6 million is included within other current liabilities on the Condensed Consolidated Balance Sheet.

Future minimum payments related to the financing obligations under the failed sale-leaseback transaction as of June 30, 2020 are summarized below:

	<i>(In thousands)</i>
Remainder of 2020	\$ 1,123
2021	1,422
Total	\$ 2,545

5. Stockholders' Equity

2019 Issuance and Sale of Common Stock and Warrants

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

The Series B-1 Warrants were exercisable by the holders at any time prior to the six-month anniversary of the Closing Date, as adjusted pursuant to the terms of the Series B-1 Warrants. The Series B-1 Warrants provided the holders the right to purchase an aggregate of up to 2,347,418 shares of Common Stock at an exercise price equal to \$8.52 and could have been exercised for cash only. The Series B-1 Warrants expired on January 29, 2020.

The Series B-2 Warrants were exercisable by the holders at any time prior to the twelve-month anniversary of the Closing Date, as adjusted pursuant to the terms of the Series B-2 Warrants. The Series B-2 Warrants provided the holders the right to purchase an aggregate of up to 1,121,076 shares of Common Stock at an exercise price equal to \$8.92 and could have been exercised for cash only. The Series B-2 Warrants expired on August 3, 2020.

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

The Series C Warrants are partially prepaid warrants (with a nominal remaining exercise price) that were not exercisable before September 21, 2019 and expire 90 days after the first anniversary of the Closing Date. CVI exercised the Series C Warrants on October 10, 2019. Because the VWAP of the Common Stock as of the date of exercise, discounted by 7.5%, was less than CVI's

purchase price for the Initial Shares, the Company was required to issue to CVI a number of shares of Common Stock equal to (i) (x) CVI's purchase price for the Initial Shares divided by (y) 92.5% of the VWAP of the Common Stock leading up to September 21, 2019, subject to a floor of 50.0% of the price per Initial Share, less (ii) the number of Initial Shares issued to CVI on the Closing Date. As a result of this exercise, the Company issued 2,728,513 shares of Common Stock to CVI on October 14, 2019. In addition, the number of shares issuable under the Company's Series A Warrants was increased by 2,728,513.

CVI will not have the right to exercise any warrant that would result in CVI beneficially owning more than 4.99% of the outstanding Common Stock after giving effect to such exercise. CVI has the right, in its discretion, to raise this threshold up to 9.99% with 60 days' notice to the Company.

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

Management determined each warrant to be a freestanding financial instrument that qualifies for liability treatment as a result of net cash settlement features associated with an exchange-related limitation or upon a change in control. Each warrant is initially measured at fair value and classified as a current liability on the Condensed Consolidated Balance Sheet, with subsequent changes in fair value recorded in earnings. To determine the fair value of each warrant, management utilized a Monte Carlo simulation analysis within an option pricing model.

The estimated fair value of the warrants as of June 30, 2020 was \$3.8 million. Refer to [Footnote 6, Fair Value Measurements](#), for further information on the Level 3 inputs utilized for the determination of the fair value of the warrants.

6. Fair Value Measurements

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

(In thousands)	As of June 30, 2020				As of December 31, 2019			
	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total
Assets:								
Money market funds ⁽¹⁾	\$ 20,422	\$ —	\$ —	\$ 20,422	\$ 24,327	\$ —	\$ —	\$ 24,327
Certificates of deposit ⁽²⁾	—	—	—	—	—	1,009	—	1,009
Total assets	\$ 20,422	\$ —	\$ —	\$ 20,422	\$ 24,327	\$ 1,009	\$ —	\$ 25,336
Liabilities:								
Financing derivatives: no hedging designation ⁽³⁾								
Interest rate reset	\$ —	\$ —	\$ 15,100	\$ 15,100	\$ —	\$ —	\$ 18,800	\$ 18,800
Make-whole change of control	—	—	1,600	1,600	—	—	1,600	1,600
Qualifying change of control	—	—	200	200	—	—	1,187	1,187
Warrants issued: ⁽⁴⁾								
Series A	—	—	3,832	3,832	—	—	7,508	7,508
Series B-2 ⁽⁵⁾	—	—	—	—	—	—	217	217
Total liabilities	\$ —	\$ —	\$ 20,732	\$ 20,732	\$ —	\$ —	\$ 29,312	\$ 29,312

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

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

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

⁽⁴⁾ The fair values of the warrants are derived from techniques which utilize inputs, certain of which are significant and unobservable, that result in classification as Level 3 fair value measurements. The Series B-1 Warrants expired without exercise on January 29, 2020.

⁽⁵⁾ The fair value of the Series B-2 Warrants was estimated as negligible as of June 30, 2020. The Series B-2 Warrants expired without exercise on August 3, 2020.

There were no changes to the Company's valuation methodologies during the three and six months ended June 30, 2020 or 2019, respectively.

The following tables present the changes in the Company's recurring Level 3 fair valued instruments for the six months ended June 30, 2020 and 2019, respectively:

(In thousands)	Financing Derivative Liabilities	Warrants Liability
Balance as of December 31, 2019	\$ 21,587	\$ 7,725
Total gains included in other income (expense), net ⁽¹⁾	(4,687)	(3,893)
Balance as of June 30, 2020	<u>\$ 16,900</u>	<u>\$ 3,832</u>

⁽¹⁾ Represents \$3.7 million gain due to change in fair value of interest rate reset derivative liability, \$1.0 million gain due to change in fair value of qualifying change of control redemption derivative liability, \$3.7 million gain due to change in fair value of the Series A Warrant and \$0.2 million gain due to change in fair value of the Series B-2 Warrant. All gains were recorded in other income (expense), net in the Condensed Consolidated Statements of Operations and Comprehensive Loss.

(In thousands)	Financing Derivative Liabilities	Warrants Liability
Balance as of December 31, 2018	\$ 26,100	\$ —
Issuances	—	10,798
Total gains included in other income (expense), net ⁽¹⁾	(1,100)	—
Balance as of June 30, 2019	<u>\$ 25,000</u>	<u>\$ 10,798</u>

⁽¹⁾ Represents \$0.5 million gain due to change in fair value of interest rate reset derivative liability, and \$0.6 million gain due to change in fair value of the make-whole change of control redemption derivative liability. All gains were recorded in other income (expense), net in the Condensed Consolidated Statements of Operations and Comprehensive Loss.

The following table displays valuation techniques and the significant inputs, certain of which are unobservable, for the Company's Level 3 liabilities, which are measured at fair value on a recurring basis:

	Fair Value Measurements			
	Significant Valuation Technique	Significant Valuation Inputs	June 30, 2020	December 31, 2019
Interest rate reset derivative liability	Discounted cash flow	Discount rate	29.0%	25.0%
		Stock price	\$3.10	\$4.94
		Volatility	104.5%	74.1%
		Term	1.54 years	2.04 years
		Risk-free rate	0.2%	1.6%
Make-whole change of control redemption derivative liability	Option pricing model	Change of control probability	5.0% - 10.0%	5.0% - 10.0%
		Term	1.54 years	2.04 years
		Risk-free rate	0.2%	1.6%
Qualifying change of control redemption derivative liability	Discounted cash flow	Change of control probability	5.0%	5.0%
		Term	0.10 years	0.60 years
		Discount rate	29.0%	25.0%
Warrants liability ⁽¹⁾	Option pricing model	Stock price	\$3.10	\$4.94
		Volatility	75.0%	65.0%
		Term	3.99 years	0.59 - 4.49 years
		Change of control probability	5.0% - 10.0%	5.0% - 10.0%
		Risk-free rate	0.2%	1.6% - 1.7%
		Cost of debt	14.6% - 15.6%	14.7% - 16.0%

⁽¹⁾ Warrants liability includes only Series A as of June 30, 2020. Warrants liability includes Series A and Series B-2 as of December 31, 2019.

The primary sensitivity in the interest rate reset derivative liability is driven by the Common Stock price at the measurement date, the observable volatility of the Common Stock, and the discount rate used to determine the present value of the instrument. The primary sensitivity for the make-whole and qualifying change of control redemption derivative liabilities is driven by the probability of the change of control.

The primary sensitivity in the valuation of each warrant liability is driven by the Common Stock price at the measurement date and the observable volatility of the Common Stock.

7. Accrued Expenses

<i>(In thousands)</i>	As of June 30, 2020	As of December 31, 2019
Accrued data costs	\$ 23,015	\$ 19,593
Payroll and payroll-related	10,218	15,412
Accrued interest on senior secured convertible notes	6,120	6,120
Professional fees	3,557	4,118
Restructuring accrual	221	992
Other	7,940	9,272
Total accrued expenses	\$ 51,071	\$ 55,507

8. Related Party Transactions

Transactions with WPP plc

As of June 30, 2020 (based on public filings), WPP plc and its affiliates ("WPP") owned 11,319,363 shares of the Company's outstanding Common Stock, representing 16.0% ownership in the Company. The Company provides WPP, in the normal course of business, services amongst its different product lines and receives various services from WPP supporting the Company's data collection efforts.

The Company has a cancelable five-year agreement with Lightspeed, a WPP subsidiary, to conduct a proof of concept and follow-on program to demonstrate the capability of designing and deploying a program to collect browsing and demographic data for individual participating households. The agreement, which relates to the Company's Total Home Panel product, provides that the Company makes payments to Lightspeed of approximately \$5.0 million per year through December 2020.

The Company's results from transactions with WPP and its affiliates, as reflected in the Condensed Consolidated Statements of Operations and Comprehensive Loss, are detailed below:

<i>(In thousands)</i>	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Revenues	\$ 3,749	\$ 3,926	\$ 6,960	\$ 7,771
Cost of revenues	2,364	3,584	4,739	5,679
General and administrative	110	180	252	220

The Company has the following balances related to transactions with WPP and its affiliates, as reflected in the Condensed Consolidated Balance Sheets:

<i>(In thousands)</i>	As of June 30, 2020	As of December 31, 2019
Assets		
Accounts receivable, net	\$ 2,406	\$ 2,542
Prepaid expenses and other current assets	1,156	1,180
Liabilities		
Accounts payable	\$ 1,084	\$ 2,510
Accrued expenses	1,546	716
Contract liability	1,800	1,361

Transactions with Starboard

On January 16, 2018, the Company entered into certain agreements with Starboard, then a beneficial owner of more than 5.0% of the Company's outstanding Common Stock. Refer to [Footnote 4, Long-term Debt](#), for further information regarding these agreements and subsequent amendments. As a result of these agreements and the transactions contemplated thereby, Starboard ceased to be a beneficial owner of more than 5.0% of the Company's outstanding Common Stock on January 16, 2018. Included in the Condensed Consolidated Statements of Operations and Comprehensive Loss, the Company recorded interest expense related to Starboard of \$8.2 million and \$16.4 million during the three and six months ended June 30, 2020, respectively; and \$8.1 million and \$14.8 million during the three and six months ended June 30, 2019, respectively.

The Company has the following balances related to transactions with Starboard, as reflected in the Condensed Consolidated Balance Sheets:

<i>(In thousands)</i>	As of June 30, 2020	As of December 31, 2019
Accrued expenses	\$ 6,120	\$ 6,120
Financing derivatives	16,900	21,587
Senior secured convertible notes	188,275	184,075

9. Commitments and Contingencies

Contingencies

The Company is involved in various legal proceedings from time to time. The Company establishes reserves for specific legal proceedings when management determines that the likelihood of an unfavorable outcome is probable, and the amount of loss can be reasonably estimated. The Company has also identified certain other legal matters where an unfavorable outcome is reasonably possible and/or for which no estimate of possible losses can be made. In these cases, the Company does not establish a reserve until it can reasonably estimate the loss. Legal fees are expensed as incurred. The outcomes of legal proceedings are inherently unpredictable, subject to significant uncertainties, and could be material to the Company's operating results and cash flows for a particular period.

Privacy Class Action Litigation

On September 11, 2017, the Company and a wholly-owned subsidiary, Full Circle Studies, Inc., ("Full Circle"), received demand letters on behalf of named plaintiffs and all others similarly situated alleging that the Company and Full Circle collected personal information from users under the age of 13 without verifiable parental consent in violation of Massachusetts law and the federal Children's Online Privacy Protection Act. The letters alleged that the Company and Full Circle collected such personal information by embedding advertising software development kits ("SDKs") in applications created or developed by The Walt Disney Company. The letters sought monetary damages, attorneys' fees and damages under Massachusetts law. On June 4, 2018, the plaintiffs filed amended complaints with the U.S. District Court for the Northern District of California adding the Company and Full Circle as defendants in a purported class action (captioned *Rushing, et al v. The Walt Disney Company, et al.*, Case No. 3:17-cv-04419-JD) against Disney, Twitter and other defendants, alleging violations of California's constitutional right to privacy and intrusion upon seclusion law, New York's deceptive trade practices statute, and Massachusetts' deceptive trade practices and right to privacy statutes. The complaints alleged damages in excess of \$5.0 million, with any award to be apportioned among the defendants. On February 26, 2020, the Company and Full Circle reached an agreement with the plaintiffs to settle the complaints in full, with no admission of liability, in return for injunctive relief and payment of the plaintiffs' attorneys' fees, to be covered by the Company's insurance. The settlement is subject to court approval.

Securities Class Action Litigation

On April 10, 2019, Sergii Bratusov, a purported shareholder of the Company, filed a putative class action complaint against the Company. The case, captioned *Bratusov v. comScore, Inc., et al.*, Case No. 19 Civ. 03210, was filed in the U.S. District Court for the Southern District of New York and also named the Company's Chief Financial Officer, Gregory Fink, and the Company's former Chief Executive Officer, Bryan Wiener, as defendants. The complaint, which was amended on September 30, 2019, purported to bring claims on behalf of all persons and entities that acquired securities of the Company between February 28, 2019 and August 7, 2019 and alleged that the Company, Mr. Wiener, and Mr. Fink violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder, by allegedly failing to disclose in public statements in February and March 2019 material information concerning a disagreement relating to the Company's business strategy. The complaint also alleged that Mr. Wiener and Mr. Fink, acting as control persons of the Company, violated Section 20(a) of the Exchange Act in connection with the Company's alleged failure to disclose material information. The complaint sought a determination of the propriety of the class, compensatory damages and the award of reasonable costs and expenses incurred in the action. On June 24, 2020, the Court granted the defendants' motion to dismiss the complaint for failure to state a claim. On July 24, 2020, the complaint was dismissed with prejudice.

Other Matters

In addition to the matters described above, the Company is, and may become, a party to a variety of legal proceedings from time to time that arise in the normal course of the Company's business. While the results of such legal proceedings cannot be predicted with certainty, management believes that, based on current knowledge, the final outcome of any such current pending matters will not have a material adverse effect on the Company's financial position, results of operations or cash flows. Regardless of the outcome, legal proceedings can have an adverse effect on the Company because of defense costs, diversion of management resources and other factors.

Indemnification

The Company has entered into indemnification agreements with each of the Company's directors and certain officers, and the Company's amended and restated certificate of incorporation requires it to indemnify each of its officers and directors, to the fullest extent permitted by Delaware law, who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that he or she is or was a director or officer of the Company. The Company has paid and may in the future pay legal counsel fees incurred by current and former directors and officers who are involved in legal proceedings that require indemnification.

Similarly, certain of the Company's commercial contracts require it to indemnify contract counterparties under specified circumstances, and the Company may incur legal counsel fees and other costs in connection with these obligations.

10. Organizational Restructuring

In 2019, the Company implemented two reduction in force plans ("May 2019 Restructuring Plan" and "August 2019 Restructuring Plan") in order to reduce costs and more effectively align resources with business priorities. The May 2019 Restructuring Plan and the August 2019 Restructuring Plan are complete as of June 30, 2020, with remaining payments for the August 2019 Restructuring Plan through March 2021.

The table below summarizes the balance of the restructuring liability as of June 30, 2020, which is recorded in accrued expenses in the Condensed Consolidated Balance Sheets, and the changes in the accrued amounts for the six months ended June 30, 2020, by restructuring plan:

<i>(In thousands)</i>	May 2019 Restructuring Plan	August 2019 Restructuring Plan
Accrued Balance as of December 31, 2019	\$ 294	\$ 698
Payments	(294)	(477)
Accrued Balance as of June 30, 2020	\$ —	\$ 221

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our Condensed Consolidated Financial Statements and the related Notes to Condensed Consolidated Financial Statements included in Part I, [Item 1](#) of this Quarterly Report on Form 10-Q, or 10-Q. In addition to historical financial information, the following discussion and analysis contains forward-looking statements that involve risks, uncertainties and assumptions. Our actual results and timing of selected events in future periods may differ materially from those anticipated or implied in these forward-looking statements as a result of many factors, including those discussed under [Item 1A](#), "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2019 (the "2019 10-K"), under [Item 1A](#), "Risk Factors" in our Quarterly Report on Form 10-Q for the quarter ended March 31, 2020, under [Item 1A](#), "Risk Factors" in this 10-Q and elsewhere in this 10-Q. See also "[Cautionary Note Regarding Forward-Looking Statements](#)" at the beginning of this 10-Q.

In an effort to contain the COVID-19 pandemic or slow its spread, governments around the world have enacted various measures, including orders to close all businesses not deemed "essential", isolate residents to their homes or places of residence, and practice social distancing when engaging in essential activities. To date, these measures have had some impact on our business, including with respect to the timing of executing new or renewal contracts, the impact of closed movie theaters on our customers, customer payment delays and requests to modify contractual payment terms. These conditions have negatively impacted our liquidity and cash flows to some extent and are expected to continue to have an impact in future periods. As discussed in more detail below, we cannot quantify the impact that the COVID-19 pandemic and related government actions may have on our business or liquidity in the future. We have taken actions to mitigate the impact of COVID-19 and will continue to actively monitor the situation. We may take further actions that alter our business operations as may be required by federal, state, local or foreign authorities, or that we determine are in the best interests of our employees, customers, partners and stockholders. The full extent of the impact of the COVID-19 pandemic on our business, operations and financial results will depend on numerous evolving factors that we cannot currently predict. See [Item 1A](#), "Risk Factors" in this 10-Q and [Item 1A](#) "Risk Factors" in our Quarterly Report on Form 10-Q for the quarter ended March 31, 2020 for additional details.

Overview

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

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

Results of Operations

The following table sets forth selected Condensed Consolidated Statements of Operations data as a percentage of total revenues for each of the periods indicated. Percentages may not add due to rounding.

<i>(In thousands)</i>	Three Months Ended June 30,				Six Months Ended June 30,			
	2020		2019		2020		2019	
	Dollars	% of Revenue	Dollars	% of Revenue	Dollars	% of Revenue	Dollars	% of Revenue
Revenues	\$ 88,566	100.0 %	\$ 96,888	100.0 %	\$ 178,094	100.0 %	\$ 199,182	100.0 %
Cost of revenues	44,949	50.8 %	51,994	53.7 %	90,747	51.0 %	105,401	52.9 %
Selling and marketing	16,007	18.1 %	23,329	24.1 %	35,220	19.8 %	48,169	24.2 %
Research and development	9,765	11.0 %	16,883	17.4 %	19,901	11.2 %	35,099	17.6 %
General and administrative	13,741	15.5 %	16,932	17.5 %	29,284	16.4 %	36,477	18.3 %
Investigation and audit related	—	— %	2,354	2.4 %	—	— %	3,196	1.6 %
Amortization of intangible assets	6,846	7.7 %	8,076	8.3 %	13,764	7.7 %	16,181	8.1 %
Impairment of goodwill	—	— %	224,272	231.5 %	—	— %	224,272	112.6 %
Impairment of intangible asset	—	— %	17,308	17.9 %	—	— %	17,308	8.7 %
Settlement of litigation, net	—	— %	5,000	5.2 %	—	— %	5,000	2.5 %
Impairment of right-of-use and long-lived assets	—	— %	—	— %	4,671	2.6 %	—	— %
Restructuring	—	— %	2,949	3.0 %	—	— %	2,879	1.4 %
Total expenses from operations	91,308	103.1 %	369,097	381.0 %	193,587	108.7 %	493,982	248.0 %
Loss from operations	(2,742)	(3.1)%	(272,209)	(281.0)%	(15,493)	(8.7)%	(294,800)	(148.0)%
Interest expense, net	(8,856)	(10.0)%	(8,242)	(8.5)%	(17,702)	(9.9)%	(15,001)	(7.5)%
Other income (expense), net	1,477	1.7 %	(3,081)	(3.2)%	8,671	4.9 %	(112)	(0.1)%
Loss from foreign currency transactions	(944)	(1.1)%	(464)	(0.5)%	(140)	(0.1)%	(426)	(0.2)%
Loss before income taxes	(11,065)	(12.5)%	(283,996)	(293.1)%	(24,664)	(13.8)%	(310,339)	(155.8)%
Income tax benefit	664	0.7 %	4,463	4.6 %	1,079	0.6 %	3,292	1.7 %
Net loss	\$ (10,401)	(11.7)%	\$ (279,533)	(288.5)%	\$ (23,585)	(13.2)%	\$ (307,047)	(154.2)%

Revenues

Our products and services are organized around solution groups that address customer needs. Accordingly, we evaluate revenue around three solution groups:

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

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

Revenues from these three solution groups for the three months ended June 30, 2020 and 2019 were as follows:

(In thousands)	Three Months Ended June 30,					
	2020	% of Revenue	2019	% of Revenue	\$ Variance	% Variance
Ratings and Planning ⁽¹⁾	\$ 63,779	72.0 %	\$ 68,922	71.1 %	\$ (5,143)	(7.5) %
Analytics and Optimization ⁽¹⁾	16,894	19.1 %	17,293	17.9 %	(399)	(2.3) %
Movies Reporting and Analytics	7,893	8.9 %	10,673	11.0 %	(2,780)	(26.0) %
Total revenues	\$ 88,566	100.0 %	\$ 96,888	100.0 %	\$ (8,322)	(8.6) %

⁽¹⁾In the second quarter of 2020, we began classifying revenue from certain new and extended custom agreements for services that utilize our syndicated data set, previously classified under Analytics and Optimization, as Ratings and Planning. The impact was not material to either solution group.

Revenues decreased by \$8.3 million, or 8.6%, for the three months ended June 30, 2020 as compared to the three months ended June 30, 2019.

Ratings and Planning revenue is comprised of revenue from our digital, television and cross-platform products. Ratings and Planning revenue decreased \$5.1 million in the three months ended June 30, 2020 as compared to the three months ended June 30, 2019. The decrease was largely driven by lower revenue from our syndicated digital products due in part to the COVID-19 pandemic. While retention of syndicated digital enterprise customers remained high, revenue from our syndicated digital products represented 48% and 50% of our Ratings and Planning revenue in the second quarter of 2020 and 2019, respectively. TV revenues were higher due in part to our new partnership with LiveRamp, additional deliveries of addressable TV solutions, and the impact of new Local TV business entered into in 2019. Cross-platform revenues were lower due to fewer customer deliveries.

Analytics and Optimization revenue decreased by \$0.4 million in the three months ended June 30, 2020 as compared to the three months ended June 30, 2019. The decrease was primarily due to a decline in activation usage and fewer deliveries of lift and survey products, due in part to the COVID-19 pandemic, during the second quarter of 2020. The decline was partially offset by approximately \$1.0 million in revenue from a one-time recovery of revenue-sharing fees pertaining to one of our lift products.

Movies Reporting and Analytics revenue decreased by \$2.8 million in the three months ended June 30, 2020 as compared to the three months ended June 30, 2019. Revenue was impacted by some smaller customers under short-term contracts pausing service in connection with theater closures. We expect theater closures to continue affecting movies revenue for the foreseeable future. During the quarter ended June 30, 2020, we signed or renewed contracts with eight significant customers, including three major domestic studios and one international studio. However, the uncertainty around theater re-openings delayed the renewals of several customers.

Revenues for these three solution groups for the six months ended June 30, 2020 and 2019 were as follows:

(In thousands)	Six Months Ended June 30,					
	2020	% of Revenue	2019	% of Revenue	\$ Variance	% Variance
Ratings and Planning ⁽¹⁾	\$ 127,300	71.5 %	\$ 139,499	70.0 %	\$ (12,199)	(8.7) %
Analytics and Optimization ⁽¹⁾	32,395	18.2 %	38,751	19.5 %	(6,356)	(16.4) %
Movies Reporting and Analytics	18,399	10.3 %	20,932	10.5 %	(2,533)	(12.1) %
Total revenues	\$ 178,094	100.0 %	\$ 199,182	100.0 %	\$ (21,088)	(10.6) %

⁽¹⁾In the second quarter of 2020, we began classifying revenue from certain new and extended custom agreements for services that utilize our syndicated data set, previously classified under Analytics and Optimization, as Ratings and Planning. The impact was not material to either solution group.

Revenues decreased by \$21.1 million, or 10.6%, for the six months ended June 30, 2020 as compared to the six months ended June 30, 2019.

Ratings and Planning revenue decreased by \$12.2 million in the six months ended June 30, 2020 as compared to the six months ended June 30, 2019. The decrease was largely driven by lower revenue from our syndicated digital products due in part to the COVID-19 pandemic. While retention of syndicated digital enterprise customers remained high, revenue from our syndicated digital products represented 49% and 51% of our Ratings and Planning revenue for the six months ended June 30, 2020 and 2019, respectively. TV revenues were lower as a result of the effects of consolidation of certain customers. The decrease was partially offset by increases from our new partnership with LiveRamp, additional deliveries of addressable TV solutions, and the impact of new Local TV business entered into in 2019. Cross-platform revenues were lower due to fewer customer deliveries.

Analytics and Optimization revenue decreased by \$6.4 million in the six months ended June 30, 2020 as compared to the six months ended June 30, 2019, due to lower sales and deliveries across all products in this solution group, due in part to the COVID-19 pandemic, in the first six months of 2020. These declines were partially offset by approximately \$1.0 million in revenue from a one-time recovery of revenue-sharing fees pertaining to one of our lift products.

Movies Reporting and Analytics revenue decreased by \$2.5 million in the six months ended June 30, 2020 as compared to the six months ended June 30, 2019. Revenue was impacted by some smaller customers under short-term contracts pausing service in connection with theater closures. We expect theater closures to continue affecting movies revenue for the foreseeable future. During the quarter ended June 30, 2020, we signed or renewed contracts with eight significant customers, including three major domestic studios and one international studio. However, the uncertainty around theater re-openings delayed the renewals of several customers.

Cost of Revenues

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

Cost of revenues for the three months ended June 30, 2020 and 2019 were as follows:

(In thousands)	Three Months Ended June 30,					
	2020	% of Revenue	2019	% of Revenue	\$ Change	% Change
Data costs	\$ 15,459	17.5 %	\$ 16,737	17.3 %	\$ (1,278)	(7.6) %
Employee costs	9,862	11.1 %	14,137	14.6 %	(4,275)	(30.2) %
Systems and bandwidth costs	6,034	6.8 %	5,495	5.7 %	539	9.8 %
Panel costs	4,832	5.5 %	4,884	5.0 %	(52)	(1.1) %
Lease expense and depreciation	4,187	4.7 %	3,853	4.0 %	334	8.7 %
Sample and survey costs	1,421	1.6 %	1,489	1.5 %	(68)	(4.6) %
Technology	1,416	1.6 %	1,444	1.5 %	(28)	(1.9) %
Professional fees	747	0.8 %	1,920	2.0 %	(1,173)	(61.1) %
Royalties and resellers	382	0.4 %	802	0.8 %	(420)	(52.4) %
Other	609	0.7 %	1,233	1.3 %	(624)	(50.6) %
Total cost of revenues	\$ 44,949	50.8 %	\$ 51,994	53.7 %	\$ (7,045)	(13.5) %

Cost of revenues decreased \$7.0 million, or 13.5%, for the three months ended June 30, 2020 as compared to the three months ended June 30, 2019. Employee costs decreased \$4.3 million primarily due to a reduction in headcount. Data costs decreased by \$1.3 million primarily due to reclassification of costs to systems and bandwidth to better reflect the nature of services provided. Professional fees decreased \$1.2 million primarily due to a decrease in consulting services.

Cost of revenues for the six months ended June 30, 2020 and 2019 were as follows:

(In thousands)	Six Months Ended June 30,					
	2020	% of Revenue	2019	% of Revenue	\$ Change	% Change
Data costs	\$ 30,726	17.3 %	\$ 32,798	16.5 %	\$ (2,072)	(6.3) %
Employee costs	20,142	11.3 %	29,102	14.6 %	(8,960)	(30.8) %
Systems and bandwidth costs	11,792	6.6 %	10,776	5.4 %	1,016	9.4 %
Panel costs	9,948	5.6 %	10,322	5.2 %	(374)	(3.6) %
Lease expense and depreciation	8,134	4.6 %	7,264	3.6 %	870	12.0 %
Technology	2,863	1.6 %	2,916	1.5 %	(53)	(1.8) %
Sample and survey costs	2,677	1.5 %	3,938	2.0 %	(1,261)	(32.0) %
Professional fees	1,842	1.0 %	4,252	2.1 %	(2,410)	(56.7) %
Royalties and resellers	1,369	0.8 %	1,708	0.9 %	(339)	(19.8) %
Other	1,254	0.7 %	2,325	1.2 %	(1,071)	(46.1) %
Total cost of revenues	\$ 90,747	51.0 %	\$ 105,401	52.9 %	\$ (14,654)	(13.9) %

Cost of revenues decreased \$14.7 million, or 13.9%, for the six months ended June 30, 2020 as compared to the six months ended June 30, 2019. Employee costs decreased \$9.0 million primarily due to a reduction in headcount and a decrease in stock-based compensation expense. Professional fees decreased \$2.4 million primarily due to a decrease in consulting services. Data costs decreased \$2.1 million primarily due reclassification of costs to systems and bandwidth to better reflect the nature of the services provided. Sample and survey costs decreased \$1.3 million due to lower sales and deliveries of digital custom marketing solutions.

Selling and Marketing

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

Selling and marketing expenses for the three months ended June 30, 2020 and 2019 were as follows:

(In thousands)	Three Months Ended June 30,					
	2020	% of Revenue	2019	% of Revenue	\$ Change	% Change
Employee costs	\$ 13,322	15.0 %	\$ 18,591	19.2 %	\$ (5,269)	(28.3)%
Lease expense and depreciation	1,283	1.4 %	1,599	1.7 %	(316)	(19.8)%
Professional fees	557	0.6 %	754	0.8 %	(197)	(26.1)%
Travel	—	— %	880	0.9 %	(880)	(100.0)%
Other	845	1.0 %	1,505	1.6 %	(660)	(43.9)%
Total selling and marketing expenses	\$ 16,007	18.1 %	\$ 23,329	24.1 %	\$ (7,322)	(31.4)%

Selling and marketing expenses decreased by \$7.3 million, or 31.4%, for the three months ended June 30, 2020 as compared to the three months ended June 30, 2019, largely attributable to a decrease in employee costs as a result of lower headcount, a decrease in sales commissions, and lower travel costs resulting from the COVID-19 pandemic.

Selling and marketing expenses for the six months ended June 30, 2020 and 2019 were as follows:

(In thousands)	Six Months Ended June 30,					
	2020	% of Revenue	2019	% of Revenue	\$ Change	% Change
Employee costs	\$ 28,482	16.0 %	\$ 38,954	19.6 %	\$ (10,472)	(26.9)%
Lease expense and depreciation	2,670	1.5 %	3,205	1.6 %	(535)	(16.7)%
Professional fees	1,263	0.7 %	1,460	0.7 %	(197)	(13.5)%
Travel	622	0.3 %	1,704	0.9 %	(1,082)	(63.5)%
Other	2,183	1.2 %	2,846	1.4 %	(663)	(23.3)%
Total selling and marketing expenses	\$ 35,220	19.8 %	\$ 48,169	24.2 %	\$ (12,949)	(26.9)%

Selling and marketing expenses decreased by \$12.9 million, or 26.9%, for the six months ended June 30, 2020 as compared to the six months ended June 30, 2019. Employee costs decreased \$10.5 million as a result of lower headcount, a decrease in sales commissions, and a decrease in stock-based compensation expense. Travel costs decreased \$1.1 million primarily due to the reduction in travel resulting from the COVID-19 pandemic.

Research and Development

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

Research and development expenses for the three months ended June 30, 2020 and 2019 were as follows:

(In thousands)	Three Months Ended June 30,					
	2020	% of Revenue	2019	% of Revenue	\$ Change	% Change
Employee costs	\$ 7,323	8.3 %	\$ 13,018	13.4 %	\$ (5,695)	(43.7)%
Technology	1,072	1.2 %	1,040	1.1 %	32	3.1 %
Lease expense and depreciation	1,037	1.2 %	1,498	1.5 %	(461)	(30.8)%
Professional fees	232	0.3 %	840	0.9 %	(608)	(72.4)%
Other	101	0.1 %	487	0.5 %	(386)	(79.3)%
Total research and development expenses	\$ 9,765	11.0 %	\$ 16,883	17.4 %	\$ (7,118)	(42.2)%

Research and development expenses decreased by \$7.1 million, or 42.2%, for the three months ended June 30, 2020 as compared to the three months ended June 30, 2019. Employee costs decreased \$5.7 million as a result of lower headcount and a decrease in stock-based compensation expense. Professional fees decreased \$0.6 million primarily due to a decrease in consulting services.

Research and development expenses for the six months ended June 30, 2020 and 2019 were as follows:

(In thousands)	Six Months Ended June 30,					
	2020	% of Revenue	2019	% of Revenue	\$ Change	% Change
Employee costs	\$ 14,597	8.2 %	\$ 26,788	13.4 %	\$ (12,191)	(45.5) %
Lease expense and depreciation	2,226	1.2 %	3,066	1.5 %	(840)	(27.4) %
Technology	2,149	1.2 %	2,119	1.1 %	30	1.4 %
Professional fees	621	0.3 %	2,209	1.1 %	(1,588)	(71.9) %
Other	308	0.2 %	917	0.5 %	(609)	(66.4) %
Total research and development expenses	\$ 19,901	11.2 %	\$ 35,099	17.6 %	\$ (15,198)	(43.3) %

Research and development expenses decreased by \$15.2 million, or 43.3%, for the six months ended June 30, 2020 as compared to the six months ended June 30, 2019. Employee costs decreased \$12.2 million as a result of lower headcount and a decrease in stock-based compensation expense. Professional fees decreased \$1.6 million primarily due to a decrease in consulting services.

General and Administrative

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

General and administrative expenses for the three months ended June 30, 2020 and 2019 were as follows:

(In thousands)	Three Months Ended June 30,					
	2020	% of Revenue	2019	% of Revenue	\$ Change	% Change
Employee costs	\$ 6,968	7.9 %	\$ 8,548	8.8 %	\$ (1,580)	(18.5) %
Professional fees	2,754	3.1 %	4,770	4.9 %	(2,016)	(42.3) %
Bad debt expense	1,098	1.2 %	118	0.1 %	980	NM ⁽¹⁾
Technology	553	0.6 %	268	0.3 %	285	106.3 %
Lease expense and depreciation	526	0.6 %	651	0.7 %	(125)	(19.2) %
Other	1,842	2.1 %	2,577	2.7 %	(735)	(28.5) %
Total general and administrative expenses	\$ 13,741	15.5 %	\$ 16,932	17.5 %	\$ (3,191)	(18.8) %

⁽¹⁾ Not meaningful (NM).

General and administrative expenses decreased by \$3.2 million, or 18.8%, for the three months ended June 30, 2020 as compared to the three months ended June 30, 2019. Professional fees decreased \$2.0 million primarily due to fees incurred in the three months ended June 30, 2019 related to the issuance of Common Stock and warrants in June 2019 and reduced audit fees in 2020 as compared to 2019. Employee costs decreased \$1.6 million primarily as a result of lower headcount and stock-based compensation in the second quarter of 2020 as compared with 2019. These decreases were offset by an increase in bad debt expense of \$1.0 million primarily due to increased reserves related to customers more impacted by the current economic environment.

General and administrative expenses for the six months ended June 30, 2020 and 2019 were as follows:

(In thousands)	Six Months Ended June 30,					
	2020	% of Revenue	2019	% of Revenue	\$ Change	% Change
Employee costs	\$ 13,532	7.6 %	\$ 19,809	9.9 %	\$ (6,277)	(31.7) %
Professional fees	7,365	4.1 %	9,559	4.8 %	(2,194)	(23.0) %
Bad debt expense	1,590	0.9 %	—	— %	1,590	NM ⁽¹⁾
Technology	1,116	0.6 %	412	0.2 %	704	170.9 %
Lease expense and depreciation	1,112	0.6 %	1,311	0.7 %	(199)	(15.2) %
Transition services agreement	—	— %	667	0.3 %	(667)	(100.0) %
Other	4,569	2.6 %	4,719	2.4 %	(150)	(3.2) %
Total general and administrative expenses	\$ 29,284	16.4 %	\$ 36,477	18.3 %	\$ (7,193)	(19.7) %

⁽¹⁾ Not meaningful (NM).

General and administrative expenses decreased by \$7.2 million, or 19.7%, for the six months ended June 30, 2020 as compared to the six months ended June 30, 2019. A decrease of \$6.3 million in employee costs in 2020 compared to 2019 was primarily due to \$3.3 million in severance costs for executives who exited in March 2019, as well as lower headcount and a decrease in stock-based compensation expense. Professional fees decreased \$2.2 million primarily due to fees related to the issuance of Common Stock and warrants in June 2019 and reduced audit fees in 2020 as compared to 2019. These decreases were offset by an increase in bad debt expense of \$1.6 million primarily due to increased reserves related to customers impacted by the current economic environment.

Investigation and Audit Related

We did not incur any expenses related to the previously disclosed Audit Committee investigation and prior-year audits during the three and six months ended June 30, 2020. The investigation and audit related expenses for the three and six months ended June 30, 2019 related to ongoing fees for the previously disclosed SEC investigation which was resolved in September 2019. We do not expect to incur additional expenses for this matter.

Impairment of Goodwill and Intangible Asset

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

Also in the second quarter of 2019, changes in our projected revenue in certain non-U.S. geographic markets due to the changing international competitive landscape, as well as significant reductions in international staffing during the quarter, resulted in a change in our long-term view of the viability of our strategic alliance intangible asset. Our assessment yielded that the benefit of the strategic alliance would not be realized, and as a result we recorded a \$17.3 million impairment charge in the second quarter of 2019.

There were no comparable charges in the three or six months ended June 30, 2020.

Impairment of Right-of-use and Long-lived Assets

In the first quarter of 2020, we recorded a \$4.7 million impairment charge related to our facility lease right-of-use assets and associated leasehold improvements for certain properties currently on the market for sublease. The impairment charge was driven by changes in our projected undiscounted cash flows for certain properties, primarily as a result of changes in the real estate market related to the COVID-19 pandemic, that led to an increase in the estimated marketing time and a reduction of expected receipts.

Interest Expense, Net

Interest expense, net consists of interest income and interest expense. Interest income primarily consists of interest earned from our cash and cash equivalent balances. Interest expense relates to interest on our senior secured convertible notes ("Notes"), secured term note (the "Secured Term Note") and our finance leases.

During the three months ended June 30, 2020 and 2019, we incurred interest expense, net of \$8.9 million and \$8.2 million, respectively, and \$17.7 million and \$15.0 million during the six months ended June 30, 2020 and 2019, respectively. The increase in interest expense, net for the three months ended June 30, 2020 compared with the three months ended June 30, 2019 was primarily due to the issuance of the Secured Term Note in December 2019. The increase in interest expense, net for the six months ended June 30, 2020 compared with the six months ended June 30, 2019 was primarily driven by the interest rate reset feature on the Notes, which reset the interest rate from 6.0% to 12.0% in January 2019, and the issuance of the Secured Term Note in December 2019.

Other Income (Expense), Net

Other income (expense), net represents income and expenses incurred that are generally not part of our regular operations. The following is a summary of other income (expense), net for the three and six months ended June 30, 2020 and 2019:

<i>(In thousands)</i>	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Change in fair value of financing derivatives	\$ 2,300	\$ (3,000)	\$ 4,687	\$ 1,100
Change in fair value of warrants liability	(758)	—	3,893	—
Change in fair value of investment in equity securities	—	(304)	—	(2,016)
Other	(65)	223	91	804
Total other income (expense), net	\$ 1,477	\$ (3,081)	\$ 8,671	\$ (112)

Other income, net for the three and six months ended June 30, 2020 was driven primarily by the gain from the changes in fair value of our financing derivatives offset by the change in fair value of our warrants liability. Other expense, net for the three and six months ended June 30, 2019 primarily relates to gains and losses from the changes in fair value of our financing derivatives, and the loss due to the decline in the fair value of our investment in equity securities, which were disposed in 2019.

Loss from Foreign Currency Transactions

Our foreign currency transactions are recorded as a result of fluctuations in the exchange rate between the transactional currency and the functional currency of foreign subsidiary transactions. Our international currency exposures that relate to the translation to U.S. Dollars are in a net liability position and our international currency exposures that relate to the translation from U.S. Dollars are in a net asset position. The U.S. Dollar strengthened during the first quarter of 2020 which was offset by weakness of the U.S. Dollar in the second quarter of 2020. This resulted in losses for our positions when translated to U.S. Dollars during the second quarter of 2020 and minimal losses for the first half of 2020. For the three and six months ended June 30, 2020, the loss from foreign currency transactions was \$0.9 million and \$0.1 million, respectively. The losses were primarily driven by fluctuations in the Chilean Peso against the U.S. Dollar and Euro. For the three and six months ended June 30, 2019, the gain from foreign currency transactions was immaterial.

Benefit for Income Taxes

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

During the three and six months ended June 30, 2020, we recorded an income tax benefit of \$0.7 million and \$1.1 million, respectively, resulting in an effective tax rate of (6.0)% and (4.4)%, respectively. During the three and six months ended June 30, 2019, we recorded an income tax benefit of \$4.5 million and \$3.3 million, respectively, resulting in an effective tax rate of (1.6)% and (1.1)%, respectively. These effective tax rates differ from the U.S. federal statutory rate primarily due to the effects of foreign tax rate differences, U.S. state legislative changes and changes in the valuation allowance against our domestic deferred tax assets.

The COVID-19 pandemic has a global reach, and many countries are introducing measures that provide relief to taxpayers in a variety of ways. We are currently evaluating these measures, including the CARES Act in the United States, but these did not have an impact on our income tax provision for the three and six months ended June 30, 2020.

Recent Accounting Pronouncements

For a discussion of recent accounting pronouncements, refer to [Footnote 2, Summary of Significant Accounting Policies](#).

Non-GAAP Financial Measures

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

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

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

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

- Adjusted EBITDA does not reflect tax or interest payments that represent a reduction in cash available to us (or, in the case of interest paid in Common Stock, that represent additional dilution to our existing stockholders);
- Depreciation and amortization are non-cash charges and the assets being depreciated may have to be replaced in the future. Adjusted EBITDA does not reflect cash capital expenditure requirements for such replacements or for new capital expenditure requirements;
- Adjusted EBITDA does not reflect changes in, or cash requirements for, our working capital needs;

- Adjusted EBITDA and non-GAAP net loss do not reflect cash payments relating to fees incurred in connection with issuance of equity securities, restructuring, litigation and the prior-year Audit Committee investigation, such as litigation and investigation-related costs, costs associated with tax projects, audits and other professional, consulting or other fees incurred in connection with our prior-year audits and certain legal proceedings, all of which have represented a reduction in cash available to us;
- Adjusted EBITDA and non-GAAP net loss do not consider the impact of stock-based compensation and similar arrangements that represent dilution to our existing stockholders;
- Adjusted EBITDA and non-GAAP net loss do not consider impairment of goodwill, long-lived assets and right-of-use assets, which represents a decline in the value of our assets;
- Adjusted EBITDA and non-GAAP net loss do not consider possible cash gains or losses related to our financing derivatives, warrants liability or investment in equity securities; and
- Other companies, including companies in our industry, may calculate any of these non-GAAP financial measures differently, which reduces their usefulness as comparative measures.

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

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

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

(In thousands)	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Net loss (GAAP)	\$ (10,401)	\$ (279,533)	\$ (23,585)	\$ (307,047)
Interest expense, net	8,856	8,242	17,702	15,001
Amortization of intangible assets	6,846	8,076	13,764	16,181
Depreciation	3,404	3,005	6,788	6,111
Amortization expense of finance leases	394	787	784	1,361
Income tax benefit	(664)	(4,463)	(1,079)	(3,292)
EBITDA	8,435	(263,886)	14,374	(271,685)
Adjustments:				
Stock-based compensation expense	2,346	4,304	5,004	11,257
Investigation and audit related	—	2,354	—	3,196
Settlement of certain litigation, net	—	5,000	—	5,000
Restructuring	—	2,949	—	2,879
Impairment of goodwill	—	224,272	—	224,272
Impairment of intangible asset	—	17,308	—	17,308
Private placement issuance cost	—	1,154	—	1,154
Impairment of right-of-use and long-lived assets	—	—	4,671	—
Other (income) expense, net ⁽¹⁾	(1,542)	3,304	(8,434)	916
Adjusted EBITDA	<u>\$ 9,239</u>	<u>\$ (3,241)</u>	<u>\$ 15,615</u>	<u>\$ (5,703)</u>

⁽¹⁾ Adjustments to other (income) expense, net reflect non-cash changes in the fair value of financing derivatives, warrants liability and equity securities investment included in other income (expense), net and certain legal expenses defined by the Notes and classified as general and administrative expenses on our Condensed Consolidated Statements of Operations and Comprehensive Loss. We sold our investment in equity securities in 2019.

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

(In thousands)	Three Months Ended June 30,		Six Months Ended June 30,	
	2020	2019	2020	2019
Net loss (GAAP)	\$ (10,401)	\$ (279,533)	\$ (23,585)	\$ (307,047)
Adjustments:				
Amortization of intangible assets	6,846	8,076	13,764	16,181
Stock-based compensation expense	2,346	4,304	5,004	11,257
Investigation and audit related	—	2,354	—	3,196
Impairment of right-of-use and long-lived assets	—	—	4,671	—
Settlement of certain litigation, net	—	5,000	—	5,000
Restructuring	—	2,949	—	2,879
Impairment of goodwill	—	224,272	—	224,272
Impairment of intangible asset	—	17,308	—	17,308
Private placement issuance cost	—	1,154	—	1,154
Other (income) expense, net ⁽¹⁾	(1,542)	3,304	(8,434)	916
Non-GAAP net loss	\$ (2,751)	\$ (10,812)	\$ (8,580)	\$ (24,884)

⁽¹⁾ Adjustments to other (income) expense, net reflect non-cash changes in the fair value of financing derivatives, warrants liability and equity securities investment included in other income (expense), net and certain legal expenses defined by the Notes and classified as general and administrative expenses on our Condensed Consolidated Statements of Operations and Comprehensive Loss. We sold our investment in equity securities in 2019.

Liquidity and Capital Resources

The following table summarizes our cash flows for each of the periods identified:

(In thousands)	Six Months Ended June 30,	
	2020	2019
Net cash used in operating activities	\$ (1,792)	\$ (10,704)
Net cash used in investing activities	(7,881)	(6,807)
Net cash (used in) provided by financing activities	(1,046)	21,048
Effect of exchange rate changes on cash, cash equivalents and restricted cash	(544)	91
Net (decrease) increase in cash, cash equivalents and restricted cash	(11,263)	3,628

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

As of June 30, 2020, our principal sources of liquidity consisted of cash, cash equivalents and restricted cash totaling \$55.5 million, including \$19.6 million in restricted cash.

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

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

In December 2019, we issued a Secured Term Note for gross cash proceeds of \$13.0 million. See "Secured Term Note" below.

In January 2020, April 2020 and July 2020, we paid our quarterly accrued interest liability on the Notes in cash; the interest amount was accrued in short term liabilities as of December 31, 2019, March 31, 2020 and June 30, 2020, respectively.

The COVID-19 pandemic and related government mandates and restrictions have had a significant impact on the media, advertising and entertainment industries in which we operate. To date, the COVID-19 pandemic has had some impact on our business, including with respect to the timing of executing new or renewal contracts, the impact of closed movie theaters on our customers, customer payment delays and requests to modify contractual payment terms. These conditions have negatively impacted our liquidity and cash flows to some extent and are expected to continue to have an impact in future periods. In the second quarter of 2020, we continued to see delays in cash collections, leading our management team to take actions to mitigate the near-term impact on our liquidity. These actions included freezing hiring, exiting non-critical consultants and contractors, terminating or negotiating reductions in vendor agreements and leases, reducing compensation for our senior leadership team and board of directors, and reducing certain travel, marketing, recruiting and other corporate activities not deemed critical to the business in the current environment.

In addition to its impact on operations, the spread of COVID-19 has led to disruption and volatility in global capital and credit markets. Depending on future developments, this disruption could impact our ability to access capital resources on terms acceptable to us or allowable under our current financing arrangements, and our management team continues to evaluate a range of scenarios in this area as well.

On March 27, 2020, Congress enacted the Coronavirus Aid, Relief and Economic Security Act ("CARES Act"). The CARES Act, among other things, includes tax provisions for the deferral of certain employer payroll tax liabilities, refundable employee retention credits, rollbacks of Tax Cuts and Jobs Act ("TCJA") limitations on net operating losses, the acceleration of alternative minimum tax credit refunds, modifications to the net interest deduction limitations and technical corrections to tax depreciation methods for qualified improvement property. We began deferring certain payroll taxes starting in April 2020, as permitted by the CARES Act. In addition, we began claiming the refundable employee retention credit created by the CARES Act during 2020. We continue to assess the effect of the CARES Act and additional legislation and government guidance related to the COVID-19 pandemic.

Our liquidity could be negatively affected by a decrease in demand for our products and services or by additional losses from operations, as well as payment of expenses incurred in prior periods in addition to current period expenses. It is possible that long-term changes in consumer behavior will impact our customers' operations, and thus their demand for our services and ability to pay, even after the spread of COVID-19 has been contained and businesses are permitted to resume normal operations. While we are taking actions (as described above) to mitigate the impact of COVID-19, control costs and improve our working capital balance, these steps may not be successful or adequate to offset future declines. If our efforts to control costs are not sufficient, or if customer demand or cash collection efforts are further impacted by the COVID-19 pandemic, we may not be able to maintain our compliance with the affirmative and negative covenants in our Notes and Secured Term Note or to meet our financial obligations to our vendors or others.

Our liquidity could be significantly affected if we are unable to maintain compliance with the covenants in our Notes and Secured Term Note, including the minimum cash balance requirements described in [Footnote 4, Long-term Debt](#), to our Condensed Consolidated Financial Statements. If we fail to comply with our covenants, we could be required to redeem the Notes and the Secured Term Note at a premium. As of June 30, 2020, there was \$217.0 million outstanding under the Notes and the Secured Term Note. The source of funds for any redemption of our debt would be our available cash and other financing, to the extent available. Based on our current plans, including continued cost management and other actions within management's control, we do not anticipate a breach of these covenants that would result in an event of default under the Notes or the Secured Term Note; however, during the quarter ended June 30, 2020, the holders of the Notes questioned our compliance with the minimum cash balance requirements therein. As noted, any breach of covenants under the Notes could have a material impact on our liquidity.

We continue to be focused on maintaining flexibility in terms of sources, amounts and the timing of any potential financing, refinancing or strategic transaction in order to best position the Company for future success. We believe that our sources of funding, after taking into account the actions described above, will be sufficient to satisfy our currently anticipated requirements for at least the next 12 months. However, we cannot predict with certainty the outcome of our actions to generate liquidity, including the availability of additional financing. We also cannot predict the duration and magnitude of the COVID-19 pandemic or its ultimate effects on our business or liquidity or any action that may be taken by the holders of the Notes.

Restricted Cash

Restricted cash represents our requirement to collateralize the Secured Term Note, outstanding letters of credit, international payroll processing exposures and lines of credit related to certain of our corporate credit card programs and international payroll processing exposures. As of June 30, 2020 and December 31, 2019, we had \$19.6 million and \$20.2 million of restricted cash, respectively.

Letters of Credit

In 2018, we entered into a Security Agreement with Wells Fargo Bank, N.A. to issue standby letters of credit on our behalf. As of June 30, 2020, \$3.3 million in letters of credit are outstanding and are cash collateralized under the Security Agreement with Wells Fargo Bank, N.A.

Issuance and Sale of Common Stock and Warrants

On June 23, 2019, we entered into a Securities Purchase Agreement with CVI pursuant to which we sold to CVI for aggregate gross proceeds of \$20.0 million (i) 2,728,513 shares of Common Stock and (ii) Series A Warrants, Series B-1 Warrants, Series B-2 Warrants and Series C Warrants to initially purchase up to 11,654,033 shares of Common Stock (the "Private Placement"). On October 14, 2019, we issued 2,728,513 shares of Common Stock to CVI upon exercise by CVI of the Series C Warrants. As a result of this exercise, the number of shares issuable under our Series A Warrants was increased by 2,728,513. In January 2020, the Series B-1 Warrants expired unexercised. On August 3, 2020, the Series B-2 Warrants expired unexercised.

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

Issuance and Sale of Senior Secured Convertible Notes and Warrants

On January 16, 2018, we entered into certain agreements with Starboard, pursuant to which we issued and sold to Starboard \$150.0 million in Notes in exchange for \$85.0 million in cash and 2,600,000 shares of Common Stock. We also agreed to issue to Starboard warrants to purchase 250,000 shares of Common Stock at a price of \$0.01 per share, as adjusted pursuant to the terms of the warrants. The warrants were issued on October 12, 2018 and exercised in full on April 3, 2019 for 323,448 shares of Common Stock. On May 17, 2018, we issued and sold to Starboard \$50.0 million of Notes in exchange for \$15.0 million in cash and 1,400,000 shares of Common Stock. Later in 2018 we issued an aggregate of \$4.0 million in Notes to Starboard, bringing the total balance of the Notes as of June 30, 2020 to \$204.0 million.

The Notes contain certain affirmative and restrictive covenants with which we must comply, including covenants with respect to (i) limitations on additional indebtedness, (ii) limitations on liens, (iii) limitations on certain payments, (iv) maintenance of certain minimum cash balances (currently \$40.0 million) and (v) the timely filing of certain disclosures with the SEC. We are in compliance with the Notes covenants as of June 30, 2020, inclusive of our restricted cash balances. As discussed above, any breach of these covenants could have a significant negative effect on our liquidity.

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

Secured Term Note

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

The Secured Term Note contains certain affirmative and restrictive covenants with which Rentrak B.V. must comply, including (i) maintenance of a minimum cash collateral balance of \$14.8 million, (ii) provision of certain financial statements, (iii) limitations on additional indebtedness and liens, (iv) limitations on repayment of debt, (v) limitations on repurchase of stock, and (vi) limitations on disposition of assets. Rentrak B.V. is in compliance with the Secured Term Note covenants as of June 30, 2020.

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

Operating Activities

Our primary source of cash provided by operating activities is revenues generated from sales of our Ratings and Planning, Analytics and Optimization, and Movies Reporting and Analytics products and services. Our primary uses of cash from operating activities include personnel costs and costs related to data and infrastructure used to develop and maintain our products and services. As discussed above, we have experienced delays in customer payments and requests to modify contractual payment terms in connection with the COVID-19 pandemic and related government mandates and restrictions.

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

Net cash used in operating activities for the six months ended June 30, 2020 was \$1.8 million compared to net cash used of \$10.7 million for the six months ended June 30, 2019. The decrease in cash used in operating activities during the six months ended June 30, 2020 as compared to the six months ended June 30, 2019 was primarily attributable to a decrease in the net loss, offset by an increase in cash interest paid on the Notes in 2020 of \$9.2 million, as well as a net decrease in operating assets and liabilities of \$9.9 million for the six months ended June 30, 2020 as compared to a net increase of \$16.9 million for the six months ended June 30, 2019. The shift from a net increase in operating assets and liabilities to a net decrease is primarily due to payments of our accounts payable and accrual balances from the prior year during the six months ended June 30, 2020. Included in our decrease of operating assets and liabilities is an increase in contract liability related to an upfront payment resulting from a new contract, which increased our cash balance by \$9.4 million during the second quarter of 2020.

Investing Activities

Cash used in investing activities primarily consists of payments related to capitalized internal-use software costs, purchases of computer and network equipment to support our technical infrastructure, and furniture and equipment. The extent of these investments will be affected by our ability to expand relationships with existing customers, grow our customer base and introduce new digital formats, as well as constraints on cash expenditures in the current economic environment.

Net cash used in investing activities for the six months ended June 30, 2020 was \$7.9 million compared to net cash used in investing activities of \$6.8 million for the six months ended June 30, 2019. This increase in cash used in investing activities was attributable to an increase of \$2.2 million in payments for capitalized internally developed software and a \$0.7 million decline in receipts from the sale of an investment in 2019 that did not recur in 2020, partially offset by a \$1.8 million decrease in purchases of property and equipment in 2020 compared with 2019.

Financing Activities

Net cash used in financing activities during the six months ended June 30, 2020 was \$1.0 million compared to net cash provided by financing activities of \$21.0 million during the six months ended June 30, 2019. The shift from cash provided by financing activities to cash used in financing activities was largely due to cash proceeds of \$19.9 million from the sale of shares of Common Stock and warrants in the Private Placement during 2019 and cash proceeds of \$4.3 million from the sale-leaseback transaction during 2019.

Contractual Payment Obligations

We are subject to certain contractual arrangements that are long-term in nature. The information set forth below summarizes our contractual obligations as of June 30, 2020 that are fixed and determinable.

<i>(In thousands)</i>	Total	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
Long-term debt obligations ⁽¹⁾	\$ 217,000	\$ —	\$ 217,000	\$ —	\$ —
Unconditional purchase obligations with MVPDs ⁽²⁾	93,078	36,299	47,518	9,261	—
Operating lease obligations ⁽³⁾	69,198	6,360	21,517	18,597	22,724
Finance lease obligations ⁽⁴⁾	4,070	1,180	2,876	14	—
Sale-leaseback financing transaction ⁽⁵⁾	2,545	2,545	—	—	—
Other long-term obligations ⁽⁶⁾	9,206	5,838	3,368	—	—
Total	\$ 395,097	\$ 52,222	\$ 292,279	\$ 27,872	\$ 22,724

⁽¹⁾ In 2018, we entered into several agreements with Starboard whereby we issued Notes in exchange for cash and shares of Common Stock. In 2019, our wholly-owned subsidiary, Rentrak B.V., entered into a Secured Term Note. See [Footnote 4, Long-term Debt](#) for more information.

⁽²⁾ Unconditional purchase obligations with MVPDs include contractual arrangements with MVPDs for the purchase of TV viewing data that is used in our products, primarily reported in the Ratings and Planning solution group. If these arrangements are canceled by the MVPDs, we have the ability to terminate contracts with our end customers. Commitments reflected herein relate to future data obligations after June 30, 2020.

⁽³⁾ Operating lease obligations represent future lease commitments, primarily for real estate leases, accounted for under ASC 842, Leases.

⁽⁴⁾ Finance lease obligations represent future lease commitments, primarily for equipment leases, accounted for under ASC 842, Leases.

⁽⁵⁾ We entered into a sale-leaseback arrangement with a vendor in June 2019. See [Footnote 4, Long-term Debt](#) for more information.

⁽⁶⁾ Other long-term obligations include long-term contracts for the acquisition of viewing data from non-MVPD partners, the right to access cloud-based solutions, and future commitments for our data center arrangements.

Future Capital Requirements

Our ability to generate cash is subject to our performance, general economic conditions, industry trends and other factors, including the timing of cash collections from our customers, trade payables, service of our debt and lease facilities, and expenses from ongoing compliance efforts and legal matters. As discussed above, we have experienced delays in customer payments and requests to modify contractual payment terms in connection with the COVID-19 pandemic and related government mandates and restrictions. To the extent that our existing cash, cash equivalents and operating cash flow, together with savings from cost-reduction initiatives undertaken by our management and any proceeds from the exercise of warrants sold in the Private Placement, are insufficient to fund our future activities and requirements, we may need to raise additional funds through public or private equity or debt financing. The current disruption and volatility in global capital and credit markets could impact our ability to access capital resources on terms acceptable to us or allowable under our current financing arrangements, or at all. If we were to issue additional equity securities in order to raise additional funds or pay interest on the Notes and Secured Term Note, further dilution to existing stockholders could occur.

Off-Balance Sheet Arrangements

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

Critical Accounting Policies

Our discussion and analysis of our financial condition and results of operations are based on our Condensed Consolidated Financial Statements, which have been prepared in accordance with GAAP. The preparation of these financial statements requires us to make estimates, assumptions and judgments that affect the amounts reported in our Condensed Consolidated Financial Statements and the accompanying Notes to Condensed Consolidated Financial Statements. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, including (with respect to the three and six months ended June 30, 2020) the ongoing and potential impacts of the COVID-19 pandemic and related government mandates and restrictions. Actual results may differ from these estimates.

Our critical accounting policies are those that are both material to the presentation of our financial condition and results of operations and require management's most subjective and complex judgments. Other than our accounting policies related to the impairment charges recorded for right-of-use and long-lived assets (which relate to the impact of the COVID-19 pandemic on local real estate markets), there have been no material changes to our critical accounting policies and estimates during the three and six months ended June 30, 2020 as compared to the critical accounting policies and estimates disclosed in our [2019 10-K](#).

Impairment of Right-of-use ("ROU") and Long-lived Assets

We apply the provisions of Accounting Standards Codification ("ASC") 360, *Property, Plant and Equipment*, to determine whether our ROU and related long-lived assets may be impaired. We evaluate our ROU and long-lived assets for impairment whenever events or changes in circumstances indicate the carrying value of such assets may not be recoverable. For facility lease ROU and related long-lived assets, we compare the estimated undiscounted cash flows generated by a sublease to the current carrying value of the ROU and related long-lived assets. If the undiscounted cash flows are less than the carrying value of the ROU and related long-lived assets, we record an impairment loss equal to the excess of the ROU and long-lived assets' carrying value over their fair value consistent with other long-lived assets.

We performed an interim analysis as of March 31, 2020, as changes in market conditions indicated the carrying value of certain facility lease ROU and other long-lived assets may not be recoverable, and determined certain ROU assets, and related leasehold improvements, were impaired. We recorded a \$4.7 million impairment charge related to our ROU assets, and related leasehold improvements, for the three months ended March 31, 2020, with corresponding adjustments of \$2.8 million and \$1.9 million to the operating lease ROU asset and property and equipment, net line items, respectively, in the Condensed Consolidated Balance Sheet as of March 31, 2020. The impairment charge was driven by changes in our projected undiscounted cash flows for certain properties, primarily as a result of changes in the real estate market related to the COVID-19 pandemic that led to an increase in the estimated marketing time, and a reduction of expected receipts, for properties currently on the market for sublease. The fair value of these ROU assets, and related leasehold improvements, was estimated using an income approach and a discount rate of 12.0%.

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

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Market risk represents the risk of loss that may impact our financial position due to adverse changes in financial market prices and rates. We are subject to interest rate risk in connection with the Notes, and we hold derivative financial instruments and have outstanding warrants that are subject to market risk. We also have foreign currency exchange rate risk from our global operations, although we do not believe this risk to be significant. Except as set forth below, there have been no material changes in our exposure to market risk during the three months ended June 30, 2020 as compared to our market risk disclosures set forth in [Item 7A](#), "Quantitative and Qualitative Disclosures About Market Risk" within the 2019 10-K.

Interest rate risk

As a result of having \$204.0 million aggregate principal amount of Notes outstanding, which are convertible into shares of Common Stock at a conversion price of \$31.29 per share (the "Conversion Price"), we are subject to interest rate risk. As of June 30, 2020, the interest rate on the Notes was 12.0% per year. The interest rate reset on January 30, 2020 and will remain at 12.0% (subject to certain conditions) until February 1, 2021 (the "Interest Reset Date"). On the Interest Reset Date, the interest rate will reset based on the then-applicable Conversion Premium which is calculated by dividing the Conversion Price by the arithmetic average of the volume-weighted average trading prices of our Common Stock on each of the ten consecutive trading days immediately preceding the applicable Interest Reset Date (the "VWAP"). The interest rate is then determined in accordance with the table below, which includes theoretical VWAP calculations:

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

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

As discussed in [Footnote 4](#), *Long-term Debt*, we have the ability, subject to certain conditions, to pay interest on the Notes through the issuance of PIK Interest Shares. We elected to pay the interest due on January 2, 2020, April 1, 2020 and July 1, 2020 in cash.

Interest rate reset derivative financial instrument, warrants liability financial instrument, and foreign currency risk

For discussion of market risk associated with our interest rate reset derivative financial instrument, warrants liability financial instrument, and foreign currency risk, refer to [Item 7A](#), "Quantitative and Qualitative Disclosures About Market Risk" in the 2019 10-K.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

We carried out an evaluation required by the Securities Exchange Act of 1934 (the "Exchange Act"), under the supervision and with the participation of our principal executive officer and our principal financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act, as of June 30, 2020. Based on this evaluation, our principal executive officer and principal financial officer concluded that as of June 30, 2020, these disclosure controls and procedures were effective to provide reasonable assurance that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms and to provide reasonable assurance that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

Changes in Internal Control over Financial Reporting

Under Exchange Act Rules 13a-15(d) and 15d-15(d), management is required to evaluate, with the participation of our principal executive officer and our principal financial officer, any changes in internal control over financial reporting that occurred during each fiscal quarter that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. During the most recent fiscal quarter, there has not occurred any change in our internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting. As of the date of this filing, we have not experienced a material change in our internal control over financial reporting related to the COVID-19 pandemic, including with respect to remote work arrangements for our employees. However, we will continue to monitor and assess circumstances related to the COVID-19 pandemic and our workforce to minimize any negative impact on the design and effectiveness of our internal control.

Inherent Limitation on the Effectiveness of Internal Controls

The effectiveness of any system of internal control over financial reporting is subject to inherent limitations, including the exercise of judgment in designing, implementing, operating, and evaluating the controls and procedures, and the inability to eliminate misconduct completely. Accordingly, any system of internal control over financial reporting can only provide reasonable, not absolute, assurance that its objectives will be met. In addition, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. We intend to continue to monitor and upgrade our internal controls as necessary or appropriate for our business, but we cannot assure that such improvements will be sufficient to provide us with effective internal control over financial reporting in future periods.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

For a discussion of material legal proceedings in which we are involved, please refer to [Footnote 9, Commitments and Contingencies](#) of the Notes to Condensed Consolidated Financial Statements included in Part I, [Item 1](#) of this 10-Q, which is incorporated herein by reference.

ITEM 1A. RISK FACTORS

An investment in our Common Stock involves a substantial risk of loss. In addition to the information in this report, you should carefully consider the risks discussed in [Item 1A "Risk Factors"](#) of our 2019 10-K and [Item 1A "Risk Factors"](#) of our Quarterly Report on Form 10-Q for the quarter ended March 31, 2020 (the "Q1 2020 10-Q") before you decide whether to invest in our Common Stock. The risks identified below and in our 2019 10-K and Q1 2020 10-Q could materially and adversely affect our business, financial condition and operating results. In that case, the trading price of our Common Stock could decline, and you could lose part or all of your investment. The risks described below and in our 2019 10-K and Q1 2020 10-Q are not the only risks we face. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially and adversely affect our business, financial condition and operating results, and may result in the loss of part or all of your investment.

The COVID-19 pandemic and related economic repercussions could have material adverse effects on our business, financial position, results of operations and cash flows.

The COVID-19 pandemic has caused massive disruption and uncertainty in domestic and global economies and particularly in the media, advertising and entertainment industries in which we operate. The extent to which the COVID-19 pandemic may ultimately impact our business is uncertain and will depend in large part on our customers, many of whom have been significantly affected by measures taken to mitigate the spread of the virus. To date, the COVID-19 pandemic and related measures have had some impact on our business, including with respect to the timing of executing new or renewal contracts, the impact of closed movie theaters on our customers, customer payment delays and requests to modify contractual payment terms, particularly in our Movies Reporting and Analytics business. These conditions have negatively impacted our operating cash flows and financial position. If the U.S. and global economies do not recover in the near term, or if recovery is delayed or limited in certain sectors due to longer term changes in consumer behavior, our customers may continue to delay their payments to us, may defer or reduce their purchases from us, or may experience bankruptcy events, any of which could have a material adverse effect on our business and financial performance. Due to our largely subscription-based business model, the effects of COVID-19 may not be fully reflected in our results of operations until future periods.

Given the nature and significance of these events, we are unable to enumerate all potential risks to our business from the COVID-19 pandemic. However, we believe that in addition to the impacts described above, other current and potential impacts include, but are not limited to:

- notices from customers and vendors arguing that any non-performance under our contracts with them is permitted as a result of force majeure or other reasons;
- delays in meeting our payment obligations to vendors or others, which could result in the loss of goods and services necessary to operate our business;
- inefficiencies, increased security risks and privacy concerns surrounding remote working arrangements, under which most of our employees are currently operating;
- diversion of management time and resources related to business continuity planning;
- disruptions from operational changes we have undertaken or may undertake to manage liquidity risk, including lease and contract terminations, workforce reductions, furloughs and other cost-reduction initiatives;
- challenges in complying with our existing debt obligations, including quarterly interest payments and covenants requiring the maintenance of certain minimum cash balances;
- unfavorable capital and credit market conditions, which could impact our ability to obtain future financing or refinance our existing debt;
- heightened sensitivity from government regulators, particularly with respect to privacy compliance and cybersecurity in the current environment;
- further impairment of lease-related assets, goodwill or other intangible assets; and

- litigation risk and possible loss contingencies related to COVID-19 and its impact, including with respect to our debt facilities, leases, commercial contracts, employee matters and insurance arrangements.

We cannot predict the duration or magnitude of the COVID-19 pandemic or its effects on our business or financial performance at this time; nor can we guarantee that any measures we take to mitigate the impact will be successful. To the extent COVID-19 continues to adversely affect our business, financial condition, results of operation or cash flows, it may also have the effect of heightening many of the other risks described in the "Risk Factors" section of our 2019 10-K.

The COVID-19 pandemic and related economic repercussions have impacted our cash flows, which could impact our ability to comply with the restrictive covenants in the agreements governing our debt.

The agreements governing our debt contain affirmative and negative covenants that limit our ability to take certain actions. Our Notes also require us to maintain a \$40.0 million minimum cash balance, which we calculate based on our total cash, cash equivalents and restricted cash. Failure to meet our obligations under the Notes could lead to an Event of Default (as defined in the Notes), which could have important consequences including, potentially, forcing us into bankruptcy or liquidation.

The COVID-19 pandemic is impacting the timing and terms of new and renewal contracts and is creating customer payment delays and requests to modify contractual payment terms, particularly in our Movies Reporting and Analytics business. These conditions have negatively impacted our liquidity and cash flows and could have a more significant impact in future periods. As of June 30, 2020, we had cash, cash equivalents and restricted cash totaling \$55.5 million, including \$19.6 million in restricted cash, and we were in compliance with the covenants under the Notes and the Secured Term Note; however, in the second quarter of 2020, the holders of the Notes questioned our compliance with the minimum cash balance requirements therein. If the U.S. and global economies do not recover in the near term, or if recovery is delayed or limited in certain sectors due to longer term changes in consumer behavior, our cash flows could be further impacted, which could impact our ability to satisfy the covenants in the agreements governing our debt, including the minimum cash balance requirement in the Notes.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

(a) Unregistered Sales of Equity Securities during the Three Months Ended June 30, 2020

None.

(b) Use of Proceeds from Sale of Registered Equity Securities

None.

(c) Purchases of Equity Securities by the Issuer and Affiliated Purchasers

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

Not applicable.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

Not applicable.

ITEM 6. EXHIBITS

Exhibit No.	Exhibit Document
3.1	Amended and Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 3.3 to the Registrant's Registration Statement on Form S-1, as amended, filed June 12, 2007) (File No. 333-141740)
3.2	Certificate of Amendment of Amended and Restated Certificate of Incorporation of comScore, Inc. (incorporated by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form S-8, filed June 4, 2018) (File No. 333-225400)
3.3	Certificate of Designation of Series A Junior Participating Preferred Stock of comScore, Inc., as filed with the Secretary of State of the State of Delaware on February 9, 2017 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K, filed February 9, 2017) (File No. 001-33520)
3.4	Certificate of Elimination of Designation of Series A Junior Participating Preferred Stock of comScore, Inc., as filed with the Secretary of State of the State of Delaware on September 29, 2017 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K, filed October 4, 2017) (File No. 001-33520)
3.5	Amended and Restated Bylaws of comScore, Inc (incorporated by reference to Exhibit 3.2 to the Registrant's Quarterly Report on Form 10-Q for the period ended June 30, 2018, filed August 10, 2018) (File No. 001-33520)
4.1+#	Form of Senior Secured Convertible Note (Initial Notes), as amended
4.2+##	Form of Senior Secured Convertible Note (Option Notes), as amended
10.1+*	Separation and Release Agreement, dated as of May 7, 2020, by and between comScore, Inc. and Carol DiBattiste
10.2+*	Form of Compensation Reduction Letter for Executive Officers
10.3*	comScore, Inc. 2018 Equity and Incentive Compensation Plan (as Amended and Restated Effective as of July 9, 2020) (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed July 15, 2020) (File No. 001-33520)
31.1+	Certification of Principal Executive Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2+	Certification of Principal Financial Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1+	Certification of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2+	Certification of Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
101.SCH	Inline XBRL Taxonomy Extension Schema Document.
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104	Cover Page Interactive Data File - the cover page iXBRL tags are embedded within the Inline XBRL document

+Filed or furnished herewith

*Management contract or compensatory plan or arrangement.

The Form of Senior Secured Convertible Note (Initial Notes), as amended filed herewith is a corrected version of the Form of Senior Secured Convertible Note (Initial Notes), as amended previously filed as Exhibit 4.1 to the Registrant's Annual Report on Form 10-K filed on February 28, 2020.

The Form of Senior Secured Convertible Note (Option Notes), as amended filed herewith is a corrected version of the Form of Senior Secured Convertible Note (Option Notes), as amended previously filed as Exhibit 4.2 to the Registrant's Annual Report on Form 10-K filed on February 28, 2020.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

COMSCORE, INC.

By: /s/ Gregory A. Fink

Gregory A. Fink

Chief Financial Officer and Treasurer

(Principal Financial Officer, Principal Accounting Officer and Duly Authorized Officer)

August 10, 2020



comscore

[FORM OF SENIOR SECURED CONVERTIBLE NOTE]

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE CONVERTIBLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL SELECTED BY THE HOLDER, IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT, OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES. ANY TRANSFEREE OF THIS NOTE SHOULD CAREFULLY REVIEW THE TERMS OF THIS NOTE, INCLUDING SECTIONS 3(c)(iii) AND 18(a) HEREOF. THE PRINCIPAL AMOUNT REPRESENTED BY THIS NOTE AND, ACCORDINGLY, THE SECURITIES ISSUABLE UPON CONVERSION HEREOF MAY BE LESS THAN THE AMOUNT SET FORTH ON THE FACE HEREOF PURSUANT TO SECTION 3(c)(iii) OF THIS NOTE.

comScore, Inc.

SENIOR SECURED CONVERTIBLE NOTE

Issuance Date: January 16, 2018

Original Principal Amount: U.S. \$[●]

(Reflects the amendments dated May 17, 2018, August 8, 2018, November 13, 2018 and November 6, 2019)

FOR VALUE RECEIVED, comScore, Inc., a Delaware corporation (the "**Company**"), hereby promises to pay to [BUYER] or registered assigns (the "**Holder**") in cash and/or in shares of Common Stock (as defined below) the amount set out above as the Original Principal Amount (as reduced pursuant to the terms hereof pursuant to redemption, conversion or otherwise, the "**Principal**") when due, whether upon the Maturity Date (as defined below), acceleration, redemption or otherwise (in each case in accordance with the terms hereof) and to pay interest ("**Interest**") on any outstanding Principal at the applicable Interest Rate from the date set out above as the Issuance Date (the "**Issuance Date**") until the same becomes due and payable, whether upon an Interest Date (as defined below), the Maturity Date, acceleration, conversion, redemption or otherwise (in each case in accordance with the terms hereof). This Senior Secured Convertible Note (including all Senior Secured Convertible Notes issued in exchange, transfer or replacement hereof, this "**Note**") is one of an issue of Senior Secured Convertible Notes issued pursuant to the Securities Purchase Agreement on the Initial Closing

Date (collectively, the "**Notes**" and such other Senior Secured Convertible Notes, the "**Other Notes**"). Certain capitalized terms used herein are defined in Section 31.

(1) PAYMENTS OF PRINCIPAL; PREPAYMENT. On the Maturity Date, the Company shall pay to the Holder an amount in cash representing all outstanding Principal, any accrued and unpaid Interest and any accrued and unpaid Late Charges (as defined in Section 24(b)) on such Principal and Interest. The "**Maturity Date**" shall be January 16, 2022, as may be extended at the option of the Holder (i) in the event that, and for so long as, an Event of Default (as defined in Section 4(a)) shall have occurred and be continuing on the Maturity Date (as may be extended pursuant to this Section 1) or any event shall have occurred and be continuing on the Maturity Date (as may be extended pursuant to this Section 1) that with the passage of time and the failure to cure would result in an Event of Default and (ii) through the date that is ten (10) Business Days after the consummation of a Change of Control in the event that a Change of Control is publicly announced or a Change of Control Notice (as defined in Section 5(b)) is delivered prior to the Maturity Date. Other than as specifically permitted by this Note, the Company may not prepay any portion of the outstanding Principal, accrued and unpaid Interest or accrued and unpaid Late Charges on Principal and Interest, if any.

(2) INTEREST.

(a) Interest on this Note shall commence accruing on the Issuance Date at the Interest Rate and shall be computed on the basis of a 360-day year and twelve 30-day months and shall be payable in arrears for each Calendar Quarter on the first (1st) Business Day of each Calendar Quarter after the Issuance Date (each, an "**Interest Date**").

(b) Interest shall be payable on each Interest Date, to the record holder of this Note on the applicable Interest Date, in whole or in part, in shares of Common Stock ("**Interest Shares**") so long as there is no Equity Conditions Failure (other than as a result of the delivery of an Interest Blocker Notice (as defined below)) occurring on the applicable Interest Date; provided, however, that the Company may, at its option following written notice to each holder of the Notes and any Additional Notes on or prior to the applicable Interest Notice Due Date (the date such notice is delivered to the Holder and holders of Other Notes and Additional Notes, the "**Interest Notice Date**"), elect to pay Interest on any Interest Date in cash ("**Cash Interest**") or in a combination of Cash Interest and Interest Shares. Each Interest Election Notice shall specify the amount or percentage of Interest that the Company will pay in respect of the Interest Date as Cash Interest and Interest Shares which amounts or percentages, as applicable, when added together, must equal the applicable Interest (or 100% thereof, as applicable) due on such Interest Date. If the Company elects (or is deemed to have elected by operation of this Section 2) the payment of applicable Interest in Interest Shares, in whole or in part, and an Equity Conditions Failure (other than the delivery to the Company of an Interest Blocker Notice) occurs at any time prior to the applicable Interest Date that is expected to last through the applicable Interest Date (which is not waived in writing by the Holder), the Company shall provide the Holder a written notice to that effect by no later than the Trading Day immediately following the Company having knowledge of such Equity Conditions Failure, indicating that unless the Holder waives the Equity Conditions Failure in writing, the applicable

portion of Interest as to which the Holder did not waive the Equity Conditions shall be paid as Cash Interest. If any portion of Interest for a particular Interest Date shall be paid in Interest Shares, then on the applicable Interest Date, the Company shall issue to the Holder, such number of shares of Common Stock equal to (a) the amount of Interest payable on the applicable Interest Date in Interest Shares divided by (b) the Interest Conversion Price as in effect on the applicable Interest Date. All Interest Shares shall be fully paid and nonassessable shares of Common Stock (rounded to the nearest whole share in accordance with Section 3(a)). Except as expressly provided in this Section 2, the Company shall pay the applicable Interest in the same ratio of Interest Shares and Cash Interest on the Notes, the Other Notes and any Additional Notes. The Company shall pay any and all taxes that may be payable with respect to the issuance and delivery to the Holder of shares of Common Stock as Interest pursuant to this Section 2; provided, however, that the Holder shall be solely responsible for any transfer taxes if the Interest Shares are to be registered, issued or delivered in the name of a Person other than the Holder.

(c) Notwithstanding the foregoing, if (i) the Company elects (or is deemed to have elected by operation of this Section 2) to pay all or any portion of Interest due on any Interest Date in Interest Shares, (ii) the Company is permitted pursuant to this Section 2 to pay all or any portion of Interest due on such Interest Date in Interest Shares if not for the delivery to the Company of an Interest Blocker Notice and (iii) within two (2) Business Days following the applicable Interest Notice Date the Holder has delivered to the Company a written notice (an "**Interest Blocker Notice**") (A) stating that such payment of Interest in Interest Shares would result in a violation of Section 3(d), (B) specifying the portion of the applicable Interest with respect to which the payment in Interest Shares would result in a violation of Section 3(d) if such payment of Interest in Interest Shares were effected (such amount so specified is referred to herein as the "**Designated Interest Amount**") and (C) requesting the Company hold the Designated Interest Amount issuable to the Holder in abeyance for the Holder until such time or times as its right thereto would not result in the Holder and its other Attribution Parties exceeding the Maximum Percentage, at which time or times the Company shall promptly upon written notice from the Holder deliver such Interest Shares to the extent as if there had been no such limitation. Any Interest Shares held in abeyance pursuant to the provisions of this Section 2(c) shall satisfy the Company's requirement to pay the applicable Interest corresponding to the number of Interest Shares so held in abeyance until the Company receives a notice from the Holder instructing the Company that the Maximum Percentage no longer prevents the Holder from receiving such Interest Shares.

(d) Prior to the payment of Interest on an Interest Date, Interest on this Note shall accrue at the Interest Rate and be payable by way of inclusion of the Interest in the Conversion Amount (as defined in Section 3(b)(i)) on each Conversion Date (as defined in Section 3(c)(i)) in accordance with Section 3(b)(i) and/or on each Redemption Date.

(3) **CONVERSION OF NOTES.** At any time or times after the first (1st) Trading Day following the Pricing Date (as defined in Section 3(b)(ii)) (the "**Initial Convertibility Date**"), this Note shall be convertible into shares of Common Stock, on the terms and conditions set forth in this Section 3.

(a) Conversion Right. Subject to the provisions of Section 3(d), at any time or times on or after the Initial Convertibility Date, the Holder shall be entitled to convert all or any portion of the outstanding and unpaid Conversion Amount into fully paid and nonassessable shares of Common Stock in accordance with Section 3(c), at the Conversion Rate (as defined below). The Company shall not issue any fraction of a share of Common Stock upon any conversion. If the issuance would result in the issuance of a fraction of a share of Common Stock, the Company shall round such fraction of a share of Common Stock to the nearest whole share. The Company shall pay any and all transfer, stamp and similar taxes that may be payable with respect to the issuance and delivery of Common Stock upon conversion of any Conversion Amount; provided, however, that the Holder shall be solely responsible for any transfer taxes if the shares of Common Stock registrable, issuable or deliverable pursuant to a Conversion Notice are to be registered, issued or delivered in the name of a Person other than the Holder.

(b) Conversion Rate. The number of shares of Common Stock issuable upon conversion of any Conversion Amount pursuant to Section 3(a) shall be determined by dividing (x) such Conversion Amount by (y) the Conversion Price (the "**Conversion Rate**").

(i) "**Conversion Amount**" means the sum of (A) the portion of the Principal to be converted, redeemed or otherwise with respect to which this determination is being made, (B) accrued and unpaid Interest with respect to such Principal and (C) accrued and unpaid Late Charges, if any, with respect to such Principal and Interest.

(ii) "**Conversion Price**" means, as of any Conversion Date or other date of determination, a price per share equal to the greater of: (A) 130% of the arithmetic average of the Weighted Average Price of the Common Stock on each Trading Day during the ten (10) consecutive Trading Days commencing on the later of (x) the Initial Closing Date and (y) the Public Announcement Date (the last date in such period, the "**Pricing Date**") (all such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction occurring during such period) and (B) \$28.00, subject to adjustment as provided herein and pursuant to Section 4(q) of the Securities Purchase Agreement.

(c) Mechanics of Conversion.

(i) Optional Conversion. To convert any Conversion Amount into shares of Common Stock on any date on or after the Initial Convertibility Date (a "**Conversion Date**"), the Holder shall (A) deliver to the Company on such date, a copy of an executed notice of conversion substantially in the form attached hereto as Exhibit I (the "**Conversion Notice**") and (B) if required by Section 3(c)(iii), but without delaying the Company's requirement to deliver shares of Common Stock on the applicable Share Delivery Date (as defined below), surrender this Note to a common carrier for delivery to the Company as soon as practicable on or following such date (or an indemnification undertaking with respect to this Note in the case of its loss, theft or destruction). No ink-original Conversion Notice shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Conversion Notice be required. On or before the first (1st) Business Day following the date of receipt of a Conversion

Notice, the Company shall transmit a confirmation of receipt of such Conversion Notice to the Holder and the Company's transfer agent (the "**Transfer Agent**"). On or before the second (2nd) Trading Day following the date of receipt of a Conversion Notice (a "**Share Delivery Date**"), the Company shall, (x) if the Transfer Agent is participating in the Depository Trust Company ("**DTC**") Fast Automated Securities Transfer Program, credit such aggregate number of shares of Common Stock to which the Holder shall be entitled to the Holder's or its designee's balance account with DTC through its Deposit Withdrawal At Custodian system or (y) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and deliver to the address as specified in the Conversion Notice, a certificate, registered in the name of the Holder or its designee, for the number of shares of Common Stock to which the Holder shall be entitled. If this Note is physically surrendered for conversion as required by Section 3(c)(iii) and the outstanding Principal of this Note is greater than the Principal portion of the Conversion Amount being converted, then the Company shall as soon as practicable and in no event later than three (3) Business Days after receipt of this Note and at its own expense, issue and deliver to the Holder a new Note (in accordance with Section 18(d)) representing the outstanding Principal not converted. The Person or Persons entitled to receive the shares of Common Stock issuable upon a conversion of this Note shall be treated for all purposes as the record holder or holders of such shares of Common Stock on the Conversion Date, irrespective of the date such shares of Common Stock are credited to the Holder's account with DTC or the date of delivery of the certificates evidencing such shares of Common Stock, as the case may be.

(ii)Company's Failure to Timely Convert. If the Company shall fail on or prior to the applicable Share Delivery Date to issue and deliver a certificate to the Holder (if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program), or credit the Holder's balance account with DTC (if the Transfer Agent is participating in the DTC Fast Automated Securities Transfer Program), for the number of shares of Common Stock to which the Holder is entitled upon the Holder's conversion of any Conversion Amount (a "**Conversion Failure**"), then the Holder, upon written notice to the Company, may void its Conversion Notice with respect to, and retain or have returned, as the case may be, any portion of this Note that has not been converted pursuant to such Conversion Notice; provided that the voiding of a Conversion Notice shall not affect the Company's obligations to make any payments which may have accrued prior to the date of such notice pursuant to this Section 3(c)(ii) or otherwise. In addition to the foregoing, if the Company shall fail on or prior to the applicable Share Delivery Date to issue and deliver a certificate to the Holder, if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, or credit the Holder's balance account with DTC, if the Transfer Agent is participating in the DTC Fast Automated Securities Transfer Program, for the number of shares of Common Stock to which the Holder is entitled upon the Holder's conversion of any Conversion Amount or on any date of the Company's obligation to deliver shares of Common Stock as contemplated pursuant to clause (y) below, and if after such Trading Day the Holder purchases (in an open market transaction or otherwise) Common Stock to deliver in satisfaction of a sale by the Holder of Common Stock issuable upon such conversion that the Holder anticipated receiving from the Company (a "**Buy-In**"), then the Company shall, within three (3) Trading Days after the Holder's request and in the Holder's discretion, either (x) pay cash to the Holder in an amount equal to the Holder's total purchase price (including brokerage commissions) for the shares of Common Stock so purchased

(the "**Buy-In Price**"), at which point the Company's obligation to issue and deliver such certificate or certificates or credit the Holder's balance account with DTC for the shares of Common Stock to which the Holder is otherwise entitled upon the Holder's conversion of the applicable Conversion Amount shall terminate, or (y) promptly honor its obligation to deliver to the Holder a certificate or certificates representing such shares of Common Stock or credit the Holder's balance account with DTC for such shares of Common Stock and pay cash to the Holder in an amount equal to the excess (if any) of the Buy-In Price over the product of (A) such number of shares of Common Stock, times (B) the Closing Sale Price of the Common Stock on the applicable Conversion Date. Nothing herein shall limit the Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon conversion of this Note as required pursuant to the terms hereof.

(iii)Registration; Book-Entry. The Company shall maintain a register (the "**Register**") for the recordation of the names and addresses of the holders of each Note and the Principal amount of the Notes (and stated interest thereon) held by such holders (the "**Registered Notes**"). The entries in the Register shall be conclusive and binding for all purposes absent manifest error. The Company and the holders of the Notes shall treat each Person whose name is recorded in the Register as the owner of a Note for all purposes, including, without limitation, the right to receive payments of Principal and Interest, if any, hereunder, notwithstanding notice to the contrary. A Registered Note may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register. Upon its receipt of a request to assign or sell all or part of any Registered Note by the Holder, in form and substance reasonably satisfactory to the Company, the Company shall record the information contained therein in the Register and issue one or more new Registered Notes in the same aggregate Principal amount as the Principal amount of the surrendered Registered Note to the designated assignee or transferee pursuant to Section 17. The Company shall be entitled to act and rely upon any such request without inquiry as to the genuineness thereof, and without liability of any type or nature arising therefrom. Notwithstanding anything to the contrary in this Section 3(c)(iii), the Holder may assign the Note or any portion thereof to an Affiliate of such Holder or a Related Fund of such Holder without delivering a request to assign or sell such Note to the Company and the recordation of such assignment or sale in the Register (a "**Related Party Assignment**"); provided, that (x) the Company may continue to deal solely with such assigning or selling Holder unless and until such Holder has delivered a request, in form and substance reasonably satisfactory to the Company, to assign or sell such Note or portion thereof to the Company for recordation in the Register; and (y) such assigning or selling Holder shall, acting solely for this purpose as a non-fiduciary agent of the Company, maintain a register (the "**Related Party Register**") comparable to the Register on behalf of the Company, and any such assignment or sale shall be effective upon recordation of such assignment or sale in the Related Party Register. Notwithstanding anything to the contrary set forth herein, upon conversion of any portion of this Note in accordance with the terms hereof, the Holder shall not be required to physically surrender this Note to the Company unless (A) the full Conversion Amount represented by this Note is being converted or (B) the Holder has provided the Company with prior written notice (which notice may be included in a Conversion Notice) requesting reissuance

of this Note upon physical surrender of this Note. The Holder and the Company shall maintain records showing the Principal, Interest and Late Charges, if any, converted and the dates of such conversions or shall use such other methods, reasonably satisfactory to the Holder and the Company, so as not to require physical surrender of this Note upon conversion except as provided above.

(iv) Pro Rata Conversion; Disputes. In the event that the Company receives a Conversion Notice relating to this Note and one or more holders of Other Notes or Additional Notes for the same Conversion Date and the Company can convert some, but not all, of such portions of this Note, the Other Notes and the Additional Notes submitted for conversion, the Company, subject to Section 3(d), shall convert from the Holder and each holder of Other Notes and Additional Notes electing to have this Note, the Other Notes or Additional Notes converted on such date a pro rata amount of such holder's portion of the Note, its Other Notes and/or Additional Notes submitted for conversion based on the Principal amount of this Note, the Other Notes and/or Additional Notes submitted for conversion on such date by such holder relative to the aggregate Principal amount of this Note and all Other Notes and Additional Notes submitted for conversion on such date. In the event of a dispute as to the number of shares of Common Stock issuable to the Holder in connection with a conversion of this Note, the Company shall issue to the Holder the number of shares of Common Stock not in dispute and such dispute shall be resolved in accordance with Section 23.

(d) Beneficial Ownership Limitation. The Company shall not deliver any shares of Common Stock pursuant to the terms and conditions of this Note, and the Holder shall not have the right to any shares otherwise issuable or otherwise deliverable pursuant to the terms and conditions of this Note and any such delivery shall be null and void and treated as if never made, to the extent that, immediately after giving effect to such issuance, the Holder together with its other Attribution Parties collectively would beneficially own in excess of the Maximum Percentage of the number of shares of Common Stock outstanding. For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by the Holder and its other Attribution Parties shall include the number of shares of Common Stock beneficially owned by the Holder and all of its other Attribution Parties plus the number of shares of Common Stock issuable pursuant to the terms of this Note with respect to which the determination of such sentence is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) conversion of the remaining, nonconverted portion of this Note beneficially owned by the Holder or any of its other Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any convertible notes or convertible preferred stock or warrants, including any Additional Notes and Warrants) beneficially owned by the Holder or any of its other Attribution Parties subject to a limitation on conversion or exercise analogous to the limitation contained in this Section 3(d). For purposes of this Section 3(d), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act. For purposes of determining the number of outstanding shares of Common Stock the Holder may acquire pursuant to the terms of this Note without exceeding the Maximum Percentage, the Holder, absent other knowledge, may rely on the number of outstanding shares of Common Stock as reflected in (i) the Company's most recent Annual Report on Form 10-K, Quarterly

Report on Form 10-Q, Current Report on Form 8-K or other public filing with the SEC, as the case may be, (ii) a more recent public announcement by the Company or (iii) any other written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding (the "**Reported Outstanding Share Number**"). If the Company receives a Conversion Notice from the Holder at a time when the actual number of outstanding shares of Common Stock is less than the Reported Outstanding Share Number, the Company shall notify the Holder in writing of the number of shares of Common Stock then outstanding and, to the extent that such Conversion Notice would otherwise cause the Holder's beneficial ownership, as determined pursuant to this Section 3(d), to exceed the Maximum Percentage, the Holder shall, within one (1) Business Day thereafter, notify the Company of a reduced number of shares of Common Stock to be purchased pursuant to such Conversion Notice. The number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Note, by the Holder and any other Attribution Party since the date as of which the Reported Outstanding Share Number was reported. In the event that the issuance of shares of Common Stock to the Holder upon conversion of this Note would result in the Holder and its other Attribution Parties being deemed to beneficially own, in the aggregate, more than the Maximum Percentage of the number of outstanding shares of Common Stock, the number of shares by which the Holder's and its other Attribution Parties' aggregate beneficial ownership would exceed the Maximum Percentage (the "**Excess Shares**") shall be deemed null and void and any portion of the Conversion Amount so converted shall be reinstated, and the Holder shall not have the power to vote or to transfer the Excess Shares. Upon delivery of a written notice to the Company, the Holder may from time to time increase or decrease the Maximum Percentage to any other percentage not in excess of 9.99% as specified in such notice; provided that (i) any such increase in the Maximum Percentage will not be effective until the sixty-first (61st) day after such notice is delivered to the Company and (ii) any such increase or decrease will apply only to the Holder and its other Attribution Parties and not to any other holder of Notes that is not an Attribution Party of the Holder. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 3(d) to the extent necessary to correct this paragraph (or any portion of this paragraph) which may be defective or inconsistent with the intended beneficial ownership limitation contained in this Section 3(d) or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitation contained in this paragraph may not be waived and shall apply to a successor holder of this Note.

(4) RIGHTS UPON EVENT OF DEFAULT.

(a) Event of Default. Each of the following events shall constitute an "**Event of Default**":

(i) the failure of the applicable Registration Statement required to be filed pursuant to the Registration Rights Agreement to be filed or declared effective within the applicable time periods specified in the Registration Rights Agreement, or, at any time while the applicable Registration Statement is required to be maintained effective pursuant to the terms of the Registration Rights Agreement, the effectiveness of the applicable Registration Statement lapses for any reason (including, without limitation, the issuance of a stop order) and such lapse

continues for a period of greater than ten (10) consecutive Trading Days or for more than an aggregate of twenty (20) Trading Days in any 365-day period or such Registration Statement is unavailable to any holder of the Notes for sale of all of such holder's Registrable Securities in accordance with the terms of the Registration Rights Agreement (unless such unavailability is during an Allowable Grace Period (as defined in the Registration Rights Agreement));

(ii) (A) the suspension of the Common Stock from trading on an Eligible Market, or, on or after April 30, 2019, on a Qualified Market, for a period of more than five (5) consecutive Trading Days or for more than an aggregate of ten (10) Trading Days in any 365-day period or (B) the failure of the Common Stock to be listed or quoted for trading on an Eligible Market;

(iii) the failure of the Common Stock to be listed or quoted for trading on or after April 30, 2019, on a Qualified Market;

(iv) the Company's delivery of written notice to the Holder or any holder of the Other Notes or any Additional Notes, including by way of public announcement or through any of its agents, at any time, of its intention not to comply with a valid request for conversion of this Note, any Other Notes or any Additional Notes into shares of Common Stock that is validly tendered in accordance with the provisions of this Note, the Other Notes or any Additional Notes, as applicable, other than pursuant to Section 3(d) (and analogous provisions under the Other Notes and any Additional Notes);

(v) the Company's failure to pay to the Holder any amount of Principal, Interest, Late Charges or other amounts when and as due under this Note (including, without limitation, the Company's failure to pay any redemption amounts hereunder) or any other Transaction Document or any other agreement, document, certificate or other instrument delivered in connection with the transactions contemplated hereby and thereby to which the Holder is a party, except, in the case of a failure to pay any amounts other than Principal when and as due, in which case only if such failure continues for a period of at least an aggregate of two (2) Business Days;

(vi) any default under any Indebtedness in an aggregate principal amount of more than \$10,000,000 of the Company and/or any of its Subsidiaries other than with respect to this Note, any Other Notes or any Additional Notes, the effect of which default is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity;

(vii) the Company or any of its domestic Subsidiaries, pursuant to or within the meaning of Title 11, U.S. Code, or any similar Federal, foreign or state law for the relief of debtors (collectively, "**Bankruptcy Law**"), (A) commences a voluntary case, (B) consents to the entry of an order for relief against it in an involuntary case, (C) consents to the appointment of a receiver, trustee, assignee, liquidator or similar official (a "**Custodian**"), (D)

makes a general assignment for the benefit of its creditors or (E) admits in writing that it is generally unable to pay its debts as they become due;

(viii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that (A) is for relief against the Company or any of its domestic Subsidiaries in an involuntary case, (B) appoints a Custodian of the Company or any of its domestic Subsidiaries or (C) orders the liquidation of the Company or any of its domestic Subsidiaries, and, in each case, continues undismissed or unstayed for sixty (60) days;

(ix) one or more judgments, orders or awards for the payment of money aggregating (above any insurance coverage or indemnity from a credit worthy party so long as such insurance provider has been notified of the claim and does not dispute coverage) in excess of \$10,000,000 are rendered against the Company or any of its Subsidiaries and which judgments, orders or awards are not, within sixty (60) days after the entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within sixty (60) days after the expiration of such stay;

(x) other than as specifically set forth in another clause of this Section 4(a), the Company or any of its Subsidiaries breaches any covenant in any Transaction Document, and such breach, if curable, continues for a period of at least an aggregate of thirty (30) calendar days after the earlier of (A) an authorized officer of the Company or such Subsidiary becoming aware of such failure and (B) receipt by an authorized officer of the Company or such Subsidiary of a notice from the Holder of such breach;

(xi) any representation, warranty, certification or statement of fact made or deemed made by the Company or any Subsidiary herein, or in any other Transaction Document, shall be incorrect or misleading in any material respect when made or deemed made;

(xii) any breach or failure in any respect to comply with Sections 14 or 15 of this Note;

(xiii) any material provision of any Security Document (as defined in the Securities Purchase Agreement) shall at any time for any reason (other than pursuant to the express terms thereof) cease to be valid and binding on or enforceable against the Company or any Subsidiary party thereto, or ceases to give the Collateral Agent the Liens purported to be created thereby or the validity or enforceability thereof shall be contested by the Company or any Subsidiary, or a proceeding shall be commenced by the Company or any Subsidiary or any governmental authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof, or the Company or any Subsidiary shall deny in writing that it has any liability or obligation purported to be created under any Security Document;

(xiv) any material damage to, or loss, theft or destruction of, any Collateral or a material amount of property of the Company, whether or not insured, or any strike, lockout, labor dispute, embargo, condemnation, act of God or public enemy, or other casualty which causes, for more than fifteen (15) consecutive days, the cessation or substantial curtailment of revenue producing activities at any facility of the Company or any Subsidiary, if

any such event or circumstance could reasonably be expected to have a Material Adverse Effect (as defined in the Securities Purchase Agreement);

(xv) a false or inaccurate certification (including a false or inaccurate deemed certification) by the Company that the Equity Conditions are satisfied or that there has been no Equity Conditions Failure or as to whether any Event of Default has occurred (in each case other than any Equity Conditions Failure arising solely as a result of the delivery to the Company of an Interest Blocker Notice);

(xvi) the Company's failure to file with the SEC any periodic or current reports due after the filing with the SEC of the Form 10-K (as defined in Section 15(b)) in accordance with the Company's requirements under the Exchange Act but only if such failure continues for a period of at least one (1) year;

(xvii) any Event of Default (as defined in the Other Notes) occurs with respect to any Other Notes; or

(xviii) any Event of Default (as defined in the Additional Notes) occurs with respect to any Additional Notes.

(b) Redemption Right. Upon the occurrence of an Event of Default with respect to this Note or any Other Note, the Company shall promptly deliver written notice thereof (an "**Event of Default Notice**") to the Holder. At any time after the earlier of the Holder's receipt of an Event of Default Notice and the Holder becoming aware of an Event of Default, the Holder may require the Company to redeem (an "**Event of Default Redemption**") all, but not less than all, of this Note by delivering written notice thereof (the "**Event of Default Redemption Notice**" and the date the Holder delivers an Event of Default Redemption Notice to the Company, an "**Event of Default Redemption Notice Date**") to the Company, which Event of Default Redemption Notice shall indicate that the Holder is electing to require the Company to redeem this Note. To the extent this Note is subject to redemption by the Company pursuant to this Section 4(b), this Note shall be redeemed by the Company in cash at a price equal to the greater of (i) the product of (x) the Redemption Premium and (y) the Conversion Amount being redeemed and (ii) solely if there is an Equity Conditions Failure (that is not waived in writing by the Holder) during the period from the applicable Event of Default Redemption Notice Date through and including the applicable Event of Default Redemption Date (as defined in Section 10(a)), the product of (x) the Conversion Rate with respect to the Conversion Amount being redeemed and (y) the quotient determined by dividing (I) the greatest Closing Sale Price of the shares of Common Stock during the period beginning on the date immediately preceding such Event of Default and ending on the date the Holder delivers the Event of Default Redemption Notice, by (II) the lowest Conversion Price in effect during such period (the "**Event of Default Redemption Price**"). Redemptions required by this Section 4(b) shall be made in accordance with the provisions of Section 10. To the extent redemptions required by this Section 4(b) are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. Notwithstanding anything to the contrary in this Section 4, but subject to Section 3(d), until the Event of Default Redemption Price (together with any interest thereon) is paid in full, the Conversion Amount

submitted for redemption under this Section 4(b) (together with any interest thereon) may be converted, in whole or in part, by the Holder into Common Stock pursuant to Section 3. Any such converted Conversion Amount shall reduce the Event of Default Redemption payment by an equivalent amount. The parties hereto agree that in the event of the Company's redemption of this Note under this Section 4(b), the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. Accordingly, any Event of Default redemption premium due under this Section 4(b) is intended by the parties to be, and shall be deemed, a reasonable estimate of the Holder's actual loss of its investment opportunity and not as a penalty.

(5) RIGHTS UPON FUNDAMENTAL TRANSACTION AND CHANGE OF CONTROL.

(a) Assumption and Corporate Events. Upon the consummation of any Fundamental Transaction, the Company shall cause any Successor Entity or Successor Entities to jointly and severally succeed to, and be added to the term "Company" under this Note (so that from and after the consummation of such Fundamental Transaction, each and every provision of this Note referring to the "Company" shall refer instead to each of the Company and the Successor Entity or Successor Entities, jointly and severally), and the Successor Entity or Successor Entities, jointly and severally with the Company, may exercise every right and power of the Company prior thereto and the Successor Entity or Successor Entities shall assume all of the obligations of the Company prior thereto under this Note with the same effect as if the Company and such Successor Entity or Successor Entities, jointly and severally, had been named as the Company in this Note. In addition to and not in substitution for any other rights hereunder, prior to the occurrence or consummation of any Fundamental Transaction pursuant to which holders of shares of Common Stock become entitled to receive securities, cash, assets or other property with respect to or in exchange for shares of Common Stock (a "**Corporate Event**"), the Company shall provide that it shall be a required condition to the occurrence or consummation of such Corporate Event that the Holder will have the right to receive upon conversion of this Note at any time after the occurrence or consummation of the Corporate Event, shares of Common Stock or capital stock of a Successor Entity or, if so elected by the Holder, in lieu of the shares of Common Stock (or other securities, cash, assets or other property) purchasable upon the conversion of this Note prior to such Corporate Event, such shares of stock, securities, cash, assets or any other property whatsoever (including warrants or other purchase or subscription rights and any shares of Common Stock) which the Holder would have been entitled to receive upon the occurrence or consummation of such Corporate Event or the record, eligibility or other determination date for the event resulting in such Corporate Event, had this Note been converted immediately prior to such Corporate Event or the record, eligibility or other determination date for the event resulting in such Corporate Event (without regard to any limitations on conversion of this Note). The provisions of this Section 5(a) shall apply similarly and equally to successive Fundamental Transactions and Corporate Events.

(b) Redemption Right. As soon as practicable following the public announcement of the consummation of a Change of Control, the Company shall deliver written

notice thereof to the Holder (a "**Change of Control Notice**"). At any time during the period beginning on the earlier to occur of (x) the Holder becoming aware of the consummation of a Change of Control and (y) the Holder's receipt of a Change of Control Notice and ending thirty five (35) Trading Days after the date of the consummation of such Change of Control, the Holder may require the Company to redeem (a "**Change of Control Redemption**") all or any portion of this Note by delivering written notice thereof ("**Change of Control Redemption Notice**" and the date the Holder delivers a Change of Control Redemption Notice to the Company, a "**Change of Control Redemption Notice Date**") to the Company, which Change of Control Redemption Notice shall indicate the Conversion Amount the Holder is electing to require the Company to redeem. The portion of this Note subject to redemption pursuant to this Section 5(b) shall be redeemed by the Company in cash at a price equal to the sum of (i) the greater of (x) 110% of the Conversion Amount being redeemed and (y) solely if (a) the applicable Change of Control is a Make-Whole Change of Control or (b) there is an Equity Conditions Failure (that is not waived in writing by the Holder) during the period from the applicable Change of Control Redemption Notice Date through and including the applicable Change of Control Redemption Date (as defined in Section 10(a)), the product of (I) the Conversion Amount being redeemed and (II) the quotient determined by dividing (A) the greatest Closing Sale Price of the shares of Common Stock during the period beginning on the date immediately preceding the earlier to occur of (1) the consummation of the Change of Control and (2) the public announcement of such Change of Control and ending on the date the Holder delivers the Change of Control Redemption Notice, by (B) the lowest Conversion Price in effect during such period, and (ii) if the applicable Change of Control is a Make-Whole Change of Control, the Make-Whole Change of Control Premium (the "**Change of Control Redemption Price**"). Redemptions required by this Section 5 shall be made in accordance with the provisions of Section 10 and shall have priority to payments to stockholders in connection with a Change of Control. To the extent redemptions required by this Section 5(b) are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. Notwithstanding anything to the contrary in this Section 5, but subject to Section 3(d), until the Change of Control Redemption Price (together with any interest thereon) is paid in full, the Conversion Amount submitted for redemption under this Section 5(b) (together with any interest thereon) may be converted, in whole or in part, by the Holder into Common Stock pursuant to Section 3. Any such converted Conversion Amount shall reduce the Conversion Amount submitted for redemption under this Section 5(b) by an equivalent amount. The parties hereto agree that in the event of the Company's redemption of any portion of the Note under this Section 5(b), the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. Accordingly, any Change of Control redemption premium due under this Section 5(b) is intended by the parties to be, and shall be deemed, a reasonable estimate of the Holder's actual loss of its investment opportunity and not as a penalty.

(c) Qualifying Change of Control Redemption Right. Notwithstanding any Holder's right to require a Change of Control Redemption, delivery of any Change of Control Redemption Notice or anything else to the contrary in the Notes, contemporaneously with, or within three (3) Business Days subsequent to, the consummation of

a Qualifying Change of Control, the Company may redeem this Note in full in cash at a price equal to the sum of (i) the aggregate outstanding Principal amount of this Note as of the Qualifying Early Redemption Date (as defined in Section 10(a)), (ii) Interest accrued on such Principal amount as of the Qualifying Early Redemption Date, (iii) any other amounts owed pursuant to the terms of this Note, including, without limitation, any Late Charges, as of the Qualifying Early Redemption Date and (iv) 20% (the “**Qualifying Early Redemption Premium**”) of the aggregate outstanding Principal amount of this Note as of the Qualifying Early Redemption Date (for the avoidance of doubt, the Qualifying Early Redemption Premium shall only be applied to the aggregate outstanding Principal amount of this Note as of the Qualifying Early Redemption Date) (the “**Qualifying Early Redemption Price**”). If the Company elects to redeem this Note in connection with a Qualifying Change of Control, the Company shall (i) be deemed by virtue of public announcement of such Qualifying Change of Control to have delivered an irrevocable notice thereof to the Holder (a “**Qualifying Early Redemption Notice**”) unless the Company has provided earlier or contemporaneous written notice to the Holder that the Company does not elect to redeem this Note in connection with such Qualifying Change of Control and (ii) simultaneously take the same action with respect to all Other Notes and Additional Notes then outstanding. Redemptions required by this Section 5(c) shall be made in accordance with the provisions of Section 10 and shall have priority to payments to stockholders in connection with a Qualifying Change of Control. To the extent redemptions required by this Section 5(c) are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. Notwithstanding anything to the contrary in this Section 5, but subject to Section 3(d), until the Qualifying Early Redemption Price (together with any interest thereon) is paid in full, the Conversion Amount submitted for redemption under this Section 5(c) (together with any interest thereon) may be converted, in whole or in part, by the Holder into Common Stock of comScore, Inc. pursuant to Section 3 (for the avoidance of doubt, in the event any portion of this Note remains outstanding more than two (2) Business Days after the consummation of a Qualifying Change of Control, Section 5(a) shall apply and the Holder shall, among other things, be entitled to convert this Note into the capital stock of the Successor Entity in accordance with Section 5(a)). Any such converted Conversion Amount shall reduce the Conversion Amount subject to redemption under this Section 5(c) by an equivalent amount. The parties hereto agree that in the event of the Company’s redemption of any portion of the Note under this Section 5(c), the Holder’s damages would be uncertain and difficult to estimate because of the parties’ inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. Accordingly, any Change of Control redemption premium due under this Section 5(c) is intended by the parties to be, and shall be deemed, a reasonable estimate of the Holder’s actual loss of its investment opportunity and not as a penalty. Upon the Company’s request and at the Company’s sole cost and expense, the Holder agrees to provide a customary payoff letter, in form and substance reasonably satisfactory to the Company and the Holder, confirming the payoff of all obligations under this Note and the release of all liens securing such obligations, which confirmations shall be contingent on the Holder’s receipt of the payment in full of the applicable Qualifying Early Redemption Price, and which payoff and release shall occur automatically upon such payment without further action by the Holder.

(6) ADJUSTMENTS TO THE CONVERSION PRICE.

(a) Adjustment of Conversion Price upon Subdivision or Combination of Common Stock or Stock Dividend. If the Company issues solely shares of Common Stock as a dividend or distribution on all or substantially all shares of the Common Stock, or if the Company effects a stock split or a stock combination of the Common Stock (in each case excluding an issuance solely pursuant to a Fundamental Transaction or other Corporate Event, as to which the provisions set forth in Section 5 will apply), then the Conversion Price will be adjusted based on the following formula:

$$CP_1 = CP_0 * \frac{OS_0}{OS_1}$$

where:

CP₀ = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such dividend or distribution, or immediately before the open of business on the effective date of such stock split or stock combination, as applicable;

CP₁ = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date or the open of business on such effective date, as applicable;

OS₀ = the number of shares of Common Stock outstanding immediately before the open of business on such Ex-Dividend Date or effective date, as applicable; and

OS₁ = the number of shares of Common Stock outstanding immediately after giving effect to such dividend, distribution, stock split or stock combination.

For the avoidance of doubt, pursuant to the definition of CP₁ above, any adjustment to the Conversion Price made pursuant to this Section 6(a) will become effective immediately after the open of business on such Ex-Dividend Date or the open of business on such effective date, as applicable. If any dividend, distribution, stock split or stock combination of the type described in this Section 6(a) is declared or announced, but not so paid or made, then the Conversion Price, if previously adjusted, will be readjusted, effective as of the date the Board of Directors of the Company determines not to pay such dividend or distribution or to effect such stock split or stock combination, to the Conversion Price that would then be in effect had such dividend, distribution, stock split or stock combination not been declared or announced.

(b) Rights, Options and Warrants. If the Company distributes, to all or substantially all holders of Common Stock, rights, options or warrants entitling such holders, for a period of not more than sixty (60) calendar days after the record date of such distribution, to

subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is publicly announced, then the Conversion Price will be decreased based on the following formula:

$$CP_1 = CP_0 * \frac{OS + Y}{OS + X}$$

where:

CP₀ = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such distribution;

CP₁ = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

OS = the number of shares of Common Stock outstanding immediately before the open of business on such Ex-Dividend Date;

X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = a number of shares of Common Stock obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

For the avoidance of doubt, any adjustment to the Conversion Price made pursuant to this Section 6(b) will be made successively whenever any such rights, options or warrants are issued and, pursuant to the definition of CP₁ above, will become effective immediately after the open of business on the Ex-Dividend Date for the applicable distribution. To the extent that shares of Common Stock are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Price, if previously adjusted, will be readjusted effective as of such expiration date to the Conversion Price that would then be in effect had the decrease to the Conversion Price for such distribution been made on the basis of delivery of only the number of shares of Common Stock actually delivered upon exercise of such rights, option or warrants. To the extent such rights, options or warrants are not so distributed, the Conversion Price will be readjusted effective as of the date the Board of Directors of the Company determines not to distribute such rights, options or warrants, to the Conversion Price that would then be in effect had the Ex-Dividend Date for the distribution of such rights, options or warrants not occurred.

For purposes of this Section 6(b), in determining whether any rights, options or warrants entitle holders of Common Stock to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date of the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Board of Directors of the Company.

(c) Spin-Offs and Other Distributed Property.

(i) Distributions Other than Spin-Offs. If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Capital Stock of the Company or other securities, to all or substantially all holders of the Common Stock, excluding:

(u) rights issued in the Rights Offering (as defined in the Securities Purchase Agreement);

(v) dividends, distributions, rights, options or warrants for which an adjustment to the Conversion Price is required pursuant to Section 6(a) or 6(b);

(w) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Price is required pursuant to Section 6(d);

(x) rights issued or otherwise distributed pursuant to a stockholder rights plan, except to the extent provided in Section 6(g);

(y) Spin-Offs for which an adjustment to the Conversion Price is required pursuant to Section 6(c)(ii); and

(z) a distribution solely pursuant to a Corporate Event, as to which the provisions set forth in Section 5 will apply,

then the Conversion Price will be decreased based on the following formula:

$$CP_1 = \frac{CP_0 * SP - FMV}{SP}$$

where:

CR₀ = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such distribution;

CR₁ = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

SP = the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before such Ex-Dividend Date; and

FMV = the fair market value (determined in the good faith judgment of the Board of Directors of the Company), as of such Ex-Dividend Date, of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed per share of Common Stock pursuant to such distribution;

provided, however, that if FMV is equal to or greater than SP, or if the difference between FMV and SP is less than one dollar (\$1.00), then, in lieu of the foregoing adjustment to the Conversion Price, each Holder will receive, at the same time and on the same terms as holders of Common Stock, the amount and kind of shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the principal amount of Notes held by such Holder on the record date for such distribution divided by the Conversion Price in effect on such record date.

For the avoidance of doubt, pursuant to the definition of CP₁ above, any adjustment to the Conversion Price made pursuant to this Section 6(c)(i) will become effective immediately after the open of business on the Ex-Dividend Date for the applicable distribution. To the extent such distribution is not so paid or made, or such rights, options or warrants are not exercised before their expiration (including as a result of being redeemed or terminated), the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to make or pay such distribution, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid or on the basis of the distribution of only such rights, options or warrants, if any, that were actually exercised, if at all. Subject to Section 6(g), if any such rights, options or warrants are exercisable only upon the occurrence of certain triggering events, then the Conversion Price will not be adjusted pursuant to this Section 6(c)(i) until the earliest of these triggering events occurs.

(ii) Spin-Offs. If the Company distributes or dividends shares of stock of any class or series, or similar equity interest, of or relating to an

Affiliate, a Subsidiary or other business unit of the Company to all or substantially all holders of the Common Stock, and such stock or equity interest is listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a "**Spin-Off**"), then the Conversion Price will be increased based on the following formula:

$$CP_1 = CP_0 * \frac{MP}{MP + FMV}$$

where:

CP₀ = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such Spin-Off;

CP₁ = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

FMV = the average of the Closing Sale Prices of the stock or equity interests distributed per share of Common Stock in such Spin-Off over the ten (10) consecutive Trading Day period (the "**Spin-Off Valuation Period**") beginning on, and including, such Ex-Dividend Date (such average to be determined as if references to Common Stock in the definitions of Closing Sale Price and Trading Day were instead references to the number or units of such stock or equity interests distributed per share of Common Stock in such Spin-Off); and

MP = the average of the Closing Sale Prices per share of Common Stock over the Spin-Off Valuation Period.

The adjustment to the Conversion Price pursuant to this Section 6(c)(ii) will be calculated as of the close of business on the last Trading Day of the Spin-Off Valuation Period but will be given effect immediately after the open of business on the Ex-Dividend Date for the Spin-Off, with retroactive effect. If this Note is converted and the Conversion Date occurs during the Spin-Off Valuation Period, then, in lieu of the foregoing adjustment to the Conversion Price, the Holder will receive, at the same time and on the same terms as holders of Common Stock, the number of shares of stock or other equity interests that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the principal amount of Notes held by such Holder on the record date for Spin-Off divided by the Conversion Price in effect on such record date.

To the extent any dividend or distribution of the type set forth in this Section 6(c)(ii) is declared but not made or paid, the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to make or pay such dividend or distribution, to the Conversion Price that would then be in effect had the

adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(d) Cash Dividends or Distributions. If any cash dividend or distribution is made to all or substantially all holders of Common Stock, then the Conversion Price will be decreased based on the following formula:

$$CP_1 = CP_0 * \frac{SP}{SP - D}$$

where:

CP₀ = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such dividend or distribution;

CP₁ = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

SP = the Closing Sale Price per share of Common Stock on the Trading Day immediately before such Ex-Dividend Date; and

D = the cash amount distributed per share of Common Stock in such dividend or distribution;

provided, however, that if D is equal to or greater than SP, or if the difference between D and SP is less than one dollar (\$1.00), then, in lieu of the foregoing adjustment to the Conversion Price, the Holder will receive, at the same time and on the same terms as holders of Common Stock, the amount of cash that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the principal amount of Notes held by such Holder on the record date for such dividend or distribution divided by the Conversion Price in effect on such record date. For the avoidance of doubt, pursuant to the definition of CP₁ above, any adjustment to the Conversion Price made pursuant to this Section 6(d) will become effective immediately after the open of business on the Ex-Dividend Date for the applicable dividend or distribution.

To the extent any such dividend or distribution is declared but not made or paid, the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to make or pay such dividend or distribution, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(e) Tender Offers or Exchange Offers. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for shares of Common Stock, and the value (as determined as of the Expiration Time (as defined below) in the judgment of the Board of Directors of the Company) of the cash and other consideration paid per share of Common Stock in such tender or exchange offer exceeds the Closing Sale Price per share of Common Stock on the Trading Day immediately after the last date (the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Price will be decreased based on the following formula:

$$CP_1 = CP_0 * \frac{OS_0 * SP}{AC + (SP * OS_1)}$$

where:

CP₀ = the Conversion Price in effect immediately before the time (the "**Expiration Time**") such tender or exchange offer expires;

CP₁ = the Conversion Price in effect immediately after the Expiration Time;

AC = the aggregate value (as determined as of the Expiration Time in the judgment of the Board of Directors of the Company) of all cash and other consideration paid for shares of Common Stock purchased in such tender or exchange offer;

OS₀ = the number of shares of Common Stock outstanding immediately before the Expiration Time (before giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer);

OS₁ = the number of shares of Common Stock outstanding immediately after the Expiration Time (excluding all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer); and

SP = the average of the Closing Sale Prices of Common Stock over the ten (10) consecutive Trading Day period (the "**Tender/Exchange Offer Valuation Period**") beginning on, and including, the Trading Day immediately after the Expiration Date.

The adjustment to the Conversion Price pursuant to this Section 6(e) will be calculated as of the close of business on the last Trading Day of the Tender/Exchange Offer Valuation Period but will be given effect immediately after the Expiration Time, with retroactive effect. If this Note is converted and the Conversion Date occurs during the Tender/Exchange

Offer Valuation Period, then, notwithstanding anything to the contrary in the Notes, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Tender/Exchange Offer Valuation Period. To the extent such tender or exchange offer is announced but not consummated (including as a result of the Company being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of shares of Common Stock in such tender or exchange offer are rescinded, the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to consummate such offer, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of shares of Common Stock, if any, actually made, and not rescinded, in such tender or exchange offer.

(f) No Adjustments in Certain Cases. Notwithstanding anything to the contrary in this Section 6, the Company will not be obligated to adjust the Conversion Price on account of a transaction or other event otherwise requiring an adjustment pursuant to this Section 6 (other than a stock dividend, distribution, split or combination of the type set forth in Section 6(a) or a tender or exchange offer of the type set forth in Section 6(e)) if each Holder participates, at the same time and on the same terms as holders of Common Stock, and solely by virtue of being a Holder of Notes, in such transaction or event without having to convert such Holder's Notes and as if such Holder held a number of shares of Common Stock equal to the quotient of (i) the aggregate principal amount (expressed in thousands) of Notes held by the Holder on such date; divided by (ii) the Conversion Price in effect on the related record date, effective date or Expiration Date, as applicable.

(g) Stockholder Rights Plans. If any shares of Common Stock are to be issued upon conversion of this Note and, at the time of such conversion, the Company has in effect any stockholder rights plan, then the Holder will be entitled to receive, in addition to, and concurrently with the delivery of, the consideration otherwise payable under this Note upon such conversion, the rights set forth in such stockholder rights plan, unless such rights have separated from the Common Stock at or prior to such time, in which case, and only in such case, the Conversion Price will be adjusted pursuant to Section 6(c)(1) on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such Section to all holders of the Common Stock, subject to readjustment in accordance with such Section if such rights expire, terminate or are redeemed.

(h) Voluntary Adjustment by Company. The Company may at any time during the term of this Note, with the prior written consent of the Required Holders, reduce the then current Conversion Price to any amount and for any period of time deemed appropriate by the Board of Directors of the Company.

(7) OPTIONAL REDEMPTION AT THE COMPANY'S ELECTION.

(a) General. At any time after January 16, 2021 (the "**Company Optional Trigger Date**"), so long as (i) the arithmetic average of the Weighted Average Prices of the Common Stock for any thirty (30) consecutive Trading Days occurring after the Company Optional Trigger Date (all such determinations to be appropriately adjusted for any stock split,

stock dividend, stock combination, reclassification or other similar transaction during such period) (a "**Company Optional Measuring Period**") equaled or exceeded one hundred forty percent (140%) of the Conversion Price on the Issuance Date (as adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction after the Subscription Date) and (ii) there has been no Equity Conditions Failure during the period beginning on the applicable Company Optional Redemption Notice Date (as defined below) through the applicable Company Optional Redemption Date (as defined below), the Company shall have the right to redeem all or any portion of the Conversion Amount then remaining outstanding under this Note, the Other Notes and the Additional Notes (a "**Company Optional Redemption Amount**") as designated in the applicable Company Optional Redemption Notice on the applicable Company Optional Redemption Date (each as defined below) (a "**Company Optional Redemption**"). The portion of this Note, the Other Notes and any Additional Notes subject to redemption pursuant to this Section 7(a) shall be redeemed by the Company on the applicable Company Optional Redemption Date in cash at a price equal to the 100% of the Conversion Amount to be redeemed (a "**Company Optional Redemption Price**"). The Company may exercise its right to require redemption under this Section 7 by delivering within not more than ten (10) Trading Days following the end of such Company Optional Measuring Period a written notice thereof to the Holder and all, but not less than all, of the holders of the Other Notes and any Additional Notes (a "**Company Optional Redemption Notice**" and the date all of the holders of the Notes received such notice is referred to as a "**Company Optional Redemption Notice Date**"). Each Company Optional Redemption Notice shall be irrevocable. Each Company Optional Redemption Notice shall (i) state the date on which the applicable Company Optional Redemption shall occur (a "**Company Optional Redemption Date**"), which date shall not be less than ten (10) Trading Days nor more than thirty (30) Trading Days following the applicable Company Optional Redemption Notice Date and (ii) state the aggregate Conversion Amount of the Notes which the Company has elected to redeem from the Holder and all of the holders of the Other Notes and any Additional Notes pursuant to this Section 7(a) (and analogous provisions under the Other Notes and any applicable Additional Notes) on the applicable Company Optional Redemption Date an Equity Conditions Failure (other than as a result of the receipt by the Company of an Interest Blocker Notice) occurs between the applicable Company Optional Redemption Notice Date and the applicable Company Optional Redemption Date and (iii) confirm that there has been no Equity Conditions Failure during the period beginning on the applicable Company Optional Redemption Date through the applicable Company Optional Redemption Notice Date. If the Company confirmed that there was no such Equity Conditions Failure as of the applicable Company Optional Redemption Notice Date but an Equity Conditions Failure occurs between the applicable Company Optional Redemption Notice Date and the applicable Company Optional Redemption Date (a "**Company Optional Redemption Interim Period**"), the Company shall provide the Holder a subsequent notice to that effect. If there is an Equity Conditions Failure (which is not waived in writing by the Holder) during such Company Optional Redemption Interim Period, then the applicable Company Optional Redemption shall be null and void with respect to all or any part designated by the Holder of the unconverted Company Optional Redemption Amount and the Holder shall be entitled to all the rights of a holder of this Note with respect to such amount of the applicable Company Optional Redemption Amount. Notwithstanding anything to the contrary in this Section 7, until the applicable Company Optional Redemption Price is paid, in full, the applicable Company

Optional Redemption Amount may be converted, in whole or in part, by the Holder into shares of Common Stock pursuant to Section 3. All Conversion Amounts converted by the Holder after the applicable Company Optional Redemption Notice Date shall reduce the applicable Company Optional Redemption Amount of this Note required to be redeemed on the applicable Company Optional Redemption Date, unless the Holder otherwise indicates in the applicable Conversion Notice. Company Optional Redemptions made pursuant to this Section 7 shall be made in accordance with Section 10. To the extent redemptions required by this Section 7 are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. The parties hereto agree that in the event of the Company's redemption of any portion of the Note under this Section 7, the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. For the avoidance of doubt, any Conversion Amount that is subject to a Conversion Notice delivered to the Company may no longer be subject to a Company Optional Redemption even if the shares issuable upon such conversion have not been delivered on or prior to the applicable Company Optional Redemption Date.

(b) Pro Rata Redemption Requirement. If the Company elects to cause a Company Optional Redemption pursuant to Section 7(a), then it must simultaneously take the same action in the same proportion with respect to the Other Notes and any Additional Notes. If the Company elects to cause a Company Optional Redemption pursuant to Section 7(a) (or similar provisions under the Other Notes and the Additional Notes) with respect to less than all of the Conversion Amounts of the Notes and any Additional Notes then outstanding, then the Company shall require redemption of a Conversion Amount from each of the holders of the Notes and any Additional Notes equal to the product of (i) the aggregate Company Optional Redemption Amount of Notes and the Additional Notes which the Company has elected to cause to be redeemed pursuant to Section 7(a), multiplied by (ii) the fraction, the numerator of which is the sum of the aggregate Principal Amount of the Notes and any Additional Notes held by such holder and the denominator of which is the sum of the aggregate Principal Amount of the Notes and any Additional Notes held by all holders holding outstanding Notes and any Additional Notes (such fraction with respect to each holder is referred to as its "**Company Optional Redemption Allocation Percentage**", and such amount with respect to each holder is referred to as its "**Pro Rata Company Optional Redemption Amount**"). In the event that the initial holder of any Notes or Additional Notes shall sell or otherwise transfer any of such holder's Notes or any Additional Notes, the transferee shall be allocated a pro rata portion of such holder's Company Optional Redemption Allocation Percentage and Pro Rata Company Optional Redemption Amount.

(8) NONCIRCUMVENTION. The Company hereby covenants and agrees that the Company will not, by amendment of its Certificate of Incorporation, Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Note, and will at all times in good faith carry out all of the provisions of this Note and take all action as may be required to protect the rights of the Holder of this Note.

(9) RESERVATION OF AUTHORIZED SHARES.

(a) Reservation. The Company shall initially reserve out of its authorized and unissued shares of Common Stock a number of shares of Common Stock for each of this Note, the Other Notes and any Additional Notes equal to the sum of (i) 130% of the Conversion Rate with respect to the Conversion Amount of each such Note as of the Issuance Date and (ii) 130% of the maximum number of shares issuable as Interest Shares assuming all Interest through the Maturity Date is paid in Interest Shares at the maximum possible Interest Rate. So long as any of this Note, the Other Notes and the Additional Notes are outstanding, the Company shall take all action necessary to reserve and keep available out of its authorized and unissued Common Stock, solely for the purpose of effecting the conversion of this Note, the Other Notes and any Additional Notes, the number of shares of Common Stock specified above in this Section 9(a) as shall from time to time be necessary to effect the conversion of all of the Notes and any Additional Notes then outstanding; provided, that at no time shall the number of shares of Common Stock so reserved be less than the number of shares required to be reserved pursuant hereto (in each case, without regard to any limitations on conversions) (the "**Required Reserve Amount**"). The initial number of shares of Common Stock reserved for conversions of this Note, the Other Notes and the Additional Notes and each increase in the number of shares so reserved shall be allocated pro rata among the Holder, the holders of the Other Notes and the holders of any Additional Notes based on the Principal amount of this Note and the Other Notes held by each holder at the Initial Closing (as defined in the Securities Purchase Agreement) or increase in the number of reserved shares, as the case may be (the "**Authorized Share Allocation**"). In the event that a holder shall sell or otherwise transfer this Note, or a portion thereof, or any of such holder's Other Notes or Additional Notes, each transferee shall be allocated a pro rata portion of such holder's Authorized Share Allocation. Any shares of Common Stock reserved and allocated to the portion of the Note held by any Person who ceases to hold any Notes shall be allocated to the portion of the Note held by the Holder and the remaining holders of Other Notes and the Additional Notes, pro rata based on the then-outstanding Principal amount of this Note, the Other Notes and any Additional Notes then held by such holders.

(b) Insufficient Authorized Shares. If at any time while any of the Notes remain outstanding the Company does not have a sufficient number of authorized and unreserved shares of Common Stock to satisfy its obligation to have reserved for issuance upon conversion of the outstanding Notes at least a number of shares of Common Stock equal to the Required Reserve Amount (an "**Authorized Share Failure**"), then the Company shall promptly take all action necessary to increase the Company's authorized shares of Common Stock to an amount sufficient to allow the Company to reserve the Required Reserve Amount for the Notes then outstanding. Without limiting the generality of the foregoing sentence, as soon as practicable after the date of the occurrence of an Authorized Share Failure, but in no event later than sixty (60) days after the occurrence of such Authorized Share Failure, the Company shall either (x) obtain the written consent of its stockholders for the approval of an increase in the number of authorized shares of Common Stock and provide each stockholder with an information statement with respect thereto or (y) file with the SEC a proxy statement for a meeting of its stockholders at which meeting the Company will seek the approval of its

stockholders for an increase in the number of authorized shares of Common Stock. In connection with such meeting, the Company shall provide each stockholder with a proxy statement and shall use commercially reasonable efforts to solicit its stockholders' approval of such increase in authorized shares of Common Stock and to cause its Board of Directors to recommend to the stockholders that they approve such proposal. Notwithstanding the foregoing, if during any such time of an Authorized Share Failure, the Company is able to obtain the written consent of a majority of the shares of its issued and outstanding Common Stock to approve the increase in the number of authorized shares of Common Stock, the Company may satisfy this obligation by obtaining such consent and submitting for filing with the SEC an Information Statement on Schedule 14C. If, upon any conversion of this Note, the Company does not have sufficient authorized shares to deliver in satisfaction of such conversion, then unless the Holder elects to rescind such attempted conversion, the Holder may require the Company to pay to the Holder within three (3) Trading Days of the applicable attempted conversion, cash in an amount equal to the product of (i) the number of shares of Common Stock that the Company is unable to deliver pursuant to this Section 9, and (ii) the highest Closing Sale Price of the Common Stock during the period beginning on the applicable Conversion Date and ending on the date the Company makes the applicable cash payment.

(10) REDEMPTIONS.

(a) Mechanics. The Company shall deliver the applicable Event of Default Redemption Price to the Holder within three (3) Business Days after the Company's receipt of the Holder's Event of Default Redemption Notice (the "**Event of Default Redemption Date**"). If the Holder has submitted a Change of Control Redemption Notice in accordance with Section 5(b), the Company shall deliver the applicable Change of Control Redemption Price to the Holder (i) concurrently with the consummation of such Change of Control if such notice is received prior to the consummation of such Change of Control and (ii) within three (3) Business Days after the Company's receipt of such notice otherwise (such date, the "**Change of Control Redemption Date**"). If the Company has delivered a Qualifying Early Redemption Notice to the Holders in accordance with Section 5(c), the Company shall deliver the applicable Qualifying Early Redemption Price to the Holders concurrently with the consummation of such Qualifying Change of Control (such date, the "**Qualifying Early Redemption Date**"). The Company shall deliver the applicable Company Optional Redemption Price to the Holder on the applicable Company Optional Redemption Date. The Company shall pay the applicable Redemption Price to the Holder on the applicable due date. In the event of a redemption of less than all of the Conversion Amount of this Note and a surrender of this Note by the Holder, the Company shall promptly cause to be issued and delivered to the Holder a new Note (in accordance with Section 18(d)) representing the outstanding Principal which has not been redeemed and any accrued Interest on such Principal which shall be calculated as if no Redemption Notice has been delivered. In the event that the Company does not pay the applicable Redemption Price to the Holder within the time period required, at any time thereafter and until the Company pays such unpaid Redemption Price in full, the Holder shall have the option, in lieu of redemption, to require the Company to promptly return to the Holder all or any portion of this Note representing the Conversion Amount that was submitted for redemption and for which the applicable Redemption Price (together with any Late Charges thereon) has not been paid. Upon the

Company's receipt of such notice, (x) the applicable Redemption Notice shall be null and void with respect to such Conversion Amount, (y) the Company shall immediately return this Note, or issue a new Note (in accordance with Section 18(d)) to the Holder representing such Conversion Amount not redeemed and (z) the Conversion Price of this Note or such new Note shall be adjusted to the Conversion Price as in effect on the date on which the applicable Redemption Notice is voided. The Holder's delivery of a notice voiding a Redemption Notice and exercise of its rights following such notice shall not affect the Company's obligations to make any payments of Late Charges which have accrued prior to the date of such notice with respect to the Conversion Amount subject to such notice.

(b) Redemption by Other Holders. Upon the Company's receipt of notice from any of the holders of the Other Notes or any Additional Notes for redemption or repayment as a result of an event or occurrence substantially similar to the events or occurrences described in Section 4(b) or Section 5(b) or pursuant to equivalent provisions set forth in the Other Notes or any Additional Notes (each, an "**Other Redemption Notice**"), the Company shall promptly provide notice of such request. If the Company receives a Redemption Notice and one or more Other Redemption Notices, during the seven (7) Business Day period beginning on and including the date which is three (3) Business Days prior to the Company's receipt of the Holder's Redemption Notice and ending on and including the date which is three (3) Business Days after the Company's receipt of the Holder's Redemption Notice and the Company is unable to redeem all principal, interest and other amounts designated in such Redemption Notice and such Other Redemption Notices received during such seven (7) Business Day period, then the Company shall redeem a pro rata amount from the Holder and each holder of the Other Notes and the Additional Notes (including the Holder) based on the outstanding Principal amount of this Note, the Other Notes and any Additional Notes submitted for redemption pursuant to such Redemption Notice and such Other Redemption Notices received by the Company during such seven (7) Business Day period.

(11) VOTING RIGHTS. The Holder shall have no voting rights as the holder of this Note, except as required by law and as expressly provided in this Note.

(12) SECURITY. This Note, the Other Notes and any Additional Notes are secured to the extent and in the manner set forth in the Security Documents.

(13) RANK. All payments due under this Note (a) shall rank *pari passu* with all Other Notes, Additional Notes, Rights Offering Notes, if any, Backstop Commitment Notes, if any, and Indebtedness described in clause (iii) of the definition of Permitted Indebtedness, if any, and (b) shall be senior to all other Indebtedness of the Company and its Subsidiaries.

(14) NEGATIVE COVENANTS.

(a) Until all of the Notes and the Additional Notes have been converted, redeemed or otherwise satisfied in accordance with their terms, the Company shall not, and the Company shall not permit any of its Subsidiaries without the prior written consent of the Required Holders to, directly or indirectly:

(i) incur or guarantee, assume or suffer to exist any Indebtedness, other than Permitted Indebtedness;

or

(ii) allow or suffer to exist any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in any property or assets (including accounts and contract rights) owned by the Company or any of its Subsidiaries (collectively, "**Liens**") other than Permitted Liens.

(b) Solely in the event that the Company does not at the applicable time of determination satisfy the Qualifying Conditions, the Company shall not, and the Company shall not permit any of its Subsidiaries without the prior written consent of the Required Holders to, directly or indirectly:

(i) Redeem or repurchase any Equity Interests or other Junior Claims, or declare or pay any dividend or other distributions of assets (or rights to acquire assets) to any or all holders of Equity Interests or other Junior Claims, by way of return of capital or otherwise (including without limitation, any distribution of cash, stock or other securities, property, Options, evidence of Indebtedness or any other assets by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) of the Company or any of its Subsidiaries (any of the foregoing, a "**Restricted Payment**"), in each case other than:

(1) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Indebtedness made by exchange for, or out of the proceeds of the substantially concurrent sale of, Refinancing Indebtedness;

(2) each Subsidiary may declare and make Restricted Payments to Persons that own Equity Interests in such Subsidiary, ratably according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made;

(3) the Company and each Subsidiary may declare and make dividend payments or other distributions payable solely in Equity Interests of such Person;

(4) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Equity Interest of the Company or a Subsidiary made by exchange for or out of the proceeds of the substantially concurrent sale of Equity Interests of the Company;

(5) a Restricted Payment to pay for the repurchase, retirement or other acquisition or retirement for value of Equity Interests of the Company held by or on behalf of any future, present or former employee, director, manager or consultant of the Company or any of its Subsidiaries (or permitted transferees, assigns, estates, trusts or heirs of such employee, director, manager or consultant) either pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or upon the termination of such employee, director, manager or consultant's employment, directorship or

manager position; provided that the aggregate amount of Restricted Payments made under this clause (5) do not exceed in any calendar year an amount equal to \$1,000,000;

(6) purchases, repurchases, redemptions, defeasances or other acquisitions or retirements of Equity Interests deemed to occur upon the exercise of stock options, warrants or other rights in respect thereof if such Equity Interests represents a portion of the exercise price thereof; and

(7) additional Restricted Payments in an amount not to exceed \$5,000,000 during any fiscal year or \$10,000,000 in the aggregate prior to the Maturity Date.

(15) AFFIRMATIVE COVENANTS.

(a) By no later than April 30, 2019, the Company shall have filed with the SEC one or more Annual Reports on Form 10-K containing its audited financial statements for the fiscal years ended December 31, 2015, 2016 and 2017 in accordance with the applicable requirements of the Exchange Act, the rules and regulations thereunder and the SEC's instructions to Annual Reports on Form 10-K (the "**Form 10-K**").

(b) From and after the date the Company files the Form 10-K, on or before the date that the Company is required to file any Quarterly Report on Form 10-Q or Annual Report on Form 10-K, the Company shall publicly disclose Consolidated EBITDA with respect to the most recent completed financial period as to which such report relates.

(c) The Company shall maintain on deposit cash and/or cash equivalents (as defined in GAAP) in an aggregate amount equal to:

(i) not less than \$40,000,000 from and after the Initial Closing Date to and excluding the earlier to occur of (x) the consummation of the Rights Offering (as defined in the Securities Purchase Agreement) and (y) the Maturity Date (such earlier date, the "**Cash Measuring Date**"); provided, however, that, upon execution of the Qualifying Change of Control Documentation, such amount shall be reduced on a dollar for dollar basis for each dollar of Cash Interest paid to the Holder and the holders of the Other Notes and the Additional Notes from and after the execution of the Qualifying Change of Control Documentation until the consummation of the applicable Qualifying Change of Control or the termination of the related Qualifying Change of Control Documentation in accordance with its terms; provided, further, that in no event will such amount be reduced pursuant to the immediately preceding proviso by more than \$20,000,000; provided, further, that in the event that:

(x) such Qualifying Change of Control is consummated and the Holder does not receive the payment in full of the applicable Qualifying Early Redemption Price within two (2) Business Days of consummation of such Qualifying Change of Control, then on and after such consummation; or

(y) such Qualifying Change of Control is terminated in accordance with the terms of the related Qualifying Change of Control Documentation (other than in a

circumstance constituting a Superior Proposal Termination (as defined below)), then on and after the shorter of (I) the ninetieth (90th) day after such termination and (II) the first date after such termination when the Company consummates a financing that enables it to maintain on deposit cash and/or cash equivalents (as defined in GAAP) in an aggregate amount equal to \$40,000,000,

in each such case, such amount shall be restored to \$40,000,000;

(ii) solely if the Cash Measuring Date is determined by clause (x) of such definition:

(1) not less than \$75,000,000 from and after the Cash Measuring Date through and excluding January 1, 2020; provided, however, that such amount shall be not less than \$55,000,000 for the period, if any, from and after the Cash Measuring Date to and excluding the earlier to occur of (a) the date the Company files the 2019 Q2 10-Q and (b) August 9, 2019; and

(2) not less than \$50,000,000 from and after January 1, 2020 through and including the Maturity Date.

(d) The Company shall deliver a Final Make-Whole Table (as defined in Section 31(o)) to the Holder on or prior to the date that is five (5) Business Days following the Pricing Date.

(16) VOTE TO ISSUE, OR CHANGE THE TERMS OF, NOTES. The affirmative vote of the Required Holders at a meeting duly called for such purpose or the written consent without a meeting of the Required Holders shall be required for any change or amendment or waiver of any provision to this Note, any of the Other Notes or any Additional Notes. Any change, amendment or waiver by the Company and the Required Holders shall be binding on the Holder of this Note and all holders of the Other Notes and the Additional Notes.

(17) TRANSFER. This Note and any shares of Common Stock issued upon conversion of this Note may be offered, sold, assigned or transferred by the Holder without the consent of the Company, subject only to the provisions of Section 2(g) of the Securities Purchase Agreement.

(18) REISSUANCE OF THIS NOTE.

(a) Transfer. If this Note is to be transferred, the Holder shall surrender this Note to the Company, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Note (in accordance with Section 18(d) and subject to Section 3(c)(iii)), registered as the Holder may request, representing the outstanding Principal being transferred by the Holder and, if less than the entire outstanding Principal is being transferred, a new Note (in accordance with Section 18(d)) to the Holder representing the outstanding Principal not being transferred. The Holder and any assignee, by acceptance of this Note, acknowledge and agree that, by reason of the provisions of Section 3(c)(iii) following

conversion or redemption of any portion of this Note, the outstanding Principal represented by this Note may be less than the Principal stated on the face of this Note.

(b) Lost, Stolen or Mutilated Note. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Note, and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary form and, in the case of mutilation, upon surrender and cancellation of this Note, the Company shall execute and deliver to the Holder a new Note (in accordance with Section 18(d)) representing the outstanding Principal.

(c) Note Exchangeable for Different Denominations. This Note is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, for a new Note or Notes (in accordance with Section 18(d)) representing in the aggregate the outstanding Principal of this Note, and each such new Note will represent such portion of such outstanding Principal as is designated by the Holder at the time of such surrender.

(d) Issuance of New Notes. Whenever the Company is required to issue a new Note pursuant to the terms of this Note, such new Note (i) shall be of like tenor with this Note, (ii) shall represent, as indicated on the face of such new Note, the Principal remaining outstanding (or in the case of a new Note being issued pursuant to Section 18(a) or Section 18(c), the Principal designated by the Holder which, when added to the principal represented by the other new Notes issued in connection with such issuance, does not exceed the Principal remaining outstanding under this Note immediately prior to such issuance of new Notes), (iii) shall have an issuance date, as indicated on the face of such new Note, which is the same as the Issuance Date of this Note, (iv) shall have the same rights and conditions as this Note, and (v) shall represent accrued and unpaid Interest and Late Charges, if any, on the Principal and Interest of this Note, from the Issuance Date.

(19) REMEDIES, CHARACTERIZATIONS, OTHER OBLIGATIONS, BREACHES AND INJUNCTIVE RELIEF. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note and any of the other Transaction Documents at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note. Amounts set forth or provided for herein with respect to payments, conversion, redemption and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach, the Holder shall be entitled, in addition to all other available remedies, to an injunction restraining such breach, without the necessity of showing economic loss and without any bond or other security being required, to the fullest extent enforceable under applicable law.

(20) PAYMENT OF COLLECTION, ENFORCEMENT AND OTHER COSTS. If (a) this Note is placed in the hands of an attorney for collection or enforcement or is

collected or enforced through any legal proceeding or the Holder otherwise takes action to collect amounts due under this Note or to enforce the provisions of this Note or (b) there occurs any bankruptcy, reorganization, receivership of the Company or other proceedings affecting Company creditors' rights and involving a claim under this Note, then the Company shall pay the costs incurred by the Holder for such collection, enforcement or action or in connection with such bankruptcy, reorganization, receivership or other proceeding, including, but not limited to, actual and reasonable attorneys' fees and disbursements.

(21) CONSTRUCTION; HEADINGS. This Note shall be deemed to be jointly drafted by the Company and all the Buyers and shall not be construed against any person as the drafter hereof. The headings of this Note are for convenience of reference and shall not form part of, or affect the interpretation of, this Note.

(22) FAILURE OR INDULGENCE NOT WAIVER. No failure or delay on the part of the Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege.

(23) DISPUTE RESOLUTION. In the case of a dispute as to the determination of the Closing Bid Price, the Closing Sale Price or the Weighted Average Price or the arithmetic calculation of the Conversion Rate, the Conversion Price or any Redemption Price, the Company shall submit the disputed determinations or arithmetic calculations within two (2) Business Days of receipt, or deemed receipt, of the Conversion Notice or Redemption Notice or other event giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation within three (3) Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two (2) Business Days submit (a) the disputed determination of the Closing Bid Price, the Closing Sale Price or the Weighted Average Price to an independent, reputable investment bank selected by the Holder and approved by the Company, such approval not to be unreasonably withheld, conditioned or delayed, or (b) the disputed arithmetic calculation of the Conversion Rate, Conversion Price or any Redemption Price to an independent, outside accountant, selected by the Holder and approved by the Company, such approval not to be unreasonably withheld, conditioned or delayed. The Company, at the Company's expense, shall cause the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than ten (10) Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

(24) NOTICES; PAYMENTS.

(a) Notices. Whenever notice is required to be given under this Note, unless otherwise provided herein, such notice shall be given in accordance with Section 9(f) of the Securities Purchase Agreement. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Note, including in reasonable detail a description of such action and the reason therefore. Without limiting the generality of the foregoing, the

Company shall give written notice to the Holder (i) immediately upon any adjustment of the Conversion Price, setting forth in reasonable detail, and certifying, the calculation of such adjustment and (ii) at least ten (10) days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the Common Stock, (B) with respect to any pro rata subscription offer to holders of Common Stock or (C) for determining rights to vote with respect to any Fundamental Transaction, dissolution or liquidation, provided in each case that such information shall have been made known to the public prior to or in conjunction with such notice being provided to the Holder.

(b) Payments. Whenever any payment of cash is to be made by the Company to any Person pursuant to this Note, such payment shall be made in lawful money of the United States of America via wire transfer of immediately available funds to an account so designated by the Holder; provided, that the Holder, upon timely written notice to the Company, may elect to receive a payment of cash by a check drawn on the account of the Company and sent via overnight courier service to such Person at such address as previously provided to the Company in writing (which address, in the case of each of the Buyers, shall initially be as set forth on the Schedule of Buyers attached to the Securities Purchase Agreement. Whenever any amount expressed to be due by the terms of this Note is due on any day which is not a Business Day, the same shall instead be due on the next succeeding day which is a Business Day. Any amount of Principal or other amounts due under the Transaction Documents which is not paid when due shall result in a late charge being incurred and payable by the Company in an amount equal to interest on such amount at the rate of eighteen percent (18.0%) per annum from the date such amount was due until the same is paid in full ("**Late Charge**").

(25) CANCELLATION. After all Principal, any accrued Interest and any other amounts at any time owed on this Note have been paid in full, this Note shall automatically be deemed canceled, shall be surrendered to the Company for cancellation and shall not be reissued.

(26) WAIVER OF NOTICE. To the extent permitted by law, the Company hereby waives demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Note.

(27) GOVERNING LAW; JURISDICTION; JURY TRIAL. All questions concerning the construction, validity, enforcement and interpretation of this Note shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. The Company hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. The Company hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a

copy thereof to the Company at the address set forth in Section 9(f) of the Securities Purchase Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof to the fullest extent enforceable under applicable law. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Nothing contained herein shall be deemed or operate to preclude the Holder from bringing suit or taking other legal action against the Company in any other jurisdiction to collect on the Company's obligations to the Holder, to realize on any collateral or any other security for such obligations, or to enforce a judgment or other court ruling in favor of the Holder. **THE COMPANY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS NOTE OR ANY TRANSACTION CONTEMPLATED HEREBY.**

(28) **SEVERABILITY.** If any provision of this Note is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Note so long as this Note as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the Company or the Holder hereof or the practical realization of the benefits that would otherwise be conferred upon the Company or the Holder hereof. The Company and the Holders will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

(29) **DISCLOSURE.** From and after the filing of the Form 10-K and provided that, at the applicable time of determination, no individual affiliated with the Holder serving on the Board of Directors of the Company was appointed thereto, including pursuant to Section 1(a) of the September Agreement, the Company will not provide to the Holder any information that constitutes material non-public information of or relating to the Company or its Subsidiaries without the prior written consent of the Holder. If and to the extent the Company does provide any such information, or the Holder otherwise comes into possession of material non-public information relating to the Company or its Subsidiaries as a result of the receipt or delivery of any notice in accordance with the terms hereof, the Company will comply with its obligations under Regulation FD under the Exchange Act. In the absence of any disclosure by the Company pursuant thereto, the Holder shall be allowed to presume that all matters relating thereto do not constitute material non-public information relating to the Company or its Subsidiaries.

(30) **USURY.** This Note is subject to the express condition that at no time shall the Company be obligated or required to pay interest hereunder at a rate or in an amount which could subject the Holder to either civil or criminal liability as a result of being in excess of the maximum interest rate or amount which the Company is permitted by applicable law to contract or agree to pay. If by the terms of this Note, the Company is at any time required or obligated to

pay interest hereunder at a rate or in an amount in excess of such maximum rate or amount, the rate or amount of interest under this Note shall be deemed to be immediately reduced to such maximum rate or amount and the interest payable shall be computed at such maximum rate or be in such maximum amount and all prior interest payments in excess of such maximum rate or amount shall be applied and shall be deemed to have been payments in reduction of the principal balance of this Note.

(31) CERTAIN DEFINITIONS. For purposes of this Note, the following terms shall have the following meanings:

(a) "**Acquired EBITDA**" means with respect to any Acquired Entity or Business (any of the foregoing, a "Pro Forma Entity") for any period, the amount for such period of Consolidated EBITDA of such Pro Forma Entity (determined as if references to the Company and its Subsidiaries in the definition of the term "Consolidated EBITDA" were references to such Pro Forma Entity and its Subsidiaries which will become Subsidiaries), all as determined on a consolidated basis for such Pro Forma Entity.

(b) "**Additional Closing Date**" shall have the meaning set forth in the Securities Purchase Agreement.

(c) "**Additional Notes**" means all Additional Notes (as defined in the Securities Purchase Agreement), if any, issued by the Company pursuant to the Securities Purchase Agreement on an Additional Closing Date.

(d) "**Affiliate**" means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person, it being understood for purposes of this definition that "control" of a Person means the power directly or indirectly either to vote 10% or more of the stock having ordinary voting power for the election of directors of such Person or direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

(e) "**Attribution Parties**" means, collectively, the following Persons: (i) any investment vehicle, including, any funds, feeder funds or managed accounts, currently, or from time to time after the Issuance Date, directly or indirectly managed or advised by the Holder's investment manager or any of its Affiliates or principals, (ii) any direct or indirect Affiliates of the Holder or any of the foregoing, (iii) any Person acting or who could be deemed to be acting as a Group together with the Holder or any of the foregoing and (iv) any other Person whose beneficial ownership of the Company's Common Stock would or could be aggregated with the Holder's and its Attribution Parties for purposes of Section 13(d) of the Exchange Act. For clarity, the purpose of the foregoing is to subject collectively the Holder and its Attribution Parties to the Maximum Percentage.

(f) "**Backstop Commitment Notes**" any Notes issued in connection with the Buyer's backstop commitment of the Rights Offering (as defined in the Securities Purchase Agreement) as contemplated in Section 1(e) of the Securities Purchase Agreement.

(g) "**Bloomberg**" means Bloomberg Financial Markets.

(h) "**Business Day**" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed.

(i) "**Buyer**" shall have the meaning ascribed to such term in the Securities Purchase Agreement.

(j) "**Calendar Quarter**" means each of: the period beginning on and including January 1 and ending on and including the next occurring March 31; the period beginning on and including April 1 and ending on and including the next occurring June 30; the period beginning on and including July 1 and ending on and including the next occurring September 30; and the period beginning on and including October 1 and ending on and including the next occurring December 31.

(k) "**Capital Stock**" means, for any entity, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that entity.

(l) "**Change of Control**" means any Fundamental Transaction other than (i) any reorganization, recapitalization or reclassification of the Common Stock in which holders of the Company's voting power immediately prior to such reorganization, recapitalization or reclassification continue after such reorganization, recapitalization or reclassification to hold publicly traded securities and, directly or indirectly, are, in all material respects, the holders of a majority of the voting power of the surviving entity (or entities with the authority or voting power to elect the members of the Board of Directors (or their equivalent if other than a corporation) of such entity or entities) after such reorganization, recapitalization or reclassification or (ii) pursuant to a migratory merger effected solely for the purpose of changing the jurisdiction of incorporation of the Company.

(m) "**Closing Bid Price**" and "**Closing Sale Price**" means, for any security as of any date, the last closing bid price and last closing trade price, respectively, for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing bid price or the closing trade price, as the case may be, then the last bid price or last trade price, respectively, of such security prior to 4:00:00 p.m., New York Time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last closing bid price or last trade price, respectively, of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, or if the foregoing do not apply, the last closing bid price or last trade price, respectively, of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no closing bid price or last trade price, respectively, is reported for such security by Bloomberg, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the OTC Link or "pink sheets" by OTC Markets Group Inc. (formerly Pink OTC Markets Inc.). If the Closing Bid Price or the Closing Sale Price

cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Bid Price or the Closing Sale Price, as the case may be, of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 23. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction occurring during the applicable calculation period.

(n) "**Common Stock**" means (i) shares of Common Stock, par value \$0.001 per share of the Company, and (ii) any share capital into which such Common Stock shall be changed or any share capital resulting from a reclassification of such Common Stock.

(o) "**Consolidated EBITDA**" means, for any period, the Consolidated Net Income for such period plus:

(i) without duplication and to the extent already deducted (and not added back) in arriving at such Consolidated Net Income (or, as applicable, to the extent not already included in Consolidated Net Income), the sum of the following amounts for such period:

(1) total interest expense and, to the extent not reflected in such total interest expense, any losses on swap obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, net of interest income and gains on such swap obligations or such derivative instruments, and bank and letter of credit fees and costs of surety bonds in connection with financing activities,

(2) provision for taxes based on income, profits or capital gains, including federal, foreign, state, franchise, excise and similar taxes paid or accrued during such period (including in respect of repatriated funds),

(3) depreciation and amortization (including amortization of intangible assets established through purchase accounting and amortization of deferred financing fees or costs),

(4) non-cash charges (excluding any non-cash charges which consists of or requires an accrual of, or reserve for, potential cash charges in any future period),

(5) extraordinary losses in accordance with GAAP,

(6) unusual or non-recurring charges (including litigation and investigation-related costs and expenses, costs associated with tax projects/audits and professional, consulting or other fees) incurred in connection with the Company's pending audit or any of the legal proceedings listed on Schedule 3(r) of the Securities Purchase Agreement,

(7) restructuring charges, accruals or reserves (including restructuring costs related to acquisitions after the Initial Closing),

(8) losses on asset sales, disposals or abandonments (other than asset sales, disposals or abandonments in the ordinary course of business),

(9) the amount of any net losses from discontinued operations in accordance with GAAP,

(10) any expenses, charges or losses that are covered by indemnification or other reimbursement provisions in connection with any Investment, acquisition or any sale, conveyance, transfer or other disposition of assets, to the extent actually reimbursed, or, so long as the Company has received notification from the applicable carrier that it intends to indemnify or reimburse such expenses, charges or losses and that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within such 365 days), such expenses, charges or losses,

(11) to the extent covered by insurance and actually reimbursed, or, so long as the Company has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within such 365 days), expenses, charges or losses with respect to liability or casualty event or business interruption,

(12) fees, costs and expenses incurred in connection with the transactions contemplated by the Transaction Documents (including, without limitation, the Rights Offering);

(13) any fees and expenses incurred during such period, or any amortization thereof for such period, in connection with any acquisition, investment, asset disposition, issuance or repayment of debt, issuance of equity securities, refinancing transaction or amendment or other modification of any debt instrument (in each case, including any such transaction consummated prior to the Initial Closing and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction,

less

(ii) without duplication and to the extent included in arriving at such Consolidated Net Income (or, as applicable, to the extent not already included in Consolidated Net Income), the sum of the following amounts for such period:

(1) extraordinary gains in accordance with GAAP and unusual or non-recurring gains,

(2) non-cash gains,

(3) gains on asset sales, disposals or abandonments (other than asset sales, disposals or abandonments in the ordinary course of business), and

(4) the amount of any net income from discontinued operations in accordance with GAAP, in each case, as determined on a consolidated basis for the Company and its Subsidiaries in accordance with GAAP, provided that, to the extent included in Consolidated Net Income,

(1) there shall be excluded in determining Consolidated EBITDA, without duplication, any net unrealized gains and losses relating to mark-to-market of amounts denominated in foreign currencies resulting from the application of FASB ASC 830;

(2) there shall be included in determining Consolidated EBITDA for any period, without duplication, the Acquired EBITDA of any Person, property, business or asset acquired by the Company or any Subsidiary of the Company during such period to the extent not subsequently sold, transferred or otherwise disposed of (but not including the Acquired EBITDA of any related Person, property, business or assets to the extent not so acquired) (each such Person, property, business or asset acquired, including pursuant to a transaction consummated prior to the Initial Closing, and not subsequently so disposed of, an "**Acquired Entity or Business**"), in each case based on the Acquired EBITDA of such Pro Forma Entity for such period (including the portion thereof occurring prior to such acquisition or conversion) determined on a historical Pro Forma Basis;

(3) there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset sold, transferred or otherwise disposed of, closed or classified as discontinued operations by the Company or any Subsidiary of the Company during such period (each such Person, property, business or asset so sold, transferred or otherwise disposed of, closed or classified, a "**Sold Entity or Business**"), in each case based on the Disposed EBITDA of such Sold Entity or Business for such period (including the portion thereof occurring prior to such sale, transfer, disposition, closure, classification or conversion) determined on a historical Pro Forma Basis; and

(4) there shall be excluded in determining Consolidated EBITDA for any period the cumulative effect of a change in accounting principles during such period to the extent included in Consolidated Net Income.

(p) "**Consolidated Net Income**" means, for any period, the net income (loss) of the Company and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.

(q) "**Contingent Obligation**" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any Indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person

incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto.

(r) "**Conversion Premium**" means the quotient obtained by dividing (x) the Conversion Price in effect as of the applicable date of determination, by (y) the arithmetic average of the ten (10) Weighted Average Prices of the Common Stock on each Trading Day during the ten (10) consecutive Trading Days immediately preceding the applicable date of determination. All such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction during such period.

(s) "**Convertible Securities**" means any stock or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for shares of Common Stock.

(t) "**Disposed EBITDA**" means with respect to any Sold Entity or Business for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business (determined as if references to the Company and its Subsidiaries in the definition of the term "Consolidated EBITDA" (and in the component financial definitions used therein) were references to such Sold Entity or Business and its Subsidiaries), all as determined on a consolidated basis for such Sold Entity or Business.

(u) "**Eligible Market**" means the Principal Market, The New York Stock Exchange, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the NYSE American, the OTC QX, the OTC QB or the OTC Pink.

(v) "**Equity Conditions**" means each of the following conditions: (i) either (x) one or more Registration Statements covering all of the Interest Shares to be issued on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, shall be effective and available for the resale of such shares, in accordance with the terms of the Registration Rights Agreement or (y) all Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions, shall be eligible for sale without restriction or limitation pursuant to Rule 144 and without the need for registration under any applicable federal or state securities laws; (ii) the Company shall have no knowledge of any fact that would cause (x) the applicable Registration Statements required pursuant to the Registration Rights Agreement not to be effective and available for the resale of the Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions, in accordance with the terms of the Registration Rights Agreement or (y) the Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions, not

being eligible for sale without restriction or limitation pursuant to Rule 144 and without the requirement to be in compliance with Rule 144(c)(1) (or any successor thereto) promulgated under the Securities Act and any applicable state securities laws; (iii) the Interest Shares issuable on the applicable Interest Date requiring the satisfaction of the Equity Conditions may be issued in full without violating Section 3(d) hereof; (iv) the Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions may be issued in full without violating the rules or regulations of the Principal Market; (v) the Common Stock is designated for quotation on the Principal Market and shall not have been suspended from trading on such exchange or market; and (vi) if the event requiring satisfaction of the Equity Conditions is a Company Optional Redemption, an Event of Default Redemption or a Change of Control Redemption, from and after the applicable Company Optional Redemption Notice, Event of Default Notice or Change of Control Notice, as applicable, the Company shall have delivered shares of Common Stock pursuant to the terms of this Note to the Holder on a timely basis as set forth in Section 3(c) hereof.

(w) "**Equity Conditions Failure**" means that on the applicable date of determination through the applicable date of determination, the Equity Conditions have not each been satisfied (or waived in writing by the Holder).

(x) "**Equity Interests**" means (a) all shares of capital stock (whether denominated as common capital stock or preferred capital stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting and (b) all securities convertible into or exchangeable for any of the foregoing and all warrants, Options or other rights to purchase, subscribe for or otherwise acquire any of the foregoing, whether or not presently convertible, exchangeable or exercisable.

(y) "**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

(z) "**Ex-Dividend Date**" means the first date on which shares of the Common Stock trade on the applicable Eligible Market, regular way, without the right to receive the issuance, dividend or distribution in question, from the Company or, if applicable, from the seller of Common Stock on such Eligible Market (in the form of due bills or otherwise) as determined by such Eligible Market.

(aa) "**Fundamental Transaction**" means (A) that the Company shall, directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions, (i) consolidate or merge with or into (whether or not the Company is the surviving corporation) another Subject Entity, or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its "significant subsidiaries" (as defined in Rule 1-02 of Regulation S-X), taken as a whole, to one or more Subject Entities, or (iii) make, or allow one or more Subject Entities to make, or allow the

Company to be subject to or have its Common Stock be subject to or party to one or more Subject Entities making, a purchase, tender or exchange offer that is accepted by the holders of greater than either (x) 50% of the outstanding shares of Common Stock, (y) 50% of the outstanding shares of Common Stock calculated as if any shares of Common Stock held by all Subject Entities making or party to, or Affiliated with any Subject Entities making or party to, such purchase, tender or exchange offer were not outstanding; or (z) such number of shares of Common Stock such that all Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such purchase, tender or exchange offer, become collectively the beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of greater than 50% of the outstanding shares of Common Stock, or (iv) consummate a share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with one or more Subject Entities whereby such Subject Entities, individually or in the aggregate, acquire, either (x) greater than 50% of the outstanding shares of Common Stock, (y) greater than 50% of the outstanding shares of Common Stock calculated as if any shares of Common Stock held by all the Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such stock purchase agreement or other business combination were not outstanding; or (z) such number of shares of Common Stock such that the Subject Entities become collectively the beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of greater than 50% of the outstanding shares of Common Stock, or (v) reorganize, recapitalize or reclassify its Common Stock, (B) that the Company shall, directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions allow any Subject Entity individually or the Subject Entities in the aggregate to be or become the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, whether through acquisition, purchase, assignment, conveyance, tender, tender offer, exchange, reduction in outstanding shares of Common Stock, merger, consolidation, business combination, reorganization, recapitalization, spin-off, scheme of arrangement, reorganization, recapitalization or reclassification or otherwise in any manner whatsoever, of either (x) greater than 50% of the aggregate ordinary voting power represented by issued and outstanding Common Stock, (y) greater than 50% of the aggregate ordinary voting power represented by issued and outstanding Common Stock not held by all such Subject Entities as of the Subscription Date calculated as if any shares of Common Stock held by all such Subject Entities were not outstanding, or (z) a percentage of the aggregate ordinary voting power represented by issued and outstanding shares of Common Stock or other equity securities of the Company sufficient to allow such Subject Entities to effect a statutory short form merger or other transaction requiring other stockholders of the Company to surrender their shares of Common Stock without approval of the stockholders of the Company or (C) directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions, the issuance of or the entering into any other instrument or transaction structured in a manner to circumvent, or that circumvents, the intent of this definition in which case this definition shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this definition to the extent necessary to correct this definition or any portion of this definition which may be defective or inconsistent with the intended treatment of such instrument or transaction.

(bb) "GAAP" means United States generally accepted accounting principles, consistently applied, as in effect on the Subscription Date.

(cc) "**Grace Period**" shall have the meaning ascribed to such term in the Registration Rights Agreement.

(dd) "**Group**" means a "group" as that term is used in Section 13(d) of the Exchange Act and as defined in Rule 13d-5 thereunder.

(ee) "**Indebtedness**" of any Person means, without duplication (i) all indebtedness for borrowed money, (ii) all obligations issued, undertaken or assumed as the deferred purchase price of property or services, including (without limitation) "capital leases" in accordance with GAAP (other than trade payables entered into in the ordinary course of business), (iii) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (iv) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (v) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (vi) all monetary obligations under any leasing or similar arrangement which, in connection with GAAP, consistently applied for the periods covered thereby, is classified as a capital lease, (vii) all indebtedness referred to in clauses (i) through (vi) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any mortgage, deed of trust, lien, pledge, charge, security interest or other encumbrance of any nature whatsoever in or upon any property or assets (including accounts and contract rights) with respect to any asset or property owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, (with the amount of such indebtedness, in the case where the Person has not assumed or become liable for the payment of such indebtedness) equal to the lesser of (x) the outstanding principal amount of such indebtedness and (y) the fair market value of the assets securing such indebtedness) and (viii) all Contingent Obligations in respect of indebtedness of others of the kinds referred to in clauses (i) through (vii) above.

(ff) "**Initial Closing Date**" shall have the meaning set forth in the Securities Purchase Agreement.

(gg) "**Interest Conversion Price**" means as of any Interest Date, that price which shall be the arithmetic average of the Weighted Average Prices of the Common Stock on each Trading Day during the ten (10) consecutive Trading Days immediately preceding the applicable Interest Date. All such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction occurring during such period.

(hh) "**Interest Notice Due Date**" means the fifteenth (15th) Trading Day prior to the applicable Interest Date.

(ii) "**Interest Reset Date**" means each of (i) January 30, 2019, (ii) January 30, 2020, (iii) February 1, 2021 (each of the foregoing (i) through (iii), an "**Anniversary Interest Reset Date**") and (iv) any applicable Event of Default Redemption Notice Date.

(jj) "**Interest Rate**" means:

If the Conversion Premium (as of January 30, 2018 for the second column and as of the applicable Interest Reset Date for the third column) is:	Then the Interest Rate (which shall be determined on January 30, 2018) from the Initial Issuance Date through the first Interest Reset Date shall be:	And the Interest Rate from the applicable Interest Reset Date until the next subsequent Interest Reset Date shall be:
1.0 or less	6.0%	4.0%
1.05	6.0%	4.3%
1.10	6.0%	4.7%
1.15	6.0%	5.0%
1.20	6.0%	5.3%
1.25	6.0%	5.7%
1.30	6.0%	6.0%
1.35	8.0%	8.0%
1.40	10.0%	10.0%
1.45 or higher	12.0%	12.0%

If the Conversion Premium is between two Conversion Premium amounts in the table above, the Interest Rate will be determined by straight-line interpolation between the Interest Rates set forth for the higher and lower Conversion Premium amounts.

Upon a 10-K Filing Failure (as defined below), any applicable Interest Rate then in effect shall automatically be increased by an additional 200 bps (e.g. from 4.7% to 6.7%). Such increased Interest Rate shall continue in effect until the next Anniversary Interest Reset Date. Upon the next Anniversary Interest Reset Date, the Interest Rate will adjust according to table above; provided that if the Company has not effected the 10-K Filing Remedy (as defined below) by such date, then the reset Interest Rate will be further increased by 200 bps and will continue in effect until the next Anniversary Interest Reset Date, at which time this mechanism will be repeated. For the avoidance of doubt, on any Anniversary Interest Reset Date where there is no 10-K Filing Failure and where any applicable 10-K Filing Remedy has been effected, the reset Interest Rate will be determined according to the table above without adding 200 bps. For purposes hereof, (i) the "**10-K Filing Failure**" means that the Company fails on or prior to each April 30 while this Note is outstanding to have filed the Form 10-K and any subsequent required periodic or current reports required to be filed by the Company prior to each such date under the Exchange Act (including audited financial statements for the fiscal years ended prior to each such date) and (ii) a "**10-K Filing Remedy**" means the Company shall have filed with the SEC the Form 10-K and all subsequent required periodic and current reports required to be filed under

the Exchange Act be filed by the Company prior to such date and there shall not exist any Event of Default.

In the event the Interest Rate shall be increased pursuant to Section 4(q) of the Securities Purchase Agreement, each applicable Interest Rate amount set forth in the table above shall be adjusted by the same amount as the Interest Rate is adjusted as mutually agreed upon by the Company and the Holder. Such further Interest Rate adjustments will then be according to the table as increased.

(kk) "**Junior Claims**" means any Indebtedness or securities of the Company or any of its Subsidiaries of any class junior in rank to the Notes and the Additional Notes in respect of the preferences as to distributions and payments upon a Liquidation Event, including, without limitation, any Equity Securities of the Company or any of its Subsidiaries.

(ll) "**Lead Investor**" means Starboard Value and Opportunity Master Fund Ltd.

(mm) "**Liquidation Event**" means the voluntary or involuntary liquidation, dissolution or winding up of the Company or such Subsidiaries the assets of which constitute all or substantially all of the assets of the business of the Company and its Subsidiaries taken as a whole, in a single transaction or series of transactions, or adoption of any plan for the same.

(nn) "**Make-Whole Change of Control**" means any Change of Control in which more than ten percent (10%) of the consideration received or to be received by the holders of Common Stock (excluding cash payments for fractional shares or pursuant to dissenters rights), in connection with such transaction or event, consists of cash.

(oo) "**Make-Whole Change of Control Premium**" means a cash amount per \$1,000 principal amount of Notes being redeemed in a Make-Whole Change of Control determined by multiplying the applicable Make-Whole Stock Price (as adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction occurring after the Subscription Date) by the amount set forth in a table to be mutually agreed upon by the Company and the Holder which table shall be determined based on the assumptions and methodology set forth on Schedule 31(oo) attached hereto and shall be in the format set forth below and shall be deemed an integral part of this Note for all purposes hereof (the "**Final Make-Whole Table**"), with such amount corresponding to the date of the Make-Whole Change of Control occurring after the date in the first column but prior to the date, if any, on the immediately following row of the first column of the tables set forth in Schedule 31(oo) attached hereto or in the Final Make-Whole Table:

Change of Control Redemption Date	Make-Whole Stock Price									
	\$20.00	\$25.00	\$28.50	\$30.00	\$35.00	\$37.05	\$40.00	\$45.00	\$50.00	\$55.00
January 5, 2018										
January 7, 2019										
January 7, 2020										
January 7, 2021										
January 5, 2022										

The exact Make-Whole Stock Price and Change of Control Redemption Date may not be set forth in Schedule 31(oo) attached hereto or in the Final Make-Whole Table, in which case, if the Make-Whole Stock Price is between two such amounts in the Final Make-Whole Table or the Change of Control Redemption Date is between two Change of Control Redemption Dates in the Final Make-Whole Table, the applicable value will be determined by straight-line interpolation between the applicable value set forth for the higher and lower Make-Whole Stock Prices and the earlier and later Change of Control Redemption Dates, as applicable, based on a 365-day year.

In the event the Interest Rate and/or Conversion Price shall be adjusted pursuant to Section 4(q) of the Securities Purchase Agreement, each Make-Whole Stock Price set forth in the Final Make-Whole Table shall be adjusted to reflect such adjustment(s) as mutually agreed upon by the Company and the Holder based on the same assumptions and methodology used to determine the Final Make-Whole Table, after which such adjusted Final Make-Whole Table shall be deemed an integral part of this Note for all purposes hereof.

(pp) "**Make-Whole Stock Price**" means, for any Make-Whole Change of Control: (A) if the holders of Common Stock receive only cash in consideration for their shares of Common Stock in such Make-Whole Change of Control, the amount of cash paid per share of Common Stock in such Make-Whole Change of Control; and (B) in all other cases, the arithmetic average of the Closing Sale Prices for the five (5) consecutive Trading Days ending on, and including, the Trading Day immediately before the effective date of such Make-Whole Change of Control (all such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction during such period).

(qq) "**Maximum Percentage**" means, initially, 4.99%, which may be increased or decreased in accordance with the provisions of Section 3(d); provided, however, that upon receipt by the Holder of a Company Optional Redemption Notice, then unless the Holder elects a lower Maximum Percentage in accordance with the provisions of Section 3(d), the Maximum Percentage shall immediately and automatically, without any further action by the Holder, be set at 9.99%.

(rr) "**Options**" means any rights, warrants or options to subscribe for or purchase shares of Common Stock or Convertible Securities.

(ss) "**Parent Entity**" of a Person means an entity that, directly or indirectly, controls the applicable Person, including such entity whose common capital stock or equivalent equity security is quoted or listed on an Eligible Market (or, if so elected by the Required Holders, any other market, exchange or quotation system), or, if there is more than one

such Person or such entity, the Person or entity designated by the Required Holders or in the absence of such designation, such Person or entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.

(tt) "**Permitted Indebtedness**" means (i) Indebtedness evidenced by this Note, the Other Notes, the Additional Notes, the Rights Offering Notes, if any, and Backstop Commitment Notes, if any, (ii) unsecured Indebtedness incurred by the Company that is made expressly subordinate in right of payment to the Indebtedness evidenced by this Note, as reflected in a written agreement acceptable to the Required Holders and approved by the Required Holders in writing, and which Indebtedness does not provide at any time for (a) the payment, prepayment, repayment, repurchase or defeasance, directly or indirectly, of any principal or premium, if any, thereon until ninety-one (91) days after the Maturity Date or later and (b) total interest and fees at a rate in excess of 12.00% per annum, (iii) Indebtedness in an aggregate outstanding principal amount not to exceed \$50,000,000 incurred under a revolving credit facility; (iv) Indebtedness with respect to capital leases in an aggregate principal amount not to exceed \$40,000,000, (v) Indebtedness secured by Permitted Liens described in clauses (iv) of the definition of Permitted Liens, (vi) existing Indebtedness described on Schedule 31(tt) attached hereto as in effect on the Subscription Date, and any refinancings and extensions thereof, provided that (A) the principal amount plus unpaid accrued interest and premium thereon and applicable discounts, fees, commissions and expenses thereunder shall not be increased, (B) the maturity thereof is not earlier than ninety (90) days after the Maturity Date, (C) if the Indebtedness being refinanced or extended is subordinated in right of payment to this Note, the Other Notes and the Additional Notes or any guarantees thereof, such refinanced or extended Indebtedness shall be subordinated in right of payment to this Note, the Other Notes, any Additional Notes and any guarantees thereof on terms at least as favorable to the Holder as those contained in the documentation governing the Indebtedness being refinanced or extended, (D) no refinanced or extended Indebtedness shall have different obligors, or greater guarantees or security than, the Indebtedness being refinanced or extended and (E) if the Indebtedness being refinanced or extended is secured by any Collateral, such refinanced or extended Indebtedness may be secured by such Collateral on terms relating to such Collateral not materially less favorable to this Note, the Other Notes and any Additional Notes than those contained in the documentation (including any intercreditor agreement) governing the Indebtedness being refinanced or extended, (any such Indebtedness, "**Refinancing Indebtedness**"), (vii) intercompany Indebtedness among the Company and any Subsidiaries, (viii) Indebtedness arising under swap or interest rate contracts entered into in the ordinary course of business, (ix) Contingent Obligations in respect of Indebtedness otherwise permitted hereunder, (x) direct or Contingent Obligations arising under surety bonds, letters of credit and similar instruments (including any related indemnity agreement) entered into in the ordinary course of business and consistent with past practice, (xi) Indebtedness in respect of cash management agreements entered into in the ordinary course of business, (xii) Indebtedness of foreign Subsidiaries not exceeding \$10,000,000 in the aggregate at any time outstanding, (xiii) Indebtedness under corporate credit cards in an aggregate outstanding principal amount not to exceed \$3,000,000, (xiv) Indebtedness of Persons acquired in an acquisition, provided that (x) such Indebtedness existed prior to such acquisition and was not incurred in anticipation of such acquisition and (b) after giving effect to such acquisition, the Total Net Leverage Ratio is equal to or less than

immediately prior to such acquisition and (xv) additional Indebtedness in an aggregate principal amount not to exceed \$5,000,000.

(uu) "**Permitted Liens**" means (i) any Lien for taxes not yet due or delinquent or being contested in good faith by appropriate proceedings for which adequate reserves have been established in accordance with GAAP, (ii) any statutory Lien arising in the ordinary course of business by operation of law with respect to a liability that is not yet more than sixty (60) days overdue or delinquent, (iii) any Lien created by operation of law, such as materialmen's liens, mechanics' liens and other similar liens, arising in the ordinary course of business with respect to a liability that is not yet due or delinquent or that are being contested in good faith by appropriate proceedings, (iv) Liens (A) upon or in any equipment acquired or held by the Company or any of its Subsidiaries to secure the purchase price of such equipment or Indebtedness incurred solely for the purpose of financing the acquisition or lease of such equipment, or (B) existing on such equipment at the time of its acquisition, provided that the Lien is confined solely to the property so acquired and improvements thereon, and the proceeds of such equipment, (v) Liens incurred in connection with the extension, renewal or refinancing of the Indebtedness secured by Liens of the type described in clause (iv) above, provided that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the Indebtedness being extended, renewed or refinanced does not increase, (vi) leases or subleases and licenses and sublicenses granted to others in the ordinary course of the Company's business, not interfering in any material respect with the business of the Company and its Subsidiaries taken as a whole, (vii) Liens in favor of customs and revenue authorities arising as a matter of law to secure payments of custom duties in connection with the importation of goods, (viii) Liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default under Section 4(a)(ix); (ix) Liens securing Permitted Indebtedness described in clause (iv) of the definition of Permitted Indebtedness, (x) Liens securing existing Indebtedness described on Schedule 31(tt) attached hereto as in effect on the Subscription Date, and Liens securing any refinancings and extensions thereof provided that any collateral securing such refinancings or extensions is not broader than the collateral that is subject to the Liens being refinanced or extended, (xi) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, (xii) deposits to secure performance of bids, trade contracts and leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature in the ordinary course of business, (xiii) normal and customary rights of setoff upon deposits of cash in favor of banks or other depository institutions, (xiv) Liens deemed to exist in connection with investments in repurchase agreements in the ordinary course of business, (xv) Liens arising on any real property as a result of eminent domain, condemnation or similar proceeding with respect to such real property, (xvi) Liens on any cash deposits in connection with any letter of intent or purchase agreement relating to an acquisition, (xvii) customary rights of first refusal, "tag-along" and "drag-along" rights with respect to any equity interests in any joint venture, (xviii) Liens on assets of foreign Subsidiaries securing obligations of foreign Subsidiaries not exceeding \$10,000,000 in the aggregate at any time outstanding, (xix) Liens arising under the Transaction Documents, (xx) additional Liens securing obligations not exceeding \$5,000,000 in the aggregate at any time outstanding, and (xxi) Liens securing Permitted Indebtedness described in clause (iii) of the definition of Permitted Indebtedness,

provided that such Liens are subject to an intercreditor agreement in form and substance reasonably satisfactory to the Required Holders.

(vv) "**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and a government or any department or agency thereof.

(ww) "**Post-Acquisition Period**" shall mean, with respect to any Specified Transaction, the period beginning on the date such Specified Transaction is consummated and ending on the last day of the 18th month immediately following the date on which such Specified Transaction is consummated.

(xx) "**Principal Market**" means the OTC Markets, or, if the OTC Markets is not the principal trading market for the Common Stock, then the principal Eligible Market on which the Common Stock is then traded.

(yy) "**Pro Forma Basis**," "**Pro Forma Compliance**" and "**Pro Forma Effect**" means, with respect to compliance with any test or covenant hereunder, that all Specified Transactions and the following transactions in connection therewith shall be deemed to have occurred as of the first day of the applicable period of measurement in such test or covenant: (a) income statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction, (i) in the case of a sale, transfer or other disposition of all or substantially all equity interests in any Subsidiary of the Company or any division, product line, or facility used for operations of the Company or any of its Subsidiaries, shall be excluded, and (ii) in the case of a permitted acquisition or investment described in the definition of the term "Specified Transaction," shall be included, (b) any retirement or repayment of Indebtedness and (c) any Indebtedness incurred or assumed by the Company or any of its Subsidiaries in connection therewith and if such Indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness as at the relevant date of determination.

(zz) "**Public Announcement Date**" means (i) the Trading Day on which the Company first publicly announces on or prior to 9:30 a.m. New York time certain historical metrics agreed to in writing by the Company and the Lead Investor, including, among other metrics, the number of shares of Common Stock outstanding as of December 31, 2017, in connection with the Initial Closing Date (the "**Public Announcement**") or (ii) in case the Company makes the Public Announcement after 9:30 a.m. New York time, the first (1st) Trading Day immediately following the Public Announcement.

(aaa) "**Qualified Market**" means the Principal Market, The New York Stock Exchange, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the NYSE American.

(bbb) "**Qualifying Change of Control**" means a Change of Control pursuant to Qualifying Change of Control Documentation.

(ccc) "**Qualifying Change of Control Documentation**" means definitive documentation (as the same may be amended in accordance with its terms) providing for a Change of Control transaction, which documentation is initially entered into no later than August 5, 2020; provided that if such documentation is terminated in accordance with its terms and in connection with such termination the Company enters into definitive documentation providing for a different Change of Control transaction (a "**Superior Proposal Termination**"), such subsequent documentation shall be deemed to constitute Qualifying Change of Control Documentation.

(ddd) "**Qualifying Conditions**" means that both at the time of and immediately after the applicable proposed action or omission to take any action, by the Company or any of its Subsidiary, each of the following conditions are satisfied (or waived in writing by the Holder): (x) no Equity Conditions Failure has occurred, (ii) the Total Net Leverage Ratio is less than or equal to 3:1 and (iii) the Form 10-K has been filed with the SEC.

(eee) "**Redemption Dates**" means, collectively, the Event of Default Redemption Dates, the Change of Control Redemption Dates, the Company Optional Redemption Dates and the Qualifying Early Redemption Date, each of the foregoing, individually, a Redemption Date.

(fff) "**Redemption Notices**" means, collectively, the Event of Default Redemption Notices, the Change of Control Redemption Notices, the Company Optional Redemption Notices and the Qualifying Early Redemption Notice, each of the foregoing, individually, a Redemption Notice.

(ggg) "**Redemption Premium**" means (i) in the event of an Event of Default set forth in Section 4(a)(iii) and any Event of Default occurring at a time the Common Stock is not listed on a Qualified Market, 110% and (ii) in all other events, 100%.

(hhh) "**Redemption Prices**" means, collectively, the Event of Default Redemption Prices, the Change of Control Redemption Prices, the Company Optional Redemption Prices and the Qualifying Early Redemption Price, each of the foregoing, individually, a Redemption Price.

(iii) "**Registrable Securities**" shall have the meaning ascribed to such term in the Registration Rights Agreement.

(jjj) "**Registration Rights Agreement**" means that certain registration rights agreement dated as of the Subscription Date by and among the Company and the Buyers relating to, among other things, the registration for resale of the shares of Common Stock issuable upon conversion of this Note, the Other Notes and any Additional Notes and upon any exercise of the Warrants.

(kkk) "**Registration Statement**" shall have the meaning ascribed to such term in the Registration Rights Agreement.

(lll) "**Related Fund**" means, with respect to any Person, a fund or account managed by such Person or an Affiliate of such Person.

(mmm) "**Required Holders**" means the holders of Notes of Additional Notes representing at least a majority of the aggregate principal amount of the Notes and Additional Notes then outstanding.

(nnn) "**Rights Offering Notes**" shall have the meaning ascribed to such term in the Securities Purchase Agreement.

(ooo) "**SEC**" means the United States Securities and Exchange Commission.

(ppp) "**Securities Act**" means the Securities Act of 1933, as amended.

(qqq) "**Securities Purchase Agreement**" means that certain securities purchase agreement dated as of the Subscription Date by and among the Company and the Buyers of the Notes pursuant to which the Company issued the Notes, the Additional Notes and Warrants.

(rrr) "**September Agreement**" means that certain Agreement, dated as of September 28, 2017 by and among the Company, Starboard Value LP and the other parties signatory thereto.

(sss) "**Specified Transaction**" means, with respect to any period, any investment, sale, transfer or other disposition of assets or property, incurrence or repayment of indebtedness, restricted payment, or other event that by the terms hereof requires such test or covenant to be calculated on a "Pro Forma Basis" or to be given "Pro Forma Effect."

(ttt) "**Subject Entity**" means any Person, Persons or Group or any Affiliate or associate of any such Person, Persons or Group.

(uuu) "**Subscription Date**" means January 16, 2018.

(vvv) "**Subsidiary**" shall have the meaning set forth in the Securities Purchase Agreement.

(www) "**Successor Entity**" means one or more Person or Persons (or, if so elected by the Required Holders, the Company or Parent Entity) formed by, resulting from or surviving any Fundamental Transaction or one or more Person or Persons (or, if so elected by the Required Holders, the Company or the Parent Entity) with which such Fundamental Transaction shall have been entered into.

(xxx) "**Total Debt**" shall mean, on any date of determination, the total Indebtedness of the Company and its Subsidiaries at such time (excluding Indebtedness of the type described in clause (iii) of the definition of such term, except to the extent of any unreimbursed drawings thereunder).

(yyy) "**Total Net Debt**" shall mean, on any date of determination, (a) Total Debt minus (b) unrestricted cash and cash equivalents (as defined in GAAP).

(zzz) "**Total Net Leverage Ratio**" shall mean on any date of determination, the ratio of Total Net Debt on such date to Consolidated EBITDA for the period of four consecutive fiscal quarters most recently ended on or prior to such date. Each calculation of the Total Net Leverage Ratio hereunder shall be made on a Pro Forma Basis.

(aaaa) "**Trading Day**" means any day on which the Common Stock is traded on the Principal Market, or, if the Principal Market is not the principal trading market for the Common Stock on such day, then on the principal securities exchange or securities market on which the Common Stock is then traded; provided that "Trading Day" shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York Time).

(bbbb) "**Transaction Documents**" shall have the meaning set forth in the Securities Purchase Agreement.

(cccc) "**Warrants**" has the meaning ascribed to such term in the Securities Purchase Agreement, and shall include all warrants issued in exchange therefor or replacement thereof.

(dddd) "**Weighted Average Price**" means, for any security as of any date, the dollar volume-weighted average price for such security on the Principal Market during the period beginning at 9:30:01 a.m., New York Time (or such other time as the Principal Market publicly announces is the official open of trading), and ending at 4:00:00 p.m., New York Time (or such other time as the Principal Market publicly announces is the official close of trading) as reported by Bloomberg through its "Volume at Price" functions, or, if the foregoing does not apply, the dollar volume-weighted average price of such security in the over-the-counter market on the electronic bulletin board for such security during the period beginning at 9:30:01 a.m., New York Time (or such other time as such market publicly announces is the official open of trading), and ending at 4:00:00 p.m., New York Time (or such other time as such market publicly announces is the official close of trading) as reported by Bloomberg, or, if no dollar volume-weighted average price is reported for such security by Bloomberg for such hours, the average of the highest Closing Bid Price and the lowest closing ask price of any of the market makers for such security as reported in the OTC Link or "pink sheets" by OTC Markets Group Inc. (formerly Pink OTC Markets Inc.). If the Weighted Average Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Weighted Average Price of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 23. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock

combination, reclassification or similar transaction occurring during the applicable calculation period.

[Signature Page Follows]

above. IN WITNESS WHEREOF, the Company has caused this Note to be duly executed as of the Issuance Date set out

comScore, Inc.

By: _____

Name:

Title:

Schedule 31(tt)

Permitted Indebtedness

comScore Inc:

Banc of America Leasing and Capital
Master Lease Agreement dated December 12, 2006
Lease Schedule #24 (3/31/15) - #27 (12/31/15)
\$2,720,000

Dell Financial Services
Master Lease Agreement dated August 3, 2012
Lease Schedule #9 (2/1/15) – Lease Schedule #19 (1/1/17)
\$5,320,000

Bank of America, N.A
Letters of Credit (Office Lease Security Deposit)
\$3,475,000

comScore BV:

Dell Financial Services
European Master Lease Agreement dated July 23, 2012
Lease Schedule #3 (8/1/15)
\$155,000

Schedule 31(oo)

Make-Whole Change of Control Premium

Example 1:

Initial Coupon 6%
Initial Conversion Premium 30%

<u>Date</u>	<u>\$ 20.00</u>	<u>\$ 25.00</u>	<u>\$ 28.50</u>	<u>\$ 30.00</u>	<u>\$ 35.00</u>	<u>\$ 37.05</u>	<u>\$ 40.00</u>	<u>\$ 45.00</u>	<u>\$ 50.00</u>	<u>\$ 55.00</u>
1/5/2018	1.17	2.22	3.54	4.09	5.87	6.56	5.52	4.23	3.32	2.67
1/7/2019	1.04	1.77	2.96	3.48	5.19	5.88	4.84	3.58	2.73	2.13
1/7/2020	1.12	1.39	2.35	2.80	4.36	5.02	3.96	2.72	1.92	1.40
1/7/2021	1.51	1.16	1.75	2.07	3.37	3.95	2.81	1.47	0.59	0.00
1/5/2022	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Example 2:

Initial Coupon 10%
Initial Conversion Premium 40%

<u>Date</u>	<u>\$ 20.00</u>	<u>\$ 25.00</u>	<u>\$ 28.50</u>	<u>\$ 30.00</u>	<u>\$ 35.00</u>	<u>\$ 37.05</u>	<u>\$ 40.00</u>	<u>\$ 45.00</u>	<u>\$ 50.00</u>	<u>\$ 55.00</u>
1/5/2018	3.07	4.02	4.84	5.21	6.48	7.00	7.68	6.08	4.95	4.13
1/7/2019	2.45	3.19	3.92	4.26	5.50	6.02	6.71	5.15	4.08	3.32
1/7/2020	2.05	2.42	2.98	3.27	4.38	4.88	5.55	4.00	2.98	2.29
1/7/2021	2.08	1.84	2.08	2.28	3.18	3.62	4.23	2.62	1.53	0.76
1/5/2022	0.46	0.37	0.33	0.31	0.26	0.25	0.23	0.21	0.19	0.17

EXHIBIT I
COMSCORE, INC.

CONVERSION NOTICE

Reference is made to the Senior Secured Convertible Note (the "**Note**") issued to the undersigned by comScore, Inc., a Delaware corporation (the "**Company**"). In accordance with and pursuant to the Note, the undersigned hereby elects to convert the Conversion Amount (as defined in the Note) below into shares of Common Stock, par value \$0.001 per share (the "**Common Stock**"), of the Company, as of the date specified below.

Date of Conversion: _____

Aggregate Conversion Amount to be converted: _____

Please confirm the following information:

Conversion Price: _____

Number of shares of Common Stock to be issued: _____

Please issue the Common Stock into which the Note is being converted in the following name and to the following address:

Issue to: _____

Facsimile Number and Electronic Mail: _____

Authorization: _____

By: _____

Title: _____

Date: _____

Account Number: _____

(if electronic book entry transfer)

ACKNOWLEDGMENT

The Company hereby acknowledges this Conversion Notice and hereby directs American Stock Transfer & Trust Company to issue the above indicated number of shares of Common Stock in accordance with the Transfer Agent Instructions dated January __, 2018 from the Company and acknowledged and agreed to by American Stock Transfer & Trust Company.

comScore, Inc.

By: _____

Name:

Title:

[FORM OF SENIOR SECURED CONVERTIBLE NOTE]

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE CONVERTIBLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL SELECTED BY THE HOLDER, IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT, OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES. ANY TRANSFEREE OF THIS NOTE SHOULD CAREFULLY REVIEW THE TERMS OF THIS NOTE, INCLUDING SECTIONS 3(c)(iii) AND 18(a) HEREOF. THE PRINCIPAL AMOUNT REPRESENTED BY THIS NOTE AND, ACCORDINGLY, THE SECURITIES ISSUABLE UPON CONVERSION HEREOF MAY BE LESS THAN THE AMOUNT SET FORTH ON THE FACE HEREOF PURSUANT TO SECTION 3(c)(iii) OF THIS NOTE.

COMSCORE, INC.

SENIOR SECURED CONVERTIBLE NOTE

Issuance Date: May 17, 2018

Original Principal Amount: U.S. \$[●]

(Reflects the amendments dated May 17, 2018, August 8, 2018, November 13, 2018 and November 6, 2019)

FOR VALUE RECEIVED, comScore, Inc., a Delaware corporation (the "**Company**"), hereby promises to pay to [BUYER] or registered assigns (the "**Holder**") in cash and/or in shares of Common Stock (as defined below) the amount set out above as the Original Principal Amount (as reduced pursuant to the terms hereof pursuant to redemption, conversion or otherwise, the "**Principal**") when due, whether upon the Maturity Date (as defined below), acceleration, redemption or otherwise (in each case in accordance with the terms hereof) and to pay interest ("**Interest**") on any outstanding Principal at the applicable Interest Rate from the date set out above as the Issuance Date (the "**Issuance Date**") until the same becomes due and payable, whether upon an Interest Date (as defined below), the Maturity Date, acceleration, conversion, redemption or otherwise (in each case in accordance with the terms hereof). This Senior Secured Convertible Note (including all Senior Secured Convertible Notes issued in exchange, transfer or replacement hereof, this "**Note**") is one of an issue of Senior Secured Convertible Notes issued pursuant to the Securities Purchase Agreement on the Additional

Closing Date (collectively, the "**Notes**" and such other Senior Secured Convertible Notes, the "**Other Notes**"). Certain capitalized terms used herein are defined in Section 31.

(1) PAYMENTS OF PRINCIPAL; PREPAYMENT. On the Maturity Date, the Company shall pay to the Holder an amount in cash representing all outstanding Principal, any accrued and unpaid Interest and any accrued and unpaid Late Charges (as defined in Section 24(b)) on such Principal and Interest. The "**Maturity Date**" shall be January 16, 2022, as may be extended at the option of the Holder (i) in the event that, and for so long as, an Event of Default (as defined in Section 4(a)) shall have occurred and be continuing on the Maturity Date (as may be extended pursuant to this Section 1) or any event shall have occurred and be continuing on the Maturity Date (as may be extended pursuant to this Section 1) that with the passage of time and the failure to cure would result in an Event of Default and (ii) through the date that is ten (10) Business Days after the consummation of a Change of Control in the event that a Change of Control is publicly announced or a Change of Control Notice (as defined in Section 5(b)) is delivered prior to the Maturity Date. Other than as specifically permitted by this Note, the Company may not prepay any portion of the outstanding Principal, accrued and unpaid Interest or accrued and unpaid Late Charges on Principal and Interest, if any.

(2) INTEREST.

(a) Interest on this Note shall commence accruing on the Issuance Date at the Interest Rate and shall be computed on the basis of a 360-day year and twelve 30-day months and shall be payable in arrears for each Calendar Quarter on the first (1st) Business Day of each Calendar Quarter after the Issuance Date (each, an "**Interest Date**").

(b) Interest shall be payable on each Interest Date, to the record holder of this Note on the applicable Interest Date, in whole or in part, in shares of Common Stock ("**Interest Shares**") so long as there is no Equity Conditions Failure (other than as a result of the delivery of an Interest Blocker Notice (as defined below)) occurring on the applicable Interest Date; provided, however, that the Company may, at its option following written notice to each holder of the Notes and any Additional Notes on or prior to the applicable Interest Notice Due Date (the date such notice is delivered to the Holder and holders of Other Notes and Additional Notes, the "**Interest Notice Date**"), elect to pay Interest on any Interest Date in cash ("**Cash Interest**") or in a combination of Cash Interest and Interest Shares. Each Interest Election Notice shall specify the amount or percentage of Interest that the Company will pay in respect of the Interest Date as Cash Interest and Interest Shares which amounts or percentages, as applicable, when added together, must equal the applicable Interest (or 100% thereof, as applicable) due on such Interest Date. If the Company elects (or is deemed to have elected by operation of this Section 2) the payment of applicable Interest in Interest Shares, in whole or in part, and an Equity Conditions Failure (other than the delivery to the Company of an Interest Blocker Notice) occurs at any time prior to the applicable Interest Date that is expected to last through the applicable Interest Date (which is not waived in writing by the Holder), the Company shall provide the Holder a written notice to that effect by no later than the Trading Day immediately following the Company having knowledge of such Equity Conditions Failure, indicating that unless the Holder waives the Equity Conditions Failure in writing, the applicable portion of

Interest as to which the Holder did not waive the Equity Conditions shall be paid as Cash Interest. If any portion of Interest for a particular Interest Date shall be paid in Interest Shares, then on the applicable Interest Date, the Company shall issue to the Holder, such number of shares of Common Stock equal to (a) the amount of Interest payable on the applicable Interest Date in Interest Shares divided by (b) the Interest Conversion Price as in effect on the applicable Interest Date. All Interest Shares shall be fully paid and nonassessable shares of Common Stock (rounded to the nearest whole share in accordance with Section 3(a)). Except as expressly provided in this Section 2, the Company shall pay the applicable Interest in the same ratio of Interest Shares and Cash Interest on the Notes, the Other Notes and any Additional Notes. The Company shall pay any and all taxes that may be payable with respect to the issuance and delivery to the Holder of shares of Common Stock as Interest pursuant to this Section 2; provided, however, that the Holder shall be solely responsible for any transfer taxes if the Interest Shares are to be registered, issued or delivered in the name of a Person other than the Holder.

(c) Notwithstanding the foregoing, if (i) the Company elects (or is deemed to have elected by operation of this Section 2) to pay all or any portion of Interest due on any Interest Date in Interest Shares, (ii) the Company is permitted pursuant to this Section 2 to pay all or any portion of Interest due on such Interest Date in Interest Shares if not for the delivery to the Company of an Interest Blocker Notice and (iii) within two (2) Business Days following the applicable Interest Notice Date the Holder has delivered to the Company a written notice (an "**Interest Blocker Notice**") (A) stating that such payment of Interest in Interest Shares would result in a violation of Section 3(d), (B) specifying the portion of the applicable Interest with respect to which the payment in Interest Shares would result in a violation of Section 3(d) if such payment of Interest in Interest Shares were effected (such amount so specified is referred to herein as the "**Designated Interest Amount**") and (C) requesting the Company hold the Designated Interest Amount issuable to the Holder in abeyance for the Holder until such time or times as its right thereto would not result in the Holder and its other Attribution Parties exceeding the Maximum Percentage, at which time or times the Company shall promptly upon written notice from the Holder deliver such Interest Shares to the extent as if there had been no such limitation. Any Interest Shares held in abeyance pursuant to the provisions of this Section 2(c) shall satisfy the Company's requirement to pay the applicable Interest corresponding to the number of Interest Shares so held in abeyance until the Company receives a notice from the Holder instructing the Company that the Maximum Percentage no longer prevents the Holder from receiving such Interest Shares.

(d) Prior to the payment of Interest on an Interest Date, Interest on this Note shall accrue at the Interest Rate and be payable by way of inclusion of the Interest in the Conversion Amount (as defined in Section 3(b)(i)) on each Conversion Date (as defined in Section 3(c)(i)) in accordance with Section 3(b)(i) and/or on each Redemption Date.

(3) **CONVERSION OF NOTES.** At any time or times after the first (1st) Trading Day following the Pricing Date (as defined in Section 3(b)(ii)) (the "**Initial Convertibility Date**"), this Note shall be convertible into shares of Common Stock, on the terms and conditions set forth in this Section 3.

(a) **Conversion Right.** Subject to the provisions of Section 3(d), at any time or times on or after the Initial Convertibility Date, the Holder shall be entitled to convert all or any portion of the outstanding and unpaid Conversion Amount into fully paid and nonassessable shares of Common Stock in accordance with Section 3(c), at the Conversion Rate (as defined below). The Company shall not issue any fraction of a share of Common Stock upon any conversion. If the issuance would result in the issuance of a fraction of a share of Common Stock, the Company shall round such fraction of a share of Common Stock to the nearest whole share. The Company shall pay any and all transfer, stamp and similar taxes that may be payable with respect to the issuance and delivery of Common Stock upon conversion of any Conversion Amount; provided, however, that the Holder shall be solely responsible for any transfer taxes if the shares of Common Stock registrable, issuable or deliverable pursuant to a Conversion Notice are to be registered, issued or delivered in the name of a Person other than the Holder.

(b) **Conversion Rate.** The number of shares of Common Stock issuable upon conversion of any Conversion Amount pursuant to Section 3(a) shall be determined by dividing (x) such Conversion Amount by (y) the Conversion Price (the "**Conversion Rate**").

(i) "**Conversion Amount**" means the sum of (A) the portion of the Principal to be converted, redeemed or otherwise with respect to which this determination is being made, (B) accrued and unpaid Interest with respect to such Principal and (C) accrued and unpaid Late Charges, if any, with respect to such Principal and Interest.

(ii) "**Conversion Price**" means, as of any Conversion Date or other date of determination, a price per share equal to the greater of: (A) 130% of the arithmetic average of the Weighted Average Price of the Common Stock on each Trading Day during the ten (10) consecutive Trading Days commencing on the later of (x) the Initial Closing Date and (y) the Public Announcement Date (the last date in such period, the "**Pricing Date**") (all such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction occurring during such period) and (B) \$28.00, subject to adjustment as provided herein.

(c) **Mechanics of Conversion.**

(i) **Optional Conversion.** To convert any Conversion Amount into shares of Common Stock on any date on or after the Initial Convertibility Date (a "**Conversion Date**"), the Holder shall (A) deliver to the Company on such date, a copy of an executed notice of conversion substantially in the form attached hereto as Exhibit I (the "**Conversion Notice**") and (B) if required by Section 3(c)(iii), but without delaying the Company's requirement to deliver shares of Common Stock on the applicable Share Delivery Date (as defined below), surrender this Note to a common carrier for delivery to the Company as soon as practicable on or following such date (or an indemnification undertaking with respect to this Note in the case of its loss, theft or destruction). No ink- original Conversion Notice shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Conversion Notice be required. On or before the first (1st) Business Day following the date of receipt of a Conversion Notice, the Company shall transmit a confirmation of receipt of such Conversion Notice to the Holder and the Company's transfer agent (the "**Transfer Agent**"). On or before the second (2nd)

Trading Day following the date of receipt of a Conversion Notice (a "**Share Delivery Date**"), the Company shall, (x) if the Transfer Agent is participating in the Depository Trust Company ("**DTC**") Fast Automated Securities Transfer Program, credit such aggregate number of shares of Common Stock to which the Holder shall be entitled to the Holder's or its designee's balance account with DTC through its Deposit Withdrawal At Custodian system or (y) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and deliver to the address as specified in the Conversion Notice, a certificate, registered in the name of the Holder or its designee, for the number of shares of Common Stock to which the Holder shall be entitled. If this Note is physically surrendered for conversion as required by Section 3(c)(iii) and the outstanding Principal of this Note is greater than the Principal portion of the Conversion Amount being converted, then the Company shall as soon as practicable and in no event later than three (3) Business Days after receipt of this Note and at its own expense, issue and deliver to the Holder a new Note (in accordance with Section 18(d)) representing the outstanding Principal not converted. The Person or Persons entitled to receive the shares of Common Stock issuable upon a conversion of this Note shall be treated for all purposes as the record holder or holders of such shares of Common Stock on the Conversion Date, irrespective of the date such shares of Common Stock are credited to the Holder's account with DTC or the date of delivery of the certificates evidencing such shares of Common Stock, as the case may be.

(ii) Company's Failure to Timely Convert. If the Company shall fail on or prior to the applicable Share Delivery Date to issue and deliver a certificate to the Holder (if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program), or credit the Holder's balance account with DTC (if the Transfer Agent is participating in the DTC Fast Automated Securities Transfer Program), for the number of shares of Common Stock to which the Holder is entitled upon the Holder's conversion of any Conversion Amount (a "**Conversion Failure**"), then the Holder, upon written notice to the Company, may void its Conversion Notice with respect to, and retain or have returned, as the case may be, any portion of this Note that has not been converted pursuant to such Conversion Notice; provided that the voiding of a Conversion Notice shall not affect the Company's obligations to make any payments which may have accrued prior to the date of such notice pursuant to this Section 3(c)(ii) or otherwise. In addition to the foregoing, if the Company shall fail on or prior to the applicable Share Delivery Date to issue and deliver a certificate to the Holder, if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, or credit the Holder's balance account with DTC, if the Transfer Agent is participating in the DTC Fast Automated Securities Transfer Program, for the number of shares of Common Stock to which the Holder is entitled upon the Holder's conversion of any Conversion Amount or on any date of the Company's obligation to deliver shares of Common Stock as contemplated pursuant to clause (y) below, and if after such Trading Day the Holder purchases (in an open market transaction or otherwise) Common Stock to deliver in satisfaction of a sale by the Holder of Common Stock issuable upon such conversion that the Holder anticipated receiving from the Company (a "**Buy-In**"), then the Company shall, within three (3) Trading Days after the Holder's request and in the Holder's discretion, either (x) pay cash to the Holder in an amount equal to the Holder's total purchase price (including brokerage commissions) for the shares of Common Stock so purchased (the "**Buy-In Price**"), at which point the Company's obligation to issue and deliver such certificate or certificates or credit the Holder's balance account with DTC for the shares of

Common Stock to which the Holder is otherwise entitled upon the Holder's conversion of the applicable Conversion Amount shall terminate, or (y) promptly honor its obligation to deliver to the Holder a certificate or certificates representing such shares of Common Stock or credit the Holder's balance account with DTC for such shares of Common Stock and pay cash to the Holder in an amount equal to the excess (if any) of the Buy-In Price over the product of (A) such number of shares of Common Stock, times (B) the Closing Sale Price of the Common Stock on the applicable Conversion Date. Nothing herein shall limit the Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon conversion of this Note as required pursuant to the terms hereof.

(iii)Registration; Book-Entry. The Company shall maintain a register (the "**Register**") for the recordation of the names and addresses of the holders of each Note and the Principal amount of the Notes (and stated interest thereon) held by such holders (the "**Registered Notes**"). The entries in the Register shall be conclusive and binding for all purposes absent manifest error. The Company and the holders of the Notes shall treat each Person whose name is recorded in the Register as the owner of a Note for all purposes, including, without limitation, the right to receive payments of Principal and Interest, if any, hereunder, notwithstanding notice to the contrary. A Registered Note may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register. Upon its receipt of a request to assign or sell all or part of any Registered Note by the Holder, in form and substance reasonably satisfactory to the Company, the Company shall record the information contained therein in the Register and issue one or more new Registered Notes in the same aggregate Principal amount as the Principal amount of the surrendered Registered Note to the designated assignee or transferee pursuant to Section 17. The Company shall be entitled to act and rely upon any such request without inquiry as to the genuineness thereof, and without liability of any type or nature arising therefrom. Notwithstanding anything to the contrary in this Section 3(c)(iii), the Holder may assign the Note or any portion thereof to an Affiliate of such Holder or a Related Fund of such Holder without delivering a request to assign or sell such Note to the Company and the recordation of such assignment or sale in the Register (a "**Related Party Assignment**"); provided, that (x) the Company may continue to deal solely with such assigning or selling Holder unless and until such Holder has delivered a request, in form and substance reasonably satisfactory to the Company, to assign or sell such Note or portion thereof to the Company for recordation in the Register; and (y) such assigning or selling Holder shall, acting solely for this purpose as a non-fiduciary agent of the Company, maintain a register (the "**Related Party Register**") comparable to the Register on behalf of the Company, and any such assignment or sale shall be effective upon recordation of such assignment or sale in the Related Party Register. Notwithstanding anything to the contrary set forth herein, upon conversion of any portion of this Note in accordance with the terms hereof, the Holder shall not be required to physically surrender this Note to the Company unless (A) the full Conversion Amount represented by this Note is being converted or (B) the Holder has provided the Company with prior written notice (which notice may be included in a Conversion Notice) requesting reissuance of this Note upon physical surrender of this Note. The Holder and the Company shall maintain records showing the Principal, Interest and Late Charges, if any, converted and the dates of such conversions or shall

use such other methods, reasonably satisfactory to the Holder and the Company, so as not to require physical surrender of this Note upon conversion except as provided above.

(iv) Pro Rata Conversion; Disputes. In the event that the Company receives a Conversion Notice relating to this Note and one or more holders of Other Notes or Additional Notes for the same Conversion Date and the Company can convert some, but not all, of such portions of this Note, the Other Notes and the Additional Notes submitted for conversion, the Company, subject to Section 3(d), shall convert from the Holder and each holder of Other Notes and Additional Notes electing to have this Note, the Other Notes or Additional Notes converted on such date a pro rata amount of such holder's portion of the Note, its Other Notes and/or Additional Notes submitted for conversion based on the Principal amount of this Note, the Other Notes and/or Additional Notes submitted for conversion on such date by such holder relative to the aggregate Principal amount of this Note and all Other Notes and Additional Notes submitted for conversion on such date. In the event of a dispute as to the number of shares of Common Stock issuable to the Holder in connection with a conversion of this Note, the Company shall issue to the Holder the number of shares of Common Stock not in dispute and such dispute shall be resolved in accordance with Section 23.

(d) Beneficial Ownership Limitation. The Company shall not deliver any shares of Common Stock pursuant to the terms and conditions of this Note, and the Holder shall not have the right to any shares otherwise issuable or otherwise deliverable pursuant to the terms and conditions of this Note and any such delivery shall be null and void and treated as if never made, to the extent that, immediately after giving effect to such issuance, the Holder together with its other Attribution Parties collectively would beneficially own in excess of the Maximum Percentage of the number of shares of Common Stock outstanding. For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by the Holder and its other Attribution Parties shall include the number of shares of Common Stock beneficially owned by the Holder and all of its other Attribution Parties plus the number of shares of Common Stock issuable pursuant to the terms of this Note with respect to which the determination of such sentence is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) conversion of the remaining, nonconverted portion of this Note beneficially owned by the Holder or any of its other Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any convertible notes or convertible preferred stock or warrants, including any Additional Notes and Warrants) beneficially owned by the Holder or any of its other Attribution Parties subject to a limitation on conversion or exercise analogous to the limitation contained in this Section 3(d). For purposes of this Section 3(d), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act. For purposes of determining the number of outstanding shares of Common Stock the Holder may acquire pursuant to the terms of this Note without exceeding the Maximum Percentage, the Holder, absent other knowledge, may rely on the number of outstanding shares of Common Stock as reflected in (i) the Company's most recent Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other public filing with the SEC, as the case may be, (ii) a more recent public announcement by the Company or (iii) any other written notice by the Company or the Transfer Agent setting forth the number of shares of Common

Stock outstanding (the "**Reported Outstanding Share Number**"). If the Company receives a Conversion Notice from the Holder at a time when the actual number of outstanding shares of Common Stock is less than the Reported Outstanding Share Number, the Company shall notify the Holder in writing of the number of shares of Common Stock then outstanding and, to the extent that such Conversion Notice would otherwise cause the Holder's beneficial ownership, as determined pursuant to this Section 3(d), to exceed the Maximum Percentage, the Holder shall, within one (1) Business Day thereafter, notify the Company of a reduced number of shares of Common Stock to be purchased pursuant to such Conversion Notice. The number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Note, by the Holder and any other Attribution Party since the date as of which the Reported Outstanding Share Number was reported. In the event that the issuance of shares of Common Stock to the Holder upon conversion of this Note would result in the Holder and its other Attribution Parties being deemed to beneficially own, in the aggregate, more than the Maximum Percentage of the number of outstanding shares of Common Stock, the number of shares by which the Holder's and its other Attribution Parties' aggregate beneficial ownership would exceed the Maximum Percentage (the "**Excess Shares**") shall be deemed null and void and any portion of the Conversion Amount so converted shall be reinstated, and the Holder shall not have the power to vote or to transfer the Excess Shares. Upon delivery of a written notice to the Company, the Holder may from time to time increase or decrease the Maximum Percentage to any other percentage not in excess of 9.99% as specified in such notice; provided that (i) any such increase in the Maximum Percentage will not be effective until the sixty-first (61st) day after such notice is delivered to the Company and (ii) any such increase or decrease will apply only to the Holder and its other Attribution Parties and not to any other holder of Notes that is not an Attribution Party of the Holder. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 3(d) to the extent necessary to correct this paragraph (or any portion of this paragraph) which may be defective or inconsistent with the intended beneficial ownership limitation contained in this Section 3(d) or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitation contained in this paragraph may not be waived and shall apply to a successor holder of this Note.

(4) RIGHTS UPON EVENT OF DEFAULT.

(a) Event of Default. Each of the following events shall constitute an "**Event of Default**":

(i) the failure of the applicable Registration Statement required to be filed pursuant to the Registration Rights Agreement to be filed or declared effective within the applicable time periods specified in the Registration Rights Agreement, or, at any time while the applicable Registration Statement is required to be maintained effective pursuant to the terms of the Registration Rights Agreement, the effectiveness of the applicable Registration Statement lapses for any reason (including, without limitation, the issuance of a stop order) and such lapse continues for a period of greater than ten (10) consecutive Trading Days or for more than an aggregate of twenty (20) Trading Days in any 365-day period or such Registration Statement is unavailable to any holder of the Notes for sale of all of such holder's Registrable Securities in

accordance with the terms of the Registration Rights Agreement (unless such unavailability is during an Allowable Grace Period (as defined in the Registration Rights Agreement));

(ii)(A) the suspension of the Common Stock from trading on an Eligible Market, or, on or after April 30, 2019, on a Qualified Market, for a period of more than five (5) consecutive Trading Days or for more than an aggregate of ten (10) Trading Days in any 365-day period or (B) the failure of the Common Stock to be listed or quoted for trading on an Eligible Market;

(iii)the failure of the Common Stock to be listed or quoted for trading on or after April 30, 2019, on a Qualified Market;

(iv)the Company's delivery of written notice to the Holder or any holder of the Other Notes or any Additional Notes, including by way of public announcement or through any of its agents, at any time, of its intention not to comply with a valid request for conversion of this Note, any Other Notes or any Additional Notes into shares of Common Stock that is validly tendered in accordance with the provisions of this Note, the Other Notes or any Additional Notes, as applicable, other than pursuant to Section 3(d) (and analogous provisions under the Other Notes and any Additional Notes);

(v)the Company's failure to pay to the Holder any amount of Principal, Interest, Late Charges or other amounts when and as due under this Note (including, without limitation, the Company's failure to pay any redemption amounts hereunder) or any other Transaction Document or any other agreement, document, certificate or other instrument delivered in connection with the transactions contemplated hereby and thereby to which the Holder is a party, except, in the case of a failure to pay any amounts other than Principal when and as due, in which case only if such failure continues for a period of at least an aggregate of two (2) Business Days;

(vi)any default under any Indebtedness in an aggregate principal amount of more than \$10,000,000 of the Company and/or any of its Subsidiaries other than with respect to this Note, any Other Notes or any Additional Notes, the effect of which default is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity;

(vii)the Company or any of its domestic Subsidiaries, pursuant to or within the meaning of Title 11, U.S. Code, or any similar Federal, foreign or state law for the relief of debtors (collectively, "**Bankruptcy Law**"), (A) commences a voluntary case, (B) consents to the entry of an order for relief against it in an involuntary case, (C) consents to the appointment of a receiver, trustee, assignee, liquidator or similar official (a "**Custodian**"), (D) makes a general assignment for the benefit of its creditors or (E) admits in writing that it is generally unable to pay its debts as they become due;

(viii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that (A) is for relief against the Company or any of its domestic Subsidiaries in an involuntary case, (B) appoints a Custodian of the Company or any of its domestic Subsidiaries or (C) orders the liquidation of the Company or any of its domestic Subsidiaries, and, in each case, continues undismissed or unstayed for sixty (60) days;

(ix) one or more judgments, orders or awards for the payment of money aggregating (above any insurance coverage or indemnity from a credit worthy party so long as such insurance provider has been notified of the claim and does not dispute coverage) in excess of \$10,000,000 are rendered against the Company or any of its Subsidiaries and which judgments, orders or awards are not, within sixty (60) days after the entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within sixty (60) days after the expiration of such stay;

(x) other than as specifically set forth in another clause of this Section 4(a), the Company or any of its Subsidiaries breaches any covenant in any Transaction Document, and such breach, if curable, continues for a period of at least an aggregate of thirty (30) calendar days after the earlier of (A) an authorized officer of the Company or such Subsidiary becoming aware of such failure and (B) receipt by an authorized officer of the Company or such Subsidiary of a notice from the Holder of such breach;

(xi) any representation, warranty, certification or statement of fact made or deemed made by the Company or any Subsidiary herein, or in any other Transaction Document, shall be incorrect or misleading in any material respect when made or deemed made;

(xii) any breach or failure in any respect to comply with Sections 14 or 15 of this Note;

(xiii) any material provision of any Security Document (as defined in the Securities Purchase Agreement) shall at any time for any reason (other than pursuant to the express terms thereof) cease to be valid and binding on or enforceable against the Company or any Subsidiary party thereto, or ceases to give the Collateral Agent the Liens purported to be created thereby or the validity or enforceability thereof shall be contested by the Company or any Subsidiary, or a proceeding shall be commenced by the Company or any Subsidiary or any governmental authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof, or the Company or any Subsidiary shall deny in writing that it has any liability or obligation purported to be created under any Security Document;

(xiv) any material damage to, or loss, theft or destruction of, any Collateral or a material amount of property of the Company, whether or not insured, or any strike, lockout, labor dispute, embargo, condemnation, act of God or public enemy, or other casualty which causes, for more than fifteen (15) consecutive days, the cessation or substantial curtailment of revenue producing activities at any facility of the Company or any Subsidiary, if any such event or circumstance could reasonably be expected to have a Material Adverse Effect (as defined in the Securities Purchase Agreement);

(xv) a false or inaccurate certification (including a false or inaccurate deemed certification) by the Company that the Equity Conditions are satisfied or that there has been no Equity Conditions Failure or as to whether any Event of Default has occurred (in each case other than any Equity Conditions Failure arising solely as a result of the delivery to the Company of an Interest Blocker Notice);

(xvi) the Company's failure to file with the SEC any periodic or current reports due after the filing with the SEC of the Form 10-K (as defined in Section 15(b)) in accordance with the Company's requirements under the Exchange Act but only if such failure continues for a period of at least one (1) year;

(xvii) any Event of Default (as defined in the Other Notes) occurs with respect to any Other Notes; or

(xviii) any Event of Default (as defined in the Additional Notes) occurs with respect to any Additional Notes.

(b) **Redemption Right.** Upon the occurrence of an Event of Default with respect to this Note or any Other Note, the Company shall promptly deliver written notice thereof (an "**Event of Default Notice**") to the Holder. At any time after the earlier of the Holder's receipt of an Event of Default Notice and the Holder becoming aware of an Event of Default, the Holder may require the Company to redeem (an "**Event of Default Redemption**") all, but not less than all, of this Note by delivering written notice thereof (the "**Event of Default Redemption Notice**" and the date the Holder delivers an Event of Default Redemption Notice to the Company, an "**Event of Default Redemption Notice Date**") to the Company, which Event of Default Redemption Notice shall indicate that the Holder is electing to require the Company to redeem this Note. To the extent this Note is subject to redemption by the Company pursuant to this Section 4(b), this Note shall be redeemed by the Company in cash at a price equal to the greater of (i) the product of (x) the Redemption Premium and (y) the Conversion Amount being redeemed and (ii) solely if there is an Equity Conditions Failure (that is not waived in writing by the Holder) during the period from the applicable Event of Default Redemption Notice Date through and including the applicable Event of Default Redemption Date (as defined in Section 10(a)), the product of (x) the Conversion Rate with respect to the Conversion Amount being redeemed and (y) the quotient determined by dividing (I) the greatest Closing Sale Price of the shares of Common Stock during the period beginning on the date immediately preceding such Event of Default and ending on the date the Holder delivers the Event of Default Redemption Notice, by (II) the lowest Conversion Price in effect during such period (the "**Event of Default Redemption Price**"). Redemptions required by this Section 4(b) shall be made in accordance with the provisions of Section 10. To the extent redemptions required by this Section 4(b) are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. Notwithstanding anything to the contrary in this Section 4, but subject to Section 3(d), until the Event of Default Redemption Price (together with any interest thereon) is paid in full, the Conversion Amount submitted for redemption under this Section 4(b) (together with any interest thereon) may be converted, in whole or in part, by the Holder into Common Stock pursuant to Section 3. Any

such converted Conversion Amount shall reduce the Event of Default Redemption payment by an equivalent amount. The parties hereto agree that in the event of the Company's redemption of this Note under this Section 4(b), the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. Accordingly, any Event of Default redemption premium due under this Section 4(b) is intended by the parties to be, and shall be deemed, a reasonable estimate of the Holder's actual loss of its investment opportunity and not as a penalty.

(5) RIGHTS UPON FUNDAMENTAL TRANSACTION AND CHANGE OF CONTROL.

(a) Assumption and Corporate Events. Upon the consummation of any Fundamental Transaction, the Company shall cause any Successor Entity or Successor Entities to jointly and severally succeed to, and be added to the term "Company" under this Note (so that from and after the consummation of such Fundamental Transaction, each and every provision of this Note referring to the "Company" shall refer instead to each of the Company and the Successor Entity or Successor Entities, jointly and severally), and the Successor Entity or Successor Entities, jointly and severally with the Company, may exercise every right and power of the Company prior thereto and the Successor Entity or Successor Entities shall assume all of the obligations of the Company prior thereto under this Note with the same effect as if the Company and such Successor Entity or Successor Entities, jointly and severally, had been named as the Company in this Note. In addition to and not in substitution for any other rights hereunder, prior to the occurrence or consummation of any Fundamental Transaction pursuant to which holders of shares of Common Stock become entitled to receive securities, cash, assets or other property with respect to or in exchange for shares of Common Stock (a "**Corporate Event**"), the Company shall provide that it shall be a required condition to the occurrence or consummation of such Corporate Event that the Holder will have the right to receive upon conversion of this Note at any time after the occurrence or consummation of the Corporate Event, shares of Common Stock or capital stock of a Successor Entity or, if so elected by the Holder, in lieu of the shares of Common Stock (or other securities, cash, assets or other property) purchasable upon the conversion of this Note prior to such Corporate Event, such shares of stock, securities, cash, assets or any other property whatsoever (including warrants or other purchase or subscription rights and any shares of Common Stock) which the Holder would have been entitled to receive upon the occurrence or consummation of such Corporate Event or the record, eligibility or other determination date for the event resulting in such Corporate Event, had this Note been converted immediately prior to such Corporate Event or the record, eligibility or other determination date for the event resulting in such Corporate Event (without regard to any limitations on conversion of this Note). The provisions of this Section 5(a) shall apply similarly and equally to successive Fundamental Transactions and Corporate Events.

(b) Redemption Right. As soon as practicable following the public announcement of the consummation of a Change of Control, the Company shall deliver written notice thereof to the Holder (a "**Change of Control Notice**"). At any time during the period beginning on the earlier to occur of (x) the Holder becoming aware of the consummation of a

Change of Control and (y) the Holder's receipt of a Change of Control Notice and ending thirty five (35) Trading Days after the date of the consummation of such Change of Control, the Holder may require the Company to redeem (a "**Change of Control Redemption**") all or any portion of this Note by delivering written notice thereof ("**Change of Control Redemption Notice**" and the date the Holder delivers a Change of Control Redemption Notice to the Company, a "**Change of Control Redemption Notice Date**") to the Company, which Change of Control Redemption Notice shall indicate the Conversion Amount the Holder is electing to require the Company to redeem. The portion of this Note subject to redemption pursuant to this Section 5(b) shall be redeemed by the Company in cash at a price equal to the sum of (i) the greater of (x) 110% of the Conversion Amount being redeemed and (y) solely if (a) the applicable Change of Control is a Make-Whole Change of Control or (b) there is an Equity Conditions Failure (that is not waived in writing by the Holder) during the period from the applicable Change of Control Redemption Notice Date through and including the applicable Change of Control Redemption Date (as defined in Section 10(a)), the product of (I) the Conversion Amount being redeemed and (II) the quotient determined by dividing (A) the greatest Closing Sale Price of the shares of Common Stock during the period beginning on the date immediately preceding the earlier to occur of (1) the consummation of the Change of Control and (2) the public announcement of such Change of Control and ending on the date the Holder delivers the Change of Control Redemption Notice, by (B) the lowest Conversion Price in effect during such period, and (ii) if the applicable Change of Control is a Make-Whole Change of Control, the Make-Whole Change of Control Premium (the "**Change of Control Redemption Price**"). Redemptions required by this Section 5 shall be made in accordance with the provisions of Section 10 and shall have priority to payments to stockholders in connection with a Change of Control. To the extent redemptions required by this Section 5(b) are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. Notwithstanding anything to the contrary in this Section 5, but subject to Section 3(d), until the Change of Control Redemption Price (together with any interest thereon) is paid in full, the Conversion Amount submitted for redemption under this Section 5(b) (together with any interest thereon) may be converted, in whole or in part, by the Holder into Common Stock pursuant to Section 3. Any such converted Conversion Amount shall reduce the Conversion Amount submitted for redemption under this Section 5(b) by an equivalent amount. The parties hereto agree that in the event of the Company's redemption of any portion of the Note under this Section 5(b), the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. Accordingly, any Change of Control redemption premium due under this Section 5(b) is intended by the parties to be, and shall be deemed, a reasonable estimate of the Holder's actual loss of its investment opportunity and not as a penalty.

(c) Qualifying Change of Control Redemption Right. Notwithstanding any Holder's right to require a Change of Control Redemption, delivery of any Change of Control Redemption Notice or anything else to the contrary in the Notes, contemporaneously with, or within three (3) Business Days subsequent to, the consummation of a Qualifying Change of Control, the Company may redeem this Note in full in cash at a price equal to the sum of (i) the aggregate outstanding Principal amount of this Note as of the Qualifying Early Redemption

Date (as defined in Section 10(a)), (ii) Interest accrued on such Principal amount as of the Qualifying Early Redemption Date, (iii) any other amounts owed pursuant to the terms of this Note, including, without limitation, any Late Charges, as of the Qualifying Early Redemption Date and (iv) 20% (the “**Qualifying Early Redemption Premium**”) of the aggregate outstanding Principal amount of this Note as of the Qualifying Early Redemption Date (for the avoidance of doubt, the Qualifying Early Redemption Premium shall only be applied to the aggregate outstanding Principal amount of this Note as of the Qualifying Early Redemption Date) (the “**Qualifying Early Redemption Price**”). If the Company elects to redeem this Note in connection with a Qualifying Change of Control, the Company shall (i) be deemed by virtue of public announcement of such Qualifying Change of Control to have delivered an irrevocable notice thereof to the Holder (a “**Qualifying Early Redemption Notice**”) unless the Company has provided earlier or contemporaneous written notice to the Holder that the Company does not elect to redeem this Note in connection with such Qualifying Change of Control and (ii) simultaneously take the same action with respect to all Other Notes and Additional Notes then outstanding. Redemptions required by this Section 5(c) shall be made in accordance with the provisions of Section 10 and shall have priority to payments to stockholders in connection with a Qualifying Change of Control. To the extent redemptions required by this Section 5(c) are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. Notwithstanding anything to the contrary in this Section 5, but subject to Section 3(d), until the Qualifying Early Redemption Price (together with any interest thereon) is paid in full, the Conversion Amount submitted for redemption under this Section 5(c) (together with any interest thereon) may be converted, in whole or in part, by the Holder into Common Stock of comScore, Inc. pursuant to Section 3 (for the avoidance of doubt, in the event any portion of this Note remains outstanding more than two (2) Business Days after the consummation of a Qualifying Change of Control, Section 5(a) shall apply and the Holder shall, among other things, be entitled to convert this Note into the capital stock of the Successor Entity in accordance with Section 5(a)). Any such converted Conversion Amount shall reduce the Conversion Amount subject to redemption under this Section 5(c) by an equivalent amount. The parties hereto agree that in the event of the Company’s redemption of any portion of the Note under this Section 5(c), the Holder’s damages would be uncertain and difficult to estimate because of the parties’ inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. Accordingly, any Change of Control redemption premium due under this Section 5(c) is intended by the parties to be, and shall be deemed, a reasonable estimate of the Holder’s actual loss of its investment opportunity and not as a penalty. Upon the Company’s request and at the Company’s sole cost and expense, the Holder agrees to provide a customary payoff letter, in form and substance reasonably satisfactory to the Company and the Holder, confirming the payoff of all obligations under this Note and the release of all liens securing such obligations, which confirmations shall be contingent on the Holder’s receipt of the payment in full of the applicable Qualifying Early Redemption Price, and which payoff and release shall occur automatically upon such payment without further action by the Holder.

(6) ADJUSTMENTS TO THE CONVERSION PRICE.

(a) Adjustment of Conversion Price upon Subdivision or Combination of Common Stock or Stock Dividend. If the Company issues solely shares of Common Stock as a dividend or distribution on all or substantially all shares of the Common Stock, or if the Company effects a stock split or a stock combination of the Common Stock (in each case excluding an issuance solely pursuant to a Fundamental Transaction or other Corporate Event, as to which the provisions set forth in Section 5 will apply), then the Conversion Price will be adjusted based on the following formula:

$$CP1 = CP0 * \frac{OS0}{OS1}$$

where:

CP0 = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such dividend or distribution, or immediately before the open of business on the effective date of such stock split or stock combination, as applicable;

CP1 = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date or the open of business on such effective date, as applicable;

OS0 = the number of shares of Common Stock outstanding immediately before the open of business on such Ex-Dividend Date or effective date, as applicable; and

OS1 = the number of shares of Common Stock outstanding immediately after giving effect to such dividend, distribution, stock split or stock combination.

For the avoidance of doubt, pursuant to the definition of CP1 above, any adjustment to the Conversion Price made pursuant to this Section 6(a) will become effective immediately after the open of business on such Ex-Dividend Date or the open of business on such effective date, as applicable. If any dividend, distribution, stock split or stock combination of the type described in this Section 6(a) is declared or announced, but not so paid or made, then the Conversion Price, if previously adjusted, will be readjusted, effective as of the date the Board of Directors of the Company determines not to pay such dividend or distribution or to effect such stock split or stock combination, to the Conversion Price that would then be in effect had such dividend, distribution, stock split or stock combination not been declared or announced.

(b) Rights, Options and Warrants. If the Company distributes, to all or substantially all holders of Common Stock, rights, options or warrants entitling such holders, for a period of not more than sixty (60) calendar days after the record date of such distribution, to

subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is publicly announced, then the Conversion Price will be decreased based on the following formula:

$$CP1 = CP0 * \frac{OS + Y}{OS + X}$$

where:

CP0 = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such distribution;

CP1 = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

OS = the number of shares of Common Stock outstanding immediately before the open of business on such Ex-Dividend Date;

X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = a number of shares of Common Stock obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

For the avoidance of doubt, any adjustment to the Conversion Price made pursuant to this Section 6(b) will be made successively whenever any such rights, options or warrants are issued and, pursuant to the definition of CP1 above, will become effective immediately after the open of business on the Ex-Dividend Date for the applicable distribution. To the extent that shares of Common Stock are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Price, if previously adjusted, will be readjusted effective as of such expiration date to the Conversion Price that would then be in effect had the decrease to the Conversion Price for such distribution been made on the basis of delivery of only the number of shares of Common Stock actually delivered upon exercise of such rights, option or warrants. To the extent such rights, options or warrants are not so distributed, the Conversion Price will be readjusted effective as of the date the Board of Directors of the Company determines not to distribute such rights, options or warrants, to the Conversion Price that

would then be in effect had the Ex- Dividend Date for the distribution of such rights, options or warrants not occurred.

For purposes of this Section 6(b), in determining whether any rights, options or warrants entitle holders of Common Stock to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date of the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Board of Directors of the Company.

(c) Spin-Offs and Other Distributed Property.

(i) Distributions Other than Spin-Offs. If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Capital Stock of the Company or other securities, to all or substantially all holders of the Common Stock, excluding:

- (u) rights issued in the Rights Offering (as defined in the Securities Purchase Agreement);
- (v) dividends, distributions, rights, options or warrants for which an adjustment to the Conversion Price is required pursuant to Section 6(a) or 6(b);
- (w) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Price is required pursuant to Section 6(d);
- (x) rights issued or otherwise distributed pursuant to a stockholder rights plan, except to the extent provided in Section 6(g);
- (y) Spin-Offs for which an adjustment to the Conversion Price is required pursuant to Section 6(c)(ii); and
- (z) a distribution solely pursuant to a Corporate Event, as to which the provisions set forth in Section 5 will apply,

then the Conversion Price will be decreased based on the following formula:

$$CP1 = \frac{CP0 * SP - FMV}{SP}$$

SP

where:

CR0 = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such distribution;

CR1 = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

SP = the average of the Closing Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before such Ex-Dividend Date; and

FMV = the fair market value (determined in the good faith judgment of the Board of Directors of the Company), as of such Ex-Dividend Date, of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed per share of Common Stock pursuant to such distribution;

provided, however, that if FMV is equal to or greater than SP, or if the difference between FMV and SP is less than one dollar (\$1.00), then, in lieu of the foregoing adjustment to the Conversion Price, each Holder will receive, at the same time and on the same terms as holders of Common Stock, the amount and kind of shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the principal amount of Notes held by such Holder on the record date for such distribution divided by the Conversion Price in effect on such record date.

For the avoidance of doubt, pursuant to the definition of CP1 above, any adjustment to the Conversion Price made pursuant to this Section 6(c)(i) will become effective immediately after the open of business on the Ex-Dividend Date for the applicable distribution. To the extent such distribution is not so paid or made, or such rights, options or warrants are not exercised before their expiration (including as a result of being redeemed or terminated), the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to make or pay such distribution, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid or on the basis of the distribution of only such rights, options or warrants, if any, that were actually exercised, if at all. Subject to Section 6(g), if any such rights, options or warrants are exercisable only upon the occurrence of certain triggering events, then the Conversion Price will not be adjusted pursuant to this Section 6(c)(i) until the earliest of these triggering events occurs.

(ii) Spin-Offs. If the Company distributes or dividends shares of stock of any class or series, or similar equity interest, of or relating to an Affiliate, a Subsidiary or other business unit of the Company to all or substantially all holders of the Common Stock, and such stock or equity interest is listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a "**Spin-Off**"), then the Conversion Price will be increased based on the following formula:

$$CP1 = CP0 * \frac{MP}{MP + FMV}$$

where:

CP0 = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such Spin-Off;

CP1 = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

FMV = the average of the Closing Sale Prices of the stock or equity interests distributed per share of Common Stock in such Spin-Off over the ten (10) consecutive Trading Day period (the "**Spin-Off Valuation Period**") beginning on, and including, such Ex-Dividend Date (such average to be determined as if references to Common Stock in the definitions of Closing Sale Price and Trading Day were instead references to the number or units of such stock or equity interests distributed per share of Common Stock in such Spin-Off); and

MP = the average of the Closing Sale Prices per share of Common Stock over the Spin-Off Valuation Period.

The adjustment to the Conversion Price pursuant to this Section 6(c)(ii) will be calculated as of the close of business on the last Trading Day of the Spin-Off Valuation Period but will be given effect immediately after the open of business on the Ex-Dividend Date for the Spin-Off, with retroactive effect. If this Note is converted and the Conversion Date occurs during the Spin-Off Valuation Period, then, in lieu of the foregoing adjustment to the Conversion Price, the Holder will receive, at the same time and on the same terms as holders of Common Stock, the number of shares of stock or other equity interests that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the principal amount of Notes held by such Holder on the record date for Spin-Off divided by the Conversion Price in effect on such record date.

To the extent any dividend or distribution of the type set forth in this Section 6(c)(ii) is declared but not made or paid, the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to

make or pay such dividend or distribution, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(d) Cash Dividends or Distributions. If any cash dividend or distribution is made to all or substantially all holders of Common Stock, then the Conversion Price will be decreased based on the following formula:

$$CP1 = CP0 * \frac{SP}{$$

$$SP - D$$

where:

CP0 = the Conversion Price in effect immediately before the open of business on the Ex-Dividend Date for such dividend or distribution;

CR1 = the Conversion Price in effect immediately after the open of business on such Ex-Dividend Date;

SP = the Closing Sale Price per share of Common Stock on the Trading Day immediately before such Ex-Dividend Date; and

D = the cash amount distributed per share of Common Stock in such dividend or distribution;

provided, however, that if D is equal to or greater than SP, or if the difference between D and SP is less than one dollar (\$1.00), then, in lieu of the foregoing adjustment to the Conversion Price, the Holder will receive, at the same time and on the same terms as holders of Common Stock, the amount of cash that such Holder would have received if such Holder had owned, on such record date, a number of shares of Common Stock equal to the principal amount of Notes held by such Holder on the record date for such dividend or distribution divided by the Conversion Price in effect on such record date. For the avoidance of doubt, pursuant to the definition of CP1 above, any adjustment to the Conversion Price made pursuant to this Section 6(d) will become effective immediately after the open of business on the Ex-Dividend Date for the applicable dividend or distribution.

To the extent any such dividend or distribution is declared but not made or paid, the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to make or pay such dividend or

distribution, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(e) Tender Offers or Exchange Offers. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for shares of Common Stock, and the value (as determined as of the Expiration Time (as defined below) in the judgment of the Board of Directors of the Company) of the cash and other consideration paid per share of Common Stock in such tender or exchange offer exceeds the Closing Sale Price per share of Common Stock on the Trading Day immediately after the last date (the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Price will be decreased based on the following formula:

$$CP1 = CP0 * \frac{OS0 \times SP}{AC + (SP \times OS1)}$$

where:

CP0 = the Conversion Price in effect immediately before the time (the "**Expiration Time**") such tender or exchange offer expires;

CP1 = the Conversion Price in effect immediately after the Expiration Time;

AC = the aggregate value (as determined as of the Expiration Time in the judgment of the Board of Directors of the Company) of all cash and other consideration paid for shares of Common Stock purchased in such tender or exchange offer;

OS0 = the number of shares of Common Stock outstanding immediately before the Expiration Time (before giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer);

OS1 = the number of shares of Common Stock outstanding immediately after the Expiration Time (excluding all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer); and

SP = the average of the Closing Sale Prices of Common Stock over the ten (10) consecutive Trading Day period (the "**Tender/Exchange Offer Valuation Period**") beginning on, and including, the Trading Day immediately after the Expiration Date.

The adjustment to the Conversion Price pursuant to this Section 6(e) will be calculated as of the close of business on the last Trading Day of the Tender/Exchange Offer Valuation Period but will be given effect immediately after the Expiration Time, with retroactive effect. If this Note is converted and the Conversion Date occurs during the Tender/Exchange Offer Valuation Period, then, notwithstanding anything to the contrary in the Notes, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Tender/Exchange Offer Valuation Period. To the extent such tender or exchange offer is announced but not consummated (including as a result of the Company being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of shares of Common Stock in such tender or exchange offer are rescinded, the Conversion Price, if previously adjusted, will be readjusted effective as of the date the Board of Directors of the Company determines not to consummate such offer, to the Conversion Price that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of shares of Common Stock, if any, actually made, and not rescinded, in such tender or exchange offer.

(f) No Adjustments in Certain Cases. Notwithstanding anything to the contrary in this Section 6, the Company will not be obligated to adjust the Conversion Price on account of a transaction or other event otherwise requiring an adjustment pursuant to this Section 6 (other than a stock dividend, distribution, split or combination of the type set forth in Section 6(a) or a tender or exchange offer of the type set forth in Section 6(e)) if each Holder participates, at the same time and on the same terms as holders of Common Stock, and solely by virtue of being a Holder of Notes, in such transaction or event without having to convert such Holder's Notes and as if such Holder held a number of shares of Common Stock equal to the quotient of (i) the aggregate principal amount (expressed in thousands) of Notes held by the Holder on such date; divided by (ii) the Conversion Price in effect on the related record date, effective date or Expiration Date, as applicable.

(g) Stockholder Rights Plans. If any shares of Common Stock are to be issued upon conversion of this Note and, at the time of such conversion, the Company has in effect any stockholder rights plan, then the Holder will be entitled to receive, in addition to, and concurrently with the delivery of, the consideration otherwise payable under this Note upon such conversion, the rights set forth in such stockholder rights plan, unless such rights have separated from the Common Stock at or prior to such time, in which case, and only in such case, the Conversion Price will be adjusted pursuant to Section 6(c)(1) on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such Section to all holders of the Common Stock, subject to readjustment in accordance with such Section if such rights expire, terminate or are redeemed.

(h) Voluntary Adjustment by Company. The Company may at any time during the term of this Note, with the prior written consent of the Required Holders, reduce the then current Conversion Price to any amount and for any period of time deemed appropriate by the Board of Directors of the Company.

(7) OPTIONAL REDEMPTION AT THE COMPANY'S ELECTION.

(a) General. At any time after January 16, 2021 (the "**Company Optional Trigger Date**"), so long as (i) the arithmetic average of the Weighted Average Prices of the Common Stock for any thirty (30) consecutive Trading Days occurring after the Company Optional Trigger Date (all such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction during such period) (a "**Company Optional Measuring Period**") equaled or exceeded one hundred forty percent (140%) of the Conversion Price on the Issuance Date (as adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction after the Subscription Date) and (ii) there has been no Equity Conditions Failure during the period beginning on the applicable Company Optional Redemption Notice Date (as defined below) through the applicable Company Optional Redemption Date (as defined below), the Company shall have the right to redeem all or any portion of the Conversion Amount then remaining outstanding under this Note, the Other Notes and the Additional Notes (a "**Company Optional Redemption Amount**") as designated in the applicable Company Optional Redemption Notice on the applicable Company Optional Redemption Date (each as defined below) (a "**Company Optional Redemption**"). The portion of this Note, the Other Notes and any Additional Notes subject to redemption pursuant to this Section 7(a) shall be redeemed by the Company on the applicable Company Optional Redemption Date in cash at a price equal to the 100% of the Conversion Amount to be redeemed (a "**Company Optional Redemption Price**"). The Company may exercise its right to require redemption under this Section 7 by delivering within not more than ten (10) Trading Days following the end of such Company Optional Measuring Period a written notice thereof to the Holder and all, but not less than all, of the holders of the Other Notes and any Additional Notes (a "**Company Optional Redemption Notice**" and the date all of the holders of the Notes received such notice is referred to as a "**Company Optional Redemption Notice Date**"). Each Company Optional Redemption Notice shall be irrevocable. Each Company Optional Redemption Notice shall (i) state the date on which the applicable Company Optional Redemption shall occur (a "**Company Optional Redemption Date**"), which date shall not be less than ten (10) Trading Days nor more than thirty (30) Trading Days following the applicable Company Optional Redemption Notice Date and (ii) state the aggregate Conversion Amount of the Notes which the Company has elected to redeem from the Holder and all of the holders of the Other Notes and any Additional Notes pursuant to this Section 7(a) (and analogous provisions under the Other Notes and any applicable Additional Notes) on the applicable Company Optional Redemption Date an Equity Conditions Failure (other than as a result of the receipt by the Company of an Interest Blocker Notice) occurs between the applicable Company Optional Redemption Notice Date and the applicable Company Optional Redemption Date and (iii) confirm that there has been no Equity Conditions Failure during the period beginning on the applicable Company Optional Redemption Date through the applicable Company Optional Redemption Notice Date. If the Company confirmed that there was no such Equity Conditions Failure as of the applicable Company Optional Redemption Notice Date but an Equity Conditions Failure occurs between the applicable Company Optional Redemption Notice Date and the applicable Company Optional Redemption Date (a "**Company Optional Redemption Interim Period**"), the Company shall provide the Holder a subsequent notice to that effect. If there is an Equity Conditions Failure (which is not waived in writing by the Holder) during such Company Optional Redemption Interim Period, then the applicable Company Optional Redemption shall be null and void with respect to all or any part designated by the Holder of the

unconverted Company Optional Redemption Amount and the Holder shall be entitled to all the rights of a holder of this Note with respect to such amount of the applicable Company Optional Redemption Amount. Notwithstanding anything to the contrary in this Section 7, until the applicable Company Optional Redemption Price is paid, in full, the applicable Company Optional Redemption Amount may be converted, in whole or in part, by the Holder into shares of Common Stock pursuant to Section 3. All Conversion Amounts converted by the Holder after the applicable Company Optional Redemption Notice Date shall reduce the applicable Company Optional Redemption Amount of this Note required to be redeemed on the applicable Company Optional Redemption Date, unless the Holder otherwise indicates in the applicable Conversion Notice. Company Optional Redemptions made pursuant to this Section 7 shall be made in accordance with Section 10. To the extent redemptions required by this Section 7 are deemed or determined by a court of competent jurisdiction to be prepayments of the Note by the Company, such redemptions shall be deemed to be voluntary prepayments. The parties hereto agree that in the event of the Company's redemption of any portion of the Note under this Section 7, the Holder's damages would be uncertain and difficult to estimate because of the parties' inability to predict future interest rates and the uncertainty of the availability of a suitable substitute investment opportunity for the Holder. For the avoidance of doubt, any Conversion Amount that is subject to a Conversion Notice delivered to the Company may no longer be subject to a Company Optional Redemption even if the shares issuable upon such conversion have not been delivered on or prior to the applicable Company Optional Redemption Date.

(b) **Pro Rata Redemption Requirement.** If the Company elects to cause a Company Optional Redemption pursuant to Section 7(a), then it must simultaneously take the same action in the same proportion with respect to the Other Notes and any Additional Notes. If the Company elects to cause a Company Optional Redemption pursuant to Section 7(a) (or similar provisions under the Other Notes and the Additional Notes) with respect to less than all of the Conversion Amounts of the Notes and any Additional Notes then outstanding, then the Company shall require redemption of a Conversion Amount from each of the holders of the Notes and any Additional Notes equal to the product of (i) the aggregate Company Optional Redemption Amount of Notes and the Additional Notes which the Company has elected to cause to be redeemed pursuant to Section 7(a), multiplied by (ii) the fraction, the numerator of which is the sum of the aggregate Principal Amount of the Notes and any Additional Notes held by such holder and the denominator of which is the sum of the aggregate Principal Amount of the Notes and any Additional Notes held by all holders holding outstanding Notes and any Additional Notes (such fraction with respect to each holder is referred to as its "**Company Optional Redemption Allocation Percentage**", and such amount with respect to each holder is referred to as its "**Pro Rata Company Optional Redemption Amount**"). In the event that the initial holder of any Notes or Additional Notes shall sell or otherwise transfer any of such holder's Notes or any Additional Notes, the transferee shall be allocated a pro rata portion of such holder's Company Optional Redemption Allocation Percentage and Pro Rata Company Optional Redemption Amount.

(8) **NONCIRCUMVENTION.** The Company hereby covenants and agrees that the Company will not, by amendment of its Certificate of Incorporation, Bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution,

issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Note, and will at all times in good faith carry out all of the provisions of this Note and take all action as may be required to protect the rights of the Holder of this Note.

(9) RESERVATION OF AUTHORIZED SHARES.

(a) **Reservation.** The Company shall initially reserve out of its authorized and unissued shares of Common Stock a number of shares of Common Stock for each of this Note, the Other Notes and any Additional Notes equal to the sum of (i) 130% of the Conversion Rate with respect to the Conversion Amount of each such Note as of the Issuance Date and (ii) 130% of the maximum number of shares issuable as Interest Shares assuming all Interest through the Maturity Date is paid in Interest Shares at the maximum possible Interest Rate. So long as any of this Note, the Other Notes and the Additional Notes are outstanding, the Company shall take all action necessary to reserve and keep available out of its authorized and unissued Common Stock, solely for the purpose of effecting the conversion of this Note, the Other Notes and any Additional Notes, the number of shares of Common Stock specified above in this Section 9(a) as shall from time to time be necessary to effect the conversion of all of the Notes and any Additional Notes then outstanding; provided, that at no time shall the number of shares of Common Stock so reserved be less than the number of shares required to be reserved pursuant hereto (in each case, without regard to any limitations on conversions) (the "**Required Reserve Amount**"). The initial number of shares of Common Stock reserved for conversions of this Note, the Other Notes and the Additional Notes and each increase in the number of shares so reserved shall be allocated pro rata among the Holder, the holders of the Other Notes and the holders of any Additional Notes based on the Principal amount of this Note and the Other Notes held by each holder at the Initial Closing (as defined in the Securities Purchase Agreement) or increase in the number of reserved shares, as the case may be (the "**Authorized Share Allocation**"). In the event that a holder shall sell or otherwise transfer this Note, or a portion thereof, or any of such holder's Other Notes or Additional Notes, each transferee shall be allocated a pro rata portion of such holder's Authorized Share Allocation. Any shares of Common Stock reserved and allocated to the portion of the Note held by any Person who ceases to hold any Notes shall be allocated to the portion of the Note held by the Holder and the remaining holders of Other Notes and the Additional Notes, pro rata based on the then- outstanding Principal amount of this Note, the Other Notes and any Additional Notes then held by such holders.

(b) **Insufficient Authorized Shares.** If at any time while any of the Notes remain outstanding the Company does not have a sufficient number of authorized and unreserved shares of Common Stock to satisfy its obligation to have reserved for issuance upon conversion of the outstanding Notes at least a number of shares of Common Stock equal to the Required Reserve Amount (an "**Authorized Share Failure**"), then the Company shall promptly take all action necessary to increase the Company's authorized shares of Common Stock to an amount sufficient to allow the Company to reserve the Required Reserve Amount for the Notes then outstanding. Without limiting the generality of the foregoing sentence, as soon as practicable after the date of the occurrence of an Authorized Share Failure, but in no event later

than sixty (60) days after the occurrence of such Authorized Share Failure, the Company shall either (x) obtain the written consent of its stockholders for the approval of an increase in the number of authorized shares of Common Stock and provide each stockholder with an information statement with respect thereto or (y) file with the SEC a proxy statement for a meeting of its stockholders at which meeting the Company will seek the approval of its stockholders for an increase in the number of authorized shares of Common Stock. In connection with such meeting, the Company shall provide each stockholder with a proxy statement and shall use commercially reasonable efforts to solicit its stockholders' approval of such increase in authorized shares of Common Stock and to cause its Board of Directors to recommend to the stockholders that they approve such proposal. Notwithstanding the foregoing, if during any such time of an Authorized Share Failure, the Company is able to obtain the written consent of a majority of the shares of its issued and outstanding Common Stock to approve the increase in the number of authorized shares of Common Stock, the Company may satisfy this obligation by obtaining such consent and submitting for filing with the SEC an Information Statement on Schedule 14C. If, upon any conversion of this Note, the Company does not have sufficient authorized shares to deliver in satisfaction of such conversion, then unless the Holder elects to rescind such attempted conversion, the Holder may require the Company to pay to the Holder within three (3) Trading Days of the applicable attempted conversion, cash in an amount equal to the product of (i) the number of shares of Common Stock that the Company is unable to deliver pursuant to this Section 9, and (ii) the highest Closing Sale Price of the Common Stock during the period beginning on the applicable Conversion Date and ending on the date the Company makes the applicable cash payment.

(10) REDEMPTIONS.

(a) Mechanics. The Company shall deliver the applicable Event of Default Redemption Price to the Holder within three (3) Business Days after the Company's receipt of the Holder's Event of Default Redemption Notice (the "**Event of Default Redemption Date**"). If the Holder has submitted a Change of Control Redemption Notice in accordance with Section 5(b), the Company shall deliver the applicable Change of Control Redemption Price to the Holder (i) concurrently with the consummation of such Change of Control if such notice is received prior to the consummation of such Change of Control and (ii) within three (3) Business Days after the Company's receipt of such notice otherwise (such date, the "**Change of Control Redemption Date**"). If the Company has delivered a Qualifying Early Redemption Notice to the Holders in accordance with Section 5(c), the Company shall deliver the applicable Qualifying Early Redemption Price to the Holders concurrently with the consummation of such Qualifying Change of Control (such date, the "**Qualifying Early Redemption Date**"). The Company shall deliver the applicable Company Optional Redemption Price to the Holder on the applicable Company Optional Redemption Date. The Company shall pay the applicable Redemption Price to the Holder on the applicable due date. In the event of a redemption of less than all of the Conversion Amount of this Note and a surrender of this Note by the Holder, the Company shall promptly cause to be issued and delivered to the Holder a new Note (in accordance with Section 18(d)) representing the outstanding Principal which has not been redeemed and any accrued Interest on such Principal which shall be calculated as if no Redemption Notice has been delivered. In the event that the Company does not pay the applicable Redemption Price to the

Holder within the time period required, at any time thereafter and until the Company pays such unpaid Redemption Price in full, the Holder shall have the option, in lieu of redemption, to require the Company to promptly return to the Holder all or any portion of this Note representing the Conversion Amount that was submitted for redemption and for which the applicable Redemption Price (together with any Late Charges thereon) has not been paid. Upon the Company's receipt of such notice, (x) the applicable Redemption Notice shall be null and void with respect to such Conversion Amount, (y) the Company shall immediately return this Note, or issue a new Note (in accordance with Section 18(d)) to the Holder representing such Conversion Amount not redeemed and (z) the Conversion Price of this Note or such new Note shall be adjusted to the Conversion Price as in effect on the date on which the applicable Redemption Notice is voided. The Holder's delivery of a notice voiding a Redemption Notice and exercise of its rights following such notice shall not affect the Company's obligations to make any payments of Late Charges which have accrued prior to the date of such notice with respect to the Conversion Amount subject to such notice.

(b) **Redemption by Other Holders.** Upon the Company's receipt of notice from any of the holders of the Other Notes or any Additional Notes for redemption or repayment as a result of an event or occurrence substantially similar to the events or occurrences described in Section 4(b) or Section 5(b) or pursuant to equivalent provisions set forth in the Other Notes or any Additional Notes (each, an "**Other Redemption Notice**"), the Company shall promptly provide notice of such request. If the Company receives a Redemption Notice and one or more Other Redemption Notices, during the seven (7) Business Day period beginning on and including the date which is three (3) Business Days prior to the Company's receipt of the Holder's Redemption Notice and ending on and including the date which is three (3) Business Days after the Company's receipt of the Holder's Redemption Notice and the Company is unable to redeem all principal, interest and other amounts designated in such Redemption Notice and such Other Redemption Notices received during such seven (7) Business Day period, then the Company shall redeem a pro rata amount from the Holder and each holder of the Other Notes and the Additional Notes (including the Holder) based on the outstanding Principal amount of this Note, the Other Notes and any Additional Notes submitted for redemption pursuant to such Redemption Notice and such Other Redemption Notices received by the Company during such seven (7) Business Day period.

(11) **VOTING RIGHTS.** The Holder shall have no voting rights as the holder of this Note, except as required by law and as expressly provided in this Note.

(12) **SECURITY.** This Note, the Other Notes and any Additional Notes are secured to the extent and in the manner set forth in the Security Documents.

(13) **RANK.** All payments due under this Note (a) shall rank *pari passu* with all Other Notes, Additional Notes, Rights Offering Notes, if any, Backstop Commitment Notes, if any, and Indebtedness described in clause (iii) of the definition of Permitted Indebtedness, if any, and (b) shall be senior to all other Indebtedness of the Company and its Subsidiaries.

(14) **NEGATIVE COVENANTS.**

(a) Until all of the Notes and the Additional Notes have been converted, redeemed or otherwise satisfied in accordance with their terms, the Company shall not, and the Company shall not permit any of its Subsidiaries without the prior written consent of the Required Holders to, directly or indirectly:

(i) incur or guarantee, assume or suffer to exist any Indebtedness, other than Permitted Indebtedness;
or

(ii) allow or suffer to exist any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in any property or assets (including accounts and contract rights) owned by the Company or any of its Subsidiaries (collectively, "**Liens**") other than Permitted Liens.

(b) Solely in the event that the Company does not at the applicable time of determination satisfy the Qualifying Conditions, the Company shall not, and the Company shall not permit any of its Subsidiaries without the prior written consent of the Required Holders to, directly or indirectly:

(i) Redeem or repurchase any Equity Interests or other Junior Claims, or declare or pay any dividend or other distributions of assets (or rights to acquire assets) to any or all holders of Equity Interests or other Junior Claims, by way of return of capital or otherwise (including without limitation, any distribution of cash, stock or other securities, property, Options, evidence of Indebtedness or any other assets by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) of the Company or any of its Subsidiaries (any of the foregoing, a "**Restricted Payment**"), in each case other than:

(1) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Indebtedness made by exchange for, or out of the proceeds of the substantially concurrent sale of, Refinancing Indebtedness;

(2) each Subsidiary may declare and make Restricted Payments to Persons that own Equity Interests in such Subsidiary, ratably according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made;

(3) the Company and each Subsidiary may declare and make dividend payments or other distributions payable solely in Equity Interests of such Person;

(4) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Equity Interest of the Company or a Subsidiary made by exchange for or out of the proceeds of the substantially concurrent sale of Equity Interests of the Company;

(5) a Restricted Payment to pay for the repurchase, retirement or other acquisition or retirement for value of Equity Interests of the Company held by or on behalf of any future, present or former employee, director, manager or consultant of the

Company or any of its Subsidiaries (or permitted transferees, assigns, estates, trusts or heirs of such employee, director, manager or consultant) either pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or upon the termination of such employee, director, manager or consultant's employment, directorship or manager position; provided that the aggregate amount of Restricted Payments made under this clause (5) do not exceed in any calendar year an amount equal to \$1,000,000;

(6) purchases, repurchases, redemptions, defeasances or other acquisitions or retirements of Equity Interests deemed to occur upon the exercise of stock options, warrants or other rights in respect thereof if such Equity Interests represents a portion of the exercise price thereof; and

(7) additional Restricted Payments in an amount not to exceed \$5,000,000 during any fiscal year or \$10,000,000 in the aggregate prior to the Maturity Date.

(15) AFFIRMATIVE COVENANTS.

(a) By no later than April 30, 2019, the Company shall have filed with the SEC one or more Annual Reports on Form 10-K containing its audited financial statements for the fiscal years ended December 31, 2015, 2016 and 2017 in accordance with the applicable requirements of the Exchange Act, the rules and regulations thereunder and the SEC's instructions to Annual Reports on Form 10-K (the "**Form 10-K**").

(b) From and after the date the Company files the Form 10-K, on or before the date that the Company is required to file any Quarterly Report on Form 10-Q or Annual Report on Form 10-K, the Company shall publicly disclose Consolidated EBITDA with respect to the most recent completed financial period as to which such report relates.

(c) The Company shall maintain on deposit cash and/or cash equivalents (as defined in GAAP) in an aggregate amount equal to:

(i) not less than \$40,000,000 from and after the Initial Closing Date to and excluding the earlier to occur of (x) the consummation of the Rights Offering (as defined in the Securities Purchase Agreement) and (y) the Maturity Date (such earlier date, the "**Cash Measuring Date**"); provided, however, that, upon execution of the Qualifying Change of Control Documentation, such amount shall be reduced on a dollar for dollar basis for each dollar of Cash Interest paid to the Holder and the holders of the Other Notes and the Additional Notes from and after the execution of the Qualifying Change of Control Documentation until the consummation of the applicable Qualifying Change of Control or the termination of the related Qualifying Change of Control Documentation in accordance with its terms; provided, further, that in no event will such amount be reduced pursuant to the immediately preceding proviso by more than \$20,000,000; provided, further, that in the event that:

(x) such Qualifying Change of Control is consummated and the Holder does not receive the payment in full of the applicable Qualifying Early Redemption Price

within two (2) Business Days of consummation of such Qualifying Change of Control, then on and after such consummation; or

(y) such Qualifying Change of Control is terminated in accordance with the terms of the related Qualifying Change of Control Documentation (other than in a circumstance constituting a Superior Proposal Termination (as defined below)), then on and after the shorter of (I) the ninetieth (90th) day after such termination and (II) the first date after such termination when the Company consummates a financing that enables it to maintain on deposit cash and/or cash equivalents (as defined in GAAP) in an aggregate amount equal to \$40,000,000,

in each such case, such amount shall be restored to \$40,000,000;

(ii) solely if the Cash Measuring Date is determined by clause (x) of such definition:

(1) not less than \$75,000,000 from and after the Cash Measuring Date through and excluding January 1, 2020; provided, however, that such amount shall be not less than \$55,000,000 for the period, if any, from and after the Cash Measuring Date to and excluding the earlier to occur of (a) the date the Company files the 2019 Q2 10-Q and (b) August 9, 2019; and

(2) not less than \$50,000,000 from and after January 1, 2020 through and including the Maturity Date.

(16) VOTE TO ISSUE, OR CHANGE THE TERMS OF, NOTES. The affirmative vote of the Required Holders at a meeting duly called for such purpose or the written consent without a meeting of the Required Holders shall be required for any change or amendment or waiver of any provision to this Note, any of the Other Notes or any Additional Notes. Any change, amendment or waiver by the Company and the Required Holders shall be binding on the Holder of this Note and all holders of the Other Notes and the Additional Notes.

(17) TRANSFER. This Note and any shares of Common Stock issued upon conversion of this Note may be offered, sold, assigned or transferred by the Holder without the consent of the Company, subject only to the provisions of Section 2(g) of the Securities Purchase Agreement.

(18) REISSUANCE OF THIS NOTE.

(a) Transfer. If this Note is to be transferred, the Holder shall surrender this Note to the Company, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Note (in accordance with Section 18(d) and subject to Section 3(c)(iii)), registered as the Holder may request, representing the outstanding Principal being transferred by the Holder and, if less than the entire outstanding Principal is being transferred, a new Note (in accordance with Section 18(d)) to the Holder representing the outstanding Principal not being transferred. The Holder and any assignee, by acceptance of this Note, acknowledge and agree that, by reason of the provisions of Section 3(c)(iii) following

conversion or redemption of any portion of this Note, the outstanding Principal represented by this Note may be less than the Principal stated on the face of this Note.

(b) Lost, Stolen or Mutilated Note. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Note, and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary form and, in the case of mutilation, upon surrender and cancellation of this Note, the Company shall execute and deliver to the Holder a new Note (in accordance with Section 18(d)) representing the outstanding Principal.

(c) Note Exchangeable for Different Denominations. This Note is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, for a new Note or Notes (in accordance with Section 18(d)) representing in the aggregate the outstanding Principal of this Note, and each such new Note will represent such portion of such outstanding Principal as is designated by the Holder at the time of such surrender.

(d) Issuance of New Notes. Whenever the Company is required to issue a new Note pursuant to the terms of this Note, such new Note (i) shall be of like tenor with this Note, (ii) shall represent, as indicated on the face of such new Note, the Principal remaining outstanding (or in the case of a new Note being issued pursuant to Section 18(a) or Section 18(c), the Principal designated by the Holder which, when added to the principal represented by the other new Notes issued in connection with such issuance, does not exceed the Principal remaining outstanding under this Note immediately prior to such issuance of new Notes), (iii) shall have an issuance date, as indicated on the face of such new Note, which is the same as the Issuance Date of this Note, (iv) shall have the same rights and conditions as this Note, and (v) shall represent accrued and unpaid Interest and Late Charges, if any, on the Principal and Interest of this Note, from the Issuance Date.

(19) REMEDIES, CHARACTERIZATIONS, OTHER OBLIGATIONS, BREACHES AND INJUNCTIVE RELIEF. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note and any of the other Transaction Documents at law or in equity (including a decree of specific performance and/or other injunctive relief), and nothing herein shall limit the Holder's right to pursue actual and consequential damages for any failure by the Company to comply with the terms of this Note. Amounts set forth or provided for herein with respect to payments, conversion, redemption and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach, the Holder shall be entitled, in addition to all other available remedies, to an injunction restraining such breach, without the necessity of showing economic loss and without any bond or other security being required, to the fullest extent enforceable under applicable law.

(20) PAYMENT OF COLLECTION, ENFORCEMENT AND OTHER COSTS. If (a) this Note is placed in the hands of an attorney for collection or enforcement or is

collected or enforced through any legal proceeding or the Holder otherwise takes action to collect amounts due under this Note or to enforce the provisions of this Note or (b) there occurs any bankruptcy, reorganization, receivership of the Company or other proceedings affecting Company creditors' rights and involving a claim under this Note, then the Company shall pay the costs incurred by the Holder for such collection, enforcement or action or in connection with such bankruptcy, reorganization, receivership or other proceeding, including, but not limited to, actual and reasonable attorneys' fees and disbursements.

(21) CONSTRUCTION; HEADINGS. This Note shall be deemed to be jointly drafted by the Company and all the Buyers and shall not be construed against any person as the drafter hereof. The headings of this Note are for convenience of reference and shall not form part of, or affect the interpretation of, this Note.

(22) FAILURE OR INDULGENCE NOT WAIVER. No failure or delay on the part of the Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege.

(23) DISPUTE RESOLUTION. In the case of a dispute as to the determination of the Closing Bid Price, the Closing Sale Price or the Weighted Average Price or the arithmetic calculation of the Conversion Rate, the Conversion Price or any Redemption Price, the Company shall submit the disputed determinations or arithmetic calculations within two (2) Business Days of receipt, or deemed receipt, of the Conversion Notice or Redemption Notice or other event giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation within three (3) Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two (2) Business Days submit (a) the disputed determination of the Closing Bid Price, the Closing Sale Price or the Weighted Average Price to an independent, reputable investment bank selected by the Holder and approved by the Company, such approval not to be unreasonably withheld, conditioned or delayed, or (b) the disputed arithmetic calculation of the Conversion Rate, Conversion Price or any Redemption Price to an independent, outside accountant, selected by the Holder and approved by the Company, such approval not to be unreasonably withheld, conditioned or delayed. The Company, at the Company's expense, shall cause the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than ten (10) Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

(24) NOTICES; PAYMENTS.

(a) Notices. Whenever notice is required to be given under this Note, unless otherwise provided herein, such notice shall be given in accordance with Section 9(f) of the Securities Purchase Agreement. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Note, including in reasonable detail a description of such action and the reason therefore. Without limiting the generality of the foregoing, the

Company shall give written notice to the Holder (i) immediately upon any adjustment of the Conversion Price, setting forth in reasonable detail, and certifying, the calculation of such adjustment and (ii) at least ten (10) days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the Common Stock, (B) with respect to any pro rata subscription offer to holders of Common Stock or (C) for determining rights to vote with respect to any Fundamental Transaction, dissolution or liquidation, provided in each case that such information shall have been made known to the public prior to or in conjunction with such notice being provided to the Holder.

(b) Payments. Whenever any payment of cash is to be made by the Company to any Person pursuant to this Note, such payment shall be made in lawful money of the United States of America via wire transfer of immediately available funds to an account so designated by the Holder; provided, that the Holder, upon timely written notice to the Company, may elect to receive a payment of cash by a check drawn on the account of the Company and sent via overnight courier service to such Person at such address as previously provided to the Company in writing (which address, in the case of each of the Buyers, shall initially be as set forth on the Schedule of Buyers attached to the Securities Purchase Agreement. Whenever any amount expressed to be due by the terms of this Note is due on any day which is not a Business Day, the same shall instead be due on the next succeeding day which is a Business Day. Any amount of Principal or other amounts due under the Transaction Documents which is not paid when due shall result in a late charge being incurred and payable by the Company in an amount equal to interest on such amount at the rate of eighteen percent (18.0%) per annum from the date such amount was due until the same is paid in full ("**Late Charge**").

(25) CANCELLATION. After all Principal, any accrued Interest and any other amounts at any time owed on this Note have been paid in full, this Note shall automatically be deemed canceled, shall be surrendered to the Company for cancellation and shall not be reissued.

(26) WAIVER OF NOTICE. To the extent permitted by law, the Company hereby waives demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Note.

(27) GOVERNING LAW; JURISDICTION; JURY TRIAL. All questions concerning the construction, validity, enforcement and interpretation of this Note shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. The Company hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. The Company hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a

copy thereof to the Company at the address set forth in Section 9(f) of the Securities Purchase Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof to the fullest extent enforceable under applicable law. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Nothing contained herein shall be deemed or operate to preclude the Holder from bringing suit or taking other legal action against the Company in any other jurisdiction to collect on the Company's obligations to the Holder, to realize on any collateral or any other security for such obligations, or to enforce a judgment or other court ruling in favor of the Holder. **THE COMPANY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS NOTE OR ANY TRANSACTION CONTEMPLATED HEREBY.**

(28) **SEVERABILITY.** If any provision of this Note is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Note so long as this Note as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the Company or the Holder hereof or the practical realization of the benefits that would otherwise be conferred upon the Company or the Holder hereof. The Company and the Holders will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

(29) **DISCLOSURE.** From and after the filing of the Form 10-K and provided that, at the applicable time of determination, no individual affiliated with the Holder serving on the Board of Directors of the Company was appointed thereto, including pursuant to Section 1(a) of the September Agreement, the Company will not provide to the Holder any information that constitutes material non-public information of or relating to the Company or its Subsidiaries without the prior written consent of the Holder. If and to the extent the Company does provide any such information, or the Holder otherwise comes into possession of material non-public information relating to the Company or its Subsidiaries as a result of the receipt or delivery of any notice in accordance with the terms hereof, the Company will comply with its obligations under Regulation FD under the Exchange Act. In the absence of any disclosure by the Company pursuant thereto, the Holder shall be allowed to presume that all matters relating thereto do not constitute material non-public information relating to the Company or its Subsidiaries.

(30) **USURY.** This Note is subject to the express condition that at no time shall the Company be obligated or required to pay interest hereunder at a rate or in an amount which could subject the Holder to either civil or criminal liability as a result of being in excess of the maximum interest rate or amount which the Company is permitted by applicable law to contract or agree to pay. If by the terms of this Note, the Company is at any time required or obligated to

pay interest hereunder at a rate or in an amount in excess of such maximum rate or amount, the rate or amount of interest under this Note shall be deemed to be immediately reduced to such maximum rate or amount and the interest payable shall be computed at such maximum rate or be in such maximum amount and all prior interest payments in excess of such maximum rate or amount shall be applied and shall be deemed to have been payments in reduction of the principal balance of this Note.

(31) CERTAIN DEFINITIONS. For purposes of this Note, the following terms shall have the following meanings:

(a) "**Acquired EBITDA**" means with respect to any Acquired Entity or Business (any of the foregoing, a "Pro Forma Entity") for any period, the amount for such period of Consolidated EBITDA of such Pro Forma Entity (determined as if references to the Company and its Subsidiaries in the definition of the term "Consolidated EBITDA" were references to such Pro Forma Entity and its Subsidiaries which will become Subsidiaries), all as determined on a consolidated basis for such Pro Forma Entity.

(b) "**Additional Closing Date**" shall have the meaning set forth in the Securities Purchase Agreement.

(c) "**Additional Notes**" means all Initial Notes issued by the Company pursuant to the Securities Purchase Agreement on the Initial Closing Date.

(d) "**Affiliate**" means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person, it being understood for purposes of this definition that "control" of a Person means the power directly or indirectly either to vote 10% or more of the stock having ordinary voting power for the election of directors of such Person or direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

(e) "**Attribution Parties**" means, collectively, the following Persons: (i) any investment vehicle, including, any funds, feeder funds or managed accounts, currently, or from time to time after the Issuance Date, directly or indirectly managed or advised by the Holder's investment manager or any of its Affiliates or principals, (ii) any direct or indirect Affiliates of the Holder or any of the foregoing, (iii) any Person acting or who could be deemed to be acting as a Group together with the Holder or any of the foregoing and (iv) any other Person whose beneficial ownership of the Company's Common Stock would or could be aggregated with the Holder's and its Attribution Parties for purposes of Section 13(d) of the Exchange Act. For clarity, the purpose of the foregoing is to subject collectively the Holder and its Attribution Parties to the Maximum Percentage.

(f) "**Backstop Commitment Notes**" any Notes issued in connection with the Buyer's backstop commitment of the Rights Offering (as defined in the Securities Purchase Agreement) as contemplated in Section 1(e) of the Securities Purchase Agreement.

(g) "**Bloomberg**" means Bloomberg Financial Markets.

(h) "**Business Day**" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed.

(i) "**Buyer**" shall have the meaning ascribed to such term in the Securities Purchase Agreement.

(j) "**Calendar Quarter**" means each of: the period beginning on and including January 1 and ending on and including the next occurring March 31; the period beginning on and including April 1 and ending on and including the next occurring June 30; the period beginning on and including July 1 and ending on and including the next occurring September 30; and the period beginning on and including October 1 and ending on and including the next occurring December 31.

(k) "**Capital Stock**" means, for any entity, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that entity.

(l) "**Change of Control**" means any Fundamental Transaction other than (i) any reorganization, recapitalization or reclassification of the Common Stock in which holders of the Company's voting power immediately prior to such reorganization, recapitalization or reclassification continue after such reorganization, recapitalization or reclassification to hold publicly traded securities and, directly or indirectly, are, in all material respects, the holders of a majority of the voting power of the surviving entity (or entities with the authority or voting power to elect the members of the Board of Directors (or their equivalent if other than a corporation) of such entity or entities) after such reorganization, recapitalization or reclassification or (ii) pursuant to a migratory merger effected solely for the purpose of changing the jurisdiction of incorporation of the Company.

(m) "**Closing Bid Price**" and "**Closing Sale Price**" means, for any security as of any date, the last closing bid price and last closing trade price, respectively, for such security on the Principal Market, as reported by Bloomberg, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing bid price or the closing trade price, as the case may be, then the last bid price or last trade price, respectively, of such security prior to 4:00:00 p.m., New York Time, as reported by Bloomberg, or, if the Principal Market is not the principal securities exchange or trading market for such security, the last closing bid price or last trade price, respectively, of such security on the principal securities exchange or trading market where such security is listed or traded as reported by Bloomberg, or if the foregoing do not apply, the last closing bid price or last trade price, respectively, of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg, or, if no closing bid price or last trade price, respectively, is reported for such security by Bloomberg, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the OTC Link or "pink sheets" by OTC Markets Group Inc. (formerly Pink OTC Markets Inc.). If the Closing Bid Price or the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Bid Price or the Closing Sale Price, as the case may be, of such security on such date shall be the

fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 23. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction occurring during the applicable calculation period.

(n) "**Common Stock**" means (i) shares of Common Stock, par value \$0.001 per share of the Company, and (ii) any share capital into which such Common Stock shall be changed or any share capital resulting from a reclassification of such Common Stock.

(o) "**Consolidated EBITDA**" means, for any period, the Consolidated Net Income for such period plus:

(i) without duplication and to the extent already deducted (and not added back) in arriving at such Consolidated Net Income (or, as applicable, to the extent not already included in Consolidated Net Income), the sum of the following amounts for such period:

(1) total interest expense and, to the extent not reflected in such total interest expense, any losses on swap obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, net of interest income and gains on such swap obligations or such derivative instruments, and bank and letter of credit fees and costs of surety bonds in connection with financing activities,

(2) provision for taxes based on income, profits or capital gains, including federal, foreign, state, franchise, excise and similar taxes paid or accrued during such period (including in respect of repatriated funds),

(3) depreciation and amortization (including amortization of intangible assets established through purchase accounting and amortization of deferred financing fees or costs),

(4) non-cash charges (excluding any non-cash charges which consists of or requires an accrual of, or reserve for, potential cash charges in any future period),

(5) extraordinary losses in accordance with GAAP,

(6) unusual or non-recurring charges (including litigation and investigation-related costs and expenses, costs associated with tax projects/audits and professional, consulting or other fees) incurred in connection with the Company's pending audit or any of the legal proceedings listed on Schedule 3(r) of the Securities Purchase Agreement,

(7) restructuring charges, accruals or reserves (including restructuring costs related to acquisitions after the Initial Closing),

(8) losses on asset sales, disposals or abandonments (other than asset sales, disposals or abandonments in the ordinary course of business),

(9) the amount of any net losses from discontinued operations in accordance with GAAP,

(10) any expenses, charges or losses that are covered by indemnification or other reimbursement provisions in connection with any Investment, acquisition or any sale, conveyance, transfer or other disposition of assets, to the extent actually reimbursed, or, so long as the Company has received notification from the applicable carrier that it intends to indemnify or reimburse such expenses, charges or losses and that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within such 365 days), such expenses, charges or losses,

(11) to the extent covered by insurance and actually reimbursed, or, so long as the Company has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within such 365 days), expenses, charges or losses with respect to liability or casualty event or business interruption,

(12) fees, costs and expenses incurred in connection with the transactions contemplated by the Transaction Documents (including, without limitation, the Rights Offering);

(13) any fees and expenses incurred during such period, or any amortization thereof for such period, in connection with any acquisition, investment, asset disposition, issuance or repayment of debt, issuance of equity securities, refinancing transaction or amendment or other modification of any debt instrument (in each case, including any such transaction consummated prior to the Initial Closing and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction,

less

(ii) without duplication and to the extent included in arriving at such Consolidated Net Income (or, as applicable, to the extent not already included in Consolidated Net Income), the sum of the following amounts for such period:

- (1) extraordinary gains in accordance with GAAP and unusual or non-recurring gains,
- (2) non-cash gains,

(3) gains on asset sales, disposals or abandonments (other than asset sales, disposals or abandonments in the ordinary course of business), and

(4) the amount of any net income from discontinued operations in accordance with GAAP, in each case, as determined on a consolidated basis for the Company and its Subsidiaries in accordance with GAAP, provided that, to the extent included in Consolidated Net Income,

(1) there shall be excluded in determining Consolidated EBITDA, without duplication, any net unrealized gains and losses relating to mark-to-market of amounts denominated in foreign currencies resulting from the application of FASB ASC 830;

(2) there shall be included in determining Consolidated EBITDA for any period, without duplication, the Acquired EBITDA of any Person, property, business or asset acquired by the Company or any Subsidiary of the Company during such period to the extent not subsequently sold, transferred or otherwise disposed of (but not including the Acquired EBITDA of any related Person, property, business or assets to the extent not so acquired) (each such Person, property, business or asset acquired, including pursuant to a transaction consummated prior to the Initial Closing, and not subsequently so disposed of, an "**Acquired Entity or Business**"), in each case based on the Acquired EBITDA of such Pro Forma Entity for such period (including the portion thereof occurring prior to such acquisition or conversion) determined on a historical Pro Forma Basis;

(3) there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset sold, transferred or otherwise disposed of, closed or classified as discontinued operations by the Company or any Subsidiary of the Company during such period (each such Person, property, business or asset so sold, transferred or otherwise disposed of, closed or classified, a "**Sold Entity or Business**"), in each case based on the Disposed EBITDA of such Sold Entity or Business for such period (including the portion thereof occurring prior to such sale, transfer, disposition, closure, classification or conversion) determined on a historical Pro Forma Basis; and

(4) there shall be excluded in determining Consolidated EBITDA for any period the cumulative effect of a change in accounting principles during such period to the extent included in Consolidated Net Income.

(p) "**Consolidated Net Income**" means, for any period, the net income (loss) of the Company and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.

(q) "**Contingent Obligation**" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any Indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto

will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto.

(r) "**Conversion Premium**" means the quotient obtained by dividing (x) the Conversion Price in effect as of the applicable date of determination, by (y) the arithmetic average of the ten (10) Weighted Average Prices of the Common Stock on each Trading Day during the ten (10) consecutive Trading Days immediately preceding the applicable date of determination. All such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction during such period.

(s) "**Convertible Securities**" means any stock or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for shares of Common Stock.

(t) "**Disposed EBITDA**" means with respect to any Sold Entity or Business for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business (determined as if references to the Company and its Subsidiaries in the definition of the term "Consolidated EBITDA" (and in the component financial definitions used therein) were references to such Sold Entity or Business and its Subsidiaries), all as determined on a consolidated basis for such Sold Entity or Business.

(u) "**Eligible Market**" means the Principal Market, The New York Stock Exchange, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the NYSE American, the OTC QX, the OTC QB or the OTC Pink.

(v) "**Equity Conditions**" means each of the following conditions: (i) either (x) one or more Registration Statements covering all of the Interest Shares to be issued on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, shall be effective and available for the resale of such shares, in accordance with the terms of the Registration Rights Agreement or (y) all Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions, shall be eligible for sale without restriction or limitation pursuant to Rule 144 and without the need for registration under any applicable federal or state securities laws; (ii) the Company shall have no knowledge of any fact that would cause (x) the applicable Registration Statements required pursuant to the Registration Rights Agreement not to be effective and available for the resale of the Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions, in accordance with the terms of the Registration Rights Agreement or (y) the Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions, not being eligible for sale without restriction or limitation pursuant to Rule 144 and without the requirement to be in compliance with Rule 144(c)(1) (or any successor thereto) promulgated

under the Securities Act and any applicable state securities laws; (iii) the Interest Shares issuable on the applicable Interest Date requiring the satisfaction of the Equity Conditions may be issued in full without violating Section 3(d) hereof; (iv) the Interest Shares issuable on the applicable Interest Date or the shares of Common Stock issuable upon conversion of the Conversion Amount that is subject to the applicable Company Optional Redemption, as applicable, requiring the satisfaction of the Equity Conditions may be issued in full without violating the rules or regulations of the Principal Market; (v) the Common Stock is designated for quotation on the Principal Market and shall not have been suspended from trading on such exchange or market; and (vi) if the event requiring satisfaction of the Equity Conditions is a Company Optional Redemption, an Event of Default Redemption or a Change of Control Redemption, from and after the applicable Company Optional Redemption Notice, Event of Default Notice or Change of Control Notice, as applicable, the Company shall have delivered shares of Common Stock pursuant to the terms of this Note to the Holder on a timely basis as set forth in Section 3(c) hereof.

(w) "**Equity Conditions Failure**" means that on the applicable date of determination through the applicable date of determination, the Equity Conditions have not each been satisfied (or waived in writing by the Holder).

(x) "**Equity Interests**" means (a) all shares of capital stock (whether denominated as common capital stock or preferred capital stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting and (b) all securities convertible into or exchangeable for any of the foregoing and all warrants, Options or other rights to purchase, subscribe for or otherwise acquire any of the foregoing, whether or not presently convertible, exchangeable or exercisable.

(y) "**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

(z) "**Ex-Dividend Date**" means the first date on which shares of the Common Stock trade on the applicable Eligible Market, regular way, without the right to receive the issuance, dividend or distribution in question, from the Company or, if applicable, from the seller of Common Stock on such Eligible Market (in the form of due bills or otherwise) as determined by such Eligible Market.

(aa) "**Fundamental Transaction**" means (A) that the Company shall, directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions, (i) consolidate or merge with or into (whether or not the Company is the surviving corporation) another Subject Entity, or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its "significant subsidiaries" (as defined in Rule 1-02 of Regulation S-X), taken as a whole, to one or more Subject Entities, or (iii) make, or allow one or more Subject Entities to make, or allow the Company to be subject to or have its Common Stock be subject to or party to one or more Subject Entities making, a purchase, tender or exchange offer that is accepted by the holders of

greater than either (x) 50% of the outstanding shares of Common Stock, (y) 50% of the outstanding shares of Common Stock calculated as if any shares of Common Stock held by all Subject Entities making or party to, or Affiliated with any Subject Entities making or party to, such purchase, tender or exchange offer were not outstanding; or (z) such number of shares of Common Stock such that all Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such purchase, tender or exchange offer, become collectively the beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of greater than 50% of the outstanding shares of Common Stock, or (iv) consummate a share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with one or more Subject Entities whereby such Subject Entities, individually or in the aggregate, acquire, either (x) greater than 50% of the outstanding shares of Common Stock, (y) greater than 50% of the outstanding shares of Common Stock calculated as if any shares of Common Stock held by all the Subject Entities making or party to, or Affiliated with any Subject Entity making or party to, such stock purchase agreement or other business combination were not outstanding; or (z) such number of shares of Common Stock such that the Subject Entities become collectively the beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of greater than 50% of the outstanding shares of Common Stock, or (v) reorganize, recapitalize or reclassify its Common Stock, (B) that the Company shall, directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions allow any Subject Entity individually or the Subject Entities in the aggregate to be or become the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, whether through acquisition, purchase, assignment, conveyance, tender, tender offer, exchange, reduction in outstanding shares of Common Stock, merger, consolidation, business combination, reorganization, recapitalization, spin-off, scheme of arrangement, reorganization, recapitalization or reclassification or otherwise in any manner whatsoever, of either (x) greater than 50% of the aggregate ordinary voting power represented by issued and outstanding Common Stock, (y) greater than 50% of the aggregate ordinary voting power represented by issued and outstanding Common Stock not held by all such Subject Entities as of the Subscription Date calculated as if any shares of Common Stock held by all such Subject Entities were not outstanding, or (z) a percentage of the aggregate ordinary voting power represented by issued and outstanding shares of Common Stock or other equity securities of the Company sufficient to allow such Subject Entities to effect a statutory short form merger or other transaction requiring other stockholders of the Company to surrender their shares of Common Stock without approval of the stockholders of the Company or (C) directly or indirectly, including through Subsidiaries, Affiliates or otherwise, in one or more related transactions, the issuance of or the entering into any other instrument or transaction structured in a manner to circumvent, or that circumvents, the intent of this definition in which case this definition shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this definition to the extent necessary to correct this definition or any portion of this definition which may be defective or inconsistent with the intended treatment of such instrument or transaction.

(bb) "**GAAP**" means United States generally accepted accounting principles, consistently applied, as in effect on the Subscription Date.

(cc) "**Grace Period**" shall have the meaning ascribed to such term in the Registration Rights Agreement.

(dd) "**Group**" means a "group" as that term is used in Section 13(d) of the Exchange Act and as defined in Rule 13d-5 thereunder.

(ee) "**Indebtedness**" of any Person means, without duplication (i) all indebtedness for borrowed money, (ii) all obligations issued, undertaken or assumed as the deferred purchase price of property or services, including (without limitation) "capital leases" in accordance with GAAP (other than trade payables entered into in the ordinary course of business), (iii) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (iv) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (v) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (vi) all monetary obligations under any leasing or similar arrangement which, in connection with GAAP, consistently applied for the periods covered thereby, is classified as a capital lease, (vii) all indebtedness referred to in clauses (i) through (vi) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any mortgage, deed of trust, lien, pledge, charge, security interest or other encumbrance of any nature whatsoever in or upon any property or assets (including accounts and contract rights) with respect to any asset or property owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, (with the amount of such indebtedness, in the case where the Person has not assumed or become liable for the payment of such indebtedness) equal to the lesser of (x) the outstanding principal amount of such indebtedness and (y) the fair market value of the assets securing such indebtedness) and (viii) all Contingent Obligations in respect of indebtedness of others of the kinds referred to in clauses (i) through (vii) above.

(ff) "**Initial Closing Date**" shall have the meaning set forth in the Securities Purchase Agreement.

(gg) "**Interest Conversion Price**" means as of any Interest Date, that price which shall be the arithmetic average of the Weighted Average Prices of the Common Stock on each Trading Day during the ten (10) consecutive Trading Days immediately preceding the applicable Interest Date. All such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction occurring during such period.

(hh) "**Interest Notice Due Date**" means the fifteenth (15th) Trading Day prior to the applicable Interest Date.

(ii) "**Interest Reset Date**" means each of (i) January 30, 2019, (ii) January 30, 2020, (iii) February 1, 2021 (each of the foregoing (i) through (iii), an "**Anniversary Interest Reset Date**") and (iv) any applicable Event of Default Redemption Notice Date.

(jj) "Interest Rate" means:

If the Conversion Premium (as of January 30, 2018 for the second column and as of the applicable Interest Reset Date for the third column) is:	Then the Interest Rate (which shall be determined on January 30, 2018) from the Issuance Date through the first Interest Reset Date shall be:	And the Interest Rate from the applicable Interest Reset Date until the next subsequent Interest Reset Date shall be:
1.0 or less	6.0%	4.0%
1.05	6.0%	4.3%
1.10	6.0%	4.7%
1.15	6.0%	5.0%
1.20	6.0%	5.3%
1.25	6.0%	5.7%
1.30	6.0%	6.0%
1.35	8.0%	8.0%
1.40	10.0%	10.0%
1.45 or higher	12.0%	12.0%

If the Conversion Premium is between two Conversion Premium amounts in the table above, the Interest Rate will be determined by straight-line interpolation between the Interest Rates set forth for the higher and lower Conversion Premium amounts.

Upon a 10-K Filing Failure (as defined below), any applicable Interest Rate then in effect shall automatically be increased by an additional 200 bps (e.g. from 4.7% to 6.7%). Such increased Interest Rate shall continue in effect until the next Anniversary Interest Reset Date. Upon the next Anniversary Interest Reset Date, the Interest Rate will adjust according to table above; provided that if the Company has not effected the 10-K Filing Remedy (as defined below) by such date, then the reset Interest Rate will be further increased by 200 bps and will continue in effect until the next Anniversary Interest Reset Date, at which time this mechanism will be repeated. For the avoidance of doubt, on any Anniversary Interest Reset Date where there is no 10-K Filing Failure and where any applicable 10-K Filing Remedy has been effected, the reset Interest Rate will be determined according to the table above without adding 200 bps. For purposes hereof, (i) the "**10-K Filing Failure**" means that the Company fails on or prior to each April 30 while this Note is outstanding to have filed the Form 10-K and any subsequent required periodic or current reports required to be filed by the Company prior to each such date under the Exchange Act (including audited financial statements for the fiscal years ended prior to each such date) and (ii) a "**10-K Filing Remedy**" means the Company shall have filed with the SEC the Form 10-K and all subsequent required periodic and current reports required to be filed under the Exchange Act be filed by the Company prior to such date and there shall not exist any Event of Default.

(kk) "**Junior Claims**" means any Indebtedness or securities of the Company or any of its Subsidiaries of any class junior in rank to the Notes and the Additional Notes in respect of the preferences as to distributions and payments upon a Liquidation Event, including, without limitation, any Equity Securities of the Company or any of its Subsidiaries.

(ll) "**Lead Investor**" means Starboard Value and Opportunity Master Fund Ltd.

(mm) "**Liquidation Event**" means the voluntary or involuntary liquidation, dissolution or winding up of the Company or such Subsidiaries the assets of which constitute all or substantially all of the assets of the business of the Company and its Subsidiaries taken as a whole, in a single transaction or series of transactions, or adoption of any plan for the same.

(nn) "**Make-Whole Change of Control**" means any Change of Control in which more than ten percent (10%) of the consideration received or to be received by the holders of Common Stock (excluding cash payments for fractional shares or pursuant to dissenters rights), in connection with such transaction or event, consists of cash.

(oo) "**Make-Whole Change of Control Premium**" means a cash amount per \$1,000 principal amount of Notes being redeemed in a Make-Whole Change of Control determined by multiplying the applicable Make-Whole Stock Price (as adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction occurring after the Subscription Date) by the amount set forth in the table below (the "**Final Make-Whole Table**"), with such amount corresponding to the date of the Make-Whole Change of Control occurring after the date in the first column but prior to the date, if any, on the immediately following row of the first column of the Final Make-Whole Table:

Date	Make-Whole Stock Price											
	\$ 20.00	\$ 23.62	\$ 25.00	\$ 28.50	\$ 30.00	\$ 31.29	\$ 35.00	\$ 37.05	\$ 40.00	\$ 45.00	\$ 50.00	\$ 55.00
January 5, 2018	5.32	6.19	6.20	7.44	7.67	8.65	6.79	6.00	5.08	3.95	2.89	2.10
January 7, 2019	4.21	5.10	5.21	6.49	7.15	7.71	5.87	5.10	4.23	3.17	2.26	1.62
January 7, 2020	3.21	3.96	4.13	5.34	5.96	6.50	4.64	3.89	3.06	2.11	1.40	0.94
January 7, 2021	2.37	2.82	3.01	4.06	4.60	5.07	3.09	2.28	1.36	0.00	0.00	0.00
January 5, 2022	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

The exact Make-Whole Stock Price and Change of Control Redemption Date may not be set forth in the Final Make-Whole Table, in which case, if the Make-Whole Stock Price is between two such amounts in the Final Make-Whole Table or the Change of Control Redemption Date is between two Change of Control Redemption Dates in the Final Make-Whole Table, the applicable value will be determined by straight-line interpolation between the applicable value set forth for the higher and lower Make-Whole Stock Prices and the earlier and later Change of Control Redemption Dates, as applicable, based on a 365-day year.

(pp) "**Make-Whole Stock Price**" means, for any Make-Whole Change of Control: (A) if the holders of Common Stock receive only cash in consideration for their shares of Common Stock in such Make-Whole Change of Control, the amount of cash paid per share of Common Stock in such Make-Whole Change of Control; and (B) in all other cases, the arithmetic average of the Closing Sale Prices for the five (5) consecutive Trading Days ending on, and including, the Trading Day immediately before the effective date of such Make-Whole Change of Control (all such determinations to be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction during such period).

(qq) "**Maximum Percentage**" means, initially, 4.99%, which may be increased or decreased in accordance with the provisions of Section 3(d); provided, however, that upon receipt by the Holder of a Company Optional Redemption Notice, then unless the Holder elects a lower Maximum Percentage in accordance with the provisions of Section 3(d), the Maximum Percentage shall immediately and automatically, without any further action by the Holder, be set at 9.99%.

(rr) "**Options**" means any rights, warrants or options to subscribe for or purchase shares of Common Stock or Convertible Securities.

(ss) "**Parent Entity**" of a Person means an entity that, directly or indirectly, controls the applicable Person, including such entity whose common capital stock or equivalent equity security is quoted or listed on an Eligible Market (or, if so elected by the Required Holders, any other market, exchange or quotation system), or, if there is more than one such Person or such entity, the Person or entity designated by the Required Holders or in the absence of such designation, such Person or entity with the largest public market capitalization as of the date of consummation of the Fundamental Transaction.

(tt) "**Permitted Indebtedness**" means (i) Indebtedness evidenced by this Note, the Other Notes, the Additional Notes, the Rights Offering Notes, if any, and Backstop Commitment Notes, if any, (ii) unsecured Indebtedness incurred by the Company that is made expressly subordinate in right of payment to the Indebtedness evidenced by this Note, as reflected in a written agreement acceptable to the Required Holders and approved by the Required Holders in writing, and which Indebtedness does not provide at any time for (a) the payment, prepayment, repayment, repurchase or defeasance, directly or indirectly, of any principal or premium, if any, thereon until ninety-one (91) days after the Maturity Date or later and (b) total interest and fees at a rate in excess of 12.00% per annum, (iii) Indebtedness in an aggregate outstanding principal amount not to exceed \$50,000,000 incurred under a revolving credit facility; (iv) Indebtedness with respect to capital leases in an aggregate principal amount not to exceed \$40,000,000, (v) Indebtedness secured by Permitted Liens described in clauses (iv) of the definition of Permitted Liens, (vi) existing Indebtedness described on Schedule 31(tt) attached hereto as in effect on the Subscription Date, and any refinancings and extensions thereof, provided that (A) the principal amount plus unpaid accrued interest and premium thereon and applicable discounts, fees, commissions and expenses thereunder shall not be increased, (B) the maturity thereof is not earlier than ninety (90) days after the Maturity Date, (C) if the Indebtedness being refinanced or extended is subordinated in right of payment to this

Note, the Other Notes and the Additional Notes or any guarantees thereof, such refinanced or extended Indebtedness shall be subordinated in right of payment to this Note, the Other Notes, any Additional Notes and any guarantees thereof on terms at least as favorable to the Holder as those contained in the documentation governing the Indebtedness being refinanced or extended, (D) no refinanced or extended Indebtedness shall have different obligors, or greater guarantees or security than, the Indebtedness being refinanced or extended and (E) if the Indebtedness being refinanced or extended is secured by any Collateral, such refinanced or extended Indebtedness may be secured by such Collateral on terms relating to such Collateral not materially less favorable to this Note, the Other Notes and any Additional Notes than those contained in the documentation (including any intercreditor agreement) governing the Indebtedness being refinanced or extended, (any such Indebtedness, "**Refinancing Indebtedness**"), (vii) intercompany Indebtedness among the Company and any Subsidiaries, (viii) Indebtedness arising under swap or interest rate contracts entered into in the ordinary course of business, (ix) Contingent Obligations in respect of Indebtedness otherwise permitted hereunder, (x) direct or Contingent Obligations arising under surety bonds, letters of credit and similar instruments (including any related indemnity agreement) entered into in the ordinary course of business and consistent with past practice, (xi) Indebtedness in respect of cash management agreements entered into in the ordinary course of business, (xii) Indebtedness of foreign Subsidiaries not exceeding \$10,000,000 in the aggregate at any time outstanding, (xiii) Indebtedness under corporate credit cards in an aggregate outstanding principal amount not to exceed \$3,000,000, (xiv) Indebtedness of Persons acquired in an acquisition, provided that (x) such Indebtedness existed prior to such acquisition and was not incurred in anticipation of such acquisition and (b) after giving effect to such acquisition, the Total Net Leverage Ratio is equal to or less than immediately prior to such acquisition and (xv) additional Indebtedness in an aggregate principal amount not to exceed \$5,000,000.

(uu) "**Permitted Liens**" means (i) any Lien for taxes not yet due or delinquent or being contested in good faith by appropriate proceedings for which adequate reserves have been established in accordance with GAAP, (ii) any statutory Lien arising in the ordinary course of business by operation of law with respect to a liability that is not yet more than sixty (60) days overdue or delinquent, (iii) any Lien created by operation of law, such as materialmen's liens, mechanics' liens and other similar liens, arising in the ordinary course of business with respect to a liability that is not yet due or delinquent or that are being contested in good faith by appropriate proceedings, (iv) Liens (A) upon or in any equipment acquired or held by the Company or any of its Subsidiaries to secure the purchase price of such equipment or Indebtedness incurred solely for the purpose of financing the acquisition or lease of such equipment, or (B) existing on such equipment at the time of its acquisition, provided that the Lien is confined solely to the property so acquired and improvements thereon, and the proceeds of such equipment, (v) Liens incurred in connection with the extension, renewal or refinancing of the Indebtedness secured by Liens of the type described in clause (iv) above, provided that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the Indebtedness being extended, renewed or refinanced does not increase, (vi) leases or subleases and licenses and sublicenses granted to others in the ordinary course of the Company's business, not interfering in any material respect with the business of the Company and its Subsidiaries taken as a whole, (vii) Liens in favor of

customs and revenue authorities arising as a matter of law to secure payments of custom duties in connection with the importation of goods, (viii) Liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default under Section 4(a)(ix); (ix) Liens securing Permitted Indebtedness described in clause (iv) of the definition of Permitted Indebtedness, (x) Liens securing existing Indebtedness described on Schedule 31(tt) attached hereto as in effect on the Subscription Date, and Liens securing any refinancings and extensions thereof provided that any collateral securing such refinancings or extensions is not broader than the collateral that is subject to the Liens being refinanced or extended, (xi) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, (xii) deposits to secure performance of bids, trade contracts and leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature in the ordinary course of business, (xiii) normal and customary rights of setoff upon deposits of cash in favor of banks or other depository institutions, (xiv) Liens deemed to exist in connection with investments in repurchase agreements in the ordinary course of business, (xv) Liens arising on any real property as a result of eminent domain, condemnation or similar proceeding with respect to such real property, (xvi) Liens on any cash deposits in connection with any letter of intent or purchase agreement relating to an acquisition, (xvii) customary rights of first refusal, "tag-along" and "drag-along" rights with respect to any equity interests in any joint venture, (xviii) Liens on assets of foreign Subsidiaries securing obligations of foreign Subsidiaries not exceeding \$10,000,000 in the aggregate at any time outstanding, (xix) Liens arising under the Transaction Documents, (xx) additional Liens securing obligations not exceeding \$5,000,000 in the aggregate at any time outstanding, and (xxi) Liens securing Permitted Indebtedness described in clause (iii) of the definition of Permitted Indebtedness, provided that such Liens are subject to an intercreditor agreement in form and substance reasonably satisfactory to the Required Holders.

(vv) "**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and a government or any department or agency thereof.

(ww) **Intentionally omitted.**

(xx) "**Principal Market**" means the OTC Markets, or, if the OTC Markets is not the principal trading market for the Common Stock, then the principal Eligible Market on which the Common Stock is then traded.

(yy) "**Pro Forma Basis**," "**Pro Forma Compliance**" and "**Pro Forma Effect**" means, with respect to compliance with any test or covenant hereunder, that all Specified Transactions and the following transactions in connection therewith shall be deemed to have occurred as of the first day of the applicable period of measurement in such test or covenant: (a) income statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction, (i) in the case of a sale, transfer or other disposition of all or substantially all equity interests in any Subsidiary of the Company or any division, product line, or facility used for operations of the Company or any of its Subsidiaries, shall be excluded, and (ii) in the case of a permitted acquisition or investment described in the definition of the term

"Specified Transaction," shall be included, (b) any retirement or repayment of Indebtedness and (c) any Indebtedness incurred or assumed by the Company or any of its Subsidiaries in connection therewith and if such Indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness as at the relevant date of determination.

(zz) "**Public Announcement Date**" means (i) the Trading Day on which the Company first publicly announces on or prior to 9:30 a.m. New York time certain historical metrics agreed to in writing by the Company and the Lead Investor, including, among other metrics, the number of shares of Common Stock outstanding as of December 31, 2017, in connection with the Initial Closing Date (the "**Public Announcement**") or (ii) in case the Company makes the Public Announcement after 9:30 a.m. New York time, the first (1st) Trading Day immediately following the Public Announcement.

(aaa) "**Qualified Market**" means the Principal Market, The New York Stock Exchange, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the NYSE American.

(bbb) "**Qualifying Change of Control**" means a Change of Control pursuant to Qualifying Change of Control Documentation.

(ccc) "**Qualifying Change of Control Documentation**" means definitive documentation (as the same may be amended in accordance with its terms) providing for a Change of Control transaction, which documentation is initially entered into no later than August 5, 2020; provided that if such documentation is terminated in accordance with its terms and in connection with such termination the Company enters into definitive documentation providing for a different Change of Control transaction (a "**Superior Proposal Termination**"), such subsequent documentation shall be deemed to constitute Qualifying Change of Control Documentation.

(ddd) "**Qualifying Conditions**" means that both at the time of and immediately after the applicable proposed action or omission to take any action, by the Company or any of its Subsidiary, each of the following conditions are satisfied (or waived in writing by the Holder): (x) no Equity Conditions Failure has occurred, (ii) the Total Net Leverage Ratio is less than or equal to 3:1 and (iii) the Form 10-K has been filed with the SEC.

(eee) "**Redemption Dates**" means, collectively, the Event of Default Redemption Dates, the Change of Control Redemption Dates, the Company Optional Redemption Dates and the Qualifying Early Redemption Date, each of the foregoing, individually, a Redemption Date.

(fff) "**Redemption Notices**" means, collectively, the Event of Default Redemption Notices, the Change of Control Redemption Notices, the Company Optional Redemption Notices and the Qualifying Early Redemption Notice, each of the foregoing, individually, a Redemption Notice.

(ggg) "**Redemption Premium**" means (i) in the event of an Event of Default set forth in Section 4(a)(iii) and any Event of Default occurring at a time the Common Stock is not listed on a Qualified Market, 110% and (ii) in all other events, 100%.

(hhh) "**Redemption Prices**" means, collectively, the Event of Default Redemption Prices, the Change of Control Redemption Prices, the Company Optional Redemption Prices and the Qualifying Early Redemption Price, each of the foregoing, individually, a Redemption Price.

(iii) "**Registrable Securities**" shall have the meaning ascribed to such term in the Registration Rights Agreement.

(jjj) "**Registration Rights Agreement**" means that certain registration rights agreement dated as of the Subscription Date by and among the Company and the Buyers relating to, among other things, the registration for resale of the shares of Common Stock issuable upon conversion of this Note, the Other Notes and any Additional Notes and upon any exercise of the Warrants.

(kkk) "**Registration Statement**" shall have the meaning ascribed to such term in the Registration Rights Agreement.

(lll) "**Related Fund**" means, with respect to any Person, a fund or account managed by such Person or an Affiliate of such Person.

(mmm) "**Required Holders**" means the holders of Notes of Additional Notes representing at least a majority of the aggregate principal amount of the Notes and Additional Notes then outstanding.

(nnn) "**Rights Offering Notes**" shall have the meaning ascribed to such term in the Securities Purchase Agreement.

(ooo) "**SEC**" means the United States Securities and Exchange Commission.

(ppp) "**Securities Act**" means the Securities Act of 1933, as amended.

(qqq) "**Securities Purchase Agreement**" means that certain securities purchase agreement dated as of the Subscription Date by and among the Company and the Buyers of the Notes pursuant to which the Company issued the Notes, the Additional Notes and Warrants.

(rrr) "**September Agreement**" means that certain Agreement, dated as of September 28, 2017 by and among the Company, Starboard Value LP and the other parties signatory thereto.

(sss) "**Specified Transaction**" means, with respect to any period, any investment, sale, transfer or other disposition of assets or property, incurrence or repayment of

indebtedness, restricted payment, or other event that by the terms hereof requires such test or covenant to be calculated on a "Pro Forma Basis" or to be given "Pro Forma Effect."

(ttt) "**Subject Entity**" means any Person, Persons or Group or any Affiliate or associate of any such Person, Persons or Group.

(uuu) "**Subscription Date**" means January 16, 2018.

(vvv) "**Subsidiary**" shall have the meaning set forth in the Securities Purchase Agreement.

(www) "**Successor Entity**" means one or more Person or Persons (or, if so elected by the Required Holders, the Company or Parent Entity) formed by, resulting from or surviving any Fundamental Transaction or one or more Person or Persons (or, if so elected by the Required Holders, the Company or the Parent Entity) with which such Fundamental Transaction shall have been entered into.

(xxx) "**Total Debt**" shall mean, on any date of determination, the total Indebtedness of the Company and its Subsidiaries at such time (excluding Indebtedness of the type described in clause (iii) of the definition of such term, except to the extent of any unreimbursed drawings thereunder).

(yyy) "**Total Net Debt**" shall mean, on any date of determination, (a) Total Debt minus (b) unrestricted cash and cash equivalents (as defined in GAAP).

(zzz) "**Total Net Leverage Ratio**" shall mean on any date of determination, the ratio of Total Net Debt on such date to Consolidated EBITDA for the period of four consecutive fiscal quarters most recently ended on or prior to such date. Each calculation of the Total Net Leverage Ratio hereunder shall be made on a Pro Forma Basis.

(aaaa) "**Trading Day**" means any day on which the Common Stock is traded on the Principal Market, or, if the Principal Market is not the principal trading market for the Common Stock on such day, then on the principal securities exchange or securities market on which the Common Stock is then traded; provided that "Trading Day" shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00:00 p.m., New York Time).

(bbbb) "**Transaction Documents**" shall have the meaning set forth in the Securities Purchase Agreement.

(cccc) "**Warrants**" has the meaning ascribed to such term in the Securities Purchase Agreement, and shall include all warrants issued in exchange therefor or replacement thereof.

(dddd) "**Weighted Average Price**" means, for any security as of any date, the dollar volume-weighted average price for such security on the Principal Market during the period beginning at 9:30:01 a.m., New York Time (or such other time as the Principal Market publicly announces is the official open of trading), and ending at 4:00:00 p.m., New York Time (or such other time as the Principal Market publicly announces is the official close of trading) as reported by Bloomberg through its "Volume at Price" functions, or, if the foregoing does not apply, the dollar volume-weighted average price of such security in the over-the-counter market on the electronic bulletin board for such security during the period beginning at 9:30:01 a.m., New York Time (or such other time as such market publicly announces is the official open of trading), and ending at 4:00:00 p.m., New York Time (or such other time as such market publicly announces is the official close of trading) as reported by Bloomberg, or, if no dollar volume-weighted average price is reported for such security by Bloomberg for such hours, the average of the highest Closing Bid Price and the lowest closing ask price of any of the market makers for such security as reported in the OTC Link or "pink sheets" by OTC Markets Group Inc. (formerly Pink OTC Markets Inc.). If the Weighted Average Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Weighted Average Price of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then such dispute shall be resolved pursuant to Section 23. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination, reclassification or similar transaction occurring during the applicable calculation period.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed as of the Issuance Date set out above.

COMSCORE, INC.

By: _____
Name:
Title:

[Signature Page to Note]

Schedule 31(tt)

Permitted Indebtedness

comScore Inc:

Banc of America Leasing and Capital
Master Lease Agreement dated December 12, 2006
Lease Schedule #24 (3/31/15) - #27 (12/31/15)
\$2,720,000

Dell Financial Services
Master Lease Agreement dated August 3, 2012
Lease Schedule #9 (2/1/15) – Lease Schedule #19 (1/1/17)
\$5,320,000

Bank of America, N.A
Letters of Credit (Office Lease Security Deposit)
\$3,475,000

comScore BV:

Dell Financial Services
European Master Lease Agreement dated July 23, 2012
Lease Schedule #3 (8/1/15)
\$155,000

EXHIBIT I

COMSCORE, INC.

CONVERSION NOTICE

Reference is made to the Senior Secured Convertible Note (the "**Note**") issued to the undersigned by comScore, Inc., a Delaware corporation (the "**Company**"). In accordance with and pursuant to the Note, the undersigned hereby elects to convert the Conversion Amount (as defined in the Note) below into shares of Common Stock, par value \$0.001 per share (the "**Common Stock**"), of the Company, as of the date specified below.

Date of Conversion: _____

Aggregate Conversion Amount to be converted: _____

Please confirm the following information:

Conversion Price: _____

Number of shares of Common Stock to be issued:

Please issue the Common Stock into which the Note is being converted in the following name and to the following address:

Issue to: _____

Facsimile Number and Electronic Mail: _____

Authorization: _____

By: _____

Title: _____

Dated: _____

Account Number: _____

(if electronic book entry transfer)

Transaction Code Number: _____

(if electronic book entry transfer)

ACKNOWLEDGMENT

The Company hereby acknowledges this Conversion Notice and hereby directs American Stock Transfer & Trust Company to issue the above indicated number of shares of Common Stock in accordance with the Transfer Agent Instructions dated January __, 2018 from the Company and acknowledged and agreed to by American Stock Transfer & Trust Company.

COMSCORE, INC.

By:

Name:

Title:

SEPARATION AND RELEASE AGREEMENT

This SEPARATION AND RELEASE AGREEMENT (this “**Agreement**”) is entered into by and between comScore, Inc., a Delaware corporation (the “**Company**”), and Carol DiBattiste (“**Executive**”). The Company and Executive are each referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

WHEREAS, Executive and the Company are parties to that certain Change of Control and Severance Agreement effective as of February 21, 2019 (the “**Severance Agreement**”);

WHEREAS, Executive’s employment with the Company will end on May 31, 2020 (the “**Separation Date**”);

WHEREAS, subject to the terms of this Agreement, the Parties wish for Executive to be eligible to receive certain severance payments and other benefits, which payments and benefits are conditioned upon Executive’s satisfaction of the terms of this Agreement; and

WHEREAS, the Parties wish to resolve any and all claims that Executive has or may have against the Company or any of the other Released Parties (as defined below), including any claims that Executive may have arising out of Executive’s employment or the end of such employment (except that nothing within this Agreement shall prohibit Executive from seeking enforcement of the terms of this Agreement).

NOW, THEREFORE, in consideration of the promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

1. Separation from Employment; Deemed Resignations. The Parties acknowledge and agree that Executive’s employment with the Company will end on the Separation Date and, as of the Separation Date, Executive will not have any further employment relationship with the Company or any other Released Party. The Parties further acknowledge and agree that, as of the Separation Date or such later date required by applicable law or governing documents, Executive will be deemed to have resigned (to the extent Executive held any such position): (a) as an officer of the Company and each of its affiliates, and (b) as applicable, from the board of managers, board of directors or similar governing body of each of the Company, any of its affiliates and any other corporation, limited liability company, or any other entity in which the Company or any of its affiliates holds an equity interest or with respect to which board or similar governing body Executive serves as the designee or other representative of the Company or any of its affiliates. Executive agrees to (i) reasonably cooperate with the Company to effectuate the resignations described in the preceding sentence and (ii) complete any other actions the Company or its affiliates may reasonably require to effect such resignation.

2. Separation Payment and Benefits.

(a) Provided that Executive: (i) executes this Agreement and returns a signed copy of this Agreement to the Company, care of Sara Dunn at 11950 Democracy Drive, Suite 600,

Reston, Virginia 20190 (e-mail: sdunn@comscore.com) so that it is received by the Company no later than the close of business on May 13, 2020, (ii) honors each of Executive's commitments set forth herein, and (iii) timely signs and returns the Confirming Release (as defined below), as described in Section 7 below (and does not exercise her revocation right, as described in the Confirming Release), then:

(i)The Company shall provide Executive with severance payments totaling \$693,000, (the "**Severance Payments**"), which Severance Payments, less applicable tax withholdings, shall be paid in the following installments: (A) \$231,000 on November 30, 2020; (B) \$173,250 on December 31, 2020; (C) \$173,250 on April 1, 2021; and (D) \$115,500 on May 31, 2021.

(ii)The Company shall pay Executive a lump sum cash amount equal to (A) the full-year short-term incentive award that Executive would have earned had Executive remained employed by the Company through the end of the 2020 calendar year based on the degree of satisfaction of the applicable performance objectives, as determined in good faith by the Committee (as defined in the Severance Agreement) (except that any individual subjective performance objectives will be deemed achieved at the target level), *multiplied by* (B) a fraction, the numerator of which is 152 and the denominator of which is 366 (the "**2020 Bonus**"), which 2020 Bonus, if any, shall be paid, less applicable tax withholdings, at the time the Company pays short-term incentive awards to senior executives of the Company for the 2020 calendar year, but in no event later than March 15, 2021.

(iii)During the portion, if any, of the 12-month period following the Separation Date (the "**Reimbursement Period**") that Executive elects to continue coverage for Executive and Executive's eligible dependents, if any, under the Company's group health plans pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 ("**COBRA**"), the Company will reimburse Executive for the amount Executive pays to effect and continue such coverage (the "**COBRA Reimbursements**"), which COBRA Reimbursements will be made by the Company to Executive consistent with the Company's normal expense reimbursement policy. Executive acknowledges and agrees that the election of continuation coverage pursuant to COBRA and providing any premiums due to the Company with respect to such continuation coverage will remain Executive's sole responsibility. Notwithstanding the foregoing, should the Company determine in its sole discretion that it cannot provide the COBRA Reimbursements without potentially violating applicable law (including Section 2716 of the Public Health Service Act), the Company will, in lieu of the COBRA Reimbursements, provide to Executive a taxable monthly payment for the Reimbursement Period in an amount equal to the monthly COBRA premium Executive would be required to pay to continue her group health coverage in effect on the Separation Date, which amount will be based on the premium for the first month of COBRA coverage and which payments will be made regardless of whether Executive elects COBRA continuation coverage.

(iv) Executive's restricted stock units that are not subject to the attainment of performance goals and which are outstanding and unvested as of the Separation Date (the "**Unvested RSUs**," which the Parties agree consist solely of 8,251 restricted stock units originally granted on September 7, 2018 and 11,379 restricted stock units originally granted on June 5, 2018) shall remain outstanding following the Separation Date and shall become fully vested only upon (and effective as of the date of) the occurrence of a Qualifying Change of Control (as defined below); provided, however, that no such vesting shall occur if a Qualifying Change of Control does not occur on or before August 31, 2020 (the "**Outside Date**") and, if a Qualifying Change of Control does not occur on or before the Outside Date, then all of the Unvested RSUs shall be forfeited for no consideration on such date. Any Unvested RSUs that become vested pursuant to the preceding sentence shall be settled on the date of the occurrence of the Qualifying Change of Control and otherwise in accordance with the terms of the applicable award agreement, the comScore, Inc. 2018 Equity and Incentive Compensation Plan (the "**Equity Plan**"), and any agreement pursuant to which the Qualifying Change of Control is consummated. For the avoidance of doubt, the Unvested RSUs shall not become vested based upon the passage of time or the occurrence of any event (including, without limitation, Executive's death or disability) other than the occurrence of a Qualifying Change of Control on or before the Outside Date. As used herein, the term "**Qualifying Change of Control**" means a Change of Control as defined in section 6(b) of the Severance Agreement; provided, however, that the occurrence of an event described in section 6(b)(ii) of the Severance Agreement shall not be considered a Qualifying Change of Control as such term is used herein.

(v) On the Separation Date, 3,222 of the performance-based restricted stock units originally granted to Executive by the Company on September 7, 2018 shall be forfeited for no consideration, and 13,280 of such performance-based restricted stock units shall remain outstanding following the Separation Date (such performance-based restricted stock units that remain outstanding being the "**Retained PRSUs**"). The Retained PRSUs shall become earned, vested and payable only upon (and effective as of the date of) the occurrence of a Qualifying Change of Control; provided, however, that no such vesting shall occur if a Qualifying Change of Control does not occur on or before the Outside Date and, if a Qualifying Change of Control does not occur on or before the Outside Date, then all of the Retained PRSUs shall be forfeited for no consideration on such date. The percentage of the Retained PRSUs that become earned, vested and payable upon the occurrence of a Qualifying Change of Control on or before the Outside Date shall equal the greater of (A) 100%, (B) the actual percentage achievement of the performance goals set forth in the Statement of Performance Goals attached to the applicable award agreement, determined as of the date of the Qualifying Change of Control, and (C) the percentage level of achievement provided for in any agreement pursuant to which the Qualifying Change of Control is consummated that applies to senior executives of the Company who hold awards similar to the Retained PRSUs. Any Retained PRSUs that become earned and vested pursuant to the preceding provisions of this subparagraph shall be settled on the date of the occurrence of the Qualifying Change of Control and otherwise in accordance with the terms of the applicable award agreement, the Equity

Plan, and any agreement pursuant to which the Qualifying Change of Control is consummated. For the avoidance of doubt, the Retained PRSUs shall not become earned or vested based upon the passage of time or the occurrence of any event (including, without limitation, Executive's death or disability) other than the occurrence of a Qualifying Change of Control on or before the Outside Date.

(b) Notwithstanding anything in this Agreement to the contrary, Executive acknowledges and agrees that this Agreement and any payments and benefits described herein are subject to the terms and conditions of the Company's clawback policy as may be in effect from time to time, including to implement Section 10D of the Securities Exchange Act of 1934 and any applicable rules or regulations promulgated thereunder (including applicable rules and regulations of any national securities exchange on which the common stock of the Company may be traded) (the "**Compensation Recovery Policy**"), and that applicable sections of this Agreement and any related documents shall be deemed superseded by and subject to the terms and conditions of the Compensation Recovery Policy from and after the effective date thereof.

3. Satisfaction of All Leaves and Payment Amounts. In entering into this Agreement, Executive expressly acknowledges and agrees that, with the exception of any base salary earned by Executive in the pay period in which she signs this Agreement (if such base salary has not been paid as of the time that Executive executes this Agreement) and any: (i) base salary to which Executive may be entitled as a result of services performed between the date she signs this Agreement and the Separation Date, and (ii) those sums to which Executive may be entitled following the date that Executive signs this Agreement pursuant to Section 2, Executive has been paid in full all bonuses, been provided all benefits, and otherwise received all wages, compensation, and other sums that Executive has been owed by the Company and each other Released Party. Executive further acknowledges and agrees that Executive has received or has waived all leaves (paid and unpaid) that Executive has been entitled to receive from each Released Party.

4. Release of Liability for Claims.

(a) For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Executive hereby forever releases, discharges and acquits the Company, its present and former subsidiaries and other affiliates, and each of the foregoing entities' respective past, present and future subsidiaries, affiliates, stockholders, members, partners, directors, officers, managers, employees, agents, attorneys, heirs, predecessors, successors and representatives in their personal and representative capacities, as well as all employee benefit plans maintained by the Company or any of its affiliates and all fiduciaries and administrators of any such plans, in their personal and representative capacities (collectively, the "**Released Parties**"), from liability for, and Executive hereby waives, any and all claims, damages, or causes of action of any kind related to Executive's employment with any Released Party, the termination of such employment, ownership of equity in the Company and any other acts or omissions related to any matter on or prior to the time that Executive executes this Agreement, whether arising under federal or state laws or the laws of any other jurisdiction, including (i) any alleged violation through such date of: (A) any federal, state or local anti-discrimination or anti-

retaliation law, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, Sections 1981 through 1988 of Title 42 of the United States Code, and the Americans with Disabilities Act of 1990; (B) the Employee Retirement Income Security Act of 1974 (“**ERISA**”); (C) the Immigration Reform Control Act; (D) the National Labor Relations Act; (E) the Occupational Safety and Health Act; (F) the Family and Medical Leave Act of 1993; (G) any federal, state or local wage and hour law; (H) the Securities Act of 1933; (I) the Securities Exchange Act of 1934; (J) the Investment Advisers Act of 1940; (K) the Investment Company Act of 1940; (L) the Private Securities Litigation Reform Act of 1995; (M) the Sarbanes-Oxley Act of 2002; (N) the Wall Street Reform and Consumer Protection Act of 2010; (O) the Virginians with Disabilities Act, the Virginia Human Rights Act, the Virginia Equal Pay Act, the Virginia Genetic Testing Law, the Virginia Occupational Safety and Health Act, the Virginia Minimum Wage Act, the Virginia Payment of Wage Law, the Virginia Right to Work Law; (P) any applicable state employment and securities laws; (Q) any other local, state or federal law, regulation, ordinance or orders which may have afforded any legal or equitable causes of action of any nature; or (R) any public policy, contract, tort, or common law claim or claim for defamation, emotional distress, fraud or misrepresentation of any kind; (ii) any allegation for costs, fees, or other expenses including attorneys’ fees incurred in, or with respect to, a Released Claim; (iii) any and all rights, benefits, or claims Executive may have under any employment contract (including the Severance Agreement), incentive or compensation plan or agreement (including the Equity Plan and the award agreements thereunder) or under any other benefit plan, program or practice; and (iv) any claim for compensation, damages or benefits of any kind not expressly set forth in this Agreement (collectively, the “**Released Claims**”). This Agreement is not intended to indicate that any such claims exist or that, if they do exist, they are meritorious. Rather, Executive is simply agreeing that, in exchange for any consideration received by Executive hereunder, any and all potential claims of this nature that Executive may have against any of the Released Parties, regardless of whether they actually exist, are expressly settled, compromised and waived. **THIS RELEASE INCLUDES MATTERS ATTRIBUTABLE TO THE SOLE OR PARTIAL NEGLIGENCE (WHETHER GROSS OR SIMPLE) OR OTHER FAULT, INCLUDING STRICT LIABILITY, OF ANY OF THE RELEASED PARTIES.**

(b) In no event shall the Released Claims include (i) any claim that arises after Executive signs this Agreement (including any claim to the payments or benefits referenced in Section 2), (ii) any claim to vested benefits under an employee benefit plan that is subject to ERISA, (iii) any claim to indemnification under that certain Indemnification Agreement by and between the Company and Executive dated September 29, 2017 (the “**Indemnification Agreement**”) that arises after Executive signs this Agreement or (iv) any claim to settlement of the previously vested equity awards set forth on Exhibit A. Further notwithstanding this release of liability, *nothing in this Agreement prevents Executive from filing any non-legally waivable claim (including a challenge to the validity of this Agreement) with the Equal Employment Opportunity Commission (“EEOC”), Securities and Exchange Commission (“SEC”) or other governmental agency (collectively, “Governmental Agencies”) or participating in any investigation or proceeding conducted by the EEOC, SEC or other Governmental Agency or cooperating with such an agency or providing documents or other information to a Governmental Agency;* however, Executive understands and agrees that, to the extent permitted

by law, Executive is waiving any and all rights to recover from the Released Parties any monetary or personal relief from a Released Party as a result of a Governmental Agency proceeding or subsequent legal actions. Notwithstanding the foregoing, nothing in this Agreement limits Executive's right to receive an award for information provided to a Governmental Agency.

5. Representation About Claims. Executive represents and warrants that as of the date on which Executive signs this Agreement, Executive has not filed any claims, complaints, charges, or lawsuits against any of the Released Parties with any Governmental Agency or with any state or federal court or arbitrator for or with respect to a matter, claim, or incident that occurred or arose out of one or more occurrences that took place on or prior to the time at which Executive signs this Agreement. Executive further represents and warrants that Executive has made no assignment, sale, delivery, transfer or conveyance of any rights Executive has asserted or may have against any of the Released Parties with respect to any Released Claim.

6. Executive's Acknowledgments. By executing and delivering this Agreement, Executive expressly acknowledges that:

(a) Executive has carefully read this Agreement and has had sufficient time to consider it;

(b) Executive is receiving, pursuant to this Agreement, consideration in addition to anything of value to which Executive is already entitled;

(c) Executive has been advised, and hereby is advised in writing, to discuss this Agreement with an attorney of Executive's choice and Executive has had an adequate opportunity to do so prior to executing this Agreement;

(d) Executive fully understands the final and binding effect of this Agreement; the only promises made to Executive to sign this Agreement are those contained herein; and Executive is signing this Agreement knowingly, voluntarily and of Executive's own free will, and Executive understands and agrees to each of the terms of this Agreement; and

(e) No Released Party has provided any tax or legal advice regarding this Agreement and Executive has had an adequate opportunity to receive sufficient tax and legal advice from advisors of Executive's own choosing such that Executive enters into this Agreement with full understanding of the tax and legal implications thereof.

7. Reaffirmation of Release. On the Separation Date or within 21 days thereafter, Executive shall execute the Release Agreement that is attached as Exhibit B (the "**Confirming Release**"), and return her executed Confirming Release to the Company pursuant to the Notice provision set forth in Section 19 below, so that it is received by Company no later than 21 days after the Separation Date. Executive acknowledges and agrees that this provides sufficient time to consider the Confirming Release. Executive further acknowledges and agrees that, as a condition of receiving the compensation and benefits described in Section 2, she is required to timely execute and return the Confirming Release and not exercise her revocation right as described therein.

8. Return of Property. Executive warrants that, within five (5) days following the Separation Date, Executive will have returned to the Company all property belonging to the Company or any other Released Party, including all documents, computer files and other electronically stored information, client materials and other materials provided to Executive by the Company or any other Released Party in the course of Executive's employment, and Executive further represents and warrants that Executive has not maintained a copy of any such materials in any form.

9. Applicable Law. This Agreement is entered into under, and shall be governed for all purposes by, the laws of the Commonwealth of Virginia without reference to the principles of conflicts of law thereof.

10. Dispute Resolution. Any dispute arising out of or relating to this Agreement shall be subject to the arbitration and dispute resolution provisions set forth in Section 11 of that certain At-Will Employment, Confidential Information, Invention Assignment and Arbitration Agreement, effective as of January 12, 2017 (the "**NDA**"). EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY OR A COURT TRIAL IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

11. Counterparts. This Agreement may be executed in one or more counterparts (including electronic counterparts), each of which shall be deemed to be an original, but all of which together will constitute one and the same Agreement.

12. Amendment; Entire Agreement. Subject to Section 14 below, this Agreement may not be changed orally but only by an agreement in writing agreed to and signed by the Party to be charged. This Agreement, the Indemnification Agreement, and the NDA constitute the entire agreement of the Parties with regard to the subject matter hereof and supersede all prior and contemporaneous agreements and understandings, oral or written, between Executive and any Released Party with regard to the subject matter hereof. For the avoidance of doubt, Executive acknowledges and agrees that the Company's provision of the consideration set forth in Section 2 above will fully and finally satisfy any and all rights that Executive ever could have pursuant to the Severance Agreement, and Executive shall not be entitled to any payments pursuant to the Severance Agreement in addition to the payments described in Section 2 above.

13. Third-Party Beneficiaries. Executive expressly acknowledges and agrees that each Released Party that is not a signatory to this Agreement shall be a third-party beneficiary of Executive's releases, representations, and covenants herein and shall be entitled to enforce such releases, representations, and covenants as if a party hereto.

14. Severability and Modification. Any term or provision of this Agreement (or parts thereof) that renders such term or provision (or part thereof) or any other term or provision (or part thereof) of this Agreement invalid or unenforceable in any respect shall be severable and shall be modified or severed to the extent necessary to avoid rendering such term or provision (or part thereof) invalid or unenforceable, and such severance or modification shall be accomplished in the manner that most nearly preserves the benefit of the Parties' bargain hereunder.

15. Withholding of Taxes and Other Deductions. The Company may withhold from any payments made pursuant to this Agreement all federal, state, local, and other taxes and withholdings as may be required by any law or governmental regulation or ruling.

16. Continued Effectiveness of Restrictive Covenants.

(a) Executive acknowledges and agrees that Executive is subject to continuing obligations pursuant to the NDA (the “**Restrictive Covenants**”), including obligations with respect to non-disclosure, non-competition, and non-solicitation. Executive expressly recognizes the enforceability and continuing effectiveness of those covenants within the NDA, and promises to abide by such covenants following the date Executive enters into this Agreement.

(b) Notwithstanding the foregoing, nothing in this Agreement or the Restrictive Covenants shall prohibit or restrict the Executive from lawfully (i) initiating communications directly with, cooperating with, providing information to, causing information to be provided to, or otherwise assisting in an investigation by, any Governmental Agency (including the SEC) regarding a possible violation of any law; (ii) responding to any inquiry or legal process directed to Executive from any Governmental Agency; (iii) testifying, participating or otherwise assisting in an action or proceeding by any Governmental Agency relating to a possible violation of law; or (iv) making any other disclosures that are protected under the whistleblower provisions of any applicable law. Nothing in this Agreement or the Restrictive Covenants requires Executive to obtain prior authorization from the Company before engaging in any conduct described in the previous sentence, or to notify the Company or any other Released Party that Executive has engaged in any such conduct. Further, pursuant to the federal Defend Trade Secrets Act of 2016, Executive shall not be held criminally or civilly liable under any federal or state trade secret Law for the disclosure of a trade secret that: (x) is made (A) in confidence to a federal, state or local government official, either directly or indirectly, or to an attorney and (B) solely for the purpose of reporting or investigating a suspected violation of law; (y) is made to Executive’s attorney in relation to a lawsuit for retaliation against Executive for reporting a suspected violation of law; or (z) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Nothing in this Agreement or the Restrictive Covenants requires Executive to obtain prior authorization from the Company before engaging in any conduct described in the previous sentence, or to notify the Company or any other Release Party that Executive has engaged in any such conduct.

(c) Nothing in this Agreement or the Restrictive Covenants shall be interpreted or applied in a manner to prevent or restrict Executive from practicing law, as it is the intent of the Restrictive Covenants to create certain limitations on Executive’s business activities only, and not to create limitations that would restrict Executive from practicing law. Executive acknowledges and agrees that, Executive shall be bound by all ethical and professional obligations (including those with respect to conflicts and confidentiality) that arise from Executive’s provision of legal services to, and acting as legal counsel for, the Company and, as applicable, the other Released Parties.

17. Section 409A.

(a) For purposes of Section 409A of the Internal Revenue Code of 1986 (“**Section 409A**”), each installment payment provided under this Agreement shall be treated as a separate payment. To the extent that any right to reimbursement of expenses or payment of any benefit in-kind under this Agreement constitutes nonqualified deferred compensation (within the meaning of Section 409A), (i) any such expense reimbursement shall be made by the Company no later than the last day of Executive’s taxable year following the taxable year in which such expense was incurred by Executive, (ii) the right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, and (iii) the amount of expenses eligible for reimbursement or in-kind benefits provided during any taxable year shall not affect the expenses eligible for reimbursement or in-kind benefits to be provided in any other taxable year; *provided*, that the foregoing clause shall not be violated with regard to expenses reimbursed under any arrangement covered by Section 105(b) of the Internal Revenue Code of 1986 solely because such expenses are subject to a limit related to the period in which the arrangement is in effect.

(b) Notwithstanding any provision in this Agreement to the contrary, if any payment or benefit provided for herein would be considered deferred compensation under Section 409A, then such payment or benefit shall not be paid or otherwise provided unless Executive has incurred a “separation from service” within the meaning of Section 409A, and further, if any such payment or benefit would be subject to additional taxes and interest under Section 409A if Executive’s receipt of such payment or benefit is not delayed until the earlier of (i) the date of Executive’s death or (ii) the date that is six months after the Separation Date (such date, the “**Section 409A Payment Date**”), then such payment or benefit shall not be provided to Executive (or Executive’s estate, if applicable) until the Section 409A Payment Date.

(c) Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement are exempt from, or compliant with, Section 409A and in no event shall any Released Party be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by Executive on account of non-compliance with Section 409A.

18. Interpretation. Titles and headings to Sections hereof are for the purpose of reference only and shall in no way limit, define or otherwise affect the provisions hereof. All references herein to a statute, agreement, instrument or other document shall be deemed to refer to such statute, agreement, instrument or other document as amended, supplemented, modified and restated from time to time. The word “or” as used herein is not exclusive and is deemed to have the meaning “and/or.” The words “herein”, “hereof”, “hereunder” and other compounds of the word “here” shall refer to the entire Agreement (including all Exhibits hereto) and not to any particular provision hereof. The use herein of the word “including” following any general statement, term or matter shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as “without limitation”, “but not limited to”, or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter. Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against any Party hereto, whether under any rule of

construction or otherwise. On the contrary, this Agreement has been reviewed by each of the Parties hereto and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the Parties.

19. Notices. All notices and other communications under this Agreement must be in writing and must be given by personal delivery, email transmission, or certified or registered mail with return receipt requested, when sent to the respective persons below:

If to the Company: comScore, Inc. Attention: Sara Dunn

11950 Democracy Drive, Suite 600
Reston, Virginia 20190
E-mail: sdunn@comscore.com

If to Executive: Carol DiBattiste

[address on file]

Any Party may change such Party's address for notice by notice duly given pursuant to this Section 19.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth beneath their names below, effective for all purposes as provided above.

CAROL DIBATTISTE

/s/ Carol A. DiBattiste

Date: May 7, 2020

COMSCORE, INC.

/s/ Sara Dunn

By:

Name: Sara Dunn

Title: Chief People Officer

Date: May 7, 2020

Signature Page to
Separation Agreement

EXHIBIT A
Previously Vested Equity Awards

# of Vested Restricted Stock Units	Vesting Date	Date of Grant
1,638	March 1, 2020	September 7, 2018
12,377	March 1, 2020	September 7, 2018
8,251	March 1, 2020	September 7, 2018
11,379	January 30, 2020	June 5, 2018

Exhibit A

EXHIBIT B

CONFIRMING RELEASE AGREEMENT

This Confirming Release Agreement (the “*Confirming Release*”) is that certain Confirming Release referenced in Section 7 of the Separation and Release Agreement (the “*Separation Agreement*”), entered into by and between comScore, Inc., a Delaware corporation (the “*Company*”), and Carol DiBattiste (“*Executive*”). Unless sooner revoked by Executive pursuant to the terms of Section 5 below, Executive’s acceptance of this Confirming Release becomes irrevocable and this Confirming Release becomes effective on the eighth day after Executive signs it. Capitalized terms used herein that are not otherwise defined have the meanings assigned to them in the Separation Agreement. In signing below, Executive agrees as follows:

1. Release of Claims.

(a) For good and valuable consideration, including the Company’s agreement to provide the consideration set forth in Section 2 of the Separation Agreement (and any portion thereof), Executive hereby forever releases, discharges and acquits the Company, its present and former subsidiaries and other affiliates, and each of the foregoing entities’ respective past, present and future subsidiaries, affiliates, stockholders, members, partners, directors, officers, managers, employees, agents, attorneys, heirs, predecessors, successors and representatives in their personal and representative capacities, as well as all employee benefit plans maintained by the Company or any of its affiliates and all fiduciaries and administrators of any such plans, in their personal and representative capacities (collectively, the “*Confirming Released Parties*”), from liability for, and Executive hereby waives, any and all claims, damages, or causes of action of any kind related to Executive’s employment with any Confirming Released Party, the termination of such employment, ownership of equity in the Company and any other acts or omissions related to any matter on or prior to the time that Executive executes this Confirming Release, whether arising under federal or state laws or the laws of any other jurisdiction, including (i) any alleged violation through such date of: (A) any federal, state or local anti-discrimination or anti-retaliation law, including the Age Discrimination in Employment Act of 1967 (including as amended by the Older Workers Benefit Protection Act), Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, Sections 1981 through 1988 of Title 42 of the United States Code, and the Americans with Disabilities Act of 1990; (B) the Employee Retirement Income Security Act of 1974 (“*ERISA*”); (C) the Immigration Reform Control Act; (D) the National Labor Relations Act; (E) the Occupational Safety and Health Act; (F) the Family and Medical Leave Act of 1993; (G) any federal, state or local wage and hour law; (H) the Securities Act of 1933; (I) the Securities Exchange Act of 1934; (J) the Investment Advisers Act of 1940; (K) the Investment Company Act of 1940; (L) the Private Securities Litigation Reform Act of 1995; (M) the Sarbanes-Oxley Act of 2002; (N) the Wall Street Reform and Consumer Protection Act of 2010; (O) the Virginians with Disabilities Act, the Virginia Human Rights Act, the Virginia Equal Pay Act, the Virginia Genetic Testing Law, the Virginia Occupational Safety and Health Act, the Virginia Minimum Wage Act, the Virginia Payment of Wage Law, the Virginia Right to Work Law; (P) any applicable state employment and securities

laws; (Q) any other local, state or federal law, regulation, ordinance or orders which may have afforded any legal or equitable causes of action of any nature; or (R) any public policy, contract, tort, or common law claim or claim for defamation, emotional distress, fraud or misrepresentation of any kind; (ii) any allegation for costs, fees, or other expenses including attorneys' fees incurred in, or with respect to, a Further Released Claim; (iii) any and all rights, benefits, or claims Executive may have under any employment contract (including the Severance Agreement), incentive or compensation plan or agreement or under any other benefit plan, program or practice; and (iv) any claim for compensation, damages or benefits of any kind not expressly set forth in the Separation Agreement (collectively, the "**Further Released Claims**"). This Confirming Release is not intended to indicate that any such claims exist or that, if they do exist, they are meritorious. Rather, Executive is simply agreeing that any and all potential claims of this nature that Executive may have against any of the Confirming Released Parties, regardless of whether they actually exist, are expressly settled, compromised and waived. **THIS RELEASE INCLUDES MATTERS ATTRIBUTABLE TO THE SOLE OR PARTIAL NEGLIGENCE (WHETHER GROSS OR SIMPLE) OR OTHER FAULT, INCLUDING STRICT LIABILITY, OF ANY OF THE RELEASED PARTIES.**

(b) In no event shall the Further Released Claims include (i) any claim that arises after Executive signs this Confirming Release, (ii) any claim to vested benefits under an employee benefit plan that is subject to ERISA or (iii) any claim to indemnification under the Indemnification Agreement that arises after Executive signs this Confirming Release. Further notwithstanding this release of liability, *nothing in this Confirming Release prevents Executive from filing any non-legally waivable claim (including a challenge to the validity of this Confirming Release) with any Governmental Agencies or participating in any investigation or proceeding conducted by any Governmental Agency or cooperating with such an agency or providing documents or other information to a Governmental Agency*; however, Executive understands and agrees that, to the extent permitted by law, Executive is waiving any and all rights to recover any monetary or personal relief from a Confirming Released Party as a result of such Governmental Agency proceeding or subsequent legal actions. Further notwithstanding this release of liability, nothing in this Confirming Release limits Executive's right to receive an award for information provided to a Governmental Agency.

2. Representations and Warranties Regarding Claims. Executive hereby represents and warrants that, as of the date on which she signs this Confirming Release, she has not filed any claims, complaints, charges, or lawsuits against any of the Confirming Released Parties with any governmental agency or with any state or federal court or arbitrator for, or with respect to, a matter, claim, or incident that occurred or arose out of one or more occurrences that took place on or prior to the date on which Executive signs this Confirming Release. Executive hereby further represents and warrants that she has not made any assignment, sale, delivery, transfer, or conveyance of any rights Executive has asserted or may have against any of the Confirming Released Parties with respect to any Further Released Claim.

3. Satisfaction of Severance Obligations; Receipt of Leaves, Bonuses, and Other Compensation. Executive acknowledges and agrees that, with the exception of any base salary earned by her in the pay period in which the Separation Date occurred (if such base salary has

not been paid as of the time that Executive executes this Confirming Release), and any sums to which she may be entitled following the date that she signs this Confirming Release pursuant to Section 2 of the Separation Agreement, she has been paid in full all bonuses, been provided all benefits, and otherwise received all wages, compensation, and other sums that she has been owed by each Confirming Released Party. Executive further acknowledges and agrees that she has received or has waived all leaves (paid and unpaid) that she has been entitled to receive from each Confirming Released Party.

4. Executive's Acknowledgments. By executing and delivering this Confirming Release, Executive expressly acknowledges that:

(a) Executive has carefully read this Confirming Release and has had sufficient time (and at least 21 days) to consider it;

(b) Executive is receiving, pursuant to the Separation Agreement and her execution of this Confirming Release, consideration in addition to anything of value to which Executive is already entitled;

(c) Executive has been advised, and hereby is advised in writing, to discuss this Confirming Release with an attorney of Executive's choice and Executive has had an adequate opportunity to do so prior to executing this Confirming Release;

(d) Executive fully understands the final and binding effect of this Confirming Release; the only promises made to Executive to sign this Confirming Release are those contained herein and in the Separation Agreement; and Executive is signing this Confirming Release knowingly, voluntarily and of Executive's own free will, and Executive understands and agrees to each of the terms of this Confirming Release; and

(e) The only matters relied upon by Executive and causing Executive to sign this Confirming Release are the provisions set forth in writing within the four corners of this Confirming Release and the Separation Agreement (and, to the extent referenced therein, the NDA).

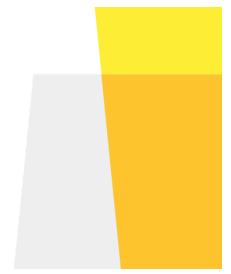
5. Revocation Right. Notwithstanding the initial effectiveness of this Confirming Release, Executive may revoke the delivery (and therefore the effectiveness) of this Confirming Release within the seven-day period beginning on the date Executive executes this Confirming Release (such seven day period being referred to herein as the "**Confirming Release Revocation Period**"). To be effective, such revocation must be in writing signed by Executive and must be received by the Company, care of Sara Dunn at 11950 Democracy Drive, Suite 600, Reston, Virginia 20190 (e-mail: sdunn@comscore.com) so that it is received by Ms. Dunn before 11:59 p.m. EST, on the last day of the Confirming Release Revocation Period. If an effective revocation is delivered in the foregoing manner and timeframe, then no consideration shall be provided to Executive pursuant to Section 2 of the Separation Agreement, and the release of claims set forth in Section 1 of this Confirming Release shall be of no force or effect, and all remaining provisions of the Separation Agreement and this Confirming Release shall remain in full force and effect.

6. Return of Property. Executive represents and warrants that Executive has returned to the Company all property belonging to the Company or any other Released Party, including all documents, computer files and other electronically stored information, client materials and other materials provided to Executive by the Company or any other Released Party in the course of her employment, and Executive further represents and warrants that Executive has not maintained a copy of any such materials in any form.

EXECUTIVE HAS CAREFULLY READ THIS CONFIRMING RELEASE, FULLY UNDERSTANDS THIS CONFIRMING RELEASE, AND SIGNS IT AS HER OWN FREE ACT.

Carol DiBattiste

Date:



May 6, 2020

By Email

[NAME]
[EMPLOYEE ADDRESS]

Dear [NAME]:

This letter (this “**Agreement**”) memorializes the agreement between you and comScore, Inc. (the “**Company**”), that, effective as of May 16, 2020, your base salary will be reduced by [●]% such that, as of such date, your annualized base salary will be \$[●], less applicable taxes and other withholdings.

This temporary reduction is a response to the economic downturn caused by the COVID-19 pandemic and its impact on our business. By signing below, you are agreeing to this future salary reduction and waiving any notice period that may be required by your state of residence and/or employment. Nothing herein will change the at-will nature of your employment, as you and the Company each remain free to end the employment relationship at any time.

Your annualized base salary will revert to \$[●] (your previous salary) upon the earliest of (i) September 30, 2020; (ii) the execution of definitive documentation providing for a “Qualifying Change in Control” of the Company, which is defined as a Change in Control according to the comScore, Inc. 2018 Equity and Incentive Compensation Plan (the “Plan”) excluding clauses (b) and (d) of such Plan definition; or (iii) the execution of definitive documentation providing for the refinancing of all or substantially all of the Company’s outstanding senior secured convertible notes.

The Company commits to revisit this salary reduction as soon as practicable if and when its financial circumstances change, including consideration of (i) an earlier return to your previous salary, and (ii) a discretionary bonus up to the full amount of the salary reduction.

Notwithstanding the foregoing or anything to the contrary in your Change of Control and Severance Agreement(s), or any other agreement, plan or policy with the Company to which you are subject, for the limited purpose of determining any severance pay for which you may become eligible, your base salary when calculating any such severance pay shall be deemed to be your base salary in effect immediately prior to the effective time of the salary reduction described in this Agreement, or \$[●]. Moreover, the salary reduction set forth in this Agreement shall not constitute constructive termination or “Good Reason” under your Change of Control and Severance Agreement(s) or any other agreement, plan or policy with the Company to which you are subject.

Please sign below to acknowledge your agreement to these terms. We appreciate your continued service to the Company and your continued leadership during these challenging times.

COMSCORE, INC.

By: Sara Dunn
Title: Chief People Officer

AGREED AND ACCEPTED:

Name: [NAME]

CERTIFICATIONS

I, William P. Livek, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of comScore, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ William P. Livek

William P. Livek
Chief Executive Officer
(Principal Executive Officer)

Date: August 10, 2020

CERTIFICATIONS

I, Gregory A. Fink, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of comScore, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting

/s/ Gregory A. Fink

Gregory A. Fink
Chief Financial Officer and Treasurer
(Principal Financial Officer)

Date: August 10, 2020

Certification Pursuant to 18 U.S.C. Section 1350

In connection with the Quarterly Report of comScore, Inc. (the "Company") on Form 10-Q for the quarter ended June 30, 2020, as filed with the Securities and Exchange Commission (the "SEC") on the date hereof (the "Report"), I, William P. Livek, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

A signed original of this written statement has been provided to the Company and will be retained by the Company and furnished to the SEC or its staff upon request.

/s/ William P. Livek

William P. Livek

Chief Executive Officer

(Principal Executive Officer)

Date: August 10, 2020

Certification Pursuant to 18 U.S.C. Section 1350

In connection with the Quarterly Report of comScore, Inc. (the "Company") on Form 10-Q for the quarter ended June 30, 2020, as filed with the Securities and Exchange Commission (the "SEC") on the date hereof (the "Report"), I, Gregory A. Fink, Chief Financial Officer and Treasurer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

A signed original of this written statement has been provided to the Company and will be retained by the Company and furnished to the SEC or its staff upon request.

/s/ Gregory A. Fink

Gregory A. Fink
Chief Financial Officer and Treasurer
(Principal Financial Officer)

Date: August 10, 2020