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As filed with the Securities and Exchange Commission on March 30, 2012

Registration No. 333-

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

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

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

Delaware	7372	20-2056195
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

ServiceNow, Inc.
12225 El Camino Real, Suite 100
San Diego, California 92130
(858) 720-0477
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Frank Slootman
Chief Executive Officer and President
ServiceNow, Inc.
12225 El Camino Real, Suite 100
San Diego, California 92130
(858) 720-0477
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Please send copies of all communications to:

Gordon K. Davidson, Esq. Robert A. Freedman, Esq. Dawn H. Belt, Esq. Fenwick & West LLP 801 California Street Mountain View, CA 94041 (650) 988-8500	Robert Specker, Esq. General Counsel ServiceNow, Inc. 12225 El Camino Real, Suite 100 San Diego, California 92130 (858) 720-0477	Eric C. Jensen, Esq. John T. McKenna, Esq. Cooley LLP 3175 Hanover Street Palo Alto, CA 94304 (650) 843-5000

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this registration statement

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box. ☐

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

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

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

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

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

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Proposed maximum aggregate offering price (1)(2)	Amount of registration fee
Common Stock, $0.001 par value per share	$150,000,000	$17,190

(1) Estimated solely for the purpose of calculating the amount of the registration fee in accordance with Rule 457(o) of the Securities Act of 1933, as amended.
(2) Includes the offering price of shares that the underwriters have the option to purchase to cover over-allotments, if any.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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The information in this prospectus is not complete and may be changed. Neither we nor the selling stockholders may sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and neither we nor the selling stockholders are soliciting offers to buy these securities in any jurisdiction where the offer or sale is not permitted.

PROSPECTUS (Subject to Completion)
Dated March 30, 2012

Shares

COMMON STOCK

ServiceNow, Inc. is offering shares of common stock and the selling stockholders are offering shares of common stock. We will not receive any proceeds from the sale of shares by the selling stockholders. This is our initial public offering and no public market currently exists for our shares. We anticipate that the initial public offering price will be between $ and $ per share.

We intend to apply to list our common stock on the New York Stock Exchange under the symbol "NOW."

Investing in our common stock involves risks. See "Risk Factors" beginning on page 9.

PRICE $ A SHARE

	Price to Public	Underwriting Discounts and Commissions	Proceeds to ServiceNow	Proceeds to Selling Stockholders
Per Share	$	$	$	$
Total	$	$	$	$

We and the selling stockholders have granted the underwriters the right to purchase up to an additional shares of common stock to cover over-allotments.

The Securities and Exchange Commission and state regulators have not approved or disapproved of these securities, or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The underwriters expect to deliver the shares of common stock to purchasers on , 2012.

MORGAN STANLEY *CITIGROUP* *DEUTSCHE BANK SECURITIES*

BARCLAYS *CREDIT SUISSE* *UBS INVESTMENT BANK*

PACIFIC CREST SECURITIES *WELLS FARGO SECURITIES*

, 2012

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You should rely only on the information contained in this prospectus or contained in any free writing prospectus filed with the Securities and Exchange Commission. Neither we, the selling stockholders nor the underwriters have authorized anyone to provide you with additional information or information different from that contained in this prospectus or in any free writing prospectus filed with the Securities and Exchange Commission. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. We and the selling stockholders are offering to sell, and seeking offers to buy, our common stock only in jurisdictions where offers and sales are permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or any sale of shares of our common stock. Our business, financial condition, results of operations and prospects may have changed since that date.

Through and including , 2012 (25 days after the date of this prospectus), all dealers that buy, sell or trade shares of our common stock, whether or not participating in this offering, may be required to deliver a prospectus. This delivery requirement is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

For investors outside the United States: Neither we, the selling stockholders, nor any of the underwriters have done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than in the United States. Persons outside the United States who come into possession of this prospectus must inform themselves about, and observe any restrictions relating to, the offering of the shares of common stock and the distribution of this prospectus outside the United States.

References to "IT" in our prospectus mean information technology.

PROSPECTUS SUMMARY

The following summary highlights selected information contained elsewhere in this prospectus and does not contain all of the information that you should consider in making your investment decision. Before investing in our common stock, you should carefully read this entire prospectus, including our consolidated financial statements and the related notes included in this prospectus and the information set forth under the headings "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations."

SERVICENOW, INC.

Overview

ServiceNow is a leading provider of cloud-based services to automate enterprise IT operations. Our service includes a suite of applications built on our proprietary platform that automates workflow and integrates related business processes. We focus on transforming enterprise IT by automating and standardizing business processes and consolidating IT across the global enterprise. Organizations deploy our service to create a single system of record for enterprise IT, to lower operational costs and to enhance efficiency. Additionally, our customers use our extensible platform to build custom applications for automating activities unique to their business requirements.

We help transform IT organizations from reactive, manual and task-oriented, to pro-active, automated and service-oriented organizations. Our on-demand service enables organizations to define their IT strategy, design the systems and infrastructure that will support that strategy, and implement, manage and automate that infrastructure throughout its lifecycle. We provide a broad set of integrated applications that are highly configurable and can be efficiently implemented and upgraded. Further, our multi-instance architecture has proven scalability for global enterprises, as well as advantages in security, reliability and deployment location.

We offer our service under a Software-as-a-Service, or SaaS, business model. Customers can rapidly deploy our service in a modular fashion, allowing them to solve immediate business needs and access, configure and build new applications as their requirements evolve. Our service, which is accessed through an intuitive web-based interface, can be easily configured to adapt to customer workflow and processes. Upgrades to our service are designed to be efficient and compatible with configuration changes and applied with minimal disruption to ongoing operations.

We have achieved significant growth in recent periods. A majority of our revenues comes from large, global enterprise customers. Our total customers grew 62% from 602 as of December 31, 2010 to 974 as of December 31, 2011. Our customers operate in a wide variety of industries, including financial services, IT services, health care, technology and utilities. For the fiscal years ended June 30, 2010 and 2011, our revenues grew 114% from $43.3 million to $92.6 million. We incurred a net loss of $29.7 million and generated net income of $9.8 million for the fiscal years ended June 30, 2010 and 2011, respectively. For the six months ended December 31, 2010 and 2011, our revenues grew 93% from $37.9 million to $73.4 million. We generated net income of $4.8 million and incurred a net loss of $6.7 million for the six months ended December 31, 2010 and 2011, respectively.

Our Industry

Enterprises Face Increasing Challenges in Managing and Automating IT Operations

For decades, enterprises have invested in IT to empower their workforces and enable business critical functionality. This investment reflects enterprise dependence on a myriad of software applications, databases,

operating systems, servers, networking equipment, personal computers, mobile devices, and a variety of other hardware and software assets. When managing the IT environment, enterprises face significant challenges:

Complexity of IT environments. The accelerating adoption of cloud-based services, virtual servers and desktops, and mobile technologies has added to the complexity of enterprise IT environments.

Budget pressures. IT executives are consistently asked to deliver more value for less cost, and to provide transparency regarding the true costs and business value of IT investments. The most recent downturn in the global economy has heightened these demands.

Alignment to business goals. IT organizations are increasingly asked to be proactive and design and develop new processes that span the entire enterprise, rather than support a set of discrete technologies and react to business changes. IT organizations must develop strategies to enable necessary business changes. This has resulted in a much greater need for alignment of IT strategy and performance with overall business performance.

Consumerization of IT. Individuals are spending more time interacting with intuitive, social and mobile consumer-oriented Internet services. These experiences have increased business users' expectations that they can access and interact with corporate IT technologies in a similar, familiar way. IT organizations are struggling to respond to these increased demands in a cost-effective manner.

Integration and standardization. Enterprises need integrated and standardized solutions that work with their existing systems and follow the most recent Information Technology Infrastructure Library, or ITIL, standard, a set of recommended business processes designed and adopted by IT operations industry participants globally to maximize the availability and usability of IT assets and the efficiency of IT staff.

Legacy IT Management Products Fall Short

Organizations have invested heavily in legacy software products to manage the inventory, cost and performance of IT resources. These traditional software products were originally architected in the 1980s and 1990s before the introduction of many of today's modern computing technologies. Shortcomings of these legacy products include:

- ***Disparate and redundant solutions***. Many legacy IT management products were developed and widely deployed decades ago. Vendors of these products have in many cases relied upon acquisitions and partnerships to extend their offerings and have not re-architected their solutions to provide the seamless, integrated platform that customers desire. In addition, enterprises may have overlapping solutions in various business units, especially those that have grown by acquisition or that operate globally. As a result, many enterprises operate multiple systems and infrastructures.
- ***Inflexible integration, customization and maintenance***. Enterprises face numerous challenges when trying to customize legacy IT management products to meet their specific needs, as well as integrate them with third-party solutions. Due to their architectures and proprietary languages, these inflexible products often cannot be easily customized to meet customers' business requirements and are difficult to integrate and maintain. As a result, enterprises may be required to adapt their business processes to the capabilities of the software.
- ***Highly manual***. Many legacy IT management products installed today are time-consuming, prone to error and prevent IT from rapidly responding to business needs.
- ***Upgrade challenges and disruption of service***. Once legacy IT management products have been installed, integrated and customized, upgrades can be challenging. As new versions of the software are released on a periodic basis, customers are often required to re-implement the updated software with limited ability to carry forward customizations.

- ***Difficult to use and access***. Many legacy IT management products lack a modern, easy to navigate user interface and were not originally designed to be accessed over the Internet or on mobile devices.
- ***High total cost of ownership***. Because legacy IT management products are often disparate, inflexible, highly manual, challenging to upgrade and difficult to use and access, we believe these products have a high total cost of ownership.

Our Solution

Our cloud-based service includes the following key elements:

- ***Broad set of integrated functionality and modular deployments***. Our suite of applications was developed to address core ITIL processes as well as additional business processes, and runs on a single extensible platform. Our platform includes workflow automation, notification, assignment and escalation, third-party integration capabilities, reporting and administration capabilities. Our cloud-based service is designed to be deployed in a modular fashion, allowing customers to solve immediate business needs and access new application functionality as needs evolve.
- ***Automation of IT operations***. Our service automates the documentation, categorization, prioritization, assignment, notification and escalation of IT and other business processes. Additionally, our service automates routine and repeatable data center operations such as rebooting a server, cloning a database or deploying a virtualized environment.
- ***Highly configurable and extensible to meet business needs***. Our configuration features are designed to give customers the ability to easily alter the appearance and operation of the user interface, change and develop business rules to meet specific requirements, and extend the database schema to support the tracking and capturing of necessary data. As a result, our service enables management of IT operations without requiring changes to existing business processes. In addition, our customers and partners can use our platform to build applications to automate processes that are unique to their businesses.
- ***Efficient implementations and integration***. Our cloud-based model allows customers to quickly access and deploy our service without the need to install and maintain costly infrastructure hardware and software necessary for on-premises deployments. Our service is developed on an architecture that enables efficient integration with third-party architectures and other data sources.
- ***Efficient upgrades***. We design our upgrades to be compatible with customer configuration changes and applied rapidly with minimal disruption to ongoing operations, enabling customers to be on the most up-to-date version.
- ***Scalable, secure and reliable multi-instance architecture***. Our multi-instance architecture is designed to provide scalability, security and reliability for customers' large, global businesses. By providing customers with dedicated applications and databases we ensure that customer data is not comingled. In addition, this architecture reduces risk associated with infrastructure outages, improves system scalability and security, and allows for flexibility in deployment location.

Our cloud-based service provides the following business benefits:

- ***Single system of record for IT***. We provide a single system of record for IT executives to track assets, activities and resources across the multiple systems and infrastructures currently in use in large enterprises. This provides executives with the ability to execute their IT strategy by quickly assessing how well their IT infrastructure is supporting business processes, analyzing business needs real-time and developing business solutions as needs evolve.

- ***Lower total cost of ownership***. We assume complete responsibility for our service, including application set, hosting infrastructure, maintenance, monitoring, storage, security, customer support and upgrades, all of which free customer resources. Additionally, we manage, monitor and handle upgrades and patch deployments remotely, which can result in lower total cost of ownership to our customers compared to legacy IT management products.
- ***Easy to use and widely accessible***. Our suite of intuitive and easy-to-use applications provides users with a familiar experience based on business-to-consumer concepts. Users can access our service through a web-based interface anywhere an Internet connection is available, including through mobile devices. We believe this ease of use and accessibility result in increased user adoption of specified processes, enhancing efficiency.

Our Growth Strategy

Our goal is to be the industry-recognized leading provider of cloud-based services to automate enterprise IT operations. Key elements of our growth strategy include:

- ***Expand our customer base***. We believe the global market for next-generation enterprise IT operations management is large and underserved, and we intend to continue to make investments in our business to capture increasingly larger market share. To expand our customer base we intend to invest in our direct sales force and strategic resellers as well as our data center footprint. In particular, we grew our sales and marketing team from 140 as of June 30, 2011 to 242 as of December 31, 2011.
- ***Further penetrate our existing customer base***. We intend to increase the number of subscriptions purchased by our current customers as they deploy additional core ITIL and extended IT applications, and use our platform to develop custom applications to meet business needs outside of IT. Additionally, we believe there are significant cross-sell opportunities for our separately licensed Discovery and Runbook Automation technologies.
- ***Expand internationally***. We have a large and growing international presence, and intend to grow our customer base in various regions. We are investing in new geographies, including investment in direct and indirect sales channels, data centers, professional services, customer support and implementation partners.
- ***Continue to innovate and enhance our service offerings.*** We have made, and will continue to make, significant investments in research and development to strengthen our existing applications, expand the number of applications on our platform and develop additional automation technologies. We typically offer multiple upgrades each year that allow our customers to benefit from ongoing innovation.
- ***Strengthen our customer community***. We have an enthusiastic and engaged customer community that contributes to our success through their willingness to share their ServiceNow experiences with other potential customers. Customer needs drive our development efforts. We will continue to leverage our large and growing customer community to expose our existing customers to new use cases and increase awareness of our service.
- ***Develop our partner ecosystem***. We intend to further develop our existing partner ecosystem by establishing agreements with strategic resellers and system integrators to provide broader customer coverage, access to senior executives and solution delivery capabilities. As we expand our base of partners, we intend to grow our indirect sales team and marketing efforts to support our distribution network.
- ***Further promote our extensible platform***. We plan to grow investments in our platform to better enable the creation of custom applications to address specific business issues. We believe our platform provides substantial application development capabilities and we intend to further realize the potential of our platform as a strategy to penetrate large and growing markets.

Selected Risks Associated with Our Business

Our business is subject to a number of risks and uncertainties, including those highlighted in the section titled “Risk Factors” immediately following this prospectus summary. Some of these risks are:

- We have a limited history of operating profits and, as our growth rates decline and our costs increase, may not achieve or maintain profitability in the future;
- We have experienced rapid growth in recent periods and may not be able to manage this growth and expansion, or our business may not grow as we expect;
- The market for enterprise IT operations management solutions is rapidly evolving and highly competitive;
- Declines in customer renewal rates would harm our future operating results;
- Defects or disruptions in our service or security breaches could diminish demand for our service and subject us to substantial liability;
- Interruptions or delays in service from our third-party data center facilities could impair the delivery of our service and harm our business;
- Our transition from third-party hosted data centers to our own managed co-location facilities is expensive and complex, and could result in inefficiencies or operational failure and increased risk; and
- Our quarterly results may fluctuate and, if we fail to meet the expectations of analysts or investors, our stock price and the value of your investment could decline substantially.

Corporate Information

We were incorporated as Glidesoft, Inc. in California in June 2004 and changed our name to Service-now.com in February 2006. We plan to reincorporate into Delaware prior to the completion of this offering as ServiceNow, Inc. Our principal executive offices are located at 12225 El Camino Real, Suite 100, San Diego, California 92130, and our telephone number is (858) 720-0477. Our website address is www.service-now.com. The information contained on, or that can be accessed through, our website is not a part of this prospectus. Investors should not rely on any such information in deciding whether to purchase our common stock. We have included our website address in this prospectus solely as an inactive textual reference.

Unless the context indicates otherwise, as used in this prospectus, the terms “ServiceNow,” “we,” “us” and “our” refer to ServiceNow, Inc., a Delaware corporation, and its subsidiaries taken as a whole, unless otherwise noted.

In February 2012, we changed our fiscal year-end from June 30 to December 31. Throughout this prospectus, references to “fiscal 2009,” “fiscal 2010” and “fiscal 2011” are to the fiscal years ended June 30, 2009, 2010 and 2011, respectively.

We have registered the trademark “SERVICENOW” and our ServiceNow logo with the United States Patent and Trademark Office. “Discovery” and “Runbook Automation” are unregistered trademarks or service marks of ServiceNow and are the property of ServiceNow. This prospectus also includes references to trademarks and service marks of other entities, and those trademarks and service marks are the property of their respective owners.

THE OFFERING

Common stock offered	
By us	shares
By the selling stockholders	shares
Total	shares
Common stock to be outstanding after this offering	shares (shares if the over-allotment option is exercised in full)
Over-allotment option	shares (with shares being offered by us and shares being offered by the selling stockholders)
Use of proceeds	We plan to use the net proceeds from this offering for general corporate purposes, including working capital. We will not receive any of the proceeds from the sale of shares of common stock by the selling stockholders. See "Use of Proceeds."
Proposed New York Stock Exchange symbol	"NOW"

The number of shares of our common stock to be outstanding after this offering is based on 107,683,974 shares of common stock outstanding as of December 31, 2011, and excludes:

- 39,314,140 shares of common stock issuable upon the exercise of options outstanding under our 2005 Stock Plan with a weighted-average exercise price of $2.20 per share;
- 6,657,210 shares of common stock reserved for future issuance under our 2005 Stock Plan; provided, however, that immediately prior to the closing of this offering, any remaining shares available for issuance under our 2005 Stock Plan will be added to the shares reserved under our 2012 Equity Incentive Plan and we will cease granting awards under the 2005 Stock Plan;
- additional shares of common stock reserved for future issuance under our 2012 Equity Incentive Plan, which will become effective immediately prior to the closing of this offering; and
- shares of common stock reserved for future issuance under our 2012 Employee Stock Purchase Plan, which will become effective upon the closing of this offering.

Unless otherwise indicated, all information in this prospectus assumes:

- the filing of our restated certificate of incorporation and the adoption of our restated bylaws as of the closing of this offering;
- no exercise by the underwriters of their option to purchase shares of common stock to cover over-allotments;
- the conversion of all of our outstanding shares of convertible preferred stock into an aggregate of 83,703,016 shares of common stock immediately upon the closing of this offering; and
- the sale and issuance of 1,750,980 shares of common stock in a private placement by us in February 2012.

SUMMARY CONSOLIDATED FINANCIAL DATA

The following consolidated financial data should be read together with our consolidated financial statements and related notes and "Management's Discussion and Analysis of Financial Condition and Results of Operations" appearing elsewhere in this prospectus. We have derived the following consolidated statements of operations data for fiscal 2009, 2010 and 2011 and for the six months ended December 31, 2011 and the selected consolidated balance sheet data as of June 30, 2010 and 2011 and December 31, 2011 from our audited consolidated financial statements included elsewhere in this prospectus. The unaudited consolidated statement of operations data for the six months ended December 31, 2010 are derived from our unaudited consolidated financial statements included elsewhere in this prospectus. We have prepared the unaudited financial information on the same basis as the audited consolidated financial statements and have included, in our opinion, all adjustments, consisting only of normal recurring adjustments, we consider necessary for a fair statement of the financial information set forth in those statements. Our historical results are not necessarily indicative of our results to be expected for any future period.

	Fiscal Year Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010	2011
	(in thousands, except share and per share data)				
Consolidated Statements of Operations Data:					
Revenues[1]:					
Subscription	$ 17,841	$ 40,078	$ 79,191	$ 33,191	$ 64,886
Professional services and other	1,474	3,251	13,450	4,753	8,489
Total revenues	19,315	43,329	92,641	37,944	73,375
Cost of revenues[2][3]:					
Subscription	3,140	6,378	15,311	6,096	15,073
Professional services and other	4,711	9,812	16,264	6,778	12,850
Total cost of revenues	7,851	16,190	31,575	12,874	27,923
Gross profit	11,464	27,139	61,066	25,070	45,452
Operating expenses[2][3]:					
Sales and marketing	8,499	19,334	34,123	13,728	32,501
Research and development	2.433	7,194	7,004	2,758	7,030
General and administrative	6,363	28,810	9,379	3,417	10,084
Total operating expenses	17,295	55,338	50,506	19,903	49,615
Income (loss) from operations	(5,831)	(28,199)	10,560	5,167	(4,163)
Interest and other income (expense), net	(27)	(1,226)	606	289	(1,446)
Income (loss) before provision for income taxes	(5,858)	(29,425)	11,166	5,456	(5,609)
Provision for income taxes	48	280	1,336	653	1,075
Net income (loss)	(5,906)	(29,705)	9,830	4,803	(6,684)
Net income (loss) per share attributable to common stockholders[4]:					
Basic	$ (0.17)	$ (1.31)	$ 0.09	$ 0.04	$ (0.33)
Diluted	$ (0.17)	$ (1.31)	$ 0.08	$ 0.04	$ (0.33)
Weighted-average shares used to compute net income (loss) per share attributable to common stockholders[4]:					
Basic	39,039,066	23,157,576	18,163,977	17,156,445	21,104,219
Diluted	39,039,066	23,157,576	28,095,486	27,622,357	21,104,219
Pro forma net loss per share attributable to common stockholders[4]:					
Basic			$ 0.09		$ (0.06)
Diluted			$ 0.09		$ (0.06)
Pro forma weighted-average shares used to compute pro-forma net loss per share attributable to common stockholders[4]:					
Basic			103,617,973		106,558,215
Diluted			113,633,033		106,558,215

(1) Revenues for fiscal 2011 and the six months ended December 31, 2010 and 2011 reflect the prospective adoption of new revenue accounting guidance commencing on July 1, 2010. As a result of this guidance, we separately allocate value for multiple element contracts between our subscription revenues and professional services revenues based on the best estimate of selling price. Additionally, we recognize professional services revenues as the services are delivered. Please refer to Note 2 to our consolidated financial statements for further discussion of our revenue recognition policies.

(2) Stock-based compensation included in the statements of operations above was as follows:

	Fiscal Year Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010	2011
	(in thousands)				
Cost of revenues:					
Subscription	$ 6	$ 48	$ 548	$ 225	$ 674
Professional services and other	11	28	117	37	193
Sales and marketing	45	277	1,004	431	2,010
Research and development	50	90	468	207	704
General and administrative	15	102	817	221	2,056

(3) Operating expenses for fiscal 2009 reflect compensation expense of $3.8 million related to the stock settlement of an outstanding promissory note in connection with our sale and issuance of Series C preferred stock. Cost of revenues and operating expenses for fiscal 2010 reflect compensation expense of $0.7 million and $30.1 million, respectively, related to the repurchase of shares from eligible stockholders in connection with our sale and issuance of Series D preferred stock.

(4) Please refer to Note 11 to our consolidated financial statements for an explanation of the method used to calculate the historical and pro forma net income (loss) per share attributable to common stockholders and the number of shares used in the computation of the per share amounts.

	As of June 30,		As of December 31, 2011		
	2010	2011	Actual	Pro Forma[1]	Pro Forma as Adjusted[2][3]
	(in thousands)				
Consolidated Balance Sheet Data:					
Cash	$ 29,402	$ 59,853	$ 68,088	$ 85,948	$
Working capital, excluding deferred revenue	33,080	75,801	95,033	112,893	
Total assets	51,369	108,746	156,323	174,183	
Deferred revenue, current and non-current portion	40,731	74,646	104,636	104,636	
Convertible preferred stock	67,227	67,860	68,172	—	
Total stockholders' equity (deficit)	(71,262)	(58,381)	(57,426)	28,606	

(1) The pro forma column reflects (i) the conversion of all outstanding shares of our convertible preferred stock into an aggregate of 83,703,016 shares of common stock immediately upon the closing of this offering and the filing of our restated certificate of incorporation upon the closing of this offering; and (ii) the sale and issuance of 1,750,980 shares of common stock in a private placement by us in February 2012.

(2) The pro forma as adjusted column reflects the pro forma adjustments described above and the sale and issuance of shares of common stock in this offering by us, and the receipt of the net proceeds from our sale of these shares at an assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting underwriting discounts and commissions and estimated offering expenses payable by us.

(3) A $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) each of cash, working capital, total assets and total stockholders' equity by approximately $ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the underwriting discounts and commissions. Similarly, each increase (decrease) of one million shares in the number of shares offered by us would increase (decrease), cash, working capital, total assets and total stockholders' equity by approximately $ million, assuming the assumed initial public offering price remains the same and after deducting the underwriting discounts and commissions. The pro forma as adjusted information discussed above is illustrative only and will be adjusted based on the actual public offering price and other terms of this offering determined at pricing.

RISK FACTORS

Investing in our common stock involves a high degree of risk. You should consider carefully the risks and uncertainties described below, together with all of the other information in this prospectus, including the consolidated financial statements and the related notes appearing at the end of this prospectus, before deciding to invest in shares of our common stock. If any of the following risks actually occurs, our business, financial condition, results of operations and future prospects could be harmed. In that event, the market price of our common stock could decline and you could lose part or even all of your investment.

Risks Related to Our Business and Industry

We have a limited history of operating profits, did not generate a profit in the six months ended December 31, 2011, and may not achieve or maintain profitability in the future.

We have not been consistently profitable on a quarterly or annual basis. Although we had net income for fiscal 2011, we experienced net losses of $5.9 million, $29.7 million and $6.7 million for fiscal 2009, fiscal 2010 and the six months ended December 31, 2011, respectively. As of December 31, 2011, our accumulated deficit was $68.1 million. While we have experienced significant revenue growth over recent periods, we may not be able to sustain or increase our growth or return to profitability in the future. Over the past year, we have significantly increased our expenditures to support the development and expansion of our business, which has resulted in increased losses. We plan to continue to invest for future growth, and as a result, we do not expect to be profitable in 2012. In addition, as a public company, we will incur significant accounting, legal and other expenses that we did not incur as a private company. As a result of these increased expenditures, we will have to generate and sustain increased revenues to achieve future profitability. We may incur significant losses in the future for a number of reasons, including without limitation the other risks and uncertainties described in this prospectus. Additionally, we may encounter unforeseen operating expenses, difficulties, complications, delays and other unknown factors that may result in losses in future periods. If these losses exceed our expectations or our revenue growth expectations are not met in future periods, our financial performance will be harmed.

We have experienced rapid growth in recent periods. If we are not able to manage this growth and expansion, or if our business does not grow as we expect, our operating results may suffer.

We continue to experience rapid growth in our customer base and have significantly expanded our operations during the last several years. In particular, we are aggressively investing in: significant expansion of our cloud infrastructure and associated service capacity; our global sales, marketing and operations activities and personnel; and additional office facility lease commitments and administrative employees. Our employee headcount has increased from 375 as of June 30, 2011 to 603 as of December 31, 2011, and we plan on adding over 500 employees during 2012. We signed a new lease for a larger corporate headquarters location in San Diego in February 2012 and are currently seeking additional office space in San Jose, Seattle, London and Amsterdam. In addition, we hired new senior management in 2011 and 2012. Our rapid growth has placed, and will continue to place, a significant strain on our administrative and operational infrastructure. Our ability to manage our operations and growth will require us to continue to refine our operational, financial and management controls, human resource policies, and reporting systems and procedures. For instance, in 2012 we plan to implement a new financial enterprise resource planning system to help manage our future growth. If we fail to efficiently expand our sales force, operations or IT and financial systems, or if we fail to implement or maintain effective internal controls and procedures, our costs and expenses may increase more than we plan and we may lose the ability to close customer opportunities, enhance our existing service, develop new applications, satisfy customer requirements, respond to competitive pressures or otherwise execute our business plan. Additionally, as our operating expenses increase in anticipation of the growth of our business, if such growth does not meet our expectations, our financial results likely would be harmed.

Defects or disruptions in our service could diminish demand for our service and subject us to substantial liability.

Like many Internet-based SaaS companies, we provide frequent incremental releases of product updates and functional enhancements. Such new versions frequently contain undetected errors when first introduced or released. We have from time to time found defects in our service, and new errors in our existing service may be detected in the future. In addition, our customers may use our service in unanticipated ways that may cause a disruption in service for other customers. Since our customers use our service for important aspects of their business, any errors, defects, disruptions in service or other performance problems with our service could hurt our reputation and may damage our customers' businesses. If that occurs, our customers may delay or withhold payment to us, elect not to renew, make service credit claims, warranty claims or other claims against us, and we could lose future sales. The occurrence of any of these events could result in an increase in our bad debt expense, an increase in collection cycles for accounts receivable, require us to increase our warranty provisions, or incur the expense or risk of litigation. Further, if we are unable to meet the stated service level commitments we have guaranteed to our customers or suffer extended periods of unavailability for our service, we may be contractually obligated to provide these customers with credits for future service. We do not carry insurance sufficient to compensate us for the potentially significant losses, including the potential harm to the future growth of our business that may result from interruptions in our service.

Interruptions or delays in service from our third-party data center facilities could impair the delivery of our service and harm our business.

We currently serve our customers from third-party data center facilities, operated by several different providers, located around the world, with the largest located in Boston, San Jose, Washington, D.C., London and Amsterdam. Any damage to, or failure of, our systems generally could result in interruptions in our service. As we continue to add data centers and capacity in our existing data centers, we may move or transfer our data and our customers' data. Despite precautions taken during this process, any unsuccessful data transfers may impair the delivery of our service. Any damage to, or failure of, our systems, or those of our third-party data centers, could result in interruptions in our service. Impairment of or interruptions in our service may reduce our revenues, cause us to issue credits or pay penalties, subject us to claims and litigation, cause our customers to terminate their subscriptions and adversely affect our renewal rates and our ability to attract new customers. Our business will also be harmed if our customers and potential customers believe our service is unreliable.

We do not control, or in some cases have limited control over, the operation of the data center facilities we use, and they are vulnerable to damage or interruption from earthquakes, floods, fires, power loss, telecommunications failures and similar events. They may also be subject to break-ins, sabotage, intentional acts of vandalism and similar misconduct, and to adverse events caused by operator error. For example, our third-party data center facility in London was subjected to a distributed denial of service attack in January 2012 that prevented some of our customers hosted in that data center from using our service intermittently for a period of about three hours. We cannot rapidly switch to new data centers or move customers from one data center to another in the event of any adverse event. Despite precautions taken at these facilities, the occurrence of a natural disaster, an act of terrorism or other act of malfeasance, a decision to close the facilities without adequate notice or other unanticipated problems at these facilities could result in lengthy interruptions in our service and the loss of customer data.

Our transition from third-party hosted data centers to our own managed co-location facilities is expensive and complex, will result in a negative impact on our near-term cash flows and may negatively impact our financial results.

We have made and will continue to make substantial investments in new equipment to support growth at our data centers and provide enhanced levels of service to our customers. First, we are transitioning from a managed service hosting model, where a third party manages most aspects of the operations, to a co-location model, where we will have more direct control over the hosting infrastructure and its operation. Second, we are investing in

enhancements to our cloud architecture, which are designed to provide our customers with enhanced data reliability and reduce potential service disruptions. We anticipate a negative impact on our margins in the near term as we accelerate depreciation on certain assets from our managed service hosting data centers and incur additional rent expenses as we complete this transition. However, as our data centers scale with our anticipated customer growth, we expect this transition will improve our margins in the long-term. We expect to complete these two transitions in the second half of 2012. We made capital expenditures of $8.4 million in the six months ended December 31, 2011 and anticipate making capital expenditures of approximately $25.0 million during 2012 for purchases of equipment for use in our data centers. If it takes longer than we expect to complete this transition, the negative impact on our operating results would likely exceed our initial expectations, particularly if the scope of the project grows and we deploy additional resources and hire additional personnel to complete the project. Additionally, to the extent that we are required to add data center capacity to accommodate customer demands, we may need to significantly increase the bandwidth, storage, power or other elements of our hosting operations, and the costs associated with adjustments to our data center architecture could also harm our margins and operating results.

If our security measures are breached or unauthorized access to customer data is otherwise obtained, our service may be perceived as not being secure, customers may curtail or stop using our service, and we may incur significant liabilities.

Our operations involve the storage and transmission of our customers' confidential information, and security breaches, computer malware and computer hacking attacks could expose us to a risk of loss of this information, litigation, indemnity obligations and other liability. While we have administrative, technical, and physical security measures in place, and try to contractually require third parties to whom we transfer data to implement and maintain appropriate security measures, if our security measures are breached as a result of third-party action, employee error, malfeasance or otherwise, and, as a result, someone obtains unauthorized access to our customers' data, including personally identifiable information regarding users, our reputation will be damaged, our business may suffer and we could incur significant liability. Additionally, third parties may attempt to fraudulently induce employees or customers into disclosing sensitive information such as user names, passwords or other information in order to gain access to our customers' data or our data, including our intellectual property and other confidential business information, or our information technology systems. Because techniques used to obtain unauthorized access or to sabotage systems change frequently and generally are not recognized until launched against a target, we may be unable to anticipate these techniques or to implement adequate preventative measures. If an actual or perceived breach of our security occurs, the market perception of the effectiveness of our security measures could be harmed and we could lose potential sales and existing customers.

If the market for our technology delivery model and SaaS develops more slowly than we expect, our growth may slow or stall, and our operating results would be harmed.

Use of SaaS applications to manage and automate enterprise IT is at an early stage. We do not know whether the trend of adoption of enterprise SaaS solutions we have experienced in the past will continue in the future. In particular, many organizations have invested substantial personnel and financial resources to integrate legacy software into their businesses over time, and some have been reluctant or unwilling to migrate to SaaS. Furthermore, some organizations, particularly large enterprises upon which we are dependent, have been reluctant or unwilling to use SaaS because they have concerns regarding the risks associated with the security of their data and the reliability of the technology delivery model associated with these solutions. In addition, if other SaaS providers experience security incidents, loss of customer data, disruptions in delivery or other problems, the market for SaaS solutions as a whole, including our service, will be negatively impacted. If the adoption of SaaS solutions does not continue, the market for these solutions may stop developing or may develop more slowly than we expect, either of which would harm our operating results.

The market in which we participate is intensely competitive, and if we do not compete effectively, our operating results could be harmed.

The market for enterprise IT operations management solutions is fragmented, rapidly evolving and highly competitive, with relatively low barriers to entry in some segments. Many of our competitors and potential competitors are larger and have greater name recognition, much longer operating histories, more established customer relationships, larger marketing budgets and significantly greater resources than we do. As a result, our competitors may be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, standards or customer requirements. With the introduction of new technologies, the evolution of our service and new market entrants, we expect competition to intensify in the future. If we fail to compete effectively, our business will be harmed. Some of our principal competitors offer their products or services at a lower price, which has resulted in pricing pressures. If we are unable to achieve our target pricing levels, our operating results would be negatively impacted. In addition, pricing pressures and increased competition generally could result in reduced sales, reduced margins, losses or the failure of our service to achieve or maintain more widespread market acceptance, any of which could harm our business.

We face competition from in-house solutions, large integrated systems vendors and smaller companies with point solutions including SaaS offerings. Our competitors vary in size and in the breadth and scope of the products and services offered. Our primary competitors include BMC Software, Inc., CA, Inc., Hewlett-Packard Company and International Business Machines Corporation, all of which can bundle competing products and services with other software offerings, or offer them at a low price as part of a larger sale. In addition, many of our competitors offer SaaS solutions and may make acquisitions of businesses or assets that improve their service offerings. Further, other established SaaS providers not currently operating in enterprise IT operations management may expand their services to compete with our service. Many of our current and potential competitors have established marketing relationships, access to larger customer bases, pre-existing customer relationships and major distribution agreements with consultants, system integrators and resellers. In addition, some competitors may offer software that addresses one or a limited number of enterprise IT operation functions at lower prices or with greater depth than our service. Moreover, as we expand the scope of our service, we may face additional competition from platform and application development vendors. Additionally, some potential customers, particularly large enterprises, may elect to develop their own internal solutions. For all of these reasons, we may not be able to compete successfully against our current and future competitors.

Because our sales efforts are targeted at large enterprise customers, we face longer sales cycles, substantial upfront sales costs and less predictability in completing some of our sales. If our sales cycle lengthens, or if our substantial upfront sales investments do not result in sufficient sales, our operating results could be harmed.

We target our sales efforts at large enterprises. For instance, we derived approximately 10% and 12% of our revenues from large enterprise customers in the financial services industry for fiscal 2011, and the six months ended December 31, 2011, respectively. Because our large enterprise customers are often making an enterprise-wide decision to deploy our service, sometimes on a global basis, we face long sales cycles, complex customer requirements, substantial upfront sales costs and less predictability in completing some of our sales. Our sales cycle is generally six to nine months, but is variable and difficult to predict and can be much longer. Large enterprises often undertake a prolonged evaluation of our service, including whether the customer needs professional services performed by us or a third party for its unique IT and business process needs, and a comparison of our service to products offered by our competitors. Moreover, our large enterprise customers often begin to deploy our service on a limited basis, but nevertheless demand extensive configuration, integration services and pricing concessions, which increase our upfront investment in the sales effort with no guarantee that these customers will deploy our service widely enough across their organization to justify our substantial upfront investment. We anticipate that in the future we may experience even longer sales cycles, more complex customer needs, higher upfront sales costs and less predictability in completing some of our sales as we continue to expand our direct sales force and thereby increase the percentage of our sales personnel with less experience in selling

our service, expand into new territories and expand into functional areas outside of the traditional ITIL processes. If our sales cycle lengthens or our substantial upfront sales and implementation investments do not result in sufficient sales to justify our investments, our operating results may be harmed.

Our business depends substantially on our customers renewing their subscriptions and purchasing additional subscriptions from us. Any decline in our customer renewals would harm our future operating results.

In order for us to maintain or improve our operating results, it is important that our customers renew their subscriptions when the initial contract term expires and add additional authorized users to their subscriptions. Our customers have no obligation to renew their subscriptions, and we cannot assure you that our customers will renew subscriptions with a similar contract period or with the same or a greater number of authorized users. Although our renewal rates have been historically high, some of our customers have elected not to renew their agreements with us and we cannot accurately predict renewal rates. Moreover, in some cases, some of our customers have the right to cancel their agreements prior to the expiration of the term.

Our renewal rates may decline or fluctuate as a result of a number of factors, including their satisfaction with our subscription service, our professional services, our customer support, our prices, the prices of competing solutions, mergers and acquisitions affecting our customer base, the effects of global economic conditions, or reductions in our customers' spending levels. Our future success also depends in part on our ability to sell more subscriptions and additional professional services to our current customers. If our customers do not renew their subscriptions, renew on less favorable terms or fail to add more authorized users or fail to purchase additional professional services, our revenues may decline, and we may not realize improved operating results from our customer base.

If we are not able to develop enhancements and new applications that achieve market acceptance or that keep pace with technological developments, our business could be harmed.

Our ability to attract new customers and increase revenues from existing customers depends in large part on our ability to enhance and improve our existing service and to introduce new services. In order to grow our business, we must develop a service that reflects future updates to the ITIL framework and extends beyond the ITIL framework into other areas of enterprise IT operations management. The success of any enhancement or new service depends on several factors, including timely completion, adequate quality testing, introduction and market acceptance. Any new service that we develop may not be introduced in a timely or cost-effective manner, contain defects or may not achieve the broad market acceptance necessary to generate significant revenues. If we are unable to successfully develop new applications or enhance our existing service to meet customer requirements, our business and operating results will be harmed.

Because we designed our service to be provided over the Internet, we need to continuously modify and enhance our service to keep pace with changes in Internet-related hardware, software, communication and database technologies and standards. If we are unable to respond in a timely manner to these rapid technological developments and standards changes in a cost-effective manner, our service may become less marketable and less competitive or obsolete and our operating results may be harmed.

We may not timely and effectively scale and adapt our existing technology to meet the performance and other requirements of our large global enterprise customers.

Our future growth is dependent upon our ability to continue to meet the expanding needs of our large enterprise customers as their use of our service grows. As these customers gain more experience with our service, the number of users and transactions managed by our service, the amount of data transferred, processed and stored by us, the number of locations where our service is being accessed, and the number of processes and systems managed by our service on behalf of these customers have in some cases, and may in the future, expand rapidly. In order to ensure that we meet the performance and other requirements of these large enterprise

customers, we intend to continue to make significant investments to develop and implement new technologies in our service and cloud infrastructure operations. These technologies, which include databases, applications and server optimizations, network and hosting strategies, and automation, are often advanced, complex, new and untested. We may not be successful in developing or implementing these technologies. To the extent that we do not effectively scale our service and operations to maintain performance as our customers expand their use of our service, our business and operating results may be harmed.

If we fail to integrate our service with a variety of operating systems, software applications and hardware that are developed by others, our service may become less marketable and less competitive or obsolete, and our operating results would be harmed.

Our service must integrate with a variety of network, hardware and software platforms, and we need to continuously modify and enhance our platform to adapt to changes in cloud-enabled hardware, software, networking, browser and database technologies. Any failure of our service to operate effectively with future infrastructure platforms and technologies could reduce the demand for our service, resulting in customer dissatisfaction and harm to our business. If we are unable to respond to these changes in a cost-effective manner, our service may become less marketable and less competitive or obsolete and our operating results may be negatively impacted. In addition, an increasing number of individuals within the enterprise are utilizing mobile devices to access the Internet and corporate resources and to conduct business. If we cannot effectively make our service available on these mobile devices and offer the information services and functionality required by enterprises that widely use mobile devices, we may experience difficulty attracting and retaining customers.

Failure to effectively expand our sales and marketing capabilities could harm our ability to increase our customer base and achieve broader market acceptance of our service.

Increasing our customer base and achieving broader market acceptance of our service will depend, to a significant extent, on our ability to effectively expand our sales and marketing operations and activities. We are substantially dependent on our direct sales force to obtain new customers. From June 30, 2011 to December 31, 2011, our sales and marketing organization increased from 140 to 242 employees. We plan to continue to expand our direct sales force both domestically and internationally. We believe that there is significant competition for direct sales personnel with the sales skills and technical knowledge that we require. Our ability to achieve significant revenue growth in the future will depend, in large part, on our success in recruiting, training and retaining a sufficient number of direct sales personnel. New hires require significant training and time before they achieve full productivity, particularly in new sales territories. Our recent hires and planned hires may not become as productive as quickly as we would like, and we may be unable to hire or retain sufficient numbers of qualified individuals in the future in the markets where we do business. Because we do not have a long history of expansion in our sales force, we cannot predict whether or to what extent our sales will increase as we expand our sales force or how long it will take for sales personnel to become productive. Moreover, we do not have significant experience as an organization developing and implementing overseas marketing campaigns, and such campaigns may be expensive and difficult to implement. Our business will be harmed if our expansion efforts do not generate a significant increase in revenues.

Our current management team is new and if we lose key members of our management team or are unable to attract and retain executives and employees we need to support our operations and growth, our business may be harmed.

Each of our executive officers either joined us recently or has taken on a new role in the organization. These changes in our executive management team may be disruptive to our business. Our success depends substantially upon the continued services of this new group of executive officers, particularly Frank Slootman, our Chief Executive Officer, who joined us in May 2011, and Frederic B. Luddy, our founder and Chief Product Officer, who are critical to our vision, strategic direction, culture, services and technology. From time to time, there may be changes in our executive management team resulting from the hiring or departure of executives. Our

executive officers are generally employed on an at-will basis, which means that our executive officers could terminate their employment with us at any time. The loss of one or more of our executive officers or the failure by our executive team to effectively work with our employees and lead our company could harm our business.

In the technology industry, there is substantial and continuous competition for engineers with high levels of experience in designing, developing and managing software and Internet-related solutions, as well as competition for sales executives and operations personnel. We may not be successful in attracting and retaining qualified personnel. We have from time to time experienced, and we expect to continue to experience, difficulty in hiring and retaining highly skilled employees with appropriate qualifications. In particular, competition for experienced software and cloud infrastructure engineers in San Diego, San Jose, Seattle, London and Amsterdam, our primary operating locations, is intense. If we fail to attract new personnel or fail to retain and motivate our current personnel, our business and future growth prospects could be harmed.

Our quarterly results may fluctuate and, if we fail to meet the expectations of analysts or investors, our stock price and the value of your investment could decline substantially.

Our quarterly financial results may fluctuate as a result of a variety of factors, many of which are outside of our control. If our quarterly financial results fall below the expectations of investors or any securities analysts who follow our stock, the price of our common stock could decline substantially. Some of the important factors that may cause our revenues, operating results and cash flows to fluctuate from quarter to quarter include:

- our ability to retain and increase sales to existing customers, attract new customers and satisfy our customers' requirements;
- the number of new employees added;
- the rate of expansion and productivity of our sales force;
- changes in the relative and absolute levels of professional services we provide;
- the cost, timing and management effort for the development of new services;
- the length of the sales cycle for our service;
- changes in our pricing policies whether initiated by us or as a result of competition;
- the amount and timing of operating costs and capital expenditures related to the operations and expansion of our business;
- significant security breaches, technical difficulties or interruptions with our service;
- new solutions, products or changes in pricing policies introduced by our competitors;
- changes in foreign currency exchange rates;
- changes in effective tax rates;
- general economic conditions that may adversely affect either our customers' ability or willingness to purchase additional subscriptions, delay a prospective customers' purchasing decision, or reduce the value of new subscription contracts, or affect renewal rates;
- changes in deferred revenue balances due to the seasonal nature of our customer invoicing, changes in the average duration of our customer agreements, the rate of renewals and the rate of new business growth;
- the timing of customer payments and payment defaults by customers;
- extraordinary expenses such as litigation or other dispute-related settlement payments;
- the impact of new accounting pronouncements; and
- the timing of stock awards to employees and the related adverse financial statement impact of having to expense those stock awards ratably over their vesting schedules.

Many of these factors are outside of our control, and the occurrence of one or more of them might cause our operating results to vary widely. As such, we believe that quarter-to-quarter comparisons of our revenues, operating results and cash flows may not be meaningful and should not be relied upon as an indication of future performance.

We expect our revenue growth rate to decline, and, as our costs increase, we may not be able to generate sufficient revenue to sustain our profitability over the long term.

From fiscal 2009 to fiscal 2011, our revenues grew from $19.3 million to $92.6 million, which represents a compounded annual growth rate of 119%. We expect that, in the future, as our revenues increase to higher levels our revenue growth rate will decline. However, we may not be able to generate sufficient revenues to achieve and sustain profitability as we also expect our costs to increase in future periods. We expect to continue to expend substantial financial and other resources on:

- our technology infrastructure, including migrating from a managed hosting model to co-location facilities, enhancements to our cloud architecture and hiring of additional employees for our research and development team;
- software development, including investments in our software development team, the development of new features and the improvement of the scalability, availability and security of our service;
- sales and marketing, including a significant expansion of our direct sales organization;
- international expansion in an effort to increase our customer base and sales; and
- general administration, including legal and accounting expenses related to being a public company.

These investments may not result in increased revenues or growth in our business. If we fail to continue to grow our revenues and overall business, our operating results and business would be harmed.

Because we recognize revenues from our subscription service over the subscription term, downturns or upturns in new sales will not be immediately reflected in our operating results.

We generally recognize revenues from customers ratably over the terms of their subscriptions, which on average are approximately 30 months in duration for initial contract terms, although terms can range from 12 to 120 months. As a result, most of the revenues we report in each quarter are derived from the recognition of deferred revenues relating to subscriptions entered into during previous quarters. Consequently, a decline in new or renewed subscriptions in any single quarter will likely have only a small impact on our revenue results for that quarter. Such a decline, however, will negatively affect our revenues in future quarters. Accordingly, the effect of significant downturns in sales and market acceptance of our service, and potential changes in our rate of renewals may not be fully reflected in our results of operations until future periods. Our subscription model also makes it difficult for us to rapidly increase our revenues through additional sales in any period, as revenues from new customers must be recognized over the applicable subscription term. In addition, we may be unable to adjust our cost structure to reflect the changes in revenues.

If we are unable to successfully manage the growth of our professional services business and improve our profit margin from these services our operating results will be harmed.

Our professional services business, which performs implementation and configuration of our subscription service for our customers, has grown as our revenues from subscriptions have grown. We believe our investment in professional services facilitates the adoption of our subscription service. As a result, our sales efforts have been focused primarily on our subscription service, rather than the profitability of our professional services business. Historically, our pricing for professional services was predominantly on a fixed-fee basis and the cost of the time and materials incurred to complete these services were greater than the amount charged to the customer. These factors contributed to our negative gross profit percentages from professional services and other

of (220)%, (202)% and (21)% for fiscal 2009, 2010 and 2011, respectively, and (43)% and (51)% for the six months ended December 31, 2010 and 2011, respectively. The improvement in gross profit percentages was due in part to the adoption of new revenue recognition accounting guidance commencing on July 1, 2010. In addition, in December 2011, we began shifting our pricing model to a time-and-materials basis. In the future, we intend to price our professional services based on the anticipated cost of those services and, as a result, expect to improve the gross profit percentage of our professional services business. If we are unable to successfully transition to a time-and-materials based pricing model and manage the growth of our professional services business, our operating results, including our profit margins, will be harmed. In addition, the shift to this new pricing model may cause our sales cycle to lengthen.

We may be sued by third parties for alleged infringement of their proprietary rights.

There is considerable patent and other intellectual property development activity in our industry. Our success depends in part on not infringing upon the intellectual property rights of others. From time to time, our competitors or other third parties may claim that we are infringing upon their intellectual property rights, and we may be found to be infringing upon such rights. In the future, we may receive claims that our applications and underlying technology infringe or violate the claimant's intellectual property rights. However, we may be unaware of the intellectual property rights of others that may cover some or all of our technology or services. Any claims or litigation could cause us to incur significant expenses and, if successfully asserted against us, could require that we pay substantial damages or ongoing royalty payments, prevent us from offering our service, or require that we comply with other unfavorable terms. We may also be obligated to indemnify our customers or business partners in connection with any such litigation and to obtain licenses, modify our service or refund fees, which could further exhaust our resources. In addition, we may pay substantial settlement costs to resolve claims or litigation, whether or not legitimately or successfully asserted against us, which could include royalty payments in connection with any such litigation and to obtain licenses, modify our service or refund fees, which could further exhaust our resources. Even if we were to prevail in the event of claims or litigation against us, any claim or litigation regarding our intellectual property could be costly and time-consuming and divert the attention of our management and key personnel from our business operations. Such disputes could also disrupt our service, causing an adverse impact to our customer satisfaction and related renewal rates.

Our use of "open source" software could harm our ability to sell our service and subject us to possible litigation.

A significant portion of the technologies licensed or developed by us incorporate so-called "open source" software, and we may incorporate open source software into other services in the future. We attempt to monitor our use of open source software in an effort to avoid subjecting our service to conditions we do not intend; however, there can be no assurance that our efforts have been or will be successful. There is little or no legal precedent governing the interpretation of the terms of open source licenses, and therefore the potential impact of these terms on our business is uncertain and enforcement of these terms may result in unanticipated obligations regarding our service and technologies. For example, depending on which open source license governs open source software included within our service or technologies, we may be subjected to conditions requiring us to offer our service to users at no cost; make available the source code for modifications and derivative works based upon, incorporating or using the open source software; and license such modifications or derivative works under the terms of the particular open source license.

If an author or other third party that distributes such open source software were to allege that we had not complied with the conditions of one or more of these licenses, we could be required to incur significant legal costs defending ourselves against such allegations, we could be subject to significant damages or be enjoined from the distribution of our service. In addition, if we combine our proprietary software with open source software in a certain manner, under some open source licenses we could be required to release the source code of our proprietary software, which could substantially help our competitors develop solutions that are similar to or better than our service.

Any failure to protect our intellectual property rights could impair our ability to protect our proprietary technology and our brand.

Our success depends to a significant degree on our ability to protect our proprietary technology and our brand. We rely on a combination of copyright, trade secret and other intellectual property laws and confidentiality procedures to protect our proprietary rights. If we fail to protect our intellectual property rights adequately, our competitors may gain access to our technology and our business may be harmed. In addition, defending our intellectual property rights might entail significant expense. Any of our trademarks or other intellectual property rights may be challenged by others or invalidated through administrative process or litigation. We have only recently begun to develop a strategy to seek, and may be unable to obtain, patent protection for our technology. In addition, any patents issued in the future may not provide us with competitive advantages, or may be successfully challenged by third parties. Furthermore, legal standards relating to the validity, enforceability and scope of protection of intellectual property rights are uncertain. Effective patent, trademark, copyright and trade secret protection may not be available to us in every country in which our service is available. The laws of some foreign countries may not be as protective of intellectual property rights as those in the United States, and mechanisms for enforcement of intellectual property rights may be inadequate. Accordingly, despite our efforts, we may be unable to prevent third parties from infringing upon or misappropriating our intellectual property.

We may be required to spend significant resources to monitor and protect our intellectual property rights. We may initiate claims or litigation against third parties for infringement of our proprietary rights or to establish the validity of our proprietary rights. Any litigation, whether or not it is resolved in our favor, could result in significant expense to us and divert the efforts of our technical and management personnel.

Our growth depends in part on the success of our strategic relationships with third parties and their continued performance.

We anticipate that we will continue to depend on various third-party relationships in order to grow our business. In particular, we depend on a limited number of third parties to provide a majority of our implementation services. Our strategy is to work with third parties to increase the breadth of capability and the depth of capacity for delivery of these services to our customers.

We intend to expand our relationships with third parties, such as implementation partners, systems integrators and managed services providers. Identifying these and other partners, and negotiating and documenting relationships with them, require significant time and resources. Our agreements with partners are typically non-exclusive and do not prohibit them from working with our competitors or from offering competing solutions. Our competitors may be effective in providing incentives to third parties, including our partners, to favor their solutions or to prevent or reduce subscriptions to our service either by disrupting our relationship with existing customers or by limiting our ability to win new customers. In addition, global economic conditions could harm the businesses of our partners, and it is possible that they may not be able to devote the additional resources we expect to the relationship. If we are unsuccessful in establishing or maintaining our relationships with these third parties, our ability to compete in the marketplace or to grow our revenues could be impaired and our operating results would suffer. Even if we are successful, we cannot assure you that these relationships will result in greater customer usage of our service or increased revenues.

If a customer is not satisfied with the quality of work performed by us or a third party, we could incur additional costs to address the situation, the profitability of that work might be impaired, and the customer’s dissatisfaction with our professional services could damage our ability to obtain additional revenues from that customer.

Sales to customers outside North America expose us to risks inherent in international sales.

Because we sell our service throughout the world, we are subject to risks and challenges that we would otherwise not face if we conducted our business only in North America. Sales outside of North America represented 25% and 29% of our total revenues for fiscal 2011 and the six months ended December 31, 2011, respectively, and we intend to continue to expand our international sales efforts. Our business and future prospects depend on increasing our international sales as a percentage of our total revenues, and the failure to grow internationally will harm our business. The risks and challenges associated with sales to customers outside North America are different in some ways from those associated with sales in North America and we have a limited history addressing those risks and meeting those challenges. The risks and challenges inherent with international sales include:

- localization of our service, including translation into foreign languages and associated expenses;
- differing laws and business practices, which may favor local competitors;
- longer sales cycles;
- compliance with multiple, conflicting and changing governmental laws and regulations, including employment, tax, privacy and data protection laws and regulations;
- treatment of revenues from international sources and changes to tax codes, including being subject to foreign tax laws and being liable for paying withholding income or other taxes in foreign jurisdictions;
- regional data privacy laws that apply to the transmission of our customers' data across international borders;
- foreign currency fluctuations and controls;
- different pricing environments;
- difficulties in staffing and managing foreign operations;
- different or lesser protection of our intellectual property;
- longer accounts receivable payment cycles and other collection difficulties;
- regional economic conditions; and
- regional political conditions.

Any of these factors could negatively impact our business and results of operations.

We face exposure to foreign currency exchange rate fluctuations.

We conduct significant transactions, including intercompany transactions, in currencies other than the United States dollar or the functional operating currency of the transactional entities. In addition, our international subsidiaries maintain significant net assets that are denominated in currencies other than the functional operating currencies of these entities. Accordingly, changes in the value of foreign currencies relative to the United States dollar can affect our revenues and operating results due to transactional and translational remeasurement that is reflected in our earnings. We do not currently maintain a program to hedge transactional exposures in foreign currencies. However, in the future, we may use derivative instruments, such as foreign currency forward and option contracts, to hedge certain exposures to fluctuations in foreign currency exchange rates. The use of such hedging activities may not offset any or more than a portion of the adverse financial effects of unfavorable movements in foreign exchange rates over the limited time the hedges are in place. Moreover, the use of hedging instruments may introduce additional risks if we are unable to structure effective hedges with such instruments.

Weakened global economic conditions may harm our industry, business and results of operations.

Our overall performance depends in part on worldwide economic conditions, which may remain challenging for the foreseeable future. Global financial developments seemingly unrelated to us or the IT industry may harm us. The United States and other key international economies have been impacted by falling demand for a variety of goods and services, restricted credit, poor liquidity, reduced corporate profitability, volatility in credit, equity and foreign exchange markets, bankruptcies and overall uncertainty with respect to the economy. These conditions affect the rate of information technology spending and could adversely affect our customers' ability or willingness to purchase our service, delay prospective customers' purchasing decisions, reduce the value or duration of their subscriptions, or affect renewal rates, all of which could harm our operating results.

Changes in laws, regulations and standards related to the Internet may cause our business to suffer.

Federal, state or foreign government bodies or agencies have in the past adopted, and may in the future adopt, laws and regulations affecting data privacy and the use of the Internet as a commercial medium. Industry organizations also regularly adopt and advocate for new standards in this area. For instance, we believe increased regulation is likely in the area of data privacy, and changing laws, regulations and standards applying to the solicitation, collection, processing or use of personal or consumer information could affect our customers' ability to use and share data, potentially restricting our ability to store, process and share data with our customers. In addition, government agencies or private organizations may begin to impose taxes, fees or other charges for accessing the Internet, commerce conducted via the Internet or validation that particular processes follow the latest standards. These changes could limit the viability of Internet-based services such as ours. If we are not able to adjust to changing laws, regulations and standards related to the Internet, our business may be harmed.

Unanticipated changes in our effective tax rate could harm our future results.

We are subject to income taxes in the United States and various foreign jurisdictions, and our domestic and international tax liabilities are subject to the allocation of expenses in differing jurisdictions. Our effective tax rate could be adversely affected by changes in the mix of earnings and losses in countries with differing statutory tax rates, certain non-deductible expenses as a result of acquisitions, the valuation of deferred tax assets and liabilities and changes in federal, state or international tax laws and accounting principles. Increases in our effective tax rate would reduce our profitability or in some cases increase our losses.

In addition, we may be subject to income tax audits by many tax jurisdictions throughout the world, many of which have not established clear guidance on the tax treatment of SaaS-based companies. Although we believe our income tax liabilities are reasonably estimated and accounted for in accordance with applicable laws and principles, an adverse resolution of one or more uncertain tax positions in any period could have a material impact on the results of operations for that period.

Natural disasters and other events beyond our control could harm our business.

Natural disasters or other catastrophic events may cause damage or disruption to our operations, international commerce and the global economy, and thus could have a strong negative effect on us. Our business operations are subject to interruption by natural disasters, fire, power shortages, pandemics and other events beyond our control. Although we maintain crisis management and disaster response plans, such events could make it difficult or impossible for us to deliver our service to our customers, and could decrease demand for our service. The majority of our research and development activities, corporate headquarters, information technology systems, and other critical business operations are located near major seismic faults in California. Customer data could be lost, significant recovery time could be required to resume operations and our financial condition and operating results could be harmed in the event of a major earthquake or catastrophic event.

We will incur increased costs as a result of operating as a public company and our management will have to devote substantial time to public company compliance obligations.

As a public company, we will incur significant legal, accounting and other expenses that we did not incur as a private company. The Sarbanes-Oxley Act of 2002, as well as rules subsequently implemented by the Securities and Exchange Commission, or SEC, and our stock exchange, has imposed various requirements on public companies, including requiring changes in corporate governance practices. Our management and other personnel will need to devote a substantial amount of time to these compliance requirements and any new requirements that the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 may impose on public companies. Moreover, these rules and regulations, along with compliance with accounting principles and regulatory interpretations of such principles, have increased and will continue to increase our legal, accounting and financial compliance costs and have made and will continue to make some activities more time-consuming and costly. For example, we expect these rules and regulations to make it more difficult and more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced policy limits and coverage or incur substantial costs to maintain the same or similar coverage. These rules and regulations could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors or our board committees, or as executive officers.

If we do not remediate material weaknesses in our internal control over financial reporting or are unable to implement and maintain effective internal control over financial reporting in the future, the accuracy and timeliness of our financial reporting may be adversely affected.

Prior to completion of this offering, we have been a private company and historically had limited accounting personnel to adequately execute our accounting processes and other supervisory resources with which to address our internal control over financial reporting. This lack of adequate accounting resources contributed to audit adjustments to our financial statements in the past.

In connection with our preparation of the financial statements for the year ended June 30, 2011 and the six months ended December 31, 2011, our independent registered public accounting firm identified control deficiencies in our internal control that constituted material weaknesses. A material weakness is defined under the standards issued by the Public Company Accounting Oversight Board as a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our financial statements will not be prevented or detected and corrected on a timely basis. The material weaknesses our independent registered public accounting firm identified related to the design and operation of policies and procedures for accounting and reporting control processes, performance of account review and analysis, the development and review of complex judgments and estimates, the preparation of the provision for income taxes and the identification, communication and accounting of significant contracts and agreements. These material weaknesses, which contributed to multiple audit adjustments, primarily resulted from our failure to maintain a sufficient number of personnel with an appropriate level of knowledge, experience and training in the application of U.S. generally accepted accounting principles, or GAAP.

We are in the process of implementing measures designed to improve our internal control over financial reporting to remediate these material weaknesses. During the six months ended December 31, 2011, we hired a new Chief Financial Officer, a new Vice President of Finance and a several new finance and accounting managers which significantly increases our finance and accounting team's experience in GAAP and financial reporting for publicly traded companies. In September 2011, we engaged a third-party tax firm and in February 2012, we hired a Senior Manager of Internal Audit. In March 2012, we hired a Vice President of Tax to assist with the accounting for income taxes and review of complex tax accounting matters. In addition, we expect to retain consultants to advise us on making further improvements to our internal controls related to these accounting areas. We believe that these additional resources enable us to broaden the scope and quality of our internal review of underlying information related to financial reporting and to further enhance our financial review procedures, including both the accounting processes for income taxes and significant contracts and agreements.

We cannot assure you that the measures we have taken to date, or any measures we may take in the future, will be sufficient to remediate the material weaknesses in our internal control over financial reporting or to avoid potential future material weaknesses.

The Sarbanes-Oxley Act requires, among other things, that we assess the effectiveness of our internal control over financial reporting annually and disclosure controls and procedures quarterly. In particular, beginning with the year ending on December 31, 2013, we must perform system and process evaluation and testing of our internal control over financial reporting to allow management to report on, and our independent registered public accounting firm to attest to, the effectiveness of our internal control over financial reporting, as required by Section 404 of the Sarbanes-Oxley Act. Our testing, or the subsequent testing by our accounting firm, that must be performed for 2013 may reveal other material weaknesses or that the material weaknesses described above have not been fully remediated. If we do not remediate the material weaknesses described above, or if other material weaknesses are identified or we are not able to comply with the requirements of Section 404 in a timely manner, our reported financial results could be materially misstated or could subsequently require restatement, we could receive an adverse opinion regarding our controls from our accounting firm and we could be subject to investigations or sanctions by regulatory authorities, which would require additional financial and management resources, and the market price of our stock could decline.

A portion of our revenues are generated by sales to government entities and heavily regulated organizations, which are subject to a number of challenges and risks.

A portion of our sales are to governmental agencies. Additionally, many of our current and prospective customers are highly regulated and may be required to comply with more stringent regulations in connection with subscribing to and implementing our service. Selling to these entities can be highly competitive, expensive and time consuming, often requiring significant upfront time and expense without any assurance that we will successfully complete a sale. Government and highly regulated entities often require contract terms that differ from our standard arrangements and impose compliance requirements that are complicated, require preferential pricing or “most favored nation” terms and conditions, or are otherwise time consuming and expensive to satisfy. Due to the additional requirements of the U.S. federal government, we are in the process of establishing data centers that are compliant with the Federal Information Security Management Act. The additional costs associated with providing our service to government and highly regulated customers could harm our margins. Moreover, changes in the underlying regulatory conditions that affect these types of customers could harm our ability to efficiently provide our service to them and to grow or maintain our customer base.

We may acquire or invest in companies, which may divert our management’s attention, result in additional dilution to our stockholders, and we may be unable to integrate acquired businesses and technologies successfully or achieve the expected benefits of such acquisitions.

We may evaluate and consider potential strategic transactions, including acquisitions of, or investments in, businesses, technologies, services, products and other assets in the future. We also may enter into relationships with other businesses to expand our service offerings or our ability to provide services in international locations, which could involve preferred or exclusive licenses, additional channels of distribution, discount pricing or investments in other companies. An acquisition, investment or business relationship may result in unforeseen operating difficulties and expenditures. In particular, we may encounter difficulties assimilating or integrating the businesses, technologies, products, personnel or operations of the acquired companies, particularly if the key personnel of the acquired company choose not to work for us, their software is not easily adapted to work with ours, or we have difficulty retaining the customers of any acquired business due to changes in ownership, management or otherwise. Acquisitions may also disrupt our business, divert our resources and require significant management attention that would otherwise be available for development of our existing business. Moreover, the anticipated benefits of any acquisition, investment or business relationship may not be realized or we may be exposed to unknown risks or liabilities.

Negotiating these transactions can be time-consuming, difficult and expensive, and our ability to close these transactions may often be subject to approvals that are beyond our control. Consequently, these transactions, even if undertaken and announced, may not close. For one or more of those transactions, we may:

- issue additional equity securities that would dilute our stockholders;
- use cash that we may need in the future to operate our business;
- incur debt on terms unfavorable to us or that we are unable to repay;
- incur large charges or substantial liabilities;
- encounter difficulties retaining key employees of the acquired company or integrating diverse software codes or business cultures; and
- become subject to adverse tax consequences, substantial depreciation or deferred compensation charges.

Risks Relating to Ownership of Our Common Stock and this Offering

The market price of our common stock is likely to be volatile and could subject us to litigation.

Prior to this offering, there has not been a public market for our common stock. We cannot assure you that an active trading market for our common stock will develop following this offering. You may not be able to sell your shares quickly or at the market price if trading in our common stock is not active. The initial public offering price for the shares will be determined by negotiations between us and representatives of the underwriters and may not be indicative of prices that will prevail in the trading market following the offering. In addition, the trading prices of the securities of technology companies in general have been highly volatile. Accordingly, the market price of our common stock is likely to be subject to wide fluctuations. Factors affecting the market price of our common stock include:

- variations in our operating results, earnings per share, cash flows from operating activities, deferred revenue, and other financial metrics and non-financial metrics, and how those results compare to analyst expectations;
- forward-looking statements related to future revenues and earnings per share;
- the net increases in the number of customers, either independently or as compared with published expectations of industry, financial or other analysts that cover our company;
- changes in the estimates of our operating results or changes in recommendations by securities analysts that elect to follow our common stock;
- announcements of technological innovations, new solutions or enhancements to services, strategic alliances or significant agreements by us or by our competitors;
- announcements by us or by our competitors of mergers or other strategic acquisitions, or rumors of such transactions involving us or our competitors;
- announcements of customer additions and customer cancellations or delays in customer purchases;
- recruitment or departure of key personnel;
- disruptions in our service due to computer hardware, software or network problems, security breaches, or other man-made or natural disasters;
- the economy as a whole, market conditions in our industry, and the industries of our customers;
- trading activity by a limited number of stockholders who together beneficially own a majority of our outstanding common stock;
- the size of our market float; and
- any other factors discussed herein.

In addition, if the market for technology stocks or the stock market in general experiences uneven investor confidence, the market price of our common stock could decline for reasons unrelated to our business, operating results or financial condition. The market price of our common stock might also decline in reaction to events that affect other companies within, or outside, our industry even if these events do not directly affect us. Some companies that have experienced volatility in the trading price of their stock have been the subject of securities class action litigation. If we are the subject of such litigation, it could result in substantial costs and a diversion of our management's attention and resources.

We have broad discretion in the use of the net proceeds from this offering and may not use them effectively.

Our management will have broad discretion in the application of the net proceeds from this offering, including for any of the purposes described in the section titled "Use of Proceeds," and you will not have the opportunity as part of your investment decision to assess whether the net proceeds are being used appropriately. Because of the number and variability of factors that will determine our use of the net proceeds from this offering, their ultimate use may vary substantially from their currently intended use. The failure by our management to apply these funds effectively could harm our business. Pending their use, we may invest the net proceeds from this offering in short-term, investment-grade, interest-bearing securities. These investments may not yield a favorable return to our stockholders.

We do not intend to pay dividends on our common stock so any returns will be limited to changes in the value of our common stock.

We have never declared or paid any cash dividends on our common stock. We currently anticipate that we will retain future earnings for the development, operation and expansion of our business and do not anticipate declaring or paying any cash dividends for the foreseeable future. In addition, our ability to pay cash dividends on our common stock may be prohibited or limited by the terms of any future debt financing arrangement. Any return to stockholders will therefore be limited to the increase, if any, of our stock price.

Our directors and principal stockholders own a significant percentage of our stock and will be able to exert significant control over matters subject to stockholder approval.

As of February 29, 2012, our directors, five percent or greater stockholders and their respective affiliates owned in the aggregate approximately 89% of our outstanding voting stock and, upon completion of this offering, that same group will hold in the aggregate approximately % of our outstanding voting stock (assuming no exercise of the underwriters' overallotment option), including approximately % controlled by funds affiliated with JMI Equity. Therefore, after this offering these stockholders will continue to have the ability to influence us through this ownership position. These stockholders may be able to determine all matters requiring stockholder approval. For example, these stockholders will be able to control elections of directors, amendments of our organizational documents, or approval of any merger, sale of assets, or other major corporate transaction. This may prevent or discourage unsolicited acquisition proposals or offers for our common stock that you may feel are in your best interest as one of our stockholders.

If you purchase our common stock in this offering, you will incur immediate and substantial dilution in the book value of your shares.

The assumed initial public offering price is substantially higher than the net tangible book value per share of our common stock will be immediately after this offering. Investors purchasing common stock in this offering will pay a price per share that substantially exceeds the book value of our tangible assets after subtracting our liabilities. As a result, investors purchasing common stock in this offering will incur immediate dilution of $ per share, assuming an initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus.

This dilution is due to the substantially lower price paid by our investors who purchased shares prior to this offering as compared to the price offered to the public in this offering, and any previous exercise of stock options granted to our employees. In addition, as of December 31, 2011, options to purchase 39,314,140 shares of our common stock at a weighted average exercise price of $2.20 per share were outstanding. The exercise of any of these options would result in additional dilution. As a result of the dilution to investors purchasing shares in this offering, investors may receive less than the purchase price paid in this offering, if anything, in the event of our liquidation.

Future sales and issuances of our common stock or rights to purchase common stock, including pursuant to our equity incentive plans, could result in additional dilution of the percentage ownership of our stockholders and could cause our stock price to decline.

We may need additional capital in the future to continue our planned operations. To the extent we raise additional capital by issuing equity securities, our stockholders may experience substantial dilution. We may sell common stock, convertible securities or other equity securities in one or more transactions at prices and in a manner we determine from time to time. If we sell common stock, convertible securities or other equity securities in subsequent transactions, investors may be materially diluted. New investors in such subsequent transactions could gain rights, preferences and privileges senior to those of holders of our common stock, including shares of common stock sold in this offering.

Sales of a substantial number of shares of our common stock in the public market by our existing stockholders following this offering could cause our stock price to fall.

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

All of our officers and directors and the holders of substantially all of our capital stock are subject to lock-up agreements with the underwriters of this offering that restrict the stockholders' ability to transfer shares of our common stock for at least 180 days from the date of this prospectus. The lock-up agreements limit the number of shares of common stock that may be sold immediately following this initial public offering. Subject to certain limitations, approximately shares will become eligible for sale upon expiration of the lock-up period. In addition, shares issued or issuable upon exercise of options vested as of the expiration of the lock-up period will be eligible for sale at that time. Sales of stock by these stockholders could have a material adverse effect on the trading price of our common stock.

Certain holders of shares of our common stock are entitled to rights with respect to the registration of their shares under the Securities Act of 1933, as amended, or the Securities Act, subject to the 180-day lock-up arrangement described above. Registration of these shares under the Securities Act would result in the shares becoming freely tradable without restriction under the Securities Act, except for shares held by our affiliates as defined in Rule 144 under the Securities Act. Any sales of securities by these stockholders could have a material adverse effect on the trading price of our common stock.

Provisions in our restated certificate of incorporation and restated bylaws and Delaware law might discourage, delay or prevent a change of control of our company or changes in our management and, therefore, depress the market price of our common stock.

Our restated certificate of incorporation and restated bylaws contain provisions that could depress the market price of our common stock by acting to discourage, delay or prevent a change in control of our company or changes in our management that the stockholders of our company may deem advantageous. These provisions among other things:

- establish a classified board of directors so that not all members of our board are elected at one time;
- permit the board of directors to establish the number of directors;
- provide that directors may only be removed "for cause" and only with the approval of 66 2/3% of our stockholders;
- require super-majority voting to amend some provisions in our restated certificate of incorporation and restated bylaws;
- authorize the issuance of "blank check" preferred stock that our board could use to implement a stockholder rights plan;
- eliminate the ability of our stockholders to call special meetings of stockholders;
- prohibit stockholder action by written consent, which requires all stockholder actions to be taken at a meeting of our stockholders;
- provide that the board of directors is expressly authorized to make, alter or repeal our restated bylaws; and
- establish advance notice requirements for nominations for election to our board or for proposing matters that can be acted upon by stockholders at annual stockholder meetings.

In addition, Section 203 of the Delaware General Corporation Law may discourage, delay or prevent a change in control of our company. Section 203 imposes certain restrictions on merger, business combinations and other transactions between us and holders of 15% or more of our common stock.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus includes forward-looking statements. All statements, other than statements of historical fact, contained in this prospectus, including statements regarding our future results of operations, financial position and cash flows, our business strategy and plans and our objectives for future operations, are forward-looking statements. The words “believe,” “may,” “will,” “estimate,” “continue,” “anticipate,” “would,” “could,” “should,” “intend” and “expect” and similar expressions are intended to identify forward-looking statements. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy, short-term and long-term business operations and objectives. These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described in “Risk Factors.” Moreover, we operate in a very competitive and rapidly changing environment. New risks emerge from time to time. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties and assumptions, the future events and trends discussed in this prospectus may not occur and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements.

Although we believe the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. We are under no duty to update any of these forward-looking statements after the date of this prospectus or to conform these statements to actual results or revised expectations.

INDUSTRY AND MARKET DATA

Unless otherwise indicated, information contained in this prospectus concerning our industry and the market in which we operate, including our general expectations, market position, market opportunity and market size, is based on information from various sources, including independent industry publications like those generated by Gartner, Inc. In presenting this information, we have also made assumptions based on such data and other similar sources and on our knowledge of, and our experience to date in, the markets for our service and related solutions. These data involve a number of assumptions and limitations, and you are cautioned not to give undue weight to such estimates. Neither we nor the underwriters have independently verified the accuracy or completeness of any third-party information. While we believe the market position, opportunity and market size information included in this prospectus is generally reliable, such information is inherently imprecise. In addition, projections, assumptions and estimates of our future performance and the future performance of the industry in which we operate are necessarily subject to a high degree of uncertainty and risk due to a variety of factors, including those described in “Risk Factors” and elsewhere in this prospectus. These and other factors could cause results to differ materially from those expressed in the estimates made by the independent parties and by us.

The Gartner report, “Forecast: Enterprise Software Markets, Worldwide, 2009-2016, 1Q12 Update,” March, 2012, described herein, or the Gartner Report, represents data, research opinion or viewpoints published as part of a syndicated subscription service, by Gartner, and may not be representations of fact. The Gartner Report speaks as of its original publication date (and not as of the date of this prospectus) and the opinions expressed in the Gartner Report are subject to change without notice.

USE OF PROCEEDS

We estimate that our net proceeds from the sale of the shares of common stock offered by us will be approximately $ million, assuming an initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting underwriting discounts and commissions and estimated offering expenses payable by us. If the underwriters exercise their over-allotment option in full, we estimate that the net proceeds from this offering will be approximately $ million, after deducting underwriting discounts and commissions and estimated offering expenses payable by us. We will not receive any proceeds from the sale of common stock by the selling stockholders.

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) our net proceeds from this offering by approximately $ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting underwriting discounts and commissions.

The principal purposes of this offering are to create a public market for our common stock, obtain additional capital, facilitate our future access to the public equity markets, increase awareness of our company among potential customers and improve our competitive position. We intend to use the net proceeds to us from this offering for working capital and other general corporate purposes. Additionally, we may choose to expand our current business through acquisitions of, or investments in, other businesses, products or technologies, using cash or shares of our common stock. However, we have no commitments with respect to any such acquisitions or investments at this time.

Pending the use of proceeds from this offering, we intend to invest the net proceeds in short-term, interest-bearing, investment-grade securities. Our management will have broad discretion in the application of the net proceeds from this offering and investors will be relying on the judgment of our management regarding the application of the proceeds.

DIVIDEND POLICY

We have never declared or paid any cash dividends on our capital stock. We currently intend to retain all available funds and any future earnings to support our operations and finance the growth and development of our business. We do not intend to pay cash dividends on our common stock for the foreseeable future. Any future determination related to dividend policy will be made at the discretion of our board of directors.

CAPITALIZATION

The following table sets forth our cash and our capitalization as of December 31, 2011:

- on an actual basis;
- on a pro forma basis to give effect to:
  - the conversion of all outstanding shares of our convertible preferred stock into an aggregate of 83,703,016 shares of common stock and the filing of our restated certificate of incorporation upon the closing of this offering; and
  - the sale and issuance of 1,750,980 shares of common stock in a private placement by us in February 2012; and
- on a pro forma as adjusted basis to reflect the pro forma adjustments described above and the sale and issuance of shares of common stock in this offering by us, and the receipt of the net proceeds from our sale of shares at an assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting underwriting discounts and commissions and estimated offering expenses payable by us.

The information below is illustrative only and our cash and our capitalization following the closing of this offering will be adjusted based on the actual initial public offering price and other terms of this offering determined at pricing. You should read the information in this table together with the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements and the related notes appearing elsewhere in this prospectus.

	As of December 31, 2011		
	Actual	Pro Forma	Pro Forma as Adjusted[1]
	(In thousands, except share and per share data)		
Cash	$ 68,088	$ 85,948	$
Series C redeemable convertible preferred stock, $0.001 par value: 983,606 shares authorized, 983,606 shares issued and outstanding, actual; no shares authorized, issued or outstanding, pro forma and pro forma as adjusted	$ 5,957	$ —	$
Series A redeemable convertible preferred stock, $0.001 par value: 2,500,000 shares authorized, 2,500,000 shares issued and outstanding, actual; no shares authorized, issued or outstanding, pro forma and pro forma as adjusted	3,805	—	
Series B redeemable convertible preferred stock, $0.001 par value: 4,040,488 shares authorized, 3,988,636 shares issued and outstanding, actual; no shares authorized, issued or outstanding, pro forma and pro forma as adjusted	7,165	—	
Series D convertible preferred stock, $0.001 par value: 3,830,379 shares authorized; 2,990,635 shares issued and outstanding, actual; no shares authorized, issued or outstanding, pro forma and pro forma as adjusted	51,245	—	
Stockholders' equity (deficit):			
Preferred stock, $0.001 par value: no shares authorized, issued or outstanding, actual; shares authorized, no shares issued or outstanding, pro forma and pro forma as adjusted	—	—	
Common stock, $0.001 par value: 200,000,000 shares authorized, 22,229,978 shares issued and outstanding, actual; 200,000,000 shares authorized, 107,683,974 shares issued and outstanding, pro forma; shares authorized and shares issued and outstanding, pro forma as adjusted	22	108	
Additional paid-in capital	9,793	95,739	
Accumulated other comprehensive income	899	899	
Accumulated deficit	(68,140)	(68,140)	
Total stockholders' equity (deficit)	(57,426)	28,606	
Total capitalization	$ 10,746	$ 28,606	$

(1) A $1.00 increase (decrease) in the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase (decrease) the pro forma as adjusted amount of each of cash, additional paid-in capital, total stockholders' equity and total capitalization by approximately $ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting underwriting discounts and commissions. Similarly, each increase (decrease) of one million shares in the number of shares offered by us would increase (decrease), cash, additional paid-in capital, total stockholders' equity and total capitalization by approximately $ million, assuming the assumed initial public offering price remains the same and after deducting the underwriting discounts and commissions.

The number of shares of our common stock to be outstanding after this offering is based on 107,683,974 shares of common stock outstanding as of December 31, 2011 and excludes:

- 39,314,140 shares of common stock issuable upon the exercise of options outstanding under our 2005 Stock Plan with a weighted-average exercise price of $2.20 per share;
- 6,657,210 shares of common stock reserved for future issuance under our 2005 Stock Plan; provided, however, that immediately prior to the closing of this offering, any remaining shares available for issuance under our 2005 Stock Plan will be added to the shares reserved under our 2012 Equity Incentive Plan and we will cease granting awards under the 2005 Stock Plan;
- additional shares of common stock reserved for future issuance under our 2012 Equity Incentive Plan, which will become effective immediately prior to the closing of this offering; and
- shares of common stock reserved for future issuance under our 2012 Employee Stock Purchase Plan, which will become effective upon the closing of this offering.

DILUTION

If you invest in our common stock, your interest will be diluted to the extent of the difference between the initial public offering price per share of our common stock and the pro forma as adjusted net tangible book value per share of our common stock immediately after our initial public offering.

As of December 31, 2011, our pro forma net tangible book value was $28.6 million, or $0.27 per share of common stock. Pro forma net tangible book value per share represents the amount of our tangible assets less our liabilities divided by the total number of shares of our common stock outstanding, after giving effect to (i) the conversion of our convertible preferred stock into an aggregate of 83,703,016 shares of our common stock upon the closing of this offering and (ii) the sale and issuance of 1,750,980 shares of common stock in a private placement by us in February 2012.

Our pro forma as adjusted net tangible book value as of December 31, 2011 was $ million, or $ per share of common stock. Pro forma as adjusted net tangible book value per share reflects the pro forma adjustments described above and further reflects the sale of shares of common stock by us in this offering at an assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover of this prospectus, after deducting underwriting discounts and commissions and estimated offering expenses payable by us. This represents an immediate increase in pro forma as adjusted net tangible book value of $ per share to existing stockholders and immediate dilution of $ per share to new investors purchasing shares in the offering.

The following table illustrates this per share dilution:

Assumed initial public offering price per share		$
Pro forma net tangible book value per share as of December 31, 2011	$0.27	
Increase in net tangible book value per share attributable to new investors in this offering		
Pro forma as adjusted net tangible book value per share after this offering		
Dilution in pro forma as adjusted net tangible book value per share to new investors in this offering		$

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) our pro forma as adjusted net tangible book value as of December 31, 2011 by approximately $ million, the pro forma as adjusted net tangible book value per share after this offering by $ and the dilution in pro forma as adjusted net tangible book value per share to new investors in this offering by $, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting underwriting discounts and commissions. Similarly, each increase (decrease) of one million shares in the number of shares of common stock offered by us would increase (decrease) the pro forma as adjusted net tangible book value per share after this offering by $, and the dilution in pro forma net tangible book value per share to new investors in this offering by $, assuming the assumed initial public offering price remains the same and after deducting underwriting discounts and commissions. If the underwriters exercise their over-allotment option in full, the pro forma as adjusted net tangible book value per share after this offering would be $ per share, and the dilution in pro forma net tangible book value per share to new investors in this offering would be $ per share of common stock.

The following table summarizes, on a pro forma as adjusted basis as of December 31, 2011, the differences between the number of shares of common stock purchased from us, the total cash consideration and the average price per share paid to us by existing stockholders and by new investors purchasing shares in this offering, at an assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, before deducting underwriting discounts and commissions and estimated offering expenses payable by us:

	Shares purchased		Total consideration		Average price per share
	Number	Percent	Amount	Percent	
Existing stockholders		%	$	%	$
New investors					
Total		100%	$	100%	

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase (decrease) total consideration paid to us by new investors participating in this offering by approximately $ million, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting underwriting discounts and commissions.

If the underwriters' over-allotment option is exercised in full, the number of shares of common stock held by existing stockholders will be reduced to % of the total number of shares of common stock to be outstanding after this offering, and the number of shares of common stock held by investors participating in this offering will be further increased to , or % of the total number of shares of common stock to be outstanding after this offering.

Sales of shares of common stock by the selling stockholders in this offering will reduce the number of shares of common stock held by existing stockholders to , or approximately % of the total shares of common stock outstanding after this offering, and will increase the number of shares held by new investors to , or approximately % of the total shares of common stock outstanding after this offering.

The table and discussion above are based on 107,683,974 shares of common stock outstanding as of December 31, 2011, and exclude:

- 39,314,140 shares of common stock issuable upon the exercise of options outstanding under our 2005 Stock Plan with a weighted-average exercise price of $2.20 per share;
- 6,657,210 shares of common stock reserved for future issuance under our 2005 Stock Plan; provided, however, that immediately prior to the closing of this offering, any remaining shares available for issuance under our 2005 Stock Plan will be added to the shares reserved under our 2012 Equity Incentive Plan and we will cease granting awards under the 2005 Stock Plan;
- additional shares of common stock reserved for future issuance under our 2012 Equity Incentive Plan, which will become effective immediately prior to the closing of this offering; and
- shares of common stock reserved for future issuance under our 2012 Employee Stock Purchase Plan, which will become effective upon the closing of this offering.

SELECTED CONSOLIDATED FINANCIAL DATA

The following selected consolidated financial data should be read together with our consolidated financial statements and accompanying notes and "Management's Discussion and Analysis of Financial Condition and Results of Operations" appearing elsewhere in this prospectus. The selected consolidated financial data in this section are not intended to replace our consolidated financial statements and the related notes. Our historical results are not necessarily indicative of our future results.

The selected consolidated statements of operations data for fiscal 2009, 2010 and 2011 and for the six months ended December 31, 2011 and the selected consolidated balance sheet data as of June 30, 2010 and 2011 and as of December 31, 2011 are derived from our audited consolidated financial statements appearing elsewhere in this prospectus. The consolidated balance sheet data as of June 30, 2009 is derived from our audited consolidated financial statements which are not included in this prospectus. The consolidated statement of operations data for the six months ended December 31, 2010 are derived from our unaudited consolidated financial statements included elsewhere in this prospectus. The consolidated statements of operations data for fiscal 2007 and 2008 and the consolidated balance sheet data as of June 30, 2007 and 2008 are derived from our unaudited consolidated financial statements which are not included in this prospectus. We have prepared the unaudited financial information on the same basis as the audited consolidated financial statements and have included, in our opinion, all adjustments, consisting only of normal recurring adjustments, we consider necessary for a fair statement of the financial information set forth in those statements.

	Fiscal Year Ended June 30,					Six Months Ended December 31,	
	2007	2008	2009	2010	2011	2010	2011
	(in thousands, except share and per share data)						
Consolidated Statements of Operations Data:							
Revenues[1]:							
Subscription	$ 1,834	$ 8,644	$17,841	$ 40,078	$79,191	$33,191	$64,886
Professional services and other	29	137	1,474	3,251	13,450	4,753	8,489
Total revenues	1,863	8,781	19,315	43,329	92,641	37,944	73,375
Cost of revenues[2][3]:							
Subscription	397	1,838	3,140	6,378	15,311	6,096	15,073
Professional services and other	253	2,717	4,711	9,812	16,264	6,778	12,850
Total cost of revenues	650	4,555	7,851	16,190	31,575	12,874	27,923
Gross profit	1,213	4,226	11,464	27,139	61,066	25,070	45,452
Operating expenses[2][3]:							
Sales and marketing	2,314	6,142	8,499	19,334	34,123	13,728	32,501
Research and development	2,682	2,098	2,433	7,194	7,004	2,758	7,030
General and administrative	356	1,854	6,363	28,810	9,379	3,417	10,084
Total operating expenses	5,352	10,094	17,295	55,338	50,506	19,903	49,615
Income (loss) from operations	(4,139)	(5,868)	(5,831)	(28,199)	10,560	5,167	(4,163)
Interest and other income (expense), net	170	10	(27)	(1,226)	606	289	(1,446)
Income (loss) before provision for income taxes	(3,969)	(5,858)	(5,858)	(29,425)	11,166	5,456	(5,609)
Provision for income taxes	2	23	48	280	1,336	653	1,075
Net income (loss)	(3,971)	(5,881)	(5,906)	(29,705)	9,830	4,803	(6,684)
Net income (loss) per share attributable to common stockholders[4]:							
Basic	$ (0.11)	$ (0.16)	$ (0.17)	$ (1.31)	$ 0.09	$ 0.04	$ (0.33)
Diluted	$ (0.11)	$ (0.16)	$ (0.17)	$ (1.31)	$ 0.08	$ 0.04	$ (0.33)

	Fiscal Year Ended June 30,					Six Months Ended December 31,	
	2007	2008	2009	2010	2011	2010	2011
	(in thousands, except share and per share data)						
Weighted-average shares used to compute net income (loss) per share attributable to common stockholders[4]:							
Basic	40,000,000	40,115,383	39,039,066	23,157,576	18,163,977	17,156,445	21,104,219
Diluted	40,000,000	40,115,383	39,039,066	23,157,576	28,095,486	27,622,357	21,104,219
Pro forma net loss per share attributable to common stockholders[4]:							
Basic					$ 0.09		$ (0.06)
Diluted					$ 0.09		$ (0.06)
Pro forma weighted-average shares used to compute pro-forma net loss per share attributable to common stockholders[4]:							
Basic					103,617,973		106,558,215
Diluted					113,633,033		106,558,215

(1) Revenues for fiscal 2011 and the six months ended December 31, 2010 and 2011 reflect the prospective adoption of new revenue accounting guidance commencing on July 1, 2010. As a result of this guidance, we separately allocate value for multiple element contracts between our subscription revenues and professional services revenues based on the best estimate of selling price. Additionally, we recognize professional services revenues as the services are delivered. Please refer to Note 2 to our consolidated financial statements for further discussion of our revenue recognition policies.

(2) Stock-based compensation included in the statements of operations above was as follows:

	Fiscal Years Ended June 30,					Six Months Ended December 31,	
	2007	2008	2009	2010	2011	2010	2011
	(in thousands)						
Cost of revenues:							
Subscription	$ —	$ 3	$ 6	$ 48	$ 548	$ 225	$ 674
Professional services and other	1	5	11	28	117	37	193
Sales and marketing	8	22	45	277	1,004	431	2,010
Research and development	3	12	50	90	468	207	704
General and administrative	5	14	15	102	817	221	2,056

(3) Operating expenses for fiscal 2009 reflect compensation expense of $3.8 million related to the stock settlement of an outstanding promissory note in connection with our sale and issuance of Series C preferred stock. Cost of revenues and operating expenses for fiscal 2010 reflect compensation expense of $0.7 million and $30.1 million, respectively, related to the repurchase of shares from eligible stockholders in connection with our sale and issuance of Series D preferred stock.

(4) Please refer to Note 11 to our consolidated financial statements for an explanation of the method used to calculate the historical and pro forma net income (loss) per share attributable to common stockholders and the number of shares used in the computation of the per share amounts.

	As of June 30,					As of December 31,
	2007	2008	2009	2010	2011	2011
	(in thousands)					
Consolidated Balance Sheet Data:						
Cash	$ 3,619	$ 4,772	$ 7,788	$ 29,402	$ 59,853	$ 68,088
Working capital, excluding deferred revenues	5,647	5,401	10,090	33,080	75,801	95,033
Total assets	6,341	7,725	15,327	51,369	108,746	156,323
Deferred revenues, current and non-current portion	4,207	9,867	16,778	40,731	74,646	104,636
Convertible preferred stock	8,187	8,810	15,342	67,227	67,860	68,172
Total stockholders' deficit	(6,650)	(13,112)	(21,690)	(71,262)	(58,381)	(57,426)

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

You should read the following discussion and analysis of our financial condition and results of operations together with our consolidated financial statements and the related notes appearing at the end of this prospectus. Some of the information contained in this discussion and analysis or set forth elsewhere in this prospectus, including information with respect to our plans and strategy for our business, includes forward-looking statements that involve risks and uncertainties. You should read the "Risk Factors" section of this prospectus for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.

Overview

ServiceNow is a leading provider of cloud-based services to automate enterprise IT operations. Our service includes a suite of applications built on our proprietary platform that automates workflow and integrates related business processes. We focus on transforming enterprise IT by automating and standardizing business processes and consolidating IT across the global enterprise. Organizations deploy our service to create a single system of record for enterprise IT, to lower operational costs and to enhance efficiency. Additionally, our customers use our extensible platform to build custom applications for automating activities unique to their business requirements.

We offer our service under a SaaS business model. Our subscription fee includes the use of our service and our technical support and management of the hosting infrastructure. We provide a scaled pricing model based on the number of users, in which the subscription price per user decreases as the number of users increases. We generally bill our customers annually in advance. We generate sales through our direct sales team and indirectly through channel partners and third-party referrals. We also generate revenues from professional services for implementation and training.

Many customers initially subscribe to our service to solve a specific and immediate problem. Once their problem is solved, many of our customers deploy additional applications as they become more familiar with our service and apply it to new IT processes. In addition, some customers adopt our platform to build applications that automate various processes for business uses outside of IT such as human resources, facilities and quality control management. A majority of our revenues come from large global enterprise customers. Our total customers grew 62% from 602 as of December 31, 2010 to 974 as of December 31, 2011.

We were founded in 2004 and entered into our first commercial contract in 2005. To date, we have funded our business primarily with cash flows from operations. We continue to invest in the development of our service, infrastructure and sales and marketing to drive long-term growth. In 2011, we significantly changed our executive management team. We hired a new Chief Executive Officer in May 2011, and our founder became Chief Product Officer. We subsequently hired additional key executives across our entire organization including our Chief Financial Officer, Chief Technology Officer, Senior Vice President of Sales and Services, Senior Vice President of Development and Customer Support, Vice President of Human Resources and Vice President of Marketing. In addition, we increased our overall employee headcount from 375 as of June 30, 2011 to 603 as of December 31, 2011.

We have achieved significant revenue growth in recent periods. For the fiscal years ended June 30, 2010 and 2011, our revenues grew 114% from $43.3 million to $92.6 million. We incurred a net loss of $29.7 million and generated net income of $9.8 million for the fiscal years ended June 30, 2010 and 2011, respectively. For the six months ended December 31, 2010 and 2011, our revenues grew 93% from $37.9 million to $73.4 million. We generated net income of $4.8 million and incurred a net loss of $6.7 million for the six months ended December 31, 2010 and 2011, respectively.

Fiscal Year End

On February 3, 2012, our Board of Directors approved a change to our fiscal year-end from June 30 to December 31. Included in this prospectus is the transition period for the six months ended December 31, 2011. Accordingly, we present the consolidated balance sheets as of June 30, 2010 and 2011 and December 31, 2011, and the consolidated statements of comprehensive income, changes in convertible preferred stock and stockholders' deficit, and cash flows for the fiscal years ended June 30, 2009, 2010 and 2011 and the six months ended December 31, 2010 and 2011. References to "fiscal 2009", "fiscal 2010" and "fiscal 2011" still refer to the fiscal years ended June 30, 2009, 2010 and 2011, respectively.

Key Factors Affecting Our Performance

Total customers. We believe total customers is a key indicator of our market penetration, growth and future revenues. We have aggressively invested in and intend to continue to invest in our direct sales force, as well as to pursue additional partnerships within our indirect sales channel. We generally define a customer as an entity with an active service contract as of the measurement date. In situations where there is a single contract that applies to entities with multiple subsidiaries or divisions, universities, or governmental organizations, each entity that has contracted for a separate production instance of our service is counted as a separate customer. Our total customers were 281, 460 and 771 as of June 30, 2009, 2010 and 2011, respectively, and 602 and 974 as of December 31, 2010 and 2011, respectively.

Investment in growth. We have aggressively invested, and intend to continue to invest, in expanding our operations, increasing our headcount and developing technology to support our growth. We expect our total operating expenses to increase in the foreseeable future, particularly as we continue to expand our sales and hosting operations. We continue to invest in our sales and marketing organization to drive additional revenues and support the growth of our customer base. Any investments we make in our sales and marketing organization will occur in advance of experiencing any benefits from such investments, so it may be difficult for us to determine if we are efficiently allocating our resources in these areas.

Renewal rate. We calculate our renewal rate by subtracting our attrition rate from 100%. Our attrition rate for a period is equal to the annual contract value from customers that are due for renewal in the period and did not renew, divided by the total annual contract value from all customers due for renewal during the period. Annual contract value is equal to the first twelve months of expected subscription revenues under a contract. We believe our renewal rate is an important metric to measure the long-term value of customer agreements and our ability to retain our customers. Our renewal rate was 94%, 95%, and 97% in fiscal 2009, 2010 and 2011, respectively, and 99% and 97% in the six months ended December 31, 2010 and 2011, respectively.

Upsells. In order for us to continue to grow our business, it is important to generate additional revenue from existing customers. We believe there is significant opportunity to increase the number of subscriptions sold to current customers as customers become more familiar with our platform and adopt our applications to address additional business use cases. We believe our ability to upsell is a key factor affecting our ability to further penetrate our existing customer base. We monitor upsells by measuring the annual contract value of upsells signed in the period as a percentage of our total annual contract value of all contracts signed in the period. Upsells as a percentage of total annual contract value signed was 20%, 25% and 27% in fiscal 2009, 2010 and 2011, respectively, and 25% and 28% in the six months ended December 31, 2010 and 2011, respectively.

Investment in infrastructure. We intend to continue to make substantial investments in new equipment to support growth at our data centers and provide enhanced levels of service to our customers. We are transitioning from a managed service hosting model, where a third party manages most aspects of the operations of the hosting infrastructure, to a co-location model, where we will have more direct control over the infrastructure and its operation. We are also investing in enhancements to our cloud architecture, which are designed to provide our customers with enhanced data reliability and availability. We expect to complete these two transitions in the second half of 2012. We made capital expenditures of $8.4 million in the six months ended December 31, 2011

and anticipate making capital expenditures of approximately $25.0 million during 2012 for purchases of equipment used in our data centers. Actual capital expenditures during 2012 may fluctuate from this estimate due to unforeseen circumstances, such as changes to our customer growth rate or project delays.

Professional services model. We believe our investment in professional services facilitates the adoption of our subscription service. As a result, our sales efforts have been focused primarily on our subscription service, rather than the profitability of our professional services business. Historically, our pricing for professional services was predominantly on a fixed-fee basis and the cost of the time and materials incurred to complete these services was greater than the amount charged to the customer. These factors contributed to our negative gross profit percentages from professional services of (220)%, (202)% and (21)% for fiscal 2009, 2010 and 2011, respectively, and (43)% and (51)% for the six months ended December 31, 2010 and 2011, respectively. The improvement in gross profit percentages was due in part to the adoption of new revenue recognition accounting guidance commencing on July 1, 2010. In addition, in December 2011, we began shifting our pricing model to a time-and-materials basis. In the future, we intend to price our professional services based on the anticipated cost of those services and as a result expect to improve the gross profit percentage of our professional services business.

Platform adoption. Our service includes access to our suite of applications, as well as access to our platform to develop custom applications. Though in the near term we expect our revenue growth to be primarily driven by the pace of adoption and penetration of our suite of applications, we are investing considerable resources to enhance the application development capabilities of our platform. We believe the adoption of our platform will enhance our ability to acquire new customers, to increase renewals and to increase upsells due to an increase in the number of authorized users per customer.

Components of Results of Operations

Revenues

Subscription revenues. Subscription revenues are primarily comprised of fees which give customers access to our suite of on-demand applications, as well as access to our platform to build custom applications. Pricing includes multiple instances, hosting and support services, data backup and disaster recovery services, as well as future upgrades offered during the subscription period. In addition, we offer two separately licensed enabling technologies, Discovery and Runbook Automation. We typically invoice our customers for subscription fees in annual increments upon initiation of the initial contract or subsequent renewal. We generally enter into arrangements with customers to purchase subscriptions for a term greater than 12 months, with an average initial contract term of approximately 30 months. Our contracts are generally non-cancelable, though customers can terminate for breach if we materially fail to perform. Fees for subscription services are generally billed annually in advance.

We generate sales directly through our sales team and, to a lesser extent, through our channel partners. Sales to our channel partners are made at a discount and revenues are recorded at the discounted price when all revenue recognition criteria are met. In addition, we pay referral fees to third parties typically ranging from 10% to 20% of the first year’s annual contract value. These fees are included in sales and marketing expense.

Professional services and other revenues. Professional services revenues consist of fees associated with the implementation and configuration of our subscription service. Other revenues include customer training and attendance fees for our Knowledge conferences. Historically, our pricing for professional services was predominantly on a fixed-fee basis. However, in December 2011, we began shifting our pricing model to a time-and-materials basis. Going forward, we anticipate the majority of our new business will be priced on a time-and-materials basis. Most of our professional services engagements span six to eight months. We typically bill for our fixed price professional services in two installments, with the first installment due up front and the second installment due at either a specified future date (usually approximately three months from the contract

start date) or upon completion of the services. Our time-and-materials professional services are generally billed monthly in arrears based on actual hours and expenses incurred. Typical payment terms provide our customers pay us within 30 days of invoice.

Prior to fiscal 2011, we recorded revenues from our professional services over a period commensurate with our subscription service contracts. However, the cost associated with our professional services engagements was recorded as the services were delivered, resulting in lower gross profit percentages in fiscal 2009 and 2010. On July 1, 2010, we adopted new revenue recognition accounting guidance on a prospective basis that enabled us to separately allocate value for our multiple element arrangements between our subscription revenues and professional services revenues, based on the best estimate of selling price. As a result, professional services revenues are recognized as the services are delivered, which is substantially the same period as the associated costs are incurred. This shift resulted in an increase to professional services and other revenues of $5.5 million for fiscal 2011. Refer to “Critical Accounting Policies and Significant Judgments and Estimates” below for further discussion of our revenue recognition accounting policy.

Backlog. Backlog represents future amounts to be invoiced under our agreements. As of December 31, 2011, we had backlog of approximately $210 million. We expect backlog will change from period to period for several reasons, including the timing and duration of customer subscription and professional services agreements, varying billing cycles of subscription agreements, and the timing of customer renewals.

Overhead Allocation

Overhead associated with our facilities, IT costs and depreciation is allocated to our cost of revenues and operating expenses based on headcount.

Cost of Revenues

Subscription cost of revenues. Cost of subscription revenues primarily consists of expenses related to hosting our service and providing support. These expenses are comprised of data center capacity costs; personnel and related costs directly associated with our cloud infrastructure and customer support, including salaries, benefits, bonuses and stock-based compensation; allocated overhead; and third-party referral fees.

Professional services and other cost of revenues. Cost of professional services and other revenues consists primarily of personnel and related costs directly associated with our professional services and training departments, including salaries, benefits, bonuses and stock-based compensation; the costs of contracted third-party vendors; and allocated overhead.

Professional services associated with the implementation and configuration of our subscription service are performed directly by our services team, as well as by contracted third-party vendors. Fees paid up-front to our third-party vendors are deferred and amortized to cost of revenues as the services are delivered. Fees owed to our third-party vendors are accrued over the same requisite service period. Cost of revenues associated with our professional services engagements contracted with third-party vendors as a percentage of professional services and other revenues was 52%, 135% and 54% for fiscal 2009, 2010 and 2011, respectively, and 70% and 64% for the six months ended December 31, 2010 and 2011, respectively. Cost of revenues associated with our professional services engagements contracted with third-party vendors as a percentage of the total professional services and other cost of revenues was 16%, 45% and 45% for fiscal 2009, 2010 and 2011, respectively, and 49% and 43% for the six months ended December 31, 2010 and 2011, respectively.

Sales and Marketing Expenses

Sales and marketing expenses consist primarily of personnel and related costs directly associated with our sales and marketing staff, including salaries, benefits, bonuses, commissions and stock-based compensation. Other costs included in this expense are marketing and promotional events, including our Knowledge conferences, online marketing, product marketing and allocated overhead.

Research and Development Expenses

Research and development expenses consist primarily of personnel and related costs directly associated with our research and development staff, including salaries, benefits, bonuses and stock-based compensation, and allocated overhead.

General and Administrative Expenses

General and administrative expenses primarily consist of personnel and related costs for our executive, finance, legal, human resources and administrative personnel, including salaries, benefits, bonuses and stock-based compensation; legal, accounting and other professional services fees; other corporate expenses; and allocated overhead.

Provision for Income Taxes

Provision for income taxes consists of federal, state and foreign income taxes. Due to cumulative losses, we maintain a valuation allowance against our deferred tax assets as of December 31, 2011. We consider all available evidence, both positive and negative, in assessing the extent to which a valuation allowance should be applied against our deferred tax assets.

Results of Operations

To enhance comparability, the following table sets forth our results of operations for the periods presented. The period-to-period comparison of financial results is not necessarily indicative of future results.

	Fiscal Years Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010	2011
	(in thousands)				
Revenues[1]:					
Subscription	$17,841	$ 40,078	$79,191	$33,191	$64,886
Professional services and other	1,474	3,251	13,450	4,753	8,489
Total revenues	19,315	43,329	92,641	37,944	73,375
Cost of revenues[2][3]:					
Subscription	3,140	6,378	15,311	6,096	15,073
Professional services and other	4,711	9,812	16,264	6,778	12,850
Total cost of revenues	7,851	16,190	31,575	12,874	27,923
Gross profit	11,464	27,139	61,066	25,070	45,452
Operating expenses[2][3]:					
Sales and marketing	8,499	19,334	34,123	13,728	32,501
Research and development	2,433	7,194	7,004	2,758	7,030
General and administrative	6,363	28,810	9,379	3,417	10,084
Total operating expenses	17,295	55,338	50,506	19,903	49,615
Income (loss) from operations	(5,831)	(28,199)	10,560	5,167	(4,163)
Interest and other income (expense), net	(27)	(1,226)	606	289	(1,446)
Income (loss) before provision for income taxes	(5,858)	(29,425)	11,166	5,456	(5,609)
Provision for income taxes	48	280	1,336	653	1,075
Net income (loss)	$ (5,906)	$(29,705)	$ 9,830	$ 4,803	$ (6,684)

(1) Revenues for fiscal 2011 and the six months ended December 31, 2010 and 2011 reflect the prospective adoption of new revenue accounting guidance commencing on July 1, 2010. As a result of this guidance, we separately allocate value for multiple element contracts between our subscription revenues and professional services revenues based on the best estimate of selling price. Additionally, we recognize professional services revenues as the services are delivered. Please refer to Note 2 to our consolidated financial statements for further discussion of our revenue recognition policies.

(2) Stock-based compensation included in the statements of operations above was as follows:

	Fiscal Year Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010	2011
	(in thousands)				
Cost of revenues:					
Subscription	$ 6	$ 48	$ 548	$ 225	$ 674
Professional services and other	11	28	117	37	193
Sales and marketing	45	277	1,004	431	2,010
Research and development	50	90	468	207	704
General and administrative	15	102	817	221	2,056

(3) Operating expenses for fiscal 2009 reflect compensation expense of $3.8 million related to the stock settlement of an outstanding promissory note in connection with our sale and issuance of Series C preferred stock. Cost of revenues and operating expenses for fiscal 2010 reflect compensation expense of $0.7 million and $30.1 million, respectively, related to the repurchase of shares from eligible stockholders in connection with our sale and issuance of Series D preferred stock.

	Fiscal Year Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010	2011
	(as a percentage of revenues)				
Revenues:					
Subscription	92%	92%	85%	87%	88%
Professional services and other	8	8	15	13	12
Total revenues	100	100	100	100	100
Cost of revenues:					
Subscription	16	15	16	16	20
Professional services and other	25	22	18	18	18
Total cost of revenues	41	37	34	34	38
Gross profit	59	63	66	66	62
Operating expenses:					
Sales and marketing	44	45	37	36	44
Research and development	12	17	8	7	10
General and administrative	33	66	10	9	14
Total operating expenses	89	128	55	52	68
Income (loss) from operations	(30)	(65)	11	14	(6)
Interest and other income (expense), net	—	(3)	1	1	(2)
Income (loss) before provision for income taxes	(30)	(68)	12	15	(8)
Provision for income taxes	1	1	1	2	1
Net income (loss)	(31)%	(69)%	11%	13%	(9)%

	Fiscal Years Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010	2011
	(in thousands)				
Revenues by geography					
North America	$ 14,062	$ 31,396	$ 69,333	$ 27,919	$ 51,901
Europe	5,018	10,708	20,093	8,693	18,842
Asia Pacific and other	235	1,225	3,215	1,332	2,632
Total revenues	$ 19,315	$ 43,329	$ 92,641	$ 37,944	$ 73,375

	Fiscal Year Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010	2011
Revenues by geography					
North America	73%	72%	75%	74%	71%
Europe	26%	25%	22%	23%	26%
Asia Pacific and other	1%	3%	3%	3%	3%
Total revenues	100%	100%	100%	100%	100%

Comparison of the six months ended December 31, 2010 and 2011

Revenues

	Six Months Ended December 31,		% Change
	2010	2011	
	(dollars in thousands)		
Revenues:			
Subscription	$ 33,191	$ 64,886	95%
Professional services and other	4,753	8,489	79%
Total revenues	$ 37,944	$ 73,375	93%
Percentage of revenues:			
Subscription	87%	88%	
Professional services and other	13%	12%	
Total	100%	100%	

Revenues increased $35.4 million, comprised primarily of the increase to subscription revenues of $31.7 million. Subscription revenues increased primarily due to new customers and additional subscriptions sold to current customers. Our total number of customers increased 62% from December 31, 2010 to December 31, 2011. The average subscription revenues per customer increased 19% over this period primarily due to an increase in the number of subscriptions sold to existing customers. The increase in professional services and other revenues of $3.7 million was primarily due to the growth in our customer base.

Cost of Revenues and Gross Profit Percentage

	Six Months Ended December 31,		
	2010	2011	% Change
	(dollars in thousands)		
Cost of revenues:			
Subscription	$ 6,096	$ 15,073	147%
Professional services and other	6,778	12,850	90%
Total cost of revenues	$ 12,874	$ 27,923	117%
Gross profit percentage:			
Subscription	82%	77%	
Professional services and other	(43)%	(51)%	
Total gross profit percentage	66%	62%	
Gross profit	$ 25,070	$ 45,452	81%
Headcount (at period end)	101	217	115%

Cost of subscription revenues increased $9.0 million resulting in a decrease from 82% to 77% in subscription gross profit percentage. The overall increase in cost of subscription revenues was primarily attributed to increased personnel-related costs of $4.9 million, consisting of increased employee compensation, benefits and travel costs of $4.5 million and additional stock-based compensation of $0.4 million. In addition, hosting fees for our network infrastructure increased $1.6 million as we increased data center capacity to support our growth. At December 31, 2011, we delivered our service from five data centers in the United States and six data centers internationally compared to three data centers in the United States and five data centers internationally at December 31, 2010. Depreciation expense also increased $1.1 million as we started the transition of our network infrastructure from a managed services hosting model to a co-location model.

Cost of professional services and other revenues increased $6.1 million resulting in a decrease in professional services and other gross profit percentage from (43)% to (51)%. The overall increase in cost of professional services and other revenues was primarily attributed to increased personnel-related costs of $3.7 million, consisting of increased employee compensation, benefits and travel costs of $3.5 million and additional stock-based compensation of $0.2 million. In addition, outside services increased $1.9 million primarily related to additional fees paid to third-parties to provide implementation services.

Total headcount associated with cost of revenues increased 115% from December 31, 2010 to December 31, 2011 as we invested in additional resources to continue to support our subscription service and further develop our professional services group.

We expect cost of subscription revenues to increase in line with increases in revenues. Additionally, we are in the process of transitioning our network infrastructure from a managed service hosting model to a co-location model. We expect to complete the transition in the second half of 2012. We anticipate a negative impact on our gross profit percentage in the near term as we accelerate depreciation on certain assets from our managed service hosting data centers and incur additional rent expenses as we complete the migration. However, as our data centers scale with our anticipated customer growth, we expect this transition will improve our gross profit percentage in the long term.

We expect cost of professional services and other will continue to increase as revenues increase and as we further develop our professional services group. In the future, we expect our gross profit percentage to improve as we increase our focus on the profitability of the professional services business.

Sales and Marketing

	Six Months Ended December 31,		
	2010	2011	% Change
	(dollars in thousands)		
Sales and marketing	$ 13,728	$ 32,501	137%
Percentage of revenues	36%	44%	
Headcount (at period end)	90	242	169%

Sales and marketing expenses increased $18.8 million due to the expansion of our sales force and increases in marketing programs to address additional opportunities in new and existing markets. Total headcount in sales and marketing increased 169% from December 31, 2010 to December 31, 2011, contributing to a $13.3 million increase in personnel-related costs, consisting primarily of increased employee compensation, benefits and travel costs associated with our direct sales force of $11.8 million, and additional stock-based compensation of $1.6 million. In addition, we incurred an increase of $3.1 million in commissions directly attributable to increased sales and changes made to our commissions plan in the six months ended December 31, 2011. Marketing and event costs increased $1.3 million due to our continued efforts to generate sales leads and build brand awareness.

We expect sales and marketing expenses to increase and continue to be our largest component of costs and expenses, as we continue to expand our direct sales teams, increase our marketing activities, grow our international operations, build brand awareness and sponsor additional marketing events.

Research and Development

	Six Months Ended December 31,		
	2010	2011	% Change
	(dollars in thousands)		
Research and development	$ 2,758	$ 7,030	155%
Percentage of revenues	7%	10%	
Headcount (at period end)	34	83	144%

Research and development expenses increased $4.3 million primarily due to increased personnel-related costs of $4.0 million, consisting of increased employee compensation, benefits and travel costs associated with our research and development team of $3.5 million and additional stock-based compensation of $0.5 million. Total headcount in research and development increased 144% from December 31, 2010 to December 31, 2011 as we upgraded and extended our service offerings and developed new technologies.

We expect research and development expenses to increase as we improve the existing functionality of our service, develop new applications to fill market needs and continue to enhance our core platform.

General and Administrative

	Six Months Ended December 31,		
	2010	2011	% Change
	(dollars in thousands)		
General and administrative	$ 3,417	$ 10,084	195%
Percentage of revenues	9%	14%	
Headcount (at period end)	25	61	144%

General and administrative expenses increased $6.7 million primarily due to increased headcount of 144% from December 31, 2010 to December 31, 2011. Personnel-related expenses increased by $4.1 million, consisting of increased employee compensation, benefits and travel costs of $2.3 million and additional stock-based

compensation of $1.8 million, as we added employees to support the growth of our business. Professional and outside service costs increased $1.6 million, comprised primarily of legal and accounting fees associated with our international expansion.

We expect to incur higher general and administrative expenses as a result of both our growth and transition as a public company, including higher legal, corporate insurance and accounting expenses, and the additional costs of achieving and maintaining compliance with Section 404 of the Sarbanes-Oxley Act and related regulations. We expect the continued expansion of our operations will also contribute to higher general and administrative expenses.

Interest and Other Income (Expense), net

	Six Months Ended December 31,		
	2010	2011	% Change
	(dollars in thousands)		
Interest and other income (expense), net	$ 289	$ (1,446)	NM
Percentage of revenues	1%	(2)%	

Interest and other income (expense), net primarily consists of foreign currency transaction gains and losses. The decrease of $1.7 million is primarily due to unrealized losses on amounts invoiced to customers that are denominated in British Pounds and Euros as the U.S. Dollar strengthened over the six months ended December 31, 2011 as compared to the six months ended December 31, 2010. While we have not engaged in the hedging of our foreign currency transactions to date, we are presently evaluating the costs and benefits of initiating such a program and may in the future hedge selected significant transactions denominated in currencies other than the U.S. Dollar.

Provision for Income Taxes

	Six Months Ended December 31,		
	2010	2011	% Change
	(in thousands)		
Income before income taxes	$ 5,456	$ (5,609)	NM
Provision for income taxes	653	1,075	65%
Effective tax rate	12%	(19)%	

The provision for income taxes increased $0.4 million, primarily as a result of the increase in pre-tax income related to international operations and California taxes for the six months ended December 31, 2011 compared to the same period in the prior year. During the six months ended December 31, 2011, we recorded a provision for income taxes principally attributable to foreign taxes, U.S. federal taxes and California taxes.

We expect to expand our international operations to better support our growth in international markets. Effective December 1, 2011, we reorganized our international operations to establish a centralized international headquarters in Amsterdam and to provide flexibility to accommodate structural and operational expansion outside of North America. Our future effective tax rates may be adversely affected by earnings being lower than anticipated in countries that have lower statutory rates and earnings being higher than anticipated in countries that have higher statutory rates. The earnings of our foreign subsidiaries are considered permanently reinvested outside of the United States.

Comparison of Fiscal 2009, 2010 and 2011

Revenues

	Fiscal Year Ended June 30,			2009 to 2010	2010 to 2011
	2009	2010	2011	% Change	% Change
	(dollars in thousands)				
Revenues:					
Subscription	$17,841	$40,078	$79,191	125%	98%
Professional services and other	1,474	3,251	13,450	121%	314%
Total revenues	$19,315	$43,329	$92,641	124%	114%
Percentage of revenues:					
Subscription	92%	92%	85%		
Professional services and other	8	8	15		
Total	100%	100%	100%		

Fiscal 2010 compared to fiscal 2011. Revenues increased $49.3 million, comprised primarily of increased subscription revenues of $39.1 million. Subscription revenues increased primarily due to new customers and additional subscriptions sold to existing customers. Our total number of customers increased 68% from June 30, 2010 to June 30, 2011. The average subscription revenues per customer increased 19% over this period primarily due to an increase in the number of subscriptions sold to existing customers. The increase in professional services and other revenues of $10.2 million was primarily due to the prospective adoption of new revenue accounting guidance resulting in an increase to professional services and other revenues of $5.5 million in fiscal 2011. The remaining increase of $4.7 million was attributable to the growth in our customer base.

Fiscal 2009 compared to fiscal 2010. Revenues increased $24.0 million, comprised primarily of increased subscription revenues of $22.2 million. Subscription revenues increased primarily due to new customers and additional subscriptions sold to existing customers. The average subscription revenues per customer increased 41% over this period primarily due to an increase in the average number of subscriptions sold to new customers. Our total number of customers increased by 64% from June 30, 2009 to June 30, 2010. The increase in professional services and other revenues of $1.8 million was primarily attributable to the growth in our customer base.

Cost of Revenues and Gross Profit Percentage

	Fiscal Year Ended June 30,			2009 to 2010	2010 to 2011
	2009	2010	2011	% Change	% Change
	(dollars in thousands)				
Cost of revenues:					
Subscription	$ 3,140	$ 6,378	$15,311	103%	140%
Professional services and other	4,711	9,812	16,264	108%	66%
Total cost of revenues	$ 7,851	$16,190	$31,575	106%	95%
Gross profit percentage:					
Subscription	82%	84%	81%		
Professional services and other	(220)	(202)	(21)		
Total gross profit percentage	59%	63%	66%		
Gross profit	$11,464	$27,139	$61,066	137%	125%
Headcount (at period end)	38	66	150	74%	127%

Fiscal 2010 compared to fiscal 2011. Cost of subscription revenues increased $8.9 million, resulting in a decrease from 84% to 81% in subscription gross profit percentage from June 30, 2010 to June 30, 2011. The overall increase in cost of subscription revenues was primarily attributable to increased personnel-related costs of $5.0 million, consisting of increased employee compensation, benefits and travel costs of $4.5 million and additional stock-based compensation of $0.5 million. Hosting fees for our network infrastructure increased $2.1 million as we increased data center capacity to support our growth. At June 30, 2011, we delivered our service from five data centers in the United States and six data centers internationally compared to three data centers in the United States and five data centers internationally at June 30, 2010. Depreciation expense also increased $0.8 million as we started the transition of our network infrastructure from a managed service hosting model to a co-location model.

Cost of professional services and other revenues increased $6.5 million from June 30, 2010 to June 30, 2011. Our professional services and other gross profit percentage improved from (202)% to (21)% from June 30, 2010 to June 30, 2011, primarily due to increased revenues as a result of the prospective adoption of new revenue recognition accounting guidance. This guidance enabled us to recognize professional services revenues as the services are delivered. The overall increase in cost of professional services and other revenues was primarily attributable to increased employee compensation, benefits and travel costs of $3.1 million and increased outside services costs of $3.1 million primarily related to additional fees paid to third parties to provide implementation services.

Total headcount associated with cost of revenues increased 127% from June 30, 2010 to June 30, 2011 as we invested in additional resources to continue to support our subscription service and further develop our professional services group.

Fiscal 2009 compared to fiscal 2010. Our subscription gross profit percentage increased from 82% to 84% from June 30, 2009 to June 30, 2010, due to increased revenues of $22.2 million offset by an increase in the cost of subscription revenues of $3.2 million. The overall increase in cost of subscription revenues was primarily attributed to an increase in our hosting fees for our network infrastructure of $1.5 million as we increased data center capacity to support our growth. At June 30, 2010, we delivered our service from three data centers in the United States and five data centers internationally compared to three data centers in the United States and two data centers internationally at June 30, 2009. Personnel-related costs increased $1.1 million, consisting of increased employee compensation, benefits and travel costs.

Our professional services and other gross profit percentage improved from (220)% to (202)% from June 30, 2009 to June 30, 2010, due to an increase in professional services and other revenues of $1.8 million offset by an increase in cost of professional services and other revenues of $5.1 million. The overall increase in cost of professional services and other revenues was primarily attributable to increased outside services costs of $3.2 million primarily related to additional fees paid to third parties to provide implementation services. In addition, personnel-related costs increased $1.5 million, consisting primarily of increased employee compensation, benefits and travel costs of $1.4 million. Total headcount associated with cost of revenues increased 74% from June 30, 2009 to June 30, 2010 as we invested in additional resources to continue to support our subscription service and further develop our professional services group.

Sales and Marketing

	Fiscal Year Ended June 30,			2009 to 2010	2010 to 2011
	2009	2010	2011	% Change	% Change
	(dollars in thousands)				
Sales and marketing	$8,499	$19,334	$34,123	127%	76%
Percentage of revenues	44%	45%	37%		
Headcount (at period end)	40	72	140	80%	94%

Fiscal 2010 compared to fiscal 2011. Sales and marketing expenses increased $14.8 million. Employee-related costs increased $13.3 million, consisting of increased employee compensation, benefits and travel costs in connection with our direct sales force of $11.5 million, increased commissions of $1.1 million, and an increase in stock-based compensation of $0.7 million, which was primarily driven by an increase in sales and marketing headcount of 94% from June 30, 2010 to June 30, 2011. In addition, we incurred an increase of $2.7 million in marketing and event costs primarily attributable to our annual Knowledge conference, which experienced a 107% increase in attendance year-over-year. Offsetting these increases was a decrease of $2.0 million in compensation expense related to the fiscal 2010 repurchase of shares from eligible stockholders in connection with our sale and issuance of Series D preferred stock. Please see Note 7 to our consolidated financial statements for further explanation of this transaction.

Fiscal 2009 compared to fiscal 2010. Sales and marketing expenses increased $10.8 million. Employee-related costs increased $7.6 million, consisting of increased employee compensation, benefits and travel costs in connection with our direct sales force of $4.7 million, increased commissions of $2.7 million, and an increase in stock-based compensation of $0.2 million, which was primarily driven by an increase in sales and marketing headcount of 80% from June 30, 2009 to June 30, 2010. In addition, fiscal 2010 included $2.0 million in compensation expense related to the repurchase of shares from eligible stockholders in connection with our sale and issuance of Series D preferred stock. Marketing and event costs, primarily related to our Knowledge conference, increased $0.8 million.

Research and Development

	Fiscal Year Ended June 30,			2009 to 2010	2010 to 2011
	2009	2010	2011	% Change	% Change
	(dollars in thousands)				
Research and development	$2,433	$7,194	$7,004	196%	(3)%
Percentage of revenues	13%	17%	8%		
Headcount (at period end)	15	28	44	87%	57%

Fiscal 2010 compared to fiscal 2011. Research and development expenses decreased $0.2 million. Personnel-related costs increased $2.8 million, consisting of increased employee compensation, benefits and travel costs of $2.4 million and increased stock-based compensation of $0.4 million, which was primarily driven by an increase in research and development headcount of 57% from June 30, 2010 to June 30, 2011. In addition, outside services costs increased $0.4 million. Offsetting these increases was a decrease of $3.6 million in compensation expense related to the fiscal 2010 repurchase of shares from eligible stockholders in connection with our sale and issuance of Series D preferred stock.

Fiscal 2009 compared to fiscal 2010. Research and development expenses increased $4.8 million primarily due to $3.6 million in compensation expense related to the repurchase of shares from eligible stockholders in connection with our sale and issuance of Series D preferred stock in fiscal 2010. In addition, personnel-related costs increased $1.1 million, primarily consisting of increased employee compensation, benefits and travel costs of $1.0 million, which was driven by an increase in research and development headcount of 87% from June 30, 2009 to June 30, 2010.

General and Administrative

	Fiscal Year Ended June 30,			2009 to 2010 %Change	2010 to 2011 %Change
	2009	2010	2011		
	(dollars in thousands)				
General and administrative	$6,363	$28,810	$9,379	353%	(67)%
Percentage of revenues	33%	66%	10%		
Headcount (at period end)	8	12	41	50%	242%

Fiscal 2010 compared to fiscal 2011. General and administrative expenses decreased $19.4 million. Personnel-related expenses increased $3.3 million, consisting of increased employee compensation, benefits and travel costs of $2.6 million and increased stock-based compensation of $0.7 million primarily driven by an increase in general and administrative headcount of 242% from June 30, 2010 to June 30, 2011. Professional and outside service costs, comprised primarily of legal and accounting and auditing fees, increased $1.1 million. Offsetting these increases was a decrease of $24.5 million in compensation expense related to the fiscal 2010 repurchase of shares from eligible stockholders in connection with our sale and issuance of Series D preferred stock.

Fiscal 2009 compared to fiscal 2010. General and administrative expenses increased $22.4 million primarily due to $24.5 million in compensation expense related to the repurchase of shares from eligible stockholders in connection with our sale and issuance of Series D preferred stock in fiscal 2010. The effects of the sale and issuance of Series D preferred stock were partially offset by a decrease of $3.8 million in compensation expense related to the fiscal 2009 stock settlement of an outstanding promissory note in connection with the sale and issuance of Series C preferred stock. Please see Note 7 to our consolidated financial statements for further discussion of these transactions. In addition, general and administrative expenses increased $1.7 million primarily due to an increase in general and administrative headcount of 50% from June 30, 2009 to June 30, 2010. Personnel-related expenses increased by $0.8 million, consisting of increased employee compensation, benefits and travel costs of $0.7 million and increased stock-based compensation of $0.1 million. Professional and outside service costs, comprised mostly of legal and accounting and auditing fees, accounted for $0.6 million of the increase.

Interest and Other Income (Expense), net

	Fiscal Year Ended June 30,			2009 to 2010 %Change	2010 to 2011 %Change
	2009	2010	2011		
	(dollars in thousands)				
Interest and other income (expense), net	$ (27)	$(1,226)	$ 606	NM	NM
Percentage of revenues	—%	(3)%	1%		

Fiscal 2010 compared to fiscal 2011. The increase in interest and other income (expense), net of $1.8 million is due to losses on foreign currency transactions of $0.6 million during fiscal 2011 as compared to realized and unrealized gains of $0.5 million during fiscal 2010. Additionally, during fiscal 2010, we marked to market our preferred stock warrants and revalued them upon settlement as part of the sale and issuance of Series D preferred stock, resulting in additional expense of $0.7 million.

Fiscal 2009 compared to fiscal 2010. The decrease in interest and other income (expense), net of $1.2 million is due to additional realized and unrealized losses on foreign currency transactions of $0.5 million coupled with the revaluation of our preferred stock warrants upon settlement resulting in a decrease of $0.7 million.

Provision for Income Taxes

	Fiscal Year Ended June 30,			2009 to 2010	2010 to 2011
	2009	2010	2011	% Change	% Change
	(dollars in thousands)				
Provision for income taxes	$ 48	$ 280	$1,336	483%	377%
Effective tax rate	(1)%	(1)%	12%		

Fiscal 2010 compared to fiscal 2011. The provision for income taxes increased $1.1 million primarily as a result of the increase in pre-tax income related to international operations and California taxes.

Fiscal 2009 compared to fiscal 2010. The provision for income taxes increased $0.2 million primarily as a result of international operations.

Quarterly Results of Operations

The following tables set forth our unaudited quarterly consolidated statements of operations data and our unaudited consolidated statements of operations data as a percentage of total revenues for each of the six quarters in the period ended December 31, 2011. We have prepared the quarterly data on a consistent basis with the audited consolidated financial statements included in this prospectus. In the opinion of management, the financial information reflects all necessary adjustments, consisting of normal recurring adjustments, necessary for a fair statement of this data. This information should be read in conjunction with the audited consolidated financial statements and related noted included elsewhere in this prospectus. The results of historical periods are not necessarily indicative of the results of operations for a full year or any future periods.

	For the Three Months Ended					
	Sep 30, 2010	Dec 31, 2010	March 31, 2011	June 30, 2011	Sep 30, 2011	Dec 31, 2011
	(in thousands)					
Revenues:						
Subscription	$14,816	$18,375	$21,224	$24,776	$30,331	$ 34,555
Professional services and other	1,773	2,980	3,988	4,709	3,866	4,623
Total revenues	16,589	21,355	25,212	29,485	34,197	39,178
Cost of revenues[1]:						
Subscription	2,711	3,385	4,451	4,764	6,323	8,750
Professional services and other	2,653	4,125	4,763	4,723	5,609	7,241
Total cost and revenues	5,364	7,510	9,214	9,487	11,932	15,991
Gross profit	11,225	13,845	15,998	19,998	22,265	23,187
Operating expenses[1]:						
Sales and marketing	6,433	7,295	8,309	12,086	13,980	18,521
Research and development	1,237	1,521	1,885	2,361	2,757	4,273
General and administrative	1,453	1,964	2,680	3,282	4,509	5,575
Total operating expenses	9,123	10,780	12,874	17,729	21,246	28,369
Income (loss) from operations	2,102	3,065	3,124	2,269	1,019	(5,182)
Interest and other income (expense), net	320	(31)	252	65	(729)	(717)
Income (loss) before provision for income taxes	2,422	3,034	3,376	2,334	290	(5,899)
Provision for income taxes	290	363	385	298	169	906
Net income (loss)	$ 2,132	$ 2,671	$ 2,991	$ 2,036	$ 121	$ (6,805)

(1) Stock-based compensation included in the statements of operations above was as follows:

	For the Three Months Ended					
	Sep 30, 2010	Dec 31, 2010	March 31, 2011	June 30, 2011	Sep 30, 2011	Dec 31, 2011
	(in thousands)					
Cost of revenues:						
Subscription	$ 97	$ 128	$ 156	$ 167	$ 201	$ 473
Professional services and other	15	22	38	42	71	122
Sales and marketing	192	239	288	285	800	1,210
Research and development	95	112	143	118	263	441
General and administrative	134	87	130	466	1,056	1,000

	For the Three Months Ended					
	Sep 30, 2010	Dec 31, 2010	March 31, 2011	June 30, 2011	Sep 30, 2011	Dec 31, 2011
	(as a percentage of revenues)					
Revenues:						
Subscription	89%	86%	84%	84%	89%	88%
Professional services and other	11	14	16	16	11	12
Total revenues	100	100	100	100	100	100
Cost of revenues:						
Subscription	16	16	18	16	18	22
Professional services and other	16	19	19	16	17	19
Total cost of revenues	32	35	37	32	35	41
Gross profit	68	65	63	68	65	59
Operating expenses:						
Sales and marketing	39	34	33	41	41	47
Research and development	7	7	7	8	8	11
General and administrative	9	9	11	11	13	14
Total operating expenses	55	50	51	60	62	72
Income (loss) from operations	13	15	12	8	3	(13)
Interest and other income (expense), net	2	—	1	—	(2)	(2)
Income (loss) before provision for income taxes	15	15	13	8	1	(15)
Provision for (benefit from) income taxes	2	2	1	1	—	(2)
Net income (loss)	13%	13%	12%	7%	1%	(17)%

Seasonality, Cyclicality and Quarterly Trends

We have historically experienced seasonality in terms of when we enter into customer agreements for our service. We sign a significantly higher percentage of agreements with new customers, as well as renewal agreements with existing customers, in the quarters ended June 30 and December 31. The increase in customer agreements for the quarters ended June 30 is primarily as a result of the historical terms of our commission plans to incentivize our direct sales force to meet their quotas by the end of the fiscal year. The increase in customer agreements for the quarter ended December 31 can be attributed to large enterprise account buying patterns typical in the software industry. Furthermore, we usually sign a significant portion of these agreements during the last month, and often the last two weeks, of each quarter. This seasonality is reflected to a much lesser extent, and sometimes is not immediately apparent, in our revenues, due to the fact that we recognize subscription revenues over the term of the license agreement, which is generally 12 to 36 months. As a result of the change in our fiscal year end from June 30 to December 31 and changes to our commission plans to provide for earlier

incentives, we may not see the same increase in new customer agreements for future quarters ended June 30. Although these seasonal factors are common in the technology industry, historical patterns should not be considered a reliable indicator of our future sales activity or performance.

Our revenues have increased over the periods presented due to increased sales to new customers, as well as upsells to existing customers. Our operating expenses have increased sequentially in every quarter primarily due to increases in headcount and other related expenses to support our growth. We anticipate these expenses will continue to increase in future periods as we continue to focus on investing in the long-term growth of our business.

In the quarters ended September 30, 2011 and December 31, 2011, we accelerated investments in our headcount and operations to drive our future growth. As a result, we generated a net loss in the quarter ended December 31, 2011 despite significant revenue growth in the period.

Liquidity and Capital Resources

	Fiscal Year Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010	2011
	(in thousands)				
Net cash provided by (used in) operating activities	$ 160	$ (7,532)	$37,468	$10,711	$13,220
Net cash used in investing activities	(851)	(1,455)	(8,383)	(1,857)	(7,959)
Net cash provided by financing activities	3,701	30,672	1,227	222	2,154
Net increase in cash, net of impact of exchange rates on cash	3,016	21,614	30,451	9,055	8,235

To date, we have funded our business primarily with cash flows from operating activities. At December 31, 2011, we had $68.1 million in cash, of which $9.6 million represents cash located overseas. We do not have short-term or long-term investments.

Our historical cash flows from operating activities have been significantly impacted by customer billings and payment terms, as well as operating expenses related to sales and marketing, our cloud infrastructure, professional services, and research and development.

Based on our current level of operations and anticipated growth, we believe our current cash and cash flows from operating activities will be sufficient to fund our operating needs for at least the next 12 months, barring unforeseen circumstances.

Our primary short-term needs for cash, which are subject to change, include expenditures related to:

- the growth of our sales and marketing and professional services efforts;
- the growth of our cloud infrastructure, including the addition and expansion of data centers, and the acquisition of fixed assets for use in our current and future data centers;
- support of our sales and marketing efforts related to our current and future services and applications, including expansion of our direct sales force and support resources both in the United States and abroad;
- the continued advancement of research and development; and
- the expansion needs of our facilities, including costs of leasing additional facilities.

To the extent existing cash and cash from operations are not sufficient to fund our future activities, we may need to raise additional funds. Although we are not currently a party to any agreement or letter of intent with respect to potential investments in, or acquisitions of, complementary businesses, services or technologies, we may enter into these types of arrangements in the future, which could also require us to seek additional equity financing or use our cash resources. We have no present understandings, commitments or agreements to enter into any such acquisitions.

Depending on certain growth opportunities, we may choose to accelerate investments in sales and marketing, cloud infrastructure, professional services, and research and development, which may require the use of proceeds from our initial public offering.

Operating Activities

Cash provided by operating activities in the six months ended December 31, 2011 consisted of a net loss of $6.7 million plus net non-cash adjustments of $11.2 million and a $8.7 million decrease to net operating assets. The primary non-cash adjustments added back to net income include stock-based compensation of $5.6 million, amortization of deferred commissions of $3.5 million, and depreciation expense related to property and equipment of $2.0 million. The main drivers of the decrease in net operating assets included increases in deferred revenues and accrued liabilities partially offset by increases to accounts receivable and deferred commissions. These increases were primarily related to the growth of our business.

In the six months ended December 31, 2010, cash provided by operating activities consisted of net income of $4.8 million plus net non-cash adjustments of $3.1 million and a $2.8 million decrease to net operating assets.

In fiscal 2011, cash provided by operating activities consisted of net income of $9.8 million plus net non-cash adjustments of $8.4 million and a $19.3 million decrease to net operating assets.

In fiscal 2010, cash provided by operating activities consisted of a net loss of $29.7 million plus net non-cash adjustments of $3.9 million and an $18.3 million decrease to net operating assets.

In fiscal 2009, cash provided by operating activities consisted of a net loss of $5.9 million plus net non-cash adjustments of $0.8 million and a $5.3 million decrease to net operating assets.

Investing Activities

In the six months ended December 31, 2011 and 2010, and fiscal 2011, 2010 and 2009, our investing activities primarily consisted of capital expenditures related to the purchase of servers, networking equipment and storage infrastructure to support the expansion of our data centers and tenant improvements associated with the growth of our office facilities.

Financing Activities

Our financing activities have primarily consisted of equity issuances, including excess tax benefits from stock award activities.

In the six months ended December 31, 2011, cash provided by financing activities primarily consisted of $2.1 million in proceeds from the issuance of common stock through the exercise of employee stock options.

In the six months ended December 31, 2010, we had no significant financing activities.

In fiscal 2011, cash provided by financing activities primarily consisted of $1.1 million in proceeds from the issuance of common stock through the exercise of employee stock options.

In fiscal 2010, we received net proceeds of $51.2 million from the sale and issuance of Series D preferred stock, which was used to repurchase and subsequently cancel shares of common stock from eligible stockholders and warrants to purchase Series B preferred stock from a warrant holder.

In fiscal 2009, we received net proceeds of $5.9 million from the issuance of Series C preferred stock, which was used to repurchase and subsequently cancel shares of common stock from our founder.

We may continue to raise additional funds through private sales of our equity securities. On February 21, 2012, we issued 1,750,980 shares of common stock at a price of $10.20 per share for gross proceeds of approximately $17.9 million through a private placement with a new stockholder.

Contractual Obligations and Commitments

Contractual obligations represent future cash commitments and liabilities under agreements with third parties, and exclude orders for goods and services entered into in the normal course of business that are not enforceable or legally binding. The following table represents our contractual obligations as of December 31, 2011, aggregated by type:

	Payments Due by Period[1]				
Contractual Obligations	Total	Less Than 1 Year	1 – 3 Years	3 – 5 Years	More Than 5 Years
	(in thousands)				
Operating leases:					
Data centers[2]	$20,338	$ 8,284	$11,857	$ 197	$ —
Facilities space[3]	14,439	2,795	4,656	3,385	3,603
Total operating leases	$34,777	$11,079	$16,513	$3,582	$3,603

(1) Excluded from the table is our liability recorded for uncertain tax positions of $0.5 million, excluding interest and penalties, at December 31, 2011.
(2) Operating leases for data centers represent our principal commitment for co-location facilities for data center capacity.
(3) Operating leases for facilities space represents our principal commitments, which consists of obligations under leases for office space.

In February 2012, we signed a 94,543 square-foot building lease located in San Diego, California, with total lease consideration of approximately $13.7 million. The commencement date of the lease is July 1, 2012 for a period of eight years. We anticipate making significant capital expenditures in the future to support the growth of our business, including additional expansions to our current and future data centers and the continued expansion of our offices and infrastructure.

Off-Balance Sheet Arrangements

During fiscal 2009, 2010, 2011 and the six months ended December 31, 2011, we did not have any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes. As such, we are not exposed to any financing, liquidity, market or credit risk that could arise if we had engaged in those types of relationships.

Critical Accounting Policies and Significant Judgments and Estimates

Our management's discussion and analysis of financial condition and results of operations is based on our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements, as well as the reported revenues and expenses during the reporting periods. These items are monitored and analyzed by us for changes in facts and circumstances, and material changes in these estimates could occur in the future. We base our estimates on historical experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Changes in estimates are reflected in reported results for the period in which they become known. Actual results may differ from these estimates under different assumptions or conditions.

While our significant accounting policies are more fully described in Note 2 to our consolidated financial statements, we believe that the following accounting policies are critical to the process of making significant judgments and estimates in the preparation of our audited consolidated financial statements.

Revenue Recognition

We commence revenue recognition when all of the following conditions are met:

- There is persuasive evidence of an arrangement;
- The service has been provided to the customer;
- The collection of related fees is reasonably assured; and
- The amount of fees to be paid by the customer is fixed or determinable.

Signed agreements are used as evidence of an arrangement. If a signed contract by the customer does not exist, we have historically used either a purchase order or a signed order form as evidence of an arrangement. In cases where both a signed contract and either a purchase order or signed order form exist, we consider the signed contract to be the final persuasive evidence of an arrangement.

Subscription revenues are recognized ratably over the contract term beginning on the commencement date of each contract, which is the date we make our service available to our customers. Once our service is available to customers, amounts that have been invoiced are recorded in accounts receivable and in deferred revenue. The majority of our professional services are priced on a fixed-fee basis. A limited number of our professional services are priced on a time-and-materials basis. Professional services and other revenues are recognized as the services are delivered. In instances where final acceptance of the services are required before revenues are recognized, revenues and the associated costs are deferred until all acceptance criteria have been met.

We assess collectibility based on a number of factors such as past collection history with the customer and creditworthiness of the customer. If we determine collectibility is not reasonably assured, we defer the revenue recognition until collectibility becomes reasonably assured. We assess whether the fee is fixed or determinable based on the payment terms associated with the transaction and whether the sales price is subject to refund or adjustment. Our arrangements do not include general rights of return.

We have multiple element arrangements comprised of subscription fees and professional services. In October 2009, the Financial Accounting Standards Board, or FASB, ratified authoritative accounting guidance regarding revenue recognition for arrangements with multiple deliverables effective for fiscal periods beginning on or after June 15, 2010. The guidance affects the determination of separate units of accounting in arrangements with multiple deliverables and the allocation of transaction consideration to each of the identified units of accounting. Previously, a delivered item was considered a separate unit of accounting when (i) it had value to the customer on a stand-alone basis, (ii) there was objective and reliable evidence of the fair value of the undelivered items, and (iii) there was no general right of return relative to the delivered services or the performance of the undelivered services was probable and substantially controlled by the vendor. The new guidance eliminates the requirement for objective and reliable evidence of fair value to exist for the undelivered items in order for a delivered item to be treated as a separate unit of accounting. The guidance also requires arrangement consideration to be allocated at the inception of the arrangement to all deliverables using the relative-selling-price method and eliminates the use of the residual method of allocation. Under the relative-selling-price method, the selling price for each deliverable is determined using vendor-specific objective evidence, or VSOE, of selling price or third-party evidence, or TPE, of selling price if VSOE does not exist. If neither VSOE nor TPE of selling price exists for a deliverable, the guidance requires an entity to determine the best estimate of selling price, or BESP.

Prior to the adoption of this authoritative accounting guidance, we did not have objective and reliable evidence of fair value for the items in our multiple element arrangements. As a result, we accounted for subscription and professional services revenues as one unit of account and recognized total contracted revenues ratably over the contracted term of the subscription agreement.

We adopted the new guidance on a prospective basis for fiscal 2011. As a result, this guidance was applied to all revenue arrangements entered into or materially modified since July 1, 2010. Upon adoption of this authoritative accounting guidance, we have accounted for subscription and professional services revenues as separate units of accounting. To qualify as a separate unit of accounting, the delivered item must have value to the customer on a standalone basis. Subscription services have standalone value because they are routinely sold separately by us. In determining whether professional services have standalone value, we consider the following factors for each professional services agreement: availability of the services from other vendors, the nature of the professional services, the timing of when the professional services contract was signed in comparison to the subscription service start date and the contractual dependence of the subscription service on the customer's satisfaction with the professional services work.

We determine the selling price of each deliverable in the arrangement based on the selling price hierarchy. The selling price for each unit of account is based on the BESP since VSOE and TPE are not available for our subscription service or professional services and other. The BESP for each deliverable is determined primarily by considering the historical selling price of these deliverables in similar transactions as well as other factors, including, but not limited to, market competition, review of stand-alone sales and pricing practices. The total arrangement fee for these multiple element arrangements is then allocated to the separate units of account based on the relative selling price. Since professional services and other are generally completed prior to the completion of the subscription service, the revenue allocated to professional services and other is limited to its stated contract price.

Deferred Commissions

We defer expenses associated with commission payments to our direct sales force and referral fees paid to independent third-parties. The commissions are deferred and amortized to sales expense over the non-cancelable terms of the related contracts with our customers. The commission payments, which are paid in full the month after the customer's service commences, are a direct and incremental cost of the revenue arrangements. The deferred commission amounts are recoverable through the future revenue streams under the non-cancelable customer contracts. We believe this is preferable to expensing sales commissions as incurred because the commission charges are so closely related to revenues they should be recorded as an asset and charged to expense over the same period the revenues are recognized. Additionally, we believe this policy election enhances the comparability of our consolidated financial statements as it is the predominant method used in our industry.

Stock-Based Compensation

We measure compensation expense for all stock-based payments made to employees and directors based on the fair value of the award as of the date of grant. The expense is recognized, net of estimated forfeitures, over the requisite service period, which is generally the vesting period of the respective award. We estimate forfeitures based upon our historical experience. At each period end, we review the estimated forfeiture rate and make changes as factors affecting the forfeiture rate calculations and assumptions change.

We use the Black-Scholes option-pricing model to determine the fair value of our stock-based awards. The following assumptions were used for each respective period to calculate our stock-based compensation:

	Fiscal Years Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010	2011
Expected volatility	69% - 75%	65%	50% - 69%	57% - 67%	56% - 69%
Expected term (in years)	5.62	6.02	6.05	6.04	5.75
Risk-free interest rate	1.48% - 3.77%	2.57 - 3.04%	1.43% - 2.96%	1.43% - 2.96%	0% - 1.92%
Dividend yield	0%	0%	0%	0%	0%

Determining the fair value under this model requires the use of inputs that are subjective and generally require significant analysis and judgment to develop. These inputs include the fair value of our common stock, expected volatility, expected term, risk-free interest rate, and expected dividend yield, which are estimated as follows:

- *Fair value of our common stock*: Because our stock is not publicly traded, we must estimate the fair value of our common stock, as discussed in "—Common Stock Valuations" below.
- *Expected volatility*: We use the historic volatility of publicly traded peer companies as an estimate for our expected volatility. In considering peer companies, we assess characteristics such as industry, stage of development, size, and financial leverage.
- *Expected term*: We estimate the expected term using the simplified method due to the lack of historical exercise activity for our company. The simplified method calculates the expected term as the mid-point between the vesting date and the contractual expiration date of the award.
- *Risk-free interest rate*: The risk-free interest rate is based on the U.S. Treasury yield curve in effect at the time of grant for the expected term of the stock-based award.
- *Dividend yield*: Our expected dividend yield is zero, as we have not and do not currently intend to declare dividends in the foreseeable future.

If any assumptions used in the Black-Scholes model change significantly, stock-based compensation for future awards may differ materially compared with the awards granted previously.

Common Stock Valuations

The fair value of the common stock underlying our stock options was determined by our board of directors, which intended all options granted to be exercisable at a price per share not less than the per share fair value of our common stock underlying those options on the date of grant. The valuations of our common stock were determined in accordance with the guidelines outlined in the *American Institute of Certified Public Accountants Practice Aid, Valuation of Privately-Held-Company Equity Securities Issued as Compensation*. The assumptions we use in the valuation model are based on future expectations combined with management judgment. In the absence of a public trading market, our board of directors with input from management exercised significant judgment and considered numerous objective and subjective factors to determine the fair value of our common stock as of the date of each option grant, including the following factors:

- contemporaneous independent valuations performed at periodic intervals by an independent valuation firm;
- the prices, rights, preferences and privileges of our convertible preferred stock relative to the common stock;
- recent sales of our common stock;
- our operating and financial performance and forecast;

- current business conditions;
- the hiring of key personnel;
- our stage of development;
- the likelihood of achieving a liquidity event for the shares of common stock underlying these stock options, such as an initial public offering or sale of our company, given prevailing market conditions;
- any adjustment necessary to recognize a lack of marketability for our common stock;
- the market performance of comparable publicly traded technology companies;
- mergers and acquisition activity in our industry; and
- the U.S. and global capital market conditions.

The following table summarizes, by grant date, information regarding stock options granted from July 1, 2010:

Option Grant Dates	Number of Shares Underlying Options	Exercise Price Per Share	Common Stock Fair Value Per Share on Date of Grant
July 2010	4,646,000	$ 1.50	$ 1.50
October 2010	1,510,000	1.88	1.88
February 2011	1,578,000	2.20	2.20
March 2011	100,000	2.20	2.20
May 2011	7,568,456	2.60	2.60
July 2011	5,700,128	3.00	3.75
August 2011	3,438,044	3.00	3.75
September 2011	2,977,948	3.00	3.75
October 2011	1,151,000	3.00	3.75
November 2011	2,119,000	4.00	4.30
December 2011	1,669,000	4.65	5.00
January 2012	796,500	6.50	6.50
February 2012	1,500,750	9.40	9.40
March 2012	662,250	10.35	10.35

Based upon the assumed initial public offering price of $ per share, the aggregate intrinsic value of options outstanding as of , 2012 was $ million, of which $ million related to vested options and $ million related to unvested options.

We utilize the probability weighted expected return method, or PWERM, approach to allocate value to our common shares. The PWERM approach employs various market approach and income approach calculations depending upon the likelihood of various liquidation scenarios. For each of the various scenarios, an equity value is estimated and the rights and preferences for each shareholder class are considered to allocate the equity value to common shares. The common share value is then multiplied by a discount factor reflecting the calculated discount rate and the timing of the event. Lastly, the common share value is multiplied by an estimated probability for each scenario. The probability and timing of each scenario are based upon discussions between our board of directors and our management team. Under the PWERM, the value of our common stock is based upon four possible future events for our company:

- initial public offering, or an IPO;
- strategic merger or sale;

- remaining a private company; and
- dissolution.

The market approach uses similar companies or transactions in the marketplace. We utilized the guideline company method of the market approach for determining the fair value of our common stock under the initial public offering scenario. We identified companies similar to our business and used these guideline companies to develop relevant market multiples and ratios. We then applied these market multiples and ratios to our financial forecasts to create an indication of total equity value. Under the strategic merger or sale scenario, we utilized the guideline company method and the guideline transaction method of the market approach to determine the fair value of the common stock. The guideline transaction method compares the operating results and market value of the equity or invested capital of acquired companies similar to our business. The income approach, which we utilize to assess fair value of the common stock under the assumption we remain a private company, is an estimate of the present value of the future monetary benefits generated by an investment in that asset. Specifically, debt free cash flows and the estimated terminal value are discounted at an appropriate risk-adjusted discount rate to estimate the total invested capital value of the entity. Under the dissolution scenario, we assumed no value remained to be allocated to our common stockholders.

Significant factors considered by our board of directors in determining the fair value of our common stock at these grant dates include:

July 2010. The United States economy and the financial markets were continuing to recover from the global financial crisis that began in 2008 and continued in 2009. Because our service offered a cost effective alternative to legacy IT management products in a period where companies were looking to cut budgets, we continued to experience significant increases in revenue growth. In light of our improved financial performance, we engaged an independent valuation firm to perform a contemporaneous valuation of our common stock as of June 30, 2010 and determined the fair value of our common stock to be $1.50 per share. The valuation reflected a 35% probability of an IPO, 30% probability of a strategic merger or sale, 30% probability of remaining a private company, and 5% probability of dissolution. Based on the valuation and the factors described herein, our board of directors granted stock options with an exercise price of $1.50 per share.

October 2010. The United States economy and the financial markets continued to recover during the quarter. Consistent with our projections, revenues increased 14% during the quarter ended September 30, 2010 when compared to the prior quarter ended June 30, 2010. In addition, headcount increased 23% from June 30, 2010 to September 30, 2010 due to our continued focus on growth. We engaged an independent valuation firm to perform a valuation and determined the fair value of our common stock to be $1.88 per share as of September 30, 2010. The valuation continued to reflect a 35% probability of an IPO, 30% probability of a strategic merger or sale, 30% probability of remaining a private company, and 5% probability of dissolution. Based on the valuation and the factors described herein, our board of directors granted stock options with an exercise price of $1.88 per share.

February 2011 and March 2011. The United States economy and the financial markets continued to recover. During the quarter ended December 2010, revenues and headcount increased 29% and 14%, respectively, when compared to the prior quarter ended September 30, 2010. Our board of directors commenced the search for a new Chief Executive Officer and we added two independent board members to our board of directors. We engaged an independent valuation firm and determined the fair value of our common stock to be $2.20 per share as of February 4, 2011. The valuation continued to reflect a 35% probability of an IPO, 30% probability of a strategic merger, 30% probability of remaining a private company, and 5% probability of dissolution. Based on the valuation and the factors described herein, our board of directors granted stock options with an exercise price of $2.20 per share in February and March 2011.

May 2011. The United States economy and the financial markets continued to recover. Consistent with prior quarters, we experienced sequential growth during the quarter ended March 31, 2011 as shown by the increase in revenues and headcount of 18% and 21%, respectively, from December 31, 2010 to March 31, 2011. Additionally, we hired a new Chief Executive Officer in late April 2011 with the strategic objective to create a liquidity event for our company. We engaged an independent valuation firm to perform a valuation and determined the fair value of our common stock to be $2.60 per share as of May 6, 2011. The probability weightings of the various scenarios were adjusted from prior valuations to 40% probability of an IPO and 60% probability of a strategic merger or sale. Based on the valuation and the factors described herein, our board of directors granted stock options with an exercise price of $2.60 per share.

July 2011, August 2011, September 2011, and October 2011. The United States economy and the financial markets began to experience volatilities related to certain global financial uncertainties. During the quarter ended June 30, 2011, our revenues increased 17%, compared to the prior quarter, as customers continued to view our service as a cost effective alternative to legacy IT management products. In addition, headcount increased 24% from March 31, 2011 to June 30, 2011. A number of these new hires were in executive management positions, including a Chief Financial Officer, Senior Vice President of Engineering, and Senior Vice President of Worldwide Sales and Services, and were made to further support the growth of our business. We engaged an independent valuation firm and determined the fair value of our common stock to be $3.00 per share as of July 22, 2011. The probability weightings of the various scenarios were 55% probability of an IPO, 15% probability of a strategic merger or sale, and 30% probability of remaining a private company. Based on the valuation and the factors described herein, our board of directors granted stock options with an exercise price of $3.00 per share. In connection with the preparation of our December 31, 2011 financial statements, we revised the valuation analysis of our common stock as of July 22, 2011 for changes to certain assumptions, primarily related to the selected discount rate, comparable companies and terminal value, and determined the fair value to be $3.75 per share for financial accounting and reporting purposes for these grants. The revised valuation used a risk-adjusted discount rate of 24.0% and a non-marketability discount of 15%.

November 2011. The United States economy and the financial markets began to stabilize from the uncertainty and high volatility. During the quarter ended September 30, 2011, revenues and headcount increased 16% and 31%, respectively, from June 30, 2011 to September 30, 2011. Headcount increased 12% during the month of October 2011. We engaged an independent valuation firm and determined the fair value of our common stock to be $4.00 per share as of November 4, 2011. During this period our relatively new management team began reassessing the timelines for various liquidity scenarios. Consequently, the probability weightings of the various scenarios were adjusted from prior periods to 30% probability of an IPO, 20% probability of a strategic merger or sale and 50% probability of remaining a private company. Additionally, we updated both our financial and growth projections. Based on the valuation and the factors described herein, our board of directors granted stock options with an exercise price of $4.00 per share. In connection with the preparation of our December 31, 2011 financial statements, we revised the valuation analysis of our common stock as of November 4, 2011 for changes to certain assumptions, primarily related to the selected discount rate, comparable companies and terminal value, and determined the fair value to be $4.30 per share for financial accounting and reporting purposes for these grants. The revised valuation used a risk-adjusted discount rate of 34.4% and a non-marketability discount of 19%.

December 2011. The United States economy and the financial markets continued to stabilize from the uncertainty and high volatility. In addition, investor confidence in the IPO markets began to increase as a number of technology companies began expressing interest in IPOs. Furthermore, our revenues continued to increase month over month consistent with management's expectations. We engaged an independent valuation firm and determined the fair value of our common stock to be $4.65 per share as of December 7, 2011. The probability weightings of the various scenarios were 55% probability of an IPO, 25% probability of a strategic merger or sale and 20% probability of remaining a private company. Based on the valuation and the factors described herein, our board of directors granted stock options with an exercise price of $4.65 per share. In connection with the preparation of our December 31, 2011 financial statements, we revised the valuation analysis of our common stock as of December 7, 2011 for changes to certain assumptions, primarily related to the selected discount rate,

comparable companies and terminal value, and determined the fair value to be $5.00 per share for financial accounting and reporting purposes for these grants. The revised valuation used a risk-adjusted discount rate of 34.2% and a non-marketability discount of 15%.

January 2012. The financial markets strengthened at the end of December 2011 and continued to strengthen through early January 2012. We exited the quarter ended December 31, 2011 with record revenues, representing 15% growth over the quarter ended September 30, 2011. Headcount increased 23% from September 30, 2011 to December 31, 2011, and the strategic objectives of our management team for a liquidity event began to focus more on an IPO. We engaged an independent valuation firm to perform a valuation and determined the fair value of our common stock to be the fair value of our common stock to be $6.50 per share as of January 11, 2012. The probability weightings of the various scenarios were 75% probability of an IPO, 10% probability of a strategic merger or sale and 15% probability of remaining a private company. The valuation used a risk-adjusted discount rate of 28.3% and a non-marketability discount of 12%. Based on the valuation and the factors described herein, our board of directors granted stock options with an exercise price of $6.50 per share.

February 2012. The United States economy and the financial markets continued with a strong start to 2012. We continued to see strength in our business and continued to rapidly expand our employee base, increasing headcount by 6% from December 2011 to January 2012. Given the strength in the financial markets as shown by the number of companies filing for an IPO, and the strength in our business, we commenced discussions with bankers to explore the potential of an IPO. We engaged an independent valuation firm to perform a valuation and determined the fair value of our common stock to be $9.40 per share as of February 3, 2012. The probability weightings of the various scenarios were 85% probability of an IPO, 10% probability of a strategic merger or sale and 5% probability of remaining a private company. The valuation used a risk-adjusted discount rate of 28.3% and a non-marketability discount of 11%. Based on the valuation and the factors described herein, our board of directors granted stock options with an exercise price of $9.40 per share.

March 2012. In February 2012 we held our organization meeting with investment bankers. On February 21, 2012, we sold and issued 1,750,980 shares of common stock at $10.20 per share in a private placement to entities associated with Greylock Partners. As part of the same transaction, our founder sold 700,000 of his shares of common stock to Greylock at the same price. We continued to hire employees at a rapid pace growing our headcount by 8% in February 2012. We engaged an independent valuation firm to perform a valuation and determined the fair value of our common stock to be $10.35 per share as of March 9, 2012. The probability weightings of the various scenarios were 90% probability of an IPO, 5% probability of a strategic merger or sale and 5% probability of remaining a private company. The valuation used a risk-adjusted discount rate of 28.4% and a non-marketability discount of 11%. Based on the valuation and the factors described herein, our board of directors granted stock options with an exercise price of $10.35 per share.

Income Taxes

Our provision for income taxes, deferred tax assets and liabilities, and reserves for unrecognized tax benefits reflect our best assessment of estimated future taxes to be paid. Significant judgments and estimates based on interpretations of existing tax laws or regulations in the United States and the numerous foreign jurisdictions where we are subject to income tax are required in determining our provision for income taxes. Changes in tax laws, statutory tax rates, and estimates of our future taxable income could impact the deferred tax assets and liabilities provided for in the consolidated financial statements and would require an adjustment to the provision for income taxes.

Deferred tax assets are regularly assessed to determine the likelihood they will be recovered from future taxable income. A valuation allowance is established when we believe it is more likely than not the future realization of all or some of a deferred tax asset will not be achieved. In evaluating our ability to recover deferred tax assets within the jurisdiction in which they arise we consider all available positive and negative evidence. Factors reviewed include the cumulative pre-tax book income for the past three years, scheduled reversals of deferred tax liabilities, our history of earnings and reliable forecasting, projections of pre-tax book income over the foreseeable future, and the impact of any feasible and prudent tax planning strategies.

We recognize the impact of a tax position in our consolidated financial statements only if that position is more likely than not of being sustained upon examination by taxing authorities, based on the technical merits of the position. Tax authorities regularly examine our returns in the jurisdictions in which we do business and we regularly assess the tax risk of our return filing positions. Due to the complexity of some of the uncertainties, the ultimate resolution may result in payments that are materially different from our current estimate of the tax liability. These differences, as well as any interest and penalties, will be reflected in the provision for income taxes in the period in which they are determined.

Recent Adopted Accounting Standards

In June 2011, the FASB issued Accounting Standards Update, or ASU, No. 2011-05, "*Presentation of Comprehensive Income*." This update requires companies to present reclassification adjustments included in other comprehensive income on the face of the consolidated financial statements and allows companies to present the total of comprehensive income, the components of net income and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. It also eliminates the option for companies to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. This guidance is effective for fiscal periods beginning after December 15, 2011, with earlier adoption permitted. We retroactively adopted this guidance during the six-month period ended December 31, 2011 to present the components of net income and the components of other comprehensive income in a single continuous statement of comprehensive income. Adoption of this ASU did not have a material effect on our financial position, results of operations or cash flows.

Qualitative and Quantitative Disclosures about Market Risk

Foreign Currency Exchange Risk

We have foreign currency risks related to our revenue and operating expenses denominated in currencies other than the U.S. dollar, primarily the Euro, British Pound Sterling, Canadian dollar, Swiss franc, and Australian dollar. Revenues outside of North America as a percentage of revenue was 27%, 28%, and 25% in fiscal 2009, 2010 and 2011, respectively, and 26% and 29% during the six months ended December 31, 2010 and 2011, respectively. Changes in exchange rates may negatively affect our revenue and other operating results as expressed in U.S. dollars.

We have experienced and will continue to experience fluctuations in our net income as a result of transaction gains or losses related to revaluing certain current asset and current liability balances that are denominated in currencies other than the functional currency of the entities in which they are recorded. We recognized foreign currency gains of $0.5 million and $1.6 million in fiscal 2010 and the six months ended December 31, 2011, respectively. We had an immaterial foreign currency loss in fiscal 2009 and we recognized a foreign currency loss of $0.3 million and $0.6 million in the six months ended December 31, 2010 and fiscal 2011. While we have not engaged in the hedging of our foreign currency transactions to date, we are presently evaluating the costs and benefits of initiating such a program and may in the future hedge selected significant transactions denominated in currencies other than the U.S. Dollar.

Interest Rate Sensitivity

As of December 31, 2011, we had no cash equivalents. In February 2012, we began investing a portion of our cash in corporate debt securities. The primary objectives of our investment activities are the preservation of capital and supporting our liquidity requirements. We do not enter into investments for trading or speculative purposes. Our investments are exposed to market risk due to a fluctuation in interest rates, which may affect our interest income and the fair market value of our investments. Due to the short-term nature of our investment portfolio, however, we do not believe an immediate 10% increase or decrease in interest rates would have a material effect on the fair market value of our portfolio. We therefore do not expect our operating results or cash flows to be materially affected by a sudden change in market interest rates.

BUSINESS

Overview

ServiceNow is a leading provider of cloud-based services to automate enterprise IT operations. Our service includes a suite of applications built on our proprietary platform that automates workflow and integrates related business processes. We focus on transforming enterprise IT by automating and standardizing business processes and consolidating IT across the global enterprise. Organizations deploy our service to create a single system of record for enterprise IT, to lower operational costs and to enhance efficiency. Additionally, our customers use our extensible platform to build custom applications for automating activities unique to their business requirements.

We help transform IT organizations from reactive, manual and task-oriented, to pro-active, automated and service-oriented organizations. Our on-demand service enables organizations to define their IT strategy, design the systems and infrastructure that will support that strategy, and implement, manage and automate that infrastructure throughout its lifecycle. We provide a broad set of integrated applications that are highly configurable and can be efficiently implemented and upgraded. Further, our multi-instance architecture has proven scalability for global enterprises, as well as advantages in security, reliability and deployment location.

We offer our service under a Software-as-a-Service, or SaaS, business model. Customers can rapidly deploy our service in a modular fashion, allowing them to solve immediate business needs and access, configure and build new applications as their requirements evolve. Our service, which is accessed through an intuitive web-based interface, can be easily configured to adapt to customer workflow and processes. Upgrades to our service are designed to be efficient and compatible with configuration changes and applied with minimal disruption to ongoing operations.

We have achieved significant growth in recent periods. A majority of our revenues comes from large, global enterprise customers. Our total customers grew 62% from 602 as of December 31, 2010 to 974 as of December 31, 2011. Our customers operate in a wide variety of industries, including financial services, IT services, health care, technology and utilities. For the fiscal years ended June 30, 2010 and 2011, our revenues grew 114% from $43.3 million to $92.6 million. We incurred a net loss of $29.7 million and generated net income of $9.8 million for the fiscal years ended June 30, 2010 and 2011, respectively. For the six months ended December 31, 2010 and 2011, our revenues grew 93% from $37.9 million to $73.4 million. We generated net income of $4.8 million and incurred a net loss of $6.7 million for the six months ended December 31, 2010 and 2011, respectively.

Our Industry

Enterprises Face Increasing Challenges in Managing and Automating IT Operations

For decades, enterprises have invested in IT to empower their workforces and enable business critical functionality. This investment reflects enterprise dependence on a myriad of software applications, databases, operating systems, servers, networking equipment, personal computers, mobile devices, and a variety of other hardware and software assets. When managing the IT environment, enterprises face significant challenges:

Complexity of IT environments. The accelerating adoption of cloud-based services, virtual servers and desktops, and mobile technologies has added to the complexity of enterprise IT environments.

Budget pressures. IT executives are consistently asked to deliver more value for less cost, and to provide transparency regarding the true costs and business value of IT investments. The most recent downturn in the global economy has heightened these demands.

Alignment to business goals. IT organizations are increasingly asked to be proactive and design and develop new processes that span the entire enterprise, rather than support a set of discrete technologies and react to business changes. IT organizations must develop strategies to enable necessary business changes. This has resulted in a much greater need for alignment of IT strategy and performance with overall business performance.

Consumerization of IT. Individuals are spending more time interacting with intuitive, social and mobile consumer-oriented Internet services. These experiences have increased business users' expectations that they can access and interact with corporate IT technologies in a similar, familiar way. IT organizations are struggling to respond to these increased demands in a cost-effective manner.

Integration and standardization. Enterprises need integrated and standardized solutions that work with their existing systems and follow the most recent Information Technology Infrastructure Library, or ITIL, standard, a set of recommended business processes designed and adopted by IT operations industry participants globally to maximize the availability and usability of IT assets and the efficiency of IT staff.

Legacy IT Management Products Fall Short

Organizations have invested heavily in legacy software products to manage the inventory, cost and performance of IT resources. These traditional software products were originally architected in the 1980s and 1990s before the introduction of many of today's modern computing technologies. Shortcomings of these legacy products include:

Disparate and redundant solutions. Many legacy IT management products were developed and widely deployed decades ago. Vendors of these products have in many cases relied upon acquisitions and partnerships to extend their offerings and have not re-architected their solutions to provide the seamless, integrated platform that customers desire. In addition, enterprises may have overlapping solutions in various business units, especially those that have grown by acquisition or that operate globally. As a result, many enterprises operate multiple systems and infrastructures. Moreover, we believe that in most large enterprises IT professionals and business users frustrated with the lack of integrated applications have created a large number of custom applications, spreadsheets and paper-based systems to address specific business needs. As a result of these disparate solutions, executives lack a single system of record to manage their IT operations.

Inflexible integration, customization and maintenance. Enterprises face numerous challenges when trying to customize legacy IT management products to meet their specific needs, as well as integrate them with third-party solutions. Due to their architectures and proprietary languages, these inflexible products often cannot be easily customized to meet customers' business requirements and are difficult to integrate and maintain. As a result, enterprises may be required to adapt their business processes to the capabilities of the software.

Highly manual. Many legacy IT management products installed today require experienced and expensive IT staff to manually process service requests and manage IT operations. Database administrators, system administrators and network managers are often required to perform complex and repetitive tasks such as installing an application, applying a software patch, copying a production database, rebooting a server or provisioning a virtual machine. These manual tasks are time-consuming, prone to error and prevent IT from rapidly responding to business needs.

Upgrade challenges and disruption of service. Once legacy IT management products have been installed, integrated and customized, upgrades can be challenging. As new versions of the software are released on a periodic basis, customers are often required to re-implement the updated software with limited ability to carry forward customizations. The upgrade process for legacy solutions can be lengthy, and is frequently disruptive to the business.

Difficult to use and access. Many legacy IT management products lack a modern, easy to navigate user interface and were not originally designed to be accessed over the Internet or on mobile devices. These applications require a significant amount of user training and may have low rates of adoption across organizations, reducing return on investment. Further, if users do not adopt software, they may not execute processes in accordance with defined standards, which can lead to system failures.

High total cost of ownership. Because legacy IT management products are often disparate, inflexible, highly manual, challenging to upgrade, and difficult to use and access, we believe these products have a high total cost of ownership.

Requirements for Next-generation Enterprise IT Operations Management

We believe best-in-class, next generation enterprise IT operations management needs to incorporate the following key elements:

- *Complete, integrated solution*. A single system of record for all IT assets, activities and resources across multiple systems and infrastructures currently in use in large enterprises.
- *Closed loop automation*. An end-to-end, secure and auditable solution to automate service-oriented workflows and execute routine IT processes, both simple and complex.
- *Easily configurable and extensible*. Highly configurable to accommodate unique customer-specific workflow, systems infrastructure, and organizational structure.
- *Efficient implementations*. Immediate access and rapid deployment, and interoperable with other IT solutions.
- *Automated and non-disruptive upgrades*. Allows upgrades to be applied by the vendor in an automated fashion, minimizing system downtime, costly professional services engagements and manual intervention by the customer, while preserving forward compatibility with future releases.
- *Scalable, secure and reliable*. Scales to simultaneously and securely support the user and data capacity demands of the largest global enterprises.

Our Opportunity

Our service addresses a number of established enterprise IT management software markets. In particular, our service addresses such markets defined by Gartner as IT service desk, asset management, availability and performance management (distributed), project and portfolio management, job scheduling and runbook automation (distributed), configuration management and network management (distributed). In aggregate, Gartner estimates that the software revenues in these markets will total $13.6 billion in 2012, growing to $19.8 billion in 2016. Beyond these markets, we believe our service has the potential to address a wide variety of additional enterprise application and infrastructure software markets.

Our Solution

We help transform IT organizations from reactive, manual and task-oriented, to pro-active, automated and service-oriented organizations. Our on-demand service includes a suite of applications that runs on a common extensible platform that enables organizations to define their IT strategy, design the systems and infrastructure that will support that strategy, and implement, manage and automate that infrastructure throughout its lifecycle. Our cloud-based service includes the following key elements.

Key Elements

Broad set of integrated functionality. Our suite of applications was developed to address core ITIL processes as well as additional business processes, and runs on a single extensible platform. Our platform includes workflow automation, notification, assignment and escalation, third-party integration capabilities, reporting and administration capabilities. Our cloud-based service is designed to be deployed in a modular fashion, allowing customers to solve immediate business needs and access new application functionality as needs evolve.

Automation of IT operations. Our service automates the documentation, categorization, prioritization, assignment, notification and escalation of IT and other business processes. Additionally, our service automates routine and repeatable data center operations such as rebooting a server, cloning a database or deploying a virtualized environment. These elements of automation result in more consistent, reliable and secure execution, allowing the reallocation of expensive IT staff to more complex issues.

Highly configurable and extensible to meet business needs. Our configuration features are designed to give customers the ability to easily alter the appearance and operation of the user interface, change and develop business rules to meet specific requirements, and extend the database schema to support the tracking and capturing of necessary data. As a result, our service enables management of IT operations without requiring changes to existing business processes. In addition, our customers and partners can use our platform to build applications to automate processes that are unique to their businesses.

Efficient implementations and integration. Our cloud-based model allows customers to quickly access and deploy our service without the need to install and maintain costly infrastructure hardware and software necessary for on-premises deployments. We believe the average time that a customer requires to deploy our service is significantly shorter than for typical legacy IT management products. We also offer consulting and training services to assist customers in rapidly deploying and optimizing their use of our service. Our service is developed on an architecture that enables efficient integration to third-party architectures and other data sources.

Efficient upgrades. We design our upgrades to be compatible with customer configuration changes and applied rapidly with minimal disruption to ongoing operations, enabling customers to be on the most up-to-date version. Upgrades are included as part of the subscription service and do not require professional services to implement.

Scalable, secure and reliable multi-instance architecture. Our customers require scalability, security and reliability for their large, global businesses. Our multi-instance architecture is designed to meet these requirements. By providing customers with dedicated applications and databases we ensure that customer data is not comingled. In addition, this architecture reduces risk associated with infrastructure outages, improves system scalability and security, and allows for flexibility in deployment location. We believe this architecture is the best solution for the large global enterprises that rely on us for critical applications.

Business Benefits

Single system of record for IT. We provide a single system of record for IT executives to track assets, activities and resources across the multiple systems and infrastructures currently in use in large enterprises. This provides executives with the ability to execute their IT strategy by quickly assessing how well their IT infrastructure is supporting business processes, analyzing business needs real-time and developing business solutions as needs evolve.

Lower total cost of ownership. We assume complete responsibility for our service, including application set, hosting infrastructure, maintenance, monitoring, storage, security, customer support and upgrades, all of which

free customer resources. Our service only requires a browser and an Internet connection to function. Additionally, we manage, monitor and handle upgrades and patch deployments remotely, which can result in lower total cost of ownership to our customers compared to legacy IT management products.

Easy to use and widely accessible. Our suite of intuitive and easy-to-use applications provides users with a familiar experience based on business-to-consumer concepts. In addition, users with knowledge of basic software applications are able to create custom applications on our platform to solve specific business issues. Users can access our service through a web-based interface anywhere an Internet connection is available, including through mobile devices. We believe this ease of use and accessibility result in increased user adoption. This enables businesses to earn higher return on investment and makes it more likely that users perform tasks based on standard defined processes, reducing system failure.

Our Growth Strategy

Our goal is to be the industry-recognized leading provider of cloud-based services to automate enterprise IT operations. Key elements of our growth strategy include:

Expand our customer base. We believe the global market for next-generation enterprise IT operations management is large and underserved, and we intend to continue to make investments in our business to capture increasingly larger market share. To expand our customer base we intend to invest in our direct sales force and strategic resellers as well as our data center footprint. In particular, we grew our sales and marketing team from 140 as of June 30, 2011 to 242 as of December 31, 2011.

Further penetrate our existing customer base. We intend to increase the number of subscriptions purchased by our current customers as they deploy additional core ITIL and extended IT applications, and use our platform to develop custom applications to meet business needs outside of IT. Additionally, we believe there are significant cross-sell opportunities for our separately licensed Discovery and Runbook Automation technologies.

Expand internationally. We have a large and growing international presence, and intend to grow our customer base in various regions. We are investing in new geographies, including investment in direct and indirect sales channels, data centers, professional services, customer support and implementation partners. As of the end of February 2012, 23% of our direct sales force is located outside the United States. We plan to increase our investment in our existing international locations in order to achieve scale efficiencies in our sales and marketing efforts, in addition to adding new geographies.

Continue to innovate and enhance our service offerings. We have made, and will continue to make, significant investments in research and development to strengthen our existing applications, expand the number of applications on our platform and develop additional automation technologies. We typically offer multiple upgrades each year that allow our customers to benefit from ongoing innovation.

Strengthen our customer community. We have an enthusiastic and engaged customer community that contributes to our success through their willingness to share their ServiceNow experiences with other potential customers. Customer needs drive our development efforts. To support our customer community and encourage collaboration, we host Knowledge, our annual user conference. Participation by our customers at Knowledge has grown ten-fold, with approximately 100 attendees at our first conference in 2007 growing to approximately 1,000 attendees in 2011. We will continue to leverage our large and growing customer community to expose our existing customers to new use cases and increase awareness of our service.

Develop our partner ecosystem. We intend to further develop our existing partner ecosystem by establishing agreements with strategic resellers and system integrators to provide broader customer coverage, access to senior executives and solution delivery capabilities. As we expand our base of partners, we intend to grow our indirect sales team and marketing efforts to support our distribution network.

Further promote our extensible platform. We plan to grow investments in our platform to better enable the creation of custom applications to address specific business issues. We believe our platform is currently deployed to address a wide variety of non-IT use cases in areas such as human resources, facilities and quality control management. We believe our platform provides substantial application development capabilities and we intend to further promote the potential of our platform as a strategy to penetrate large and growing markets.

Our Service

Our core applications are specifically designed to automate ITIL-based processes. We also offer extended IT applications and allow customers to build custom applications designed to automate processes unique to their businesses. All of these applications run on our platform and are provided as a hosted service under a SaaS business model.

Our service includes the following applications:

Core ITIL Applications

- *Incident Management* manages the process of restoring a failed service to an operational state.
- *Problem Management* manages the process of resolving the root cause of recurring service outages or issues affecting multiple users.
- *Change Management* manages the proposal and approval process for changes to be made to the IT infrastructure.
- *Release Management* assigns, manages and monitors the various tasks comprising the actual implementation or execution of a proposed change.
- *Configuration Management Database, or CMDB,* serves as the inventory repository of all hardware, software and network equipment comprising the IT infrastructure.
- *Service Catalog* displays the various goods and services an IT department makes available to the rest of the organization.
- *Knowledge Management* stores and displays “knowledge articles” or documents for use by the IT staff or broader supported employee base.
- *Service Portfolio Management* presents business services offered to the enterprise by the IT organization in consumer-oriented fashion.
- *Service Level Agreement Management* monitors and manages progress being made by IT staff on the completion of assigned tasks which have specific due dates.

Extended IT Applications

- *Project and Portfolio Management* tracks and manages projects planned or being worked on by the IT staff.
- *IT Cost Management* tracks and monitors staff work time, project-related expenses and labor costs.
- *IT Asset and Contract Management* tracks the financial elements of IT infrastructure.
- *IT Governance Risk and Compliance* details applications, databases, servers, network equipment and personnel for a regulatory or compliance audit.
- *Software Development Lifecycle Management* tracks and manages new features and functions to be developed in upgrades or new software applications.
- *Field Service Management* manages the process of dispatching field based technicians and routing of field-based spare parts to a customer location.

- *Social IT* provides users with a collaboration capability to interact with a broad set of users to enable IT self-service as well as a chat functionality for one-to-one online communication with IT staff.
- *Reporting and Business Intelligence* provides users with access to pre-built and custom reports across all applications.
- *Discovery* discovers the various hardware and software assets comprising the IT infrastructure as well as mapping the operational dependencies between those assets, and then populates and maintains that inventory in the CMDB application. Each of these processes occurs automatically.
- *Runbook Automation* is designed to automatically execute complex yet routine and repeatable projects in the datacenter, allowing organizations to automate business and IT processes that would otherwise be done manually.

Custom Applications

Our customers and partners can use our platform to build applications designed to automate processes that are unique to their businesses. Some examples include human resources, facilities and quality control management.

Platform

Our proprietary platform serves as the development environment for our suite of applications and custom applications, and automates workflow and integrates related business processes. Each application leverages shared platform resources to increase system automation, process integration, interface usability and data consistency.

Professional Services

Customers configure their implementation of our service to accommodate their unique organizational structures and workflows as well as to integrate our service with other technologies in their environments. We provide technical training and implementation services to customers through our professional services team and through a network of certified partners. Customers may also implement our service independently or use a third party. Our professional services include customer guidance on implementation, as well as comprehensive integration and implementation projects, and can include the development of custom applications. Customers typically implement applications in phases and each phase is governed by a separate statement of work. Typical professional service engagements vary in length from a few weeks to several months depending on the scope and size of the customer initiative.

Customer Support

We offer customer support from our offices in San Diego, California and London. Customers can call or email us at anytime to report issues with or ask questions regarding our service. We provide 24/7 support through phone, email, online documentation and an online forum. Our support staff is comprised of highly experienced and knowledgeable technicians that receive significant training on the deployment and maintenance of our service, as well as the operations of our data centers. There is no additional charge for customer support.

Technology

We designed our cloud-based service to support large global enterprises. The architecture, design, deployment and management of our service are focused on:

Scalability. Our service is designed to support concurrent user sessions within a global enterprise, processing thousands of record-producing transactions and managing multiple terabytes of data while continuing to deliver best-in-class transaction processing time.

Availability. Our customers are highly dependent on our service for the day–to-day operations of their IT infrastructure. Our service is designed as an “always on” solution.

Security. Our service hosts and manages a large quantity of highly sensitive customer data. We employ a number of technologies, policies and procedures to protect customer data. We offer data centers that have SSAE 16 or ISO 27001 attestations or equivalent attestations.

We have a standardized Java-based development environment with the majority of our software written in industry standard software programming languages. We also use Web 2.0 technologies like AJAX and HTML which give users an intuitive and familiar experience. Our hardware primarily consists of industry standard servers and network components. Our standard operating system and database are Linux and MySQL, respectively, and the system is highly portable across multiple platforms including Microsoft Windows, Microsoft SQL Server and Oracle databases.

Unlike many SaaS vendors, we operate a multi-instance architecture that provides all customers with dedicated applications and databases. Most customers run on shared infrastructure servers while larger customers may run on dedicated servers. This architecture reduces risk associated with infrastructure outages, improves system scalability and security, and allows for flexibility in deployment location. We are also investing in enhancements to our cloud architecture, which are designed to provide all our customers with increased data reliability and availability.

We offer our customers the option to purchase dedicated hardware in our data centers. In addition, our multi-instance architecture gives us the added flexibility to deploy our applications on-premises at a customer data center in order to support regulatory or security requirements. When our software is installed at the customer site, we define the hardware requirements that the customer must install and manage. We then remotely install and maintain the applications in a similar way to how we manage customer instances deployed in our own managed data centers. A small percentage of our customers run an on-premises solution.

Sales and Marketing

We sell our product and services through direct field sales and indirect channel sales. Our primary sales channel in North America is direct sales, and we also partner with strategic resellers and system integrators. For international markets outside of the United Kingdom and Germany we have historically partnered with strategic resellers. In the past year we have made significant investments in direct sales in many markets.

Our marketing efforts and lead generation activities consist primarily of customer referrals, Internet advertising, trade shows and industry events and press releases. We also host Knowledge conferences and webinars where customers both participate in and present a variety of programs designed to help accelerate marketing success with our service and platform.

As of December 31, 2011 we had 242 employees in sales and marketing.

Customers

We primarily market our service to large enterprises and public sector organizations. We have proven scalability supporting large enterprise-wide deployments. As of December 31, 2011, we had 974 customers around the world across a wide range of industries.

Case Studies

The following actual examples demonstrate how customers have benefitted from our service and expertise.

Global IT Outsourcing Company—Platform Modernization

Problem: A multi-billion dollar global IT services outsourcer who focuses on improving IT process control and maturity for clients struggled with a number of legacy, on-premises solutions utilized to manage the delivery of contracted services to their customers. These systems were built on older technology that limited the customer's ability to deliver services to their customers in a timely and cost effective manner and grow into additional service offerings which could not be processed in their legacy systems without a large development investment.

Solution and benefits: The customer deployed our service as their enterprise platform to automate a suite of integrated IT services to their customers with the following results:

- Decreased customer implementation time by 33%, significantly enhancing the customer relationship;
- Expanded functional capability, allowing growth into additional service offerings; and
- Decreased operational support costs by 22% over a two year period.

International Electronic Manufacturing and Servicing Company—Platform Consolidation

Problem: A multi-billion dollar, international electronic manufacturing and servicing company had recently more than doubled the size of its business through a major acquisition and struggled with multiple systems used to support various IT functions around the globe. These disparate systems were expensive to maintain, limited the customer's ability to provide global support for enterprise systems and lacked an ability to provide operational visibility to senior management.

Solution and benefits: The customer deployed our service as a strategic platform to consolidate its global operations onto a single system of record and a unifying set of business processes in order to enable global coordination of resources and efforts. The system was deployed in 7 languages in all countries of corporate operation in just six months with the following results:

- Expanded the scope of enterprise systems supported by corporate IT by 20% with no increase in personnel resources;
- Decreased mean time to repair by 22% for business critical outages and 86% for Global Helpdesk;
- Increased mean time between failures by 13% for business critical outages;
- ITIL standard processes for Problem and Change management introduced; and
- Recognized more than $1 million in operational expense savings.

Financial Services Company—Transformation from Reactive to Proactive IT

Problem: A firm specializing in providing products and services to the financial services industry wanted to transition from a reactive, task-based organization to one which was more service-oriented and capable of providing better levels of service to the business. In order to do so, they needed to transition from a basic ticketing system to a highly automated IT service management solution.

Solution and benefits: The customer implemented our service around the ability for employees to request goods and services from the IT department and have them delivered in a highly automated fashion with the following results:

- Significantly reduced the complexity involved in requesting goods and service from the IT department;
- Reduced the number of calls to the IT department by 25% through the proactive dissemination of order status information; and
- Was able to reallocate 15% of the IT service staff to more strategic projects through improvements in employee efficiency.

International Scientific Research Organization—Custom Applications for Automated Visitor Services

Problem: An international scientific research organization with more than 2,400 staff struggled to manage the efficient processing of the numerous requests generated by the more than 10,000 annual visitors to its vast, city-like campus. These requests spanned a range of diverse services offered by the organization including security access, logistics, transport, hotel rooms, experimental facilities, finance, human resources, safety and information technology.

Solution and benefits: The customer implemented a range of pre-packaged and custom-developed applications deployed on our platform with a service request portal front-end designed to provide visiting scientists with a full view of business services offered by various departments within the organization with the following results:

- Established a business service catalog comprising several hundred services described with related request items which are automatically routed to the support groups responsible for delivery and fulfillment, significantly reducing the time spent by the scientists searching for where and how to report incidents or requests.
- Processed 100,000 service requests in a one year period. Managing an annual growth of over 10% of the labs activities without increasing staff and budgets was only possible with the introduction of a service management framework powered by our platform.

Data Center Operations

We currently run our service from thirteen data centers around the world, including the United States, Canada, the United Kingdom, the Netherlands, Switzerland and Australia. We are transitioning from a managed service hosting model, where a third party manages many aspects of the operations, to a co-location model, where we will have more direct control over the infrastructure and its operation. Upon completion of the current enhancements we are making to our cloud infrastructure, which are scheduled to be completed by the end of 2012, we expect to have twelve data centers globally, two in each serving region operating in a mirrored configuration to provide high availability. For our U.S. federal government customers we are in the process of establishing data centers that are compliant with the Federal Information Security Management Act. The number of data centers we operate will continue to change with new business opportunities.

Research and Development

Our ability to compete depends in large part on our continuous commitment to research and development and our ability to timely introduce new products, technologies, features and functionality. Our research and development organization is responsible for the design, development, testing and certification of our products and services. Our efforts are focused on developing new products and core technologies and further enhancing the functionality, reliability, performance and flexibility of existing solutions. We focus our efforts on anticipating customer demand in bringing new products and new versions of existing products to market quickly in order to remain competitive in the marketplace.

As of December 31, 2011, we had 83 employees in our research and development group. Our research and development expenses were $2.4 million, $7.2 million and $7.0 million in fiscal 2009, 2010 and 2011, respectively, and $2.8 million and $7.0 million in the six months ended December 31, 2010 and 2011, respectively.

Competition

The market for enterprise IT management solutions is fragmented, rapidly evolving and highly competitive. We face competition from in-house solutions, large integrated systems vendors and smaller companies with point solutions. Our competitors vary in size and in the breadth and scope of the products and services offered. Our primary competitors include BMC Software, Inc., CA, Inc., Hewlett-Packard Company and International Business Machines Corporation, all of which can bundle competing products and services with other software offerings, or offer them at a low price as part of a larger sale. With the introduction of new technologies, evolution of our product offerings and new market entrants, we expect competition to intensify in the future.

The principal competitive factors in our industry include total cost of ownership, product functionality, breadth of offerings, flexibility and performance. We believe that we compete favorably with our competitors on each of these factors. However, many of our primary competitors have greater name recognition, longer operating histories, more established customer relationships, larger marketing budgets and significantly greater resources than we do.

Intellectual Property

We rely upon a combination of copyright, trade secret and trademark laws and contractual restrictions, such as confidentiality agreements and licenses, to establish and protect our proprietary rights. We have only recently begun to develop a strategy to seek patent protections for our technology. We pursue the registration of our domain names and trademarks and service marks in the United States and in certain locations outside the United States.

Despite our efforts to protect our proprietary rights, unauthorized parties may attempt to copy or obtain and use our technology to develop products and services that provide features and functionality that are similar to our service offerings. Policing unauthorized use of our technology is difficult. The laws of the countries in which we market our service may offer little or no effective protection of our proprietary technology. Our competitors could also independently develop services equivalent to ours, and our intellectual property rights may not be broad enough for us to prevent competitors from doing so. Reverse engineering, unauthorized copying or other misappropriation of our proprietary technology could enable third parties to benefit from our technology without paying us for it, which would significantly harm our business.

We expect that we and others in our industry may be subject to third-party infringement claims as the number of competitors grows and the functionality of products and services overlaps. Our competitors could make a claim of infringement against us with respect to our service and underlying technology. Third parties may currently have, or may eventually be issued, patents upon which our current solution or future technology infringe. Any of these third parties might make a claim of infringement against us at any time.

Employees

As of December 31, 2011, we had 603 full-time employees worldwide, including 242 in sales and marketing, 217 in operations, professional services, training and customer support, 83 in research and development and 61 in general and administrative roles. None of our U.S. employees is represented by a labor union with respect to his or her employment. Employees in certain European countries have the benefits of collective bargaining arrangements at the national level. We have not experienced any work stoppages.

Facilities

Our corporate headquarters are located San Diego, California. We also maintain offices in multiple locations in the United States and internationally, including San Jose, Seattle, London, Amsterdam and Sydney. We are currently seeking additional space in San Jose, Seattle, London and Amsterdam as needed to satisfy our growth.

Legal Proceedings

From time to time, we may become involved in legal proceedings arising in the ordinary course of our business. We are not presently a party to any legal proceedings that, if determined adversely to us, would individually or taken together have a material adverse effect on our business, operating results, financial condition or cash flows.

MANAGEMENT

Executive Officers and Directors

The following table sets forth information regarding our executive officers and directors as of February 29, 2012:

Name	Age	Position
Executive Officers:		
Frank Slootman	53	President, Chief Executive Officer and Director
Frederic B. Luddy	57	Chief Product Officer and Director
Michael P. Scarpelli	45	Chief Financial Officer
David L. Schneider	43	Senior Vice President of Worldwide Sales and Services
Arne Josefsberg	54	Chief Technology Officer
Daniel R. McGee	52	Senior Vice President of Engineering
Directors:		
Paul V. Barber(2)	50	Chairman of the Board of Directors
Ronald E.F. Codd(1)(3)	56	Director
Douglas M. Leone(2)	54	Director
Jeffrey A. Miller(1)(2)	61	Director
Charles E. Noell, III(3)	60	Director
William L. Strauss(1)(3)	53	Director

(1) Member of the Audit Committee.
(2) Member of the Compensation Committee.
(3) Member of the Nominating and Governance Committee.

Executive Officers

Frank Slootman has served as our President and Chief Executive Officer, and as a director, since May 2011. Mr. Slootman served as a venture partner with Greylock Partners, a venture capital firm from January 2011 to April 2011, and served as an advisor to EMC Corporation, an information technology company, from January 2011 to February 2012. From July 2009 to January 2011, Mr. Slootman served as President of the Backup Recovery Systems Division at EMC. From July 2003 to July 2009, Mr. Slootman served as President and Chief Executive Officer of Data Domain, Inc., an electronic storage solution company, which was acquired by EMC in 2009. Prior to joining Data Domain, Mr. Slootman served as an executive at Borland Software Corporation from June 2000 to June 2003, most recently as Senior Vice President of Products. From March 1993 to June 2000, Mr. Slootman held management positions for two enterprise software divisions of Compuware Corporation. Mr. Slootman holds undergraduate and graduate degrees in Economics from the Netherlands School of Economics, Erasmus University Rotterdam. Our board believes that Mr. Slootman's business expertise, including his prior executive level leadership, gives him the operational expertise, breadth of knowledge and valuable understanding of our industry which qualifies him to serve as a member of our board of directors.

Frederic B. Luddy has served as our Chief Product Officer since May 2011. Mr. Luddy founded ServiceNow in June 2004 and served as our President and Chief Executive Officer from that time until May 2011 and as a director since June 2004. From April 1990 to October 2003, Mr. Luddy served as Chief Technology Officer of Peregrine Systems, Inc., an enterprise software company that filed for protection under Chapter 11 of the United States Bankruptcy Code in September 2002. Prior to joining Peregrine Systems, Mr. Luddy founded

Enterprise Software Associates, a software company, and was employed by Boole and Babbage, Inc., a software company, and the Amdahl Corporation, an information technology company. Our board believes Mr. Luddy's experience as the founder of ServiceNow, his knowledge of software and the software industry, as well his executive level experience and software and hardware development expertise give him the breadth of knowledge and leadership capabilities which qualify him to serve as a member of our board of directors.

Michael P. Scarpelli has served as our Chief Financial Officer since August 2011. From July 2009 to August 2011, Mr. Scarpelli served as Senior Vice President of Finance & Business Operations of the Backup Recovery Systems Division at EMC. From September 2006 to July 2009, Mr. Scarpelli served as Chief Financial Officer of Data Domain. Prior to joining Data Domain, Mr. Scarpelli served as Executive Vice President and Chief Financial Officer for Lexar Media, Inc., a flash memory manufacturer, from January 2006 until Lexar was acquired by Micron Technology, Inc. in August 2006. From January 2002 to December 2005, Mr. Scarpelli held senior positions at HPL Technologies, Inc., a provider of yield management software and test chip solutions, most recently as Senior Vice President and Chief Financial Officer. Mr. Scarpelli began his career at PricewaterhouseCoopers LLP from May 1989 to December 2001. Mr. Scarpelli holds a B.A. in Economics from the University of Western Ontario.

David L. Schneider has served as our Senior Vice President of Worldwide Sales and Services since June 2011. From July 2009 to June 2011, Mr. Schneider served as Senior Vice President of Worldwide Sales of the backup recovery systems division of EMC. From January 2004 to July 2009, Mr. Schneider held senior positions at Data Domain, most recently Senior Vice President of Worldwide Sales. Prior to joining Data Domain, Mr. Schneider served as Vice President of Alliances, Channel and OEM Sales for Borland Software from January 2003 to December 2003. From May 2002 to January 2003, Mr. Schneider served as Vice President of Western United States Sales for TogetherSoft Corporation (later acquired by Borland Software). From January 1999 to May 2002, Mr. Schneider was Western Regional Manager at Iona Technologies, Inc., an infrastructure software company. Mr. Schneider holds a B.A. in Political Science from the University of California, Irvine.

Arne Josefsberg has served as our Chief Technology Officer since September 2011. Prior to joining us, Mr. Josefsberg held various positions with Microsoft Corporation over the last 25 years, most recently as general manager of Windows Azure Infrastructure from November 2009 to September 2011, and as General Manager of Infrastructure Services, Global Foundation Services from March 2006 to October 2009. Mr. Josefsberg holds an M.S. in Physics from the Lund Institute of Technology in Sweden.

Daniel R. McGee has served as our Senior Vice President of Engineering since August 2011. From July 2009 to August 2011, Mr. McGee served as Senior Vice President of Engineering and Support of the Backup Recovery Systems Division of EMC. From February 2006 to July 2009, Mr. McGee held senior positions at Data Domain, most recently Senior Vice President of Engineering and Support. Prior to joining Data Domain, Mr. McGee served as Vice President of Engineering at Aventail Corporation from March 2004 to February 2006 and held various positions at Pinnacle Systems, Inc. from August 1999 to March 2004 including the joint position of Director of Network Solutions and General Manager of Distributed Broadcast Solutions. Mr. McGee holds a B.S. in Electrical Engineering & Computer Science from Oregon State University and an M.S. in Engineering Management from Stanford University.

Directors

Paul V. Barber has served on our board of directors since June 2005. In November 1998, Mr. Barber joined JMI Equity, a venture capital firm, where he now serves as a Managing General Partner. Mr. Barber also serves on the boards of directors of several private companies. From 1990 to 1998, Mr. Barber was the Managing Director and Head of the Software Investment Banking Practice at Alex. Brown & Sons. Mr. Barber received an A.B. in Economics from Stanford University and an M.B.A. from the Harvard Business School. Our board believes that Mr. Barber's management experience and his service on other boards of directors in the information

technology industry, including his experience in finance, give him the breadth of knowledge and valuable understanding of our industry, which qualify him to serve as a member of our board of directors.

Ronald E. F. Codd has served on our board of directors since February 2012. Mr. Codd has been an independent business consultant since April 2002. From January 1999 to April 2002, Mr. Codd served as President, Chief Executive Officer and a director of Momentum Business Applications, Inc., an enterprise software company. From September 1991 to December 1998, Mr. Codd served as Senior Vice President of Finance and Administration and Chief Financial Officer of PeopleSoft, Inc. Mr. Codd has served as a member of the board of directors of Rocket Fuel, Inc. since February 2012. Mr. Codd has served on numerous information technology boards including most recently DemandTec, Inc., Interwoven, Inc. and Data Domain. Mr. Codd holds a B.S. in Accounting from the University of California, Berkeley and an M.M. in Finance and M.I.S. from the Kellogg Graduate School of Management at Northwestern University. Mr. Codd is also a member of the adjunct faculty at Golden Gate University in San Francisco, California. Our board believes that Mr. Codd's management experience and his software industry experience, including his experience in finance, give him the breadth of knowledge and valuable understanding of our industry which qualify him to serve as a member of our board of directors.

Douglas M. Leone has served on our board of directors since November 2009. Mr. Leone has been associated with Sequoia Capital, L.P., a venture capital firm, since July 1988 and has been a General Partner since 1993. Prior to joining Sequoia Capital, Mr. Leone held sales and sales management positions at Sun Microsystems, Inc., Hewlett-Packard Company and Prime Computer, Inc. Mr. Leone has serve on the board of directors of Aruba Networks, Inc. since 2002. Mr. Leone holds a B.S. in Mechanical Engineering from Cornell University, an M.S. in industrial engineering from Columbia University and an M.S. in Management from the Massachusetts Institute of Technology. Our board believes that Mr. Leone's investment experience in the Internet and software industries, as well as his background in sales and sales management, provide valuable insight regarding our business and qualify him to serve as a member of our board of directors.

Jeffrey A. Miller has served on our board of directors since February 2011. Mr. Miller has served as President and Chief Executive Officer of JAMM Ventures, a consulting and venture capital firm, since January 2002. From January 2002 to March 2006, Mr. Miller also served as a Venture Partner with Redpoint Ventures. Mr. Miller previously served on the board of directors of Data Domain from October 2006 to July 2009 and McAfee, Inc. from June 2008 to February 2011. Mr. Miller holds a B.S. in Electrical Engineering and Computer Science and an M.B.A. from Santa Clara University. Our board believes that Mr. Miller's consulting and investment experience and his service on the boards of directors of other companies in the information technology industry give him the appropriate set of skills which qualify him to serve as a member of our board of directors.

Charles E. Noell, III has served on our board of directors since February 2012. From January 1992 through December 2010, Mr. Noell served as President and Chief Executive Officer of JMI Services, Inc. and since December 2010 has served as President of JMI Services, LLC, each a family office. Mr. Noell co-founded JMI Equity, a venture capital firm, in 1992, has served as a General Partner since its founding and has served as a Venture Partner since 2007. Since March 1996, Mr. Noell has served as a member of the Executive Committee of Padres, Inc., the general partner of Padres L.P., the owner of the San Diego Padres Major League Baseball franchise. Mr. Noell holds a B.A. in History from the University of North Carolina at Chapel Hill and an M.B.A. from Harvard University. Our board believes that Mr. Noell's investment experience in the information technology industry gives him the breadth of knowledge and understanding of our industry which qualify him to serve as a member of our board of directors.

William L. Strauss has served on our board of directors since February 2011. Since September 2011, Mr. Strauss has served as Chief Executive Officer and director of Shoedazzle.com, Inc., an online fashion

company. From November 1999 to September 2011, Mr. Strauss served as Chief Executive Officer and a director of Provide Commerce, Inc., an e-commerce marketplace of websites, which was acquired by Liberty Media Corporation in 2006. Mr. Strauss holds a B.A. in Accounting from Syracuse University. Our board believes that Mr. Strauss' management experience gives him the appropriate set of skills which qualify him to serve as a member of our board of directors.

Our executive officers are elected by, and serve at the discretion of, our board of directors. There are no family relationships among any of our directors or executive officers.

Board of Directors

The rules of the New York Stock Exchange require that a majority of the members of our board of directors be independent within specified periods following the closing of this offering. Our board of directors has determined that six of our directors are independent as determined under the rules of the New York Stock Exchange: Messrs. Barber, Codd, Leone, Miller, Noell and Strauss.

Pursuant to a voting agreement, Messrs. Barber, Leone, Luddy and Noell were appointed to our board of directors by certain of our stockholders. The voting agreement will terminate upon the closing of this offering. The current members of our board of directors will continue to serve as directors until their resignation or until their successors are duly elected.

Upon the closing of this offering, our restated certificate of incorporation will divide our board of directors into three classes, with staggered three-year terms:

- Class I directors, whose initial term will expire at the annual meeting of stockholders to be held in 2013;
- Class II directors, whose initial term will expire at the annual meeting of stockholders to be held in 2014; and
- Class III directors, whose initial term will expire at the annual meeting of stockholders to be held in 2015.

At each annual meeting of stockholders after the initial classification, the successors to directors whose terms have expired will be elected to serve from the time of election and qualification until the third annual meeting following election. Upon the closing of this offering, the Class I directors will consist of Messrs. ; the Class II directors will consist of Messrs. ; and the Class III directors will consist of Messrs. . As a result, only one class of directors will be elected at each annual meeting of our stockholders, with the other classes continuing for the remainder of their respective three-year terms.

In addition, under our restated certificate of incorporation and restated bylaws that will be effective upon the closing of this offering, (1) our board of directors may set the authorized number of directors and (2) only our board of directors may fill vacancies on our board of directors. Any director appointed to fill a vacancy shall serve for the remaining term of the directorship that would have been served by the director he or she replaced. Any additional directorships resulting from an increase in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of the total number of directors.

The classification of our board of directors and provisions described above may have the effect of delaying or preventing changes in our control or management. See "Description of Capital Stock—Anti-Takeover Provisions—Restated Certificate of Incorporation and Restated Bylaw Provisions."

Board Leadership Structure

Our board of directors has an independent chairman, Mr. Barber. We believe that separation of the positions of chairman and chief executive officer reinforces the independence of our board of directors in its oversight of our business and affairs. In addition, we believe that having an independent board chairman creates an environment that is more conducive to objective evaluation and oversight of management's performance, increasing management accountability and improving the ability of our board of directors to monitor whether management's actions are in the best interests of our company and stockholders. As a result, we believe that having an independent board chairman enhances the effectiveness of the board of directors as a whole.

Role of the Board in Risk Oversight

One of the key functions of our board of directors is informed oversight of our risk management process. Our board of directors does not have a standing risk management committee, but rather administers this oversight function directly as a whole, as well as through various standing committees of our board of directors that address risks inherent in their respective areas of oversight. In particular, our board of directors is responsible for monitoring and assessing strategic risk exposure and our Audit Committee has the responsibility to consider and discuss our major financial risk exposures and the steps our management has taken to monitor and control these exposures, including guidelines and policies to govern the process by which risk assessment and management are undertaken. The Audit Committee also monitors compliance with legal and regulatory requirements. Our Compensation Committee assesses and monitors whether any of our compensation policies and programs has the potential to encourage excessive risk-taking.

Board Committees

Our board of directors has an Audit Committee, a Compensation Committee and a Nominating and Governance Committee, each of which has the composition and responsibilities described below as of the closing of this offering. Members serve on these committees until their resignations or until otherwise determined by our board of directors.

Audit Committee

Our Audit Committee comprises Mr. Codd, who is the chair of the Audit Committee, and Messrs. Miller and Strauss. The composition of our Audit Committee meets the requirements for independence under the current New York Stock Exchange and SEC rules and regulations. Each member of our Audit Committee is financially literate. In addition, our board of directors has determined that Mr. Codd is an "audit committee financial expert" as defined in Item 407(d)(5)(ii) of Regulation S-K promulgated under the Securities Act. The designation does not impose on Mr. Codd any duties, obligations or liabilities that are greater than are generally imposed on members of our Audit Committee and our board of directors. All audit services to be provided to us and all permissible non-audit services to be provided to us by our independent registered public accounting firm will be approved in advance by our Audit Committee. Our board of directors will adopt a revised charter for our Audit Committee prior to the closing of this offering. Our Audit Committee, among other things, will:

- select a firm to serve as the independent registered public accounting firm to audit our financial statements;
- help ensure the independence of the independent registered public accounting firm;
- discuss the scope and results of the audit with the independent registered public accounting firm, and review, with management and that firm, our interim and year-end operating results;
- develop procedures for employees to anonymously submit concerns about questionable accounting or audit matters;

- consider the adequacy of our internal accounting controls and audit procedures; and
- approve or, as permitted, pre-approve all audit and non-audit services to be performed by the independent registered public accounting firm.

Compensation Committee

Our Compensation Committee comprises Mr. Miller, who is the chair of the Compensation Committee, and Messrs. Barber and Leone. The composition of our Compensation Committee meets the requirements for independence under the current New York Stock Exchange and SEC rules and regulations. Each member of this committee is a non-employee director, as defined pursuant to Rule 16b-3 promulgated under the Securities Exchange Act of 1934, as amended, and an outside director, as defined pursuant to Section 162(m) of the Internal Revenue Code of 1986, as amended, or the Code. The purpose of our Compensation Committee is to discharge the responsibilities of our board of directors relating to compensation of our executive officers. Our board of directors will adopt a revised charter for our Compensation Committee prior to the closing of this offering. Our Compensation Committee, among other things, will:

- review and approve, or recommend that our board of directors approve, the compensation of our executive officers;
- review and recommend to our board of directors the compensation of our directors;
- review and approve the terms of any material agreements with our executive officers;
- administer our stock and equity incentive plans;
- review and make recommendations to our board of directors with respect to incentive compensation and equity plans; and
- establish and review our overall compensation philosophy.

Nominating and Governance Committee

Our Nominating and Governance Committee comprises Mr. Strauss, who is the chair of the Nominating and Governance Committee, and Mr. Codd. The composition of our Nominating and Governance Committee meets the requirements for independence under the current New York Stock Exchange and SEC rules and regulations. We anticipate that our board of directors will adopt a charter for our Nominating and Governance Committee prior to the closing of this offering. Our Nominating and Governance Committee, among other things, will:

- identify, evaluate and recommend nominees to our board of directors and committees of our board of directors;
- conduct searches for appropriate directors;
- evaluate the performance of our board of directors;
- consider and make recommendations to our board of directors regarding the composition of our board of directors and its committees;
- review related party transactions and proposed waivers of the code of conduct;
- review developments in corporate governance practices; and
- evaluate the adequacy of our corporate governance practices and reporting.

We intend to post the charters of our Audit, Compensation and Nominating and Governance Committees, and any amendments that may be adopted from time to time, on our website.

Compensation Committee Interlocks and Insider Participation

No member of our Compensation Committee is an executive officer or employee of ours. None of our officers currently serves, or has served during the last completed fiscal year, on the compensation committee or board of directors of any other entity that has one or more officers serving as a member of our board of directors or Compensation Committee. We have had a compensation committee since October 2010. Prior to establishing the Compensation Committee, our full board of directors made decisions relating to compensation of our officers.

Code of Business Conduct and Ethics

We anticipate that our board of directors will adopt a written code of business conduct and ethics that applies to our directors, officers and employees, including our principal executive officer, principal financial officer, principal accounting officer or controller, or person performing similar functions. We intend to post the code of business conduct and ethics, and any amendments that may be adopted from time to time, on our website.

Director Compensation

The following table sets forth information concerning the compensation that we paid or awarded during fiscal 2011 and the six months ended December 31, 2011 to each of our non-employee directors:

Name	Period	Fees Earned or Paid in Cash ($)	Option Awards ($)[1]	Total ($)
Paul V. Barber	*	—	—	—
	2011	—	—	—
Andrew M. Leitch[2]	*	20,000	—	20,000
	2011	20,000	165,140	185,140
Douglas M. Leone	*	—	—	—
	2011	—	—	
Jeffrey A. Miller	*	—	—	—
	2011	—	278,980	278,980
William L. Strauss	*	—	—	—
	2011	—	278,980	278,980

* Effective February 3, 2012, we changed our fiscal year-end from June 30 to December 31. Amounts in this row are for the six months ended December 31, 2011.

(1) Amounts listed represent the aggregate fair value amount computed as of the grant date of each option and award during fiscal year 2011 in accordance with FASB ASC Topic 718. Assumptions used in the calculation of these amounts are included in Note 10 to our consolidated financial statements. As required by SEC rules, the amounts shown exclude the impact of estimated forfeitures related to service-based vesting conditions. Our directors will only realize compensation to the extent the trading price of our common stock is greater than the exercise price of such stock options.

(2) Mr. Leitch resigned from our board of directors in February 2012.

Messrs. Codd and Noell were elected to our board of directors in February 2012 and did not receive any compensation for fiscal 2011 or the six months ended December 31, 2011.

For fiscal 2011 and the six months ended December 31, 2011, our board of directors adopted a compensation policy for our non-employee directors who are not affiliated with any holder of more than 10% of our common stock. The policy provides for an annual board service retainer of $20,000 to the director serving as the chair of the Audit Committee, payable upon the appointment as chairman and annually thereafter. In addition, any newly appointed eligible non-employee director is entitled to receive a nonqualified stock option for 200,000 shares, which vests in equal monthly installments over four years.

All directors are also entitled to reimbursement for reasonable travel expenses incurred in attending meetings of our board of directors and committees of the board of directors.

EXECUTIVE COMPENSATION

Compensation Discussion and Analysis

Overview

The following discussion and analysis of compensation arrangements of our executive officers should be read together with the compensation tables and related disclosures set forth below. This discussion contains forward-looking statements that are based on our current plans, considerations, expectations and determinations regarding future compensation programs. The actual amount and form of compensation and the compensation programs that we adopt may differ materially from currently planned programs as summarized in this discussion.

This section discusses the principles underlying our executive compensation policies and decisions and the most important factors relevant to an analysis of these policies and decisions. In addition, we explain how and why our board of directors and the Compensation Committee of our board of directors arrived at specific compensation policies and decisions involving our executive officers during fiscal 2011 and the six months ended December 31, 2011.

This Compensation Discussion and Analysis provides information about the material components of our executive compensation program for the following executive officers, to whom we refer collectively in this prospectus as the named executive officers.

- Frank Slootman, our President and Chief Executive Officer, or CEO;
- Michael P. Scarpelli, our Chief Financial Officer;
- Frederic B. Luddy, our Chief Product Officer;
- Arne Josefsberg, our Chief Technology Officer;
- David L. Schneider, our Senior Vice President of Worldwide Sales and Services;
- Daniel R. McGee, our Senior Vice President of Engineering; and
- Andrew J. Chedrick, our former Chief Financial Officer.

We hired Mr. Slootman as our President and CEO in May 2011. At that time, Mr. Luddy, our founder, who had been serving as our President and CEO, was appointed our Chief Product Officer. We hired Mr. Schneider as our Senior Vice President of Sales in June 2011.

We hired Mr. Scarpelli as our Chief Financial Officer in August 2011. At that time, Mr. Chedrick, who had been serving as our Chief Financial Officer, was appointed our Vice President, Finance. Mr. Chedrick resigned his position as an employee of our company effective January 2012.

We hired Mr. McGee as our Senior Vice President, Engineering in August 2011. We hired Mr. Josefsberg as our Chief Technology Officer in September 2011. To better reflect the scope of their roles and responsibilities, Mr. Schneider's title was subsequently changed to Senior Vice President of Worldwide Sales and Services and Mr. McGee's title was subsequently changed to Senior Vice President of Engineering.

Executive Compensation Philosophy and Objectives

We believe in providing a competitive total compensation package to our executive officers through a combination of base salary, performance-based bonuses, equity incentive awards and broad-based welfare and health benefit plans. Our executive compensation program is designed to achieve the following objectives:

- attract, motivate and retain executive officers of outstanding ability and potential;
- reward the achievement of key performance measures; and
- ensure that executive compensation is meaningfully related to the creation of stockholder value.

We believe that our executive compensation program should include short-term and long-term components, including cash and equity incentive compensation, and should reward consistent performance that meets or exceeds expectations. We evaluate both performance and compensation to make sure that the compensation provided to our executive officers remains competitive relative to compensation paid by companies of similar size operating in the software services industry, taking into account our relative performance and our own strategic objectives.

Executive Compensation Design

Our current executive compensation program reflects our stage of development as a privately-held company. Accordingly, the compensation of our executive officers, including the named executive officers, has consisted of base salary, quarterly and annual cash bonus opportunities, equity compensation in the form of stock options and certain employee welfare and health benefits.

The key component of our executive compensation program has been equity awards in the form of options to purchase shares of our common stock. As a privately-held company, we have emphasized the use of equity to provide incentives for our executive officers to focus on the growth of our overall enterprise value and, correspondingly, to create value for our stockholders. Until March 2012, we used stock options as our sole equity award vehicle for all of our employees. In March 2012, we issued restricted stock units, or RSUs, for the first time. We believe that stock options and RSUs offer our executive officers, including the named executive officers, a valuable long-term incentive that aligns their interests with the long-term interests of our stockholders. Going forward, as we deem appropriate, we may introduce other forms of stock-based compensation awards into our executive compensation program to offer our executive officers additional types of long-term equity incentives that further this objective.

We also offer cash compensation in the form of base salaries and quarterly and annual cash bonus opportunities. Typically, we have structured our cash bonus opportunities to focus on the achievement of specific short-term financial objectives that will further our longer-term growth objectives.

We have not adopted any formal policies or guidelines for allocating compensation between current and long-term compensation, between cash and non-cash compensation, or among different forms of non-cash compensation. Instead, our board of directors and, since October 2010, the Compensation Committee, have reviewed each component of executive compensation separately and also take into consideration the value of each executive officer’s compensation package as a whole and its relative size in comparison to our other executive officers.

As we transition from a privately-held company to a publicly-traded company, we will evaluate our philosophy and compensation programs as circumstances require. At a minimum, we will review executive compensation annually. As part of this review process, we expect to apply our values and the objectives outlined above, while considering the compensation levels needed to ensure our executive compensation program remains competitive. We will also review whether we are meeting our retention objectives and the potential cost of replacing a key employee.

Executive Compensation Process

Role of the Compensation Committee. The Compensation Committee, which is currently composed entirely of independent directors, was established in October 2010. Prior to establishing the Compensation Committee, our board of directors made all decisions concerning the compensation of our executive officers.

Upon establishing the Compensation Committee, our board of directors delegated to it responsibility for reviewing and approving the compensation of our executive officers. The role of the Compensation Committee was to oversee our compensation and benefit plans and policies, to administer our equity incentive plans, and to annually review and approve or recommend to the board of directors for approval of the compensation decisions for our executive officers, including the named executive officers.

Historically, the board of directors or the Compensation Committee, as applicable, conducted a review of the aggregate level of our executive compensation, as well as the mix of elements used to compensate our executive officers. As a privately-held company, we based this review primarily on the experience of the non-employee members of our Compensation Committee and board of directors that are affiliated with venture investment firms and who sit on the boards of directors of other companies in the software and information technology sectors.

Role of Executive Officers. Historically, our CEO evaluated the performance of our executive officers (other than his own performance) on an annual basis and made recommendations to our board of directors or the Compensation Committee, as applicable, with respect to base salary adjustments, target bonus opportunities, actual bonus payments and equity incentive awards. Our CEO intends to continue this practice going forward.

While the Compensation Committee considered these recommendations in its deliberations, it exercised its own independent judgment in approving the executive compensation of our executive officers.

Role of Compensation Consultant. In November 2010, the Compensation Committee retained Compensia, Inc., or Compensia, a national compensation consulting firm, to assist it in developing our overall executive compensation program. Among other things, the Compensation Committee directed Compensia to provide its analysis of whether our existing compensation strategy and practices were consistent with our compensation objectives and to assist it in modifying our compensation program for executive officers to better achieve our objectives. As part of its duties, Compensia has performed the following projects for the Compensation Committee:

- assisted in the development of a compensation peer group;
- provided compensation data for similarly-situated executive officers at our peer group companies; and
- updated the Compensation Committee on emerging trends and best practices in the area of executive compensation.

Compensia does not provide any other services to us.

Competitive Positioning

Prior to the Compensation Committee's engagement of Compensia, our board of directors used publicly-available data relating to the compensation practices and policies of other companies within and outside our industry as a reference source in determining executive compensation. Typically, our board of directors applied its subjective judgment to make compensation decisions and did not formally benchmark our executive compensation against any particular group of companies or use a formula to set our executive officers' compensation in relation to this data.

In connection with its engagement, the Compensation Committee directed Compensia to assist it in the development of a compensation peer group. Compensia provided the Compensation Committee with a recommended list of peer companies for its consideration. This recommended list consisted of companies with a SaaS business model that Compensia and the Compensation Committee determined compete with us for talent, are in the same geographical area and have a similar number of employees.

In November 2010, our board of directors reviewed the following companies as the peer group to be used as a reference source in its executive compensation deliberations:

American Software, Inc.	Art Technology Group Inc.
Aspen Technology, Inc.	Bottomline Technologies (de), Inc.
comScore, Inc.	Constant Contact, Inc.
DemandTec, Inc.	Guidance Software, Inc.
Kenexa Corporation	LivePerson, Inc.
LogMeIn, Inc.	NaviSite, Inc.
NetSuite Inc.	OpenTable, Inc.
Pervasive Software Inc.	RightNow Technologies, Inc.
Saba Software, Inc.	SolarWinds, Inc.
Sourcefire, Inc.	SuccessFactors, Inc.
Support.com, Inc.	Vocus, Inc.

Going forward, the Compensation Committee intends to review the peer group at least annually and make adjustments to its composition as necessary.

Elements of Executive Compensation

The compensation program for our executive officers consists of three principal components:

- base salary;
- performance-based and discretionary bonuses; and
- equity incentive compensation.

Base Salary. The initial base salaries of our executive officers have been established through arm's-length negotiation at the time the individual was hired, taking into account his or her qualifications, experience, the scope of his or her responsibilities, the competitive market compensation paid by other companies for similar positions within the industry and the base salaries of our other executive officers.

Thereafter, the base salaries of our executive officers, including the named executive officers, are reviewed annually, typically in connection with our annual performance review process, and adjusted from time to time to realign them with market levels after taking into account individual responsibilities, performance and experience. In making decisions regarding base salary adjustments, we may also draw upon the experience of members of our board of directors with other companies. The Compensation Committee has not previously applied specific formulas to determine base salary adjustments, although it may set future adjustments as a percentage of an executive officer's then-current base salary.

The salaries paid to the named executive officers who were with our company in fiscal 2010 and 2011 were as follows:

Named Executive Officer	Fiscal 2010 Salary	Fiscal 2011 Salary
Frederic B. Luddy	$ 330,000	$ 330,000
Andrew J. Chedrick	255,000	255,000

In May 2011, we hired Mr. Slootman as our President and Chief Executive Officer. At that time, our board of directors set his annual base salary at $300,000. This amount was determined as part of the arm's-length negotiation of the terms of Mr. Slootman's employment, which was conducted on our behalf by members of the Compensation Committee and subsequently approved by our board of directors.

In June 2011, we hired Mr. Schneider as our Senior Vice President of Sales. At that time, the Compensation Committee set his annual base salary at $250,000. This amount was determined as part of the arm's-length negotiation of the terms of Mr. Schneider's employment, which was conducted on our behalf by our CEO and subsequently approved by the Compensation Committee.

In July 2011, the board of directors, based on the recommendation of the Compensation Committee, approved an adjustment to the base salary of Mr. Luddy from $330,000 to $300,000 to better reflect the scope of his role and responsibilities with our company. No changes were made to the base salaries of our CEO or Messrs. Chedrick and Schneider.

In August 2011, we hired Mr. Scarpelli as our Chief Financial Officer. At that time, the Compensation Committee set his annual base salary at $275,000. This amount was determined as part of the arm's-length negotiation of the terms of Mr. Scarpelli's employment, which was conducted on our behalf by our CEO and subsequently approved by the Compensation Committee.

In August 2011, we hired Mr. McGee as our Senior Vice President, Engineering. At that time, the Compensation Committee set his annual base salary at $260,000. This amount was determined as part of the arm's-length negotiation of the terms of Mr. McGee's employment, which was conducted on our behalf by our CEO and subsequently approved by the Compensation Committee.

In August 2011, we hired Mr. Josefsberg as our Chief Technology Officer. At that time, the Compensation Committees set his annual base salary at $275,000. This amount was determined as part of the arm's-length negotiation of the terms of Mr. Josefsberg's employment, which was conducted on our behalf by our CEO and subsequently approved by the Compensation Committee.

The salaries paid to the named executive officers during the six months ended December 31, 2011 and fiscal 2011 are set forth in "—Summary Compensation Table" below.

Cash Bonuses. We provide our executive officers, including the named executive officers, with the opportunity to earn quarterly and annual cash bonuses to encourage the achievement of corporate and individual objectives and to reward those individuals who significantly impact our corporate results. Our board of directors and, since October 2010, the Compensation Committee determine and approve our quarterly and annual bonus decisions.

For fiscal 2011, our board of directors adopted a bonus plan providing an opportunity for certain key employees, including our executive officers, to earn quarterly and annual cash bonuses. Beginning in October 2010, this bonus plan was administered by the Compensation Committee.

Fiscal 2011 Quarterly Bonuses. Under the fiscal 2011 bonus plan, the quarterly target bonus of each executive officer was equal to the product of (i) a dollar amount representing the maximum amount that the executive officer may be paid as a quarterly bonus payment, or the Target Quarterly Bonus, multiplied by (ii) a percentage representing the overall achievement of the target levels for the two performance measures for the quarter, or the Performance Goal Achievement. The Target Quarterly Bonus, the performance measures and related target levels, and the method for determining the Performance Goal Achievement for each executive officer were determined by our board of directors or the Compensation Committee, as applicable, after taking into consideration the recommendations of our CEO (for executive officers other than the CEO) at the time the performance measures and related target levels were determined for the executive officer.

Each of the named executive officers was eligible to receive a quarterly bonus. The Target Quarterly Bonus for Mr. Luddy was $75,000, while the Target Quarterly Bonus for Mr. Chedrick was $30,000. The Target Quarterly Bonuses for Messrs. Slootman and Schneider were $37,500 and $17,123, respectively, reflecting the portion of the fourth quarter of fiscal 2011 during which they were employed by us.

For purposes of the fiscal 2011 bonus plan, our board of directors selected year-to-date consolidated revenues and year-to-date consolidated adjusted earnings before interest and taxes, or adjusted EBIT, as the two corporate performance measures that best supported our annual operating plan and enhanced long-term value creation. For purposes of the fiscal 2011 bonus plan, adjusted EBIT meant consolidated net income as calculated under generally accepted accounting principles, adjusted to eliminate interest, provision for taxes, stock-based compensation expense, financial exchange gain or loss, and expenses incurred in connection with our preparation for an initial public offering of our equity securities.

For fiscal 2011, the target levels for these two performance measures were set as follows:

Quarter	Revenue Target Level	Adjusted EBIT Target Level
July 1, 2010—September 30, 2010	$15,248,000	$ 1,045,000
October 1, 2010—December 31, 2010	33,070,000	1,505,000
January 1, 2011—March 31, 2011	54,001,000	3,897,000
April 1, 2011—June 30, 2011	79,142,000	9,097,000

Our board of directors believed that achieving the target levels for these two performance measures would require a focused and consistent effort by our executive officers throughout fiscal 2011.

The Performance Goal Achievement for each quarter was the average of the performance achievement of each of the two performance goals described above (weighted equally) for such quarter. The level of achievement of each of the two performance goals was determined as follows:

If the actual company performance for the quarter was . . .	Then the performance goal achievement for such quarter was . . .
Equal to or greater than the corresponding target performance goal measure	100%
90% or greater but less than 100% of the corresponding target performance goal measure	50%-100%(1)
Less than 90% of the target performance goal measure	0%

(1) Between these values, determined on a straight-line basis.

The following table provides information regarding the quarterly bonus awards earned by the named executive officers who were with our company during fiscal 2011:

	Performance Period	Target Quarterly Bonus	Performance Goal Achievement	Actual Quarterly Bonus
Frederic B. Luddy	First Quarter	$ 75,000	100%	$ 75,000
	Second Quarter	75,000	100	75,000
	Third Quarter	75,000	100	75,000
	Fourth Quarter	75,000	100	75,000
				$ 300,000
Andrew J. Chedrick	First Quarter	$ 30,000	100%	$ 30,000
	Second Quarter	30,000	100	30,000
	Third Quarter	30,000	100	30,000
	Fourth Quarter	30,000	100	30,000
				$ 120,000
Frank Slootman	First Quarter	$ —	—%	$ —
	Second Quarter	—	—	—
	Third Quarter	—	—	—
	Fourth Quarter	37,500	100	37,500
				$ 37,500
David L. Schneider	First Quarter	$ —	—%	$ —
	Second Quarter	—	—	—
	Third Quarter	—	—	—
	Fourth Quarter	17,123	100	17,123
				$ 17,123

Fiscal 2011 Annual Bonuses. Under the fiscal 2011 bonus plan, our executive officers were also eligible to receive an annual bonus award. The Compensation Committee established a maximum bonus pool of $400,000. The actual amount available for payment to our executive officers as annual bonuses was based on a percentage of the difference between the increase in annual contract value for fiscal 2011 and the increase in annual contract value for fiscal 2010. Our CEO and CFO, in their sole discretion after consulting with the Compensation Committee and other members of management as to the amount available for such bonuses, determined the amount of the annual bonus award for each executive officer based on assessment of the individual performance of each executive officer for fiscal 2011 against performance criteria that were extremely difficult to achieve. The determinations were subject to the final approval of the Compensation Committee.

Messrs. Luddy and Chedrick were eligible to receive annual bonus awards for fiscal 2011. In approving their individual annual bonuses, the Compensation Committee took into consideration the overall performance of each executive officer for the fiscal year, including his contributions to our company's overall success. The annual bonus amounts received by Messrs. Luddy and Chedrick for fiscal 2011 were $91,840 and $54,670, respectively.

Since they did not join our company until late in the fiscal year, Mr. Slootman and Mr. Schneider did not receive an annual bonus award for fiscal 2011.

Six Months Ended December 31, 2011 Quarterly Bonuses. In July 2011, upon the recommendation of the Compensation Committee, our board of directors adopted a new bonus plan providing an opportunity for our executive officers, including the named executive officers, to earn quarterly cash bonuses based on corporate performance.

The amount of the bonus for each executive officer was equal to the product of (i) such executive officer's Target Quarterly Bonus multiplied by (ii) the bonus payout percentage for the applicable quarter. The bonus payout percentage for each quarter was based on the increase in annual contract value during such quarter compared to the target increase in annual contract value during such quarter as set forth in our annual operating plan as follows.

If the actual company performance for the quarter was . . .	Then the bonus payout percentage for such quarter was . . .
Greater than the target increase in annual contract value	Greater than 100%(1)
80% or greater but less than or equal to 100% of the target increase in annual subscription value	0%-100%(2)
Less than 80% of the target increase in annual contract value	0%

(1) By an amount equal to two times the corresponding percentage of overachievement.
(2) Between these two values, determined on a straight-line basis.

In addition, the Compensation Committee had the discretion to adjust an individual bonus payout based on its evaluation of an executive officer's individual performance or other corporate financial objectives.

The Compensation Committee selected increase in annual contract value as the appropriate corporate performance measure for the bonus plan since, in its view, it was the best indicator of our successful execution of our annual operating plan as we began to aggressively grow our business, as well as a measure of our ability to build a consistent revenue stream. The Compensation Committee set the target increase in annual contract value levels for the quarters from July 1, 2011 through September 30, 2011 and October 1, 2011 through December 31, 2011 at levels that would be difficult to achieve, in order to encourage a coordinated effort by our executive officers to identify and secure a significant number of existing and new customer relationships in a volatile economic environment. As evidence of the challenging nature of the increase in annual contract value measure, the target levels established for each quarter were our most aggressive to date and represented significant increases in the target levels for this measure as reflected in our annual operating plan in previous fiscal years. As further evidence of the challenging nature of these target levels, we fully achieved the target level in only one of the two quarters.

The following table provides information regarding the quarterly bonus awards earned by the named executive officers for the six months ended December 31, 2011.

	Performance Period	Target Quarterly Bonus	Bonus Payout Percentage	Actual Quarterly Bonus
Frank Slootman	7/1/11-9/30/11	$ 75,000	36%	$ 26,978
	10/1/11-12/31/11	75,000	119	89,240
				$ 116,218
Michael P. Scarpelli	7/1/11-9/30/11	$ 22,351	36%	$ 8,040
	10/1/11-12/31/11	43,750	119	52,057
				$ 60,097
Frederic B. Luddy	7/1/11-9/30/11	$ 75,000	36%	$ 26,978
	10/1/11-12/31/11	75,000	119	89,240
				$ 116,218
Arne Josefsberg	7/1/11-9/30/11	$ 4,402	36%	$ 1,583
	10/1/11-12/31/11	33,750	119	40,158
				$ 41,741
David L. Schneider	7/1/11-9/30/11	$ 62,500	36%	$ 22,482
	10/1/11-12/31/11	62,500	119	74,367
				$ 96,849
Daniel R. McGee	7/1/11-9/30/11	$ 17,880	36%	$ 6,432
	10/1/11-12/31/11	35,000	119	41,645
				$ 48,077

The Target Quarterly Bonuses for Messrs. Scarpelli, Josefsberg and McGee were pro-rated to reflect their employment for a portion of the quarter ended September 30, 2011.

The cash bonuses earned by the named executive officers during six months ended December 31, 2011 and fiscal 2011 are set forth in "—Summary Compensation Table" below.

Equity Incentive Compensation. We use equity awards to motivate and reward our executive officers, including the named executive officers, for long-term corporate performance based on the value of our common stock and, thereby, to align the interests of our executive officers with those of our stockholders. Through December 31, 2011, these equity awards have been granted in the form of stock options to purchase shares of our common stock. We believe that stock options, when granted with exercise prices equal to the fair market value of our common stock on the date of grant, provide an appropriate long-term incentive for our executive officers, because the stock options reward them only to the extent that our stock price grows and stockholders realize value following their grant date.

Historically, the size and form of the initial equity awards for our executive officers have been established through arm's-length negotiation at the time the individual was hired. In making these awards, the Compensation Committee considered, among other things, the prospective role and responsibility of the individual executive, competitive factors, the cash compensation to be received by the executive officer, and the need to create a meaningful opportunity for reward predicated on the creation of long-term stockholder value.

Prior to this offering, we have granted stock options through our 2005 Stock Plan, which was adopted by our board of directors and approved by our stockholders to permit the grant of stock options, stock bonuses, and

restricted stock awards to our executive officers, directors, employees, and consultants. The material terms of our 2005 Stock Plan are further described under "—Employee Benefit Plans" below.

In July 2010, our board of directors approved the grant of a stock option to purchase 300,000 shares of our common stock to Mr. Chedrick. This stock option had an exercise price equal to $1.50 per share, the fair market value of our common stock as determined by our board of directors on the date of grant, and a four-year time-based vesting schedule. Our board of directors determined the size of this stock option grant based on its review of the recommendations of our then-chief executive officer and its subjective assessment of the value of the total compensation package that it wanted to deliver to Mr. Chedrick for fiscal 2011 and the appropriate value of the long-term incentive compensation component of this package. Our board of directors decided not to grant Mr. Luddy a stock option in view of his significant equity stake in our company.

In May 2011, in connection with his joining our company as our President and Chief Executive Officer, the Compensation Committee approved the grant to Mr. Slootman of a stock option to purchase 6,550,456 shares of our common stock, with an exercise price equal to $2.60 per share, the fair market value of our common stock as determined by our board of directors on the date of grant, and a four-year time-based vesting schedule. This stock option grant is discussed in more detail in "—Grants of Plan-Based Awards Table" below.

In July 2011, in connection with his joining our company as our Senior Vice President of Sales, the Compensation Committee approved the grant to Mr. Schneider of a stock option to purchase 1,379,044 shares of our common stock, with an exercise price equal to $3.00 per share, the fair market value of our common stock as determined by our board of directors on the date of grant, and a four-year time-based vesting schedule. In September 2011, our board of directors also approved the grant to Mr. Schneider of a stock option to purchase 275,808 shares of our common stock, with an exercise price equal to $3.00 per share, the fair market value of our common stock as determined by our board of directors on the date of grant, subject to a performance-based vesting schedule. This performance-based stock option vests on the same four-year vesting schedule as the time-based stock option, subject to an initial determination by the Compensation Committee as to our achievement of our worldwide sales goal for the twelve months ended June 30, 2012. If this worldwide sales goal is not achieved, the total number of shares that will vest under this option will be reduced such that: if the worldwide sales goal is achieved at less than an 80% level, no shares will vest; if the worldwide sales goal is achieved at the 100% level, 100% of the shares will vest; and if the worldwide sales goal is achieved at a level between 80% and 100%, between 0% and 100% will vest determined on a straight-line basis. These stock option grants are discussed in more detail in "—Grants of Plan-Based Awards Table" below.

In August 2011, in connection with his joining our company as our Chief Financial Officer, the Compensation Committee approved the grant to Mr. Scarpelli of a stock option to purchase 1,379,044 shares of our common stock, with an exercise price equal to $3.00 per share, the fair market value of our common stock as determined by our board of directors on the date of grant, and a four-year time-based vesting schedule. In September 2011, the Compensation Committee also approved the grant to Mr. Scarpelli of a fully-vested stock option to purchase 275,808 shares of our common stock, with an exercise price equal to $3.00 per share, the fair market value of our common stock as determined by our board of directors on that date. These stock option grants are discussed in more detail in "—Grants of Plan-Based Awards Table" below.

In August 2011, in connection with his joining our company as our Senior Vice President, Engineering, the Compensation Committee approved the grant to Mr. McGee of a stock option to purchase 1,200,000 shares of our common stock, with an exercise price equal to $3.00 per share, the fair market value of our common stock as determined by our board of directors on the date of grant, and a four-year time-based vesting schedule. This stock option grant is discussed in more detail in "—Grants of Plan-Based Awards Table" below.

In September 2011, in connection with his joining our company as our Chief Technology Officer, the Compensation Committee approved the grant to Mr. Josefsberg of a stock option to purchase 1,350,000 shares of our common stock, with an exercise price equal to $3.00 per share, the fair market value of our common stock as

determined by our board of directors on the date of grant, and a four-year time-based vesting schedule. This stock option grant is discussed in more detail in "—Grants of Plan-Based Awards Table" below.

In the absence of a public trading market for our common stock, our board of directors determined the fair market value of our common stock in good faith based upon consideration of a number of relevant factors, including the status of our development efforts, financial status and market conditions. See "Management's Discussion and Analysis—Critical Accounting Policies and Significant Judgments and Estimates—Common Stock Valuation"

Equity Award Grant Policy. Each of the stock options granted to our employees is granted with an exercise price that is equal to the fair market value of our common stock on the date of grant. The stock options granted to our executive officers typically vest either over four years, with one quarter of the shares subject to the option vesting on the first anniversary of the vesting commencement date and the remaining shares subject to the option vesting in equal monthly installments thereafter over three years, or over four years in equal monthly installments. Generally, stock options have a 10-year term.

We do not have any program, plan or obligation that requires us to grant equity compensation on specified dates. However, we typically make equity grants on the 7th day of each month. Because we have not been a publicly-traded company, we have not made equity awards in connection with the release or withholding of material non-public information.

The equity awards granted to the named executive officers during the period from July 1, 2011 through December 31, 2011 and fiscal 2011 are set forth in "—Summary Compensation Table" and "—Grants of Plan-Based Awards Table" below.

New Equity Incentive Plans. In connection with this offering, our board of directors has adopted a new equity incentive plan as described under "—Employee Benefit Plans" below. This equity incentive plan will replace our existing 2005 Stock Plan immediately upon the signing of the underwriting agreement for this offering and, as described below, will afford the Compensation Committee much greater flexibility in making a wide variety of equity awards. For example, the new equity incentive plan authorizes the grant of stock appreciation rights if the Compensation Committee deems it advisable to do so.

Our board of directors has also adopted a new employee stock purchase plan for our employees, including our executive officers. This employee stock purchase plan will become effective upon the closing of this offering.

Welfare and Other Employee Benefits. We have established a tax-qualified Section 401(k) retirement plan for all our U.S. employees, including our executive officers, who satisfy certain eligibility requirements, including requirements relating to age and length of service. We currently do not match any contributions made to the plan by our employees, including executive officers. We intend for the plan to qualify under Section 401(a) of the Code so that contributions by employees to the plan, and income earned on plan contributions, are not taxable to employees until withdrawn from the plan.

In addition, we provide other benefits to our executive officers on the same basis as all of our full-time employees. These benefits include health, dental and vision benefits, health and dependent care flexible spending accounts, short-term and long-term disability insurance, accidental death and dismemberment insurance, and basic life insurance coverage.

We design our employee benefits programs to be affordable and competitive in relation to the market, as well as compliant with applicable laws and practices. We adjust our employee benefits programs as needed based upon regular monitoring of applicable laws and practices, the competitive market and our employees' needs.

Perquisites and Other Personal Benefits. Historically, we have not provided perquisites and other personal benefits to our executive officers. In the future, we may provide perquisites or other personal benefits in limited circumstances, such as where we believe it is appropriate to assist an individual executive officer in the performance of his or her duties, to make our executive officers more efficient and effective, and for recruitment, motivation or retention purposes. We do not expect that these perquisites or other personal benefits will be a significant aspect of our executive compensation program. All future practices with respect to perquisites or other personal benefits will be approved and subject to periodic review by the Compensation Committee.

Employment Agreements

We have entered into employment agreements with our CEO and the other current named executive officers (other than Messrs. Luddy and Chedrick). Each of these arrangements provides for "at will" employment and sets forth the initial terms and conditions of employment of each executive officer, including base salary, target annual bonus opportunity, standard employee benefit plan participation, a recommendation for an initial stock option grant, opportunities for post-employment compensation and vesting acceleration terms. These offers of employment were each subject to execution of a standard proprietary information and invention agreement and proof of identity and work eligibility in the United States.

Each of these arrangements was approved on our behalf by the Compensation Committee or the board of directors at the recommendation of the Compensation Committee. We believe that these arrangements were necessary to induce these individuals to forego other employment opportunities or leave their current employer for the uncertainty of a demanding position in a new and unfamiliar organization.

In filling our executive positions, the Compensation Committee was aware that, in some situations, it would be necessary to recruit candidates with the requisite experience and skills to manage a growing business in a unique market niche. Accordingly, it recognized that it would need to develop competitive compensation packages to attract qualified candidates in a dynamic labor market. At the same time, the Compensation Committee was sensitive to the need to integrate new executive officers into the executive compensation structure that it was seeking to develop, balancing both competitive and internal equity considerations.

For a summary of the material terms and conditions of this employment arrangements, see "—Employment Arrangements" below.

Post-Employment Compensation

The employment agreements of our CEO and Messrs. Scarpelli, Josefsberg, Schneider and McGee provide for certain protection in the event of their termination of employment under specified circumstances, including following a change in control of our company. We believe that these protections were necessary to induce these individuals to forego other opportunities or leave their current employment for the uncertainty of a demanding position in a new and unfamiliar organization. We also believe that these arrangements serve our executive retention objectives by helping these named executive officers to maintain continued focus and dedication to their responsibilities to maximize stockholder value, including in the event that there is a potential transaction that could involve a change in control of our company. The terms of these arrangements were determined by the Compensation Committee following an analysis of relevant market data for other companies with whom we compete for executive talent.

For a summary of the material terms and conditions of our post-employment compensation arrangements, see "—Potential Payments upon Termination or Change of Control" below.

Other Compensation Policies

Stock Ownership Guidelines. We have not implemented a policy regarding minimum stock ownership requirements for our executive officers.

Compensation Recovery Policy. Currently, we have not implemented a policy regarding retroactive adjustments to any cash or equity-based incentive compensation paid to our executive officers and other employees where the payments were predicated upon the achievement of financial results that were subsequently the subject of a financial restatement. We intend to adopt a general compensation recovery, or clawback, policy covering our annual and long-term incentive award plans and arrangements once we are a publicly-traded company and after the SEC adopts final rules implementing the requirement of Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Derivatives Trading and Hedging Policy. We have adopted a policy prohibiting the trading of derivatives or the hedging of our equity securities by our employees, including our executive officers, and directors.

Tax and Accounting Considerations

Deductibility of Executive Compensation

Section 162(m) of the Code generally disallows public companies a tax deduction for federal income tax purposes of remuneration in excess of $1 million paid to the chief executive officer and each of the three other most highly-compensated executive officers (other than the chief financial officer) in any taxable year. Generally, remuneration in excess of $1 million may only be deducted if it is “performance-based compensation” within the meaning of the Code. In this regard, the compensation income realized upon the exercise of stock options granted under a stockholder-approved stock option plan generally will be deductible so long as the options are granted by a committee whose members are non-employee directors and certain other conditions are satisfied.

Because we are not currently publicly-traded, our board of directors has not previously taken the deductibility limit imposed by Section 162(m) into consideration in setting compensation for our executive officers. We expect that, where reasonably practicable, the Compensation Committee will seek to qualify the variable compensation paid to our executive officers for the “performance-based compensation” exemption from the deductibility limit. As such, in approving the amount and form of compensation for our executive officers in the future, we will consider all elements of our cost of providing such compensation, including the potential impact of Section 162(m). In the future, the Compensation Committee may, in its judgment, authorize compensation payments that do not comply with an exemption from the deductibility limit when it believes that such payments are appropriate to attract and retain executive talent.

Taxation of “Parachute” Payments

Sections 280G and 4999 of the Code provide that executive officers and directors who hold significant equity interests and certain other service providers may be subject to significant additional taxes if they receive payments or benefits in connection with a change in control of our company that exceeds certain prescribed limits, and that we (or our successor) may forfeit a deduction on the amounts subject to this additional tax. We did not provide any executive officer, including any named executive officer, with a “gross-up” or other reimbursement payment for any tax liability that the executive officer might owe as a result of the application of Sections 280G or 4999 during 2011, and we have not agreed and are not otherwise obligated to provide any executive officer with such a “gross-up” or other reimbursement.

Accounting for Stock-Based Compensation

We follow Financial Accounting Standard Board Accounting Standards Codification Topic 718, or ASC 718, for our stock-based compensation awards. ASC 718 requires companies to measure the compensation expense for all share-based payment awards made to employees and directors, including stock options, based on the grant date “fair value” of these awards. This calculation is performed for accounting purposes and reported in the compensation tables below, even though our executive officers may never realize any value from their awards.

Compensation-Related Risk

Our board of directors is responsible for the oversight of our risk profile, including compensation-related risks. Our board of directors monitors our compensation policies and practices as applied to our employees to ensure that these policies and practices do not encourage excessive and unnecessary risk-taking, and that the level of risk that they do encourage is not reasonably likely to have a material adverse effect on us.

Summary Compensation Table

The following table presents summary information regarding the total compensation awarded to, earned by, or paid to each of our named executive officers for services rendered in all capacities for the six months ended December 31, 2011 and fiscal 2011.

Name and Principal Position	Year	Salary ($)	Bonus[1] ($)	Option Awards[2] ($)	Non-Equity Incentive Plan Compensation ($)[3]	All Other Compensation[4] ($)	Total ($)
Frank Slootman,	*	150,000	—	—	116,218	—	266,218
President and Chief Executive Officer[5]	2011	52,500	—	8,527,384	37,500	—	8,617,384
Michael P. Scarpelli,	*	104,183	—	3,342,968	60,097	—	3,507,248
Chief Financial Officer[6]	2011	—	—	—	—	—	—
Frederic B. Luddy,	*	152,500	—	—	116,218	2,040	270,758
Chief Product Officer[7]	2011	330,000	91,840	—	300,000	3,840	725,680
Arne Josefsberg,	*	79,327	—	3,105,270	41,741	—	3,226,338
Chief Technology Officer[8]	2011	—	—	—	—	—	—
David L. Schneider,	*	125,000	—	3,690,379	96,849	—	3,912,228
Senior Vice President of Worldwide Sales and Services[9]	2011	18,109	—	—	17,123	—	35,232
Daniel R. McGee,	*	98,500	—	2,726,280	48,077	—	2,872,857
Senior Vice President, Engineering and Support[10]	2011	—	—	—	—	—	—
Andrew J. Chedrick,	*	127,500	5,000	—	89,670	2,040	224,210
former Chief Financial Officer and Vice President, Finance[11]	2011	255,000	54,670	247,380	120,000	3,840	680,890

* In February 2012, we changed our fiscal year-end from June 30 to December 31. The amounts reported in this row represent the compensation awarded to, earned by, and paid to the named executive officers for the six months ended December 31, 2011.

(1) The amounts reported in the Bonus column represent the annual bonuses paid to the named executive officers, except for the amount reported for Mr. Chedrick for the six months ended December 31, 2011, which is a discretionary bonus.

(2) The amounts reported in the Option Awards column represent the grant date fair value of the stock options granted to the named executive officers during fiscal 2011 and during the six months ended December 31, 2011 as computed in accordance with FASB ASC 718. The assumptions used in calculating the grant date fair value of the stock options reported in the Option Awards column are set forth in Note 10 to our consolidated financial statements. The amounts reported in this column exclude the impact of estimated forfeitures related to service-based vesting conditions, reflect the accounting cost for these stock options, and do not correspond to the actual economic value that may be received by the named executive officers from the options.

(3) The amounts reported in the Non-Equity Incentive Plan Compensation column represent the quarterly bonuses paid to the named executive officers.
(4) The amounts reported includes the payment of premiums for health insurance coverage.
(5) Mr. Slootman became our President and Chief Executive Officer in May 2011.
(6) Mr. Scarpelli became our Chief Financial Officer in August 2011.
(7) Mr. Luddy served as our President and Chief Executive Officer until May 2011, at which time he was appointed our Chief Product Officer.
(8) Mr. Josefsberg became our Chief Technology Officer in September 2011.
(9) Mr. Schneider became our Senior Vice President of Worldwide Sales and Services in June 2011.
(10) Mr. McGee became our Senior Vice President, Engineering in August 2011.
(11) Mr. Chedrick served as our Chief Financial Officer until August 2011, at which time he became our Vice President, Finance.

Grants of Plan-Based Awards Table

The following table presents, for each of the named executive officers, information concerning each grant of a cash or equity award made during fiscal 2011 and the six months ended December 31, 2011. This information supplements the information about these awards set forth in "—Summary Compensation Table."

Named Executive Officer	Grant Date	Estimated Future Payouts Under Non-Equity Incentive Plan Awards (Target) ($)	All Other Option Awards: Number of Securities Underlying Options[1] (#)	Exercise or Base Price of Option Awards[2] ($/sh)	Grant Date Fair Value of Stock and Option Awards[3] ($)
Frank Slootman	—	150,000[4]	—	—	—
	—	37,500[5]	—	—	—
	05/06/2011	—	6,550,456	2.60	8,527,384
Michael P. Scarpelli	—	66,101[4]	—	—	—
	08/15/2011	—	1,379,044	3.00	3,133,050
	09/09/2011	—	275,808	3.00	209,917
Frederic B. Luddy	—	150,000[4]	—	—	—
	—	300,000[5]	—	—	—
Arne Josefsberg	—	38,152[4]	—	—	—
	09/22/2011		1,350,000	3.00	3,105,270
David L. Schneider	—	125,000[4]	—	—	—
	07/22/2011	—	1,379,044	3.00	3,080,926
	—	17,123[5]	—	—	—
	09/09/2011	—	275,808[6]	3.00	609,453
Daniel R. McGee	—	52,880[4]	—	—	—
	08/15/2011	—	1,200,000	3.00	2,726,280
Andrew J. Chedrick	07/16/2010	—	300,000	1.50	247,380
	—	120,000[5]	—	—	—

(1) All stock options were granted under our 2005 Stock Plan with a four-year time-based vesting schedule, subject to acceleration as described in "—Potential Payments upon Termination or Change in Control."
(2) Represents the per share fair market value of our common stock, as determined in good faith by our board of directors on the grant date.
(3) Represents the aggregate fair value amount computed as of the grant date of each stock option in accordance with FASB ASC Topic 718. Assumptions used in the calculation of these amounts are included in Note 10 to our consolidated financial statements. As required by SEC rules, the amounts reported exclude the impact of estimated forfeitures related to service-based vesting conditions. The named executive officers will only realize compensation to the extent the market price of our common stock is greater than the exercise price of such stock options.
(4) Represents the target award payable under our company's bonus plan for the six-month period from July 1, 2011 through December 31, 2011.
(5) Represents the target award payable under our company's bonus plan for fiscal 2011.
(6) The vesting of this option is subject to an initial determination by our Compensation Committee as to our achievement of our worldwide sales goal for the twelve months ending June 30, 2012. If this worldwide sales goal is not achieved, the total number of shares that will vest under this option will be reduced such that: if the worldwide sales goal is achieved at less than an 80% level, no shares will vest; if the worldwide sales goal is achieved at the 100% level, 100% of the shares will vest; and if the worldwide sales goal is achieved at a level between 80% and 100%, between 0% and 100% will vest determined on a straight-line basis.

Outstanding Equity Awards at December 31, 2011 Table

The following table presents, for each of the named executive officers, information regarding outstanding stock options and other equity awards held as of December 31, 2011.

		Option Awards			Stock Awards	
Name	Grant Date[1]	Number of Securities Underlying Unexercised Options (#) Exercisable	Option Exercise Price ($)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested ($)[6]
Frank Slootman	5/6/2011	6,350,456[2]	2.60	05/05/2021	200,000[3]	
Michael P. Scarpelli	8/15/11	1,379,044[2]	3.00	08/14/2011	—	—
Frederic B. Luddy	9/9/09	240,000[4]	0.34	09/9/2019	—	—
Arne Josefsberg	9/22/11	1,350,000[2]	3.00	09/21/2021	—	—
David L. Schneider	7/22/11	1,379,044[2]	3.00	07/21/2021	—	—
	9/9/11	275,808[2][7]	3.00	09/08/2021	—	—
Daniel R. McGee	8/15/11	1,200,000[2]	3.00	08/14/2021	—	—
Andrew J. Chedrick	2/7/07	220,000[2][8]	0.03	2/7/2017	—	—
	7/16/10	300,000[5]	1.50	7/15/2020	—	—

(1) All of the outstanding equity awards described below were granted under our 2005 Stock Plan.
(2) These stock options are immediately exercisable in full, subject to a right of repurchase in our favor, which lapses as the shares of our common stock underlying the option vests. The option shares vest over a four-year period as follows: 25% of the shares of our common stock underlying the options vest on the first anniversary of the individual's employment commencement date and, thereafter, the remaining shares of our common stock underlying the options vest in 36 equal monthly installments over the next three years provided that the named executive officer continues to be employed by or otherwise provides services to our company. In addition, the vesting of these stock options may be accelerated in the event of a change in control of our company as provided in the named executive officer's employment agreement.
(3) Mr. Slootman has exercised his outstanding stock option with respect to 200,000 shares of our common stock. These shares are subject to a right of repurchase in our favor which expires on May 12, 2012.
(4) This stock option is immediately exercisable in full, subject to a right of repurchase in our favor which lapses as the shares of our common stock underlying the option vest. The option shares vest over a four-year period as follows: 1/48th of the shares of our common stock underlying the option vest on the first day of each month following July 1, 2009 for Mr. Luddy, provided that he continues to be employed by or otherwise provides services to our company on each such vesting date. In addition, the vesting of 100% of the option shares would have been accelerated had a change in control of our company occurred before July 1, 2010.
(5) This stock option is immediately exercisable in full, subject to a right of repurchase in our favor which lapses as the shares of our common stock underlying the option vest. The option shares vest over a four-year period as follows: 1/48th of the shares of our common stock underlying the option vests on the first day of each month following July 1, 2007 for Mr. Chedrick, provided that he continues to be employed by or otherwise provides services to our company on each such vesting date. In addition, the vesting of 50% of the then unvested option shares would have been accelerated had Mr. Chedrick been terminated one month prior to or up to 13 months following a change in control of our company.
(6) The market price for our common stock is based on the assumed initial public offering price of $ per share, the midpoint of the price range on the cover page of this prospectus.
(7) This stock option is also subject to performance-based vesting criteria as described in "–Grants of Plan-Based Awards Table."
(8) Fully vested.

Option Exercises Table

The following table presents, for each of the named executive officers, the number of shares of our common stock acquired upon the exercise of stock options during the six months ended December 31, 2011, and the aggregate value realized upon the exercise of such awards. The value realized is based upon the fair market value of our common stock on the exercise date, as determined by our board of directors.

Name	Option Awards – Number of Shares Acquired on Exercise (#)	Option Awards – Value Realized on Exercise ($)
Frank Slootman	200,000	$ 80,000
Michael P. Scarpelli	275,808	—
Frederic B. Luddy	—	—
Arne Josefsberg	—	—
David L. Schneider	—	—
Daniel R. McGee	—	—
Andrew J. Chedrick	—	—

During fiscal 2011, Mr. Chedrick acquired 80,000 shares of our common stock upon the exercise of stock options with an aggregate value realized of $147,500.

Pension Benefits

We did not sponsor any defined benefit pension or other actuarial plan for our executive officers during either the six months ended December 31, 2011 or fiscal 2011.

Nonqualified Deferred Compensation

We did not maintain any nonqualified defined contribution or other deferred compensation plans or arrangements for our executive officers during either the six months ended December 31, 2011 or fiscal 2011.

Employment Arrangements

We have entered into employment agreements with each of the named executive officers (other than Messrs. Luddy and Chedrick) in connection with his commencement of employment with us. Each of these arrangements was negotiated on our behalf by our Compensation Committee or our CEO.

Typically, these arrangements provides for “at will” employment and sets forth the initial terms and conditions of employment of each executive officer, including base salary, target annual bonus opportunity, standard employee benefit plan participation, a recommendation for an initial stock option grant, opportunities for post-employment compensation and vesting acceleration terms. These offers of employment were each subject to execution of a standard proprietary information and invention agreement and proof of identity and work eligibility in the United States.

Mr. Slootman

On May 2, 2011, Mr. Slootman joined us as our Chief Executive Officer. In hiring Mr. Slootman, our board of directors approved an employment agreement with a period of three years, setting forth the principal terms and conditions of his employment, including an initial annual base salary of $300,000 (subject to review by the Compensation Committee at least annually), a target annual cash bonus opportunity of $300,000 (based on his performance relative to one or more performance objectives established each year by the Compensation Committee), and, subject to the approval of our board of directors, a time-based stock option award to purchase 6,550,456 shares of our common stock. His stock option is described in more detail in “—Grants of Plan-Based Awards Table” above.

Mr. Scarpelli

On August 15, 2011, Mr. Scarpelli joined us as our Chief Financial Officer. In hiring Mr. Scarpelli, our board of directors approved an employment agreement with a period of three years, setting forth the principal terms and conditions of his employment, including an initial annual base salary of $275,000 (subject to review by our CEO and the Compensation Committee at least annually), a target annual cash bonus opportunity of $175,000 (based on his performance relative to one or more performance objectives established each year by our CEO and the Compensation Committee), subject to the approval of our board of directors, a time-based stock option award to purchase 1,379,044 shares of our common stock, and subject to the approval of our board of directors, a fully-vested stock option award to purchase 137,904 shares of our common stock. These stock options are described in more detail in "—Grants of Plan-Based Awards Table" above.

Mr. Josefsberg

On September 19, 2011, Mr. Josefsberg joined us as our Chief Technology Officer. In hiring Mr. Josefsberg, our board of directors approved an employment agreement with a period of three years, setting forth the principal terms and conditions of his employment, including an initial annual base salary of $275,000 (subject to review by our CEO and the Compensation Committee at least annually), a target annual cash bonus opportunity of $135,000 (based on his performance relative to one or more performance objectives established each year by our CEO and the Compensation Committee), subject to the approval of our board of directors, a time-based stock option award to purchase 1,350,000 shares of our common stock. This stock option is described in more detail in "—Grants of Plan-Based Awards Table" above.

Mr. Schneider

On June 6, 2011, Mr. Schneider joined us as our Senior Vice President of Sales. In hiring Mr. Schneider, our board of directors approved an employment agreement with a period of three years, setting forth the principal terms and conditions of his employment, including an initial annual base salary of $250,000 (subject to review by our CEO and the Compensation Committee at least annually), a target annual cash bonus opportunity of $250,000 (based on his performance relative to one or more performance objectives established each year by our CEO and the Compensation Committee), subject to the approval of our board of directors, a time-based stock option award to purchase 1,379,044 shares of our common stock, and subject to the approval of our board of directors, a performance-based stock option award to purchase 275,808 shares of our common stock. These stock options are described in more detail in "—Grants of Plan-Based Awards Table" above.

Mr. McGee

On August 15, 2011, Mr. McGee joined us as our Senior Vice President, Engineering. In hiring Mr. McGee, our board of directors approved an employment agreement with a period of three years, setting forth the principal terms and conditions of his employment, including an initial annual base salary of $260,000 (subject to review by our CEO and the Compensation Committee at least annually), a target annual cash bonus opportunity of $140,000 (based on his performance relative to one or more performance objectives established each year by our CEO and the Compensation Committee), subject to the approval of our board of directors, a time-based stock option award to purchase 1,200,000 shares of our common stock. This stock option is described in more detail in "—Grants of Plan-Based Awards Table" above.

In the case of the named executive officers (other than Mr. Luddy), their employment agreements also contain provisions that provide for certain payments and benefits in the event of certain terminations of employment, including a termination of employment following a change in control of our company. For a summary of the material terms and conditions of these provisions, as well as an estimate of the potential payments and benefits payable to these named executive officers under their employment arrangements, see "—Potential Payments upon Termination or Change in Control" below.

Potential Payments upon Termination or Change in Control

The named executive officers (other than Mr. Luddy) are eligible to receive certain severance payments and benefits in connection with a termination of employment under various circumstances, including following a change in control of our company. The estimated potential severance payments and benefits payable to these named executive officers in the event of termination of employment as of December 31, 2011 pursuant to their employment agreements or stock option agreements, as applicable, are described below.

The actual amounts that would be paid or distributed to an eligible named executive officer as a result of a termination of employment occurring in the future may be different than those presented below as many factors will affect the amount of any payments and benefits upon a termination of employment. For example, some of the factors that could affect the amounts payable include the named executive officer's base salary and the market price of our common stock. Although we have entered into a written agreement to provide severance payments and benefits in connection with a termination of employment under particular circumstances, we, or an acquirer, may mutually agree with the named executive officers to provide payments and benefits on terms that vary from those currently contemplated. Finally, in addition to the amounts presented below, each named executive officer would also be able to exercise any previously-vested stock options that he held. For more information about the named executive officers' outstanding equity awards as of December 31, 2011, see "—Outstanding Equity Awards at Fiscal Year-End Table" above.

The named executive officers are eligible to receive any benefits accrued under our broad-based benefit plans, such as accrued vacation pay, in accordance with those plans and policies.

Involuntary Termination of Employment—Cash Severance

In the event of an involuntary termination of employment (a termination of employment by us without "cause" (as defined in the relevant employment agreement or employment offer letter)) or by the named executive officer for "good reason" (as defined in the relevant employment agreement or employment offer letter) at any time other than during the period that begins three months prior to and ends 12 months following the effective date of a change in control of our company (as defined in the relevant employment agreement or employment offer letter), the named executive officers are eligible to receive the following payments and benefits:

- his then-annual base salary for a period of six months (12 months in the case of our CEO) from the date of termination;
- any portion of his annual target bonus opportunity which he would have received had he been employed on the last day of the fiscal year in which the termination of employment occurs pro-rated for a six-month period (12 months in the case of our CEO); and
- health insurance premiums for himself and his eligible dependents under our group health insurance plans as provided under the Consolidated Omnibus Budget Reconciliation Act, or COBRA, until the earliest of (i) the close of the six-month period (12 months in the case of our CEO) commencing on the date of his termination of employment, (ii) the expiration of his eligibility for continued coverage under COBRA, or (iii) the date when he becomes eligible for substantially equivalent health insurance coverage in connection with new employment or self-employment.

The receipt of any payment termination-based payments or benefits is subject to the named executive officer executing (and not subsequently revoking) a waiver and release of claims in favor of us and continued compliance during the period in which he is receiving severance payments and benefits with certain post-termination non-solicitation and non-disparagement covenants.

Involuntary Termination of Employment in Connection with a Change in Control—Cash Severance

In the event of an involuntary termination of employment (a termination of employment by us without "cause" or by the named executive officer for "good reason") during the period that begins three months prior to and ends 12 months following the effective date of a change in control of our company, or the Change in Control Period, the named executive officers are eligible to receive the following payments and benefits:

- a lump-sum payment equal to his then-annual base salary for a period of six months (12 months in the case of our CEO) from the date of termination;
- his annual target bonus opportunity without regard to achievement of any corporate performance goals; and
- health insurance premiums for himself and his eligible dependents under our group health insurance plans as provided under COBRA until the earliest of (i) the close of the six-month period (12 months in the case of our CEO) commencing on the date of his termination of employment, (ii) the expiration of his eligibility for continued coverage under COBRA or (iii) the date when he becomes eligible for substantially equivalent health insurance coverage in connection with new employment or self-employment.

The receipt of any payment termination-based payments or benefits is subject to the named executive officer executing (and not subsequently revoking) a waiver and release of claims in favor of us and continued compliance during the period in which he is receiving severance payments and benefits with certain post-termination non-solicitation and non-disparagement covenants

Outstanding Equity Awards

In the event of a change in control of our company prior to the closing of the first sale of shares of our common stock in a firm-commitment underwritten public offering of securities, or an IPO, 50% of the total number of shares of our common stock subject to outstanding and unvested equity awards will immediately vest. In the event of a change in control of our company on or after an IPO, 100% of the total number of shares of our common stock subject to outstanding and unvested equity awards will immediately vest.

In addition, in the event of an involuntary termination of employment (a termination of employment by us without "cause" or by the named executive officer for "good reason") or if we terminate his employment following a material adverse change in his title or reporting relationships without his consent, the outstanding equity awards of the named executive officers will be subject to accelerated vesting as follows:

- in the case of our CEO, 12.5% of the total number of shares of our common stock subject to outstanding equity awards will immediately vest if termination of employment occurs prior to or following the Change in Control Period, which will be increased to 25% if such termination of employment also occurs within the first 12 months of his employment; or
- in the case of the other named executive officers, 25% of the total number of shares of our common stock subject to outstanding equity awards will immediately vest if termination of employment occurs prior to or following the Change in Control Period, or within the first 12 months of his employment; or
- 100% of the then-unvested shares of our common stock subject to outstanding equity awards will immediately vest if termination of employment occurs during the Change in Control Period.

Excise Taxes

Any payment or benefit provided under his employment agreement (in the case of our CEO) or his employment offer letter (in the case of the other named executive officers) in connection with a change in control of our company may be subject to an excise tax under Section 4999 of the Code. These payments and benefits

also may not be eligible for a federal income tax deduction pursuant to Section 280G of the Code. If any of these payments or benefits are subject to the excise tax, they may be reduced to provide the affected named executive officer with the best after-tax result. Specifically, he will receive either a reduced amount so that the excise tax is not triggered, or he will receive the full amount of the payments and benefits and then be personally liable for any excise tax.

Potential Payments upon Termination or Change in Control Table

The following table sets forth the estimated payments that would be received by the named executive officers upon a termination of employment without cause or following a resignation for good reason, or in the event of a termination of employment without cause or following a resignation for good reason in connection with a change in control in our company. The table below reflects amounts payable to the named executive officers assuming that their employment was terminated on December 31, 2011 and, if applicable, a change in control of our company also occurred on that date.

	Upon Termination without Cause or Resignation for Good Reason— No Change in Control			Upon Termination without Cause or Resignation for Good Reason— Change in Control			
Name	Cash Severance	Continuation of Medical Benefits	Total	Cash Severance	Continuation of Medical Benefits	Value of Accelerated Vesting	Total
Mr. Slootman	$300,000	$ 14,237	$314,327	$300,000	$ 14,237	$	$
Mr. Scarpelli	225,000	9,046	234,046	225,000	9,046		
Mr. Luddy	—	—	—	—	—		
Mr. Josefsberg	205,000	9,046	214,046	205,000	9,046		
Mr. Schneider	250,000	9,046	259,046	250,000	9,046		
Mr. McGee	200,000	7,118	207,118	200,000	7,118		

Mr. Chedrick

On December 14, 2011, Mr. Chedrick, our Vice President, Finance, resigned effective January 1, 2012. In connection with his resignation, and in exchange for his execution of a release and waiver of claims in favor of us, Mr. Chedrick continued to receive his base salary and accrued paid time off through his date of termination of employment. In addition, we agreed to pay the premiums for continued coverage under our group health insurance plans for him and his eligible dependents until the earliest of (i) the close of the six month period commencing on the date of his termination of employment, (ii) the expiration of his eligibility for continued coverage under COBRA or (iii) the date when he becomes eligible for substantially equivalent health insurance coverage in connection with new employment or self-employment. Finally, all of Mr. Chedrick's outstanding stock options ceased vesting as of his date of termination of employment and the exercise of any vested portions of such stock options was governed by the relevant plan documents pursuant to which the options were granted.

Employee Benefit Plans

2005 Stock Plan

Our board of directors adopted, and our stockholders approved, our 2005 Stock Plan in March 2005. Our 2005 Stock Plan provides for the grant of incentive stock options, within the meaning of Section 422 of the Code, to our employees or any parent or subsidiary's employees, and for the grant of nonstatutory stock options to our employees, directors, and consultants and any parent or subsidiary's employees and consultants. Stock purchase rights and RSUs may also be granted under the 2005 Stock Plan. As of December 31, 2011, an aggregate of 59,580,440 shares of our common stock are reserved for issuance under our 2005 Stock Plan. Upon the signing of the underwriting agreement relating to this offering, no further option grants will be made under our 2005 Stock Plan. We intend to grant all future equity awards under our 2012 equity incentive plan, or the 2012 Plan,

and our 2012 employee stock purchase plan, or the 2012 Purchase Plan. However, all stock options and RSUs granted under our 2005 Stock Plan will continue to be governed by the terms of our 2005 Stock Plan. The purposes of the 2005 Stock Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to employees, directors and consultants and to promote the success of our business.

Administration. Subject to the terms of the 2005 Stock Plan, our board of directors or an authorized committee, referred to as the plan administrator, has the discretion to make all decisions implementing the 2005 Stock Plan including the power to determine recipients, dates of grant, the numbers and types of stock awards to be granted and the terms and conditions of the stock awards, including the period of their exercisability and vesting. Subject to the limitations set forth below, the plan administrator will also determine the exercise price of options granted, and the consideration (if any) to be paid for restricted stock awards.

Stock Options. Incentive and nonstatutory stock options are granted pursuant to incentive and nonstatutory stock option agreements adopted by the plan administrator. Generally, the exercise price for an incentive stock option or a nonstatutory stock option cannot be less than 100% of the fair market value of the common stock subject to the option on the date of grant. No incentive stock option may be granted to any person who, at the time of the grant, owns or is deemed to own stock comprising more than 10% of our total combined voting power or that of any of our affiliates unless (a) the option exercise price is at least 110% of the fair market value of the stock subject to the option on the date of grant and (b) the term of the incentive stock option does not exceed five years from the date of grant. Options granted under the 2005 Stock Plan will vest at the rate specified in the option agreement. A stock option agreement may provide for early exercise prior to vesting and rights of repurchase.

The term of stock options granted under the 2005 Stock Plan may not exceed 10 years. Unless the terms of an optionholder's stock option agreement provides for earlier or later termination, if an optionholder's service relationship with us, or any affiliate of ours, ceases due to disability or death, the optionholder, or his or her beneficiary, may exercise any vested options up for the period of time set forth in the applicable stock option agreement, provided the time period is at least six months after the date the service relationship ends. If an optionholder's service relationship with us, or any affiliate of ours, ceases without cause for any reason other than disability or death, the optionholder may exercise any vested options for the period of time set forth in the applicable stock option agreement, provided the time period is at least 30 days after the date the service relationship end. In no event may an option be exercised after its expiration date. A stock option may never be exercised later than the expiration of its term.

The forms of consideration for the purchase of our common stock under the 2005 Stock Plan that the plan administrator may approve include cash, check, delivery of a promissory note, cancellation of indebtedness, waiver of accrued compensation, shares of stock already owned, consideration paid through a same-day sale cashless brokered exercise program adopted by the plan administrator or any combination of such consideration.

Limitations. The aggregate fair market value, determined at the time of grant, of shares of our common stock with respect to incentive stock options that are exercisable for the first time by an optionholder during any calendar year under all of our stock plans may not exceed $100,000. The options or portions of options that exceed this limit are treated as nonstatutory stock options.

Stock Purchase Rights. The plan administrator may offer rights to purchase shares of our common stock under the 2005 Stock Plan and, to the extent permitted by applicable law, shall determine the purchase price of the shares subject to each stock purchase right. The offer to purchase shares underlying this stock purchase right shall be accepted by the offeree's execution of a restricted stock purchase agreement, in the form prescribed by the Compensation Committee. This restricted stock purchase agreement may subject the acquired shares to a repurchase option, which we could exercise upon the voluntary or involuntary termination of the purchaser's services for any reason.

Restricted Stock Units. Our 2005 Stock Plan also permits the issuance of RSUs to our service providers. RSUs granted under our 2005 Stock Plan represent the right to receive shares of our common stock or cash payment at a specified future date and may be subject to vesting requirements.

Transferability. Incentive stock options may not be transferred, except by will or by the laws of descent or distribution. Generally, nonstatutory stock options, RSUs and stock purchase rights may not be transferred except by will or by the laws of descent or distribution. However, the plan administrator may, in its sole discretion, grant nonstatutory stock options, RSUs or stock purchase rights that may be transferred to immediate family members.

Changes to Capitalization. In the event that there is a specified type of change in our capital structure not involving the receipt of consideration by us, such as a stock split, stock dividend or other recapitalization, the 2005 Stock Plan provides for the proportional adjustment of the number of shares reserved under the 2005 Stock Plan and the number of shares and exercise price or strike price, if applicable, of all outstanding stock awards.

Corporate Transactions. Unless otherwise provided in the award agreement, in the event of certain corporate transactions, any or all outstanding stock awards under the 2005 Stock Plan must be assumed or substituted for by any surviving entity. If the surviving entity elects not to assume or substitute for such awards, such stock awards will fully vest for a period of time to be determined by the plan administrator, following which they will be terminated. In the event of our dissolution or liquidation, all outstanding stock awards under the 2005 Stock Plan will terminate immediately prior to such event.

Additional Provisions. Our board of directors has the authority to amend, alter, suspend or terminate the 2005 Stock Plan. However, no amendment or termination of the plan may adversely affect any rights under awards already granted to a participant without the affected participant's consent. We will obtain stockholder approval of any amendment to the 2005 Stock Plan as required by applicable law. The 2005 Stock Plan will expire in July 2021 unless sooner terminated by our board of directors or in connection with the effective date of this offering and our 2012 Plan.

2012 Equity Incentive Plan

We expect our board of directors to adopt our 2012 Plan, subject to stockholder approval, to become effective immediately prior to the closing of this offering. The 2012 Plan will terminate in 2022, unless sooner terminated by our board of directors. The purpose of the 2012 Plan is to attract, retain and motivate selected employees, consultants and directors through the granting of stock-based compensation awards and cash-based performance bonus awards. The 2012 Plan is also designed to permit us to make cash-based awards and equity-based awards intended to qualify as "performance-based compensation" under Section 162(m) of the Code.

Stock Awards. The 2012 Plan provides for the grant of incentive stock options, nonstatutory stock options, stock appreciation rights, restricted stock awards, restricted stock unit awards, performance-based stock awards and other forms of equity compensation, or collectively, stock awards. In addition, the 2012 Plan provides for the grant of performance cash awards. Incentive stock options may be granted only to employees, subject to certain limitations described below. All other awards may be granted to employees, including officers, as well as directors and consultants.

The principal features of the 2012 Plan are summarized below. This summary is qualified in its entirety by reference to the text of the 2012 Plan, which is filed as an exhibit to the registration statement of which this prospectus is a part.

Share Reserve. Following this offering, initially, the aggregate number of shares of our common stock that may be issued pursuant to stock awards under the 2012 Plan after it becomes effective is shares, which number is the sum of (1) the number of shares reserved for future issuance under the 2005 Stock Plan at the time the 2012 Plan becomes effective, (2) an additional number of shares, up to shares, that are subject to

outstanding stock awards granted under the 2005 Stock Plan that again become available for future issuance or would otherwise return to the 2005 Stock Plan reserve and (3) an additional of new shares. Then, the number of shares of our common stock reserved for issuance under the 2012 Plan will automatically increase on January 1 of each year, starting on January 1, 2013 and continuing through January 1, 2022, by (a) % of the total number of shares of our common stock outstanding on December 31 of the preceding calendar year or (b) such lesser number of shares of common stock as determined by our board of directors. The maximum number of shares that may be issued pursuant to the exercise of incentive stock options under the 2012 Plan is shares plus the number of shares that are added to the 2012 equity incentive plan share reserve pursuant to annual evergreen increases or pursuant to outstanding 2005 Stock Plan awards that again become available for future issuance.

No person may be granted stock awards covering more than shares of our common stock under the 2012 Plan during any calendar year pursuant to stock options or stock appreciation rights other than a new employee of ours, who will be eligible to receive no more than shares under the 2012 Plan in the calendar year in which the employee commences employment. Such limitations are designed to help assure that any deductions to which we would otherwise be entitled with respect to such stock awards will not be subject to the $1,000,000 limitation on the income tax deductibility of compensation paid per covered executive officer imposed by Section 162(m) of the Code.

If a stock award granted under the 2012 Plan expires or otherwise terminates without being exercised in full, or is settled in cash, the shares of our common stock not acquired pursuant to the stock award again become available for subsequent issuance under the 2012 Plan. In addition, the following types of shares under the 2005 Stock Plan and 2012 Plan may become available for the grant of new stock awards under the 2012 Plan: (a) shares that are forfeited to or repurchased by us prior to becoming fully vested; (b) shares withheld to satisfy income or employment withholding taxes; (c) shares used to pay the exercise price of an option in a net exercise arrangement; and (d) shares tendered to us to pay the exercise price of an option. As of the date hereof, no shares of our common stock have been issued under the 2012 Plan.

Administration. Our board of directors has delegated its authority to administer the 2012 Plan to our compensation committee. The compensation committee is required to consist of two or more “outside directors” within the meaning of Section 162(m) of the Code and two or more “non-employee directors” for the purposes of Rule 16b-3 under the Securities Exchange Act of 1934, as amended, or the Exchange Act. Subject to the terms of the 2012 Plan, our board of directors or an authorized committee, referred to as the plan administrator, determines recipients, dates of grant, the numbers and types of stock awards to be granted and the terms and conditions of the stock awards, including the period of their exercisability and vesting. Subject to the limitations set forth below, the plan administrator will also determine the exercise price of options granted, the consideration (if any) to be paid for restricted stock awards and the strike price of stock appreciation rights.

The plan administrator has the authority to reprice any outstanding stock award (by reducing the exercise price of any outstanding option, canceling an option in exchange for cash or another equity award or any other action that may be deemed a repricing under generally accepted accounting provisions) under the 2012 Plan without the approval of our stockholders.

Stock Options. Incentive and nonstatutory stock options are granted pursuant to incentive and nonstatutory stock option agreements adopted by the plan administrator. The plan administrator determines the exercise price for a stock option, within the terms and conditions of the 2012 Plan, provided that the exercise price of a stock option cannot be less than 100% of the fair market value of our common stock on the date of grant, except where a higher exercise price is required in the case of certain incentive stock options, as described below. Options granted under the 2012 Plan vest at the rate specified by the plan administrator.

The plan administrator determines the term of stock options granted under the 2012 Plan, up to a maximum of 10 years, except in the case of certain incentive stock options, as described below. Unless the terms of an

optionholder's stock option agreement provide otherwise, if an optionholder's relationship with us, or any of our affiliates, ceases for any reason other than for cause, disability or death, the optionholder may exercise any vested options for a period of three months following the cessation of service. If an optionholder's service relationship with us is terminated for cause, then the option terminates immediately. If an optionholder's service relationship with us or any of our affiliates ceases due to disability or death, or an optionholder dies within the period (if any) specified in the award agreement following cessation of service, the optionholder or a beneficiary may exercise any vested options for a period of 12 months in the event of disability or death. The option term may be extended in the event that exercise of the option following termination of service is prohibited by applicable securities laws. In no event, however, may an option be exercised beyond the expiration of its maximum term.

Acceptable consideration for the purchase of common stock issued upon the exercise of a stock option will be determined by the plan administrator and may include (a) cash, check, bank draft or money order, (b) a broker-assisted cashless exercise, (c) the tender of common stock previously owned by the optionholder, (d) cancellation of our indebtedness to the optionholder, (e) waiver of compensation due to the optionholder for services rendered and (f) other legal consideration approved by the plan administrator.

Unless the plan administrator provides otherwise, options generally are not transferable except by will, the laws of descent and distribution, or pursuant to a domestic relations order. An optionholder may, however, designate a beneficiary who may exercise the option following the optionholder's death.

Limitations on Incentive Stock Options. Incentive stock options may be granted only to our employees. The aggregate fair market value, determined at the time of grant, of shares of our common stock with respect to incentive stock options that are exercisable for the first time by an optionholder during any calendar year under all of our stock plans may not exceed $100,000. No incentive stock option may be granted to any person who, at the time of the grant, owns or is deemed to own stock comprising more than 10% of our total combined voting power or that of any of our affiliates unless (a) the option exercise price is at least 110% of the fair market value of the stock subject to the option on the date of grant and (b) the term of the incentive stock option does not exceed five years from the date of grant.

Restricted Stock Awards. Restricted stock awards are granted pursuant to restricted stock award agreements adopted by the plan administrator. A restricted stock award is an offer by us to sell shares of our common stock subject to restrictions. The price, if any, of a restricted stock award will be determined by our Compensation Committee. Restricted stock awards may be granted in consideration for (a) cash, check, bank draft or money order, (b) past or future services rendered to us or our affiliates, or (c) any other form of legal consideration determined by our Compensation Committee. Shares of common stock acquired under a restricted stock award may, but need not, be subject to a share repurchase option or forfeiture restriction in our favor in accordance with a vesting schedule to be determined by the plan administrator. Rights to acquire shares under a restricted stock award may be transferred only upon such terms and conditions as set by the plan administrator. Except as otherwise provided in the applicable award agreement, restricted stock awards that have not vested will be forfeited or subject to repurchase upon the participant's cessation of continuous service for any reason.

Restricted Stock Unit Awards. RSU awards are granted pursuant to restricted stock unit award agreements adopted by the plan administrator. RSUs represent the right to receive shares of our common stock at a specified date in the future, subject to forfeiture of that right because of termination of the holder's services to us or the holder's failure to achieve certain performance conditions. If a RSU has not been forfeited, then on the date specified in the RSU agreement, we may deliver to the holder of the RSU whole shares of our common stock, which may be subject to additional restrictions, cash or a combination of our common stock and cash. Our Compensation Committee may also permit the holders of the RSUs to defer payment to a date or dates after the RSU is earned, provided that the terms of the RSU and any deferral satisfy the requirements of Section 409A of the Code.

Stock Appreciation Rights. Stock appreciation rights are granted pursuant to stock appreciation rights agreements adopted by the plan administrator. Stock appreciation rights provide for a payment, or payments, in cash or shares of our common stock, to the holder based upon the increase in the fair market value of our common stock on the date of exercise from the stated exercise price (subject to any maximum number of shares as may be specified in the applicable award agreement). The payment may occur upon the exercise of a stock appreciation right or deferred with such interest or dividend equivalent, if any, as our compensation committee determines, provided that the terms of the stock appreciation right and any deferral satisfy the requirements of Section 409A of the Code. The plan administrator determines the exercise price for a stock appreciation right which generally cannot be less than 100% of the fair market value of our common stock on the date of grant. Stock appreciation rights may vest based on time or achievement of performance conditions. Stock appreciation rights expire under the same rules that apply to stock options.

Performance Awards. The 2012 Plan permits the grant of performance stock awards and performance cash awards that may qualify as performance-based compensation that is not subject to the $1,000,000 limitation on the income tax deductibility of compensation paid per covered executive officer imposed by Section 162(m) of the Code. To assure that the compensation attributable to performance-based awards will so qualify, our committee can structure such awards so that stock will be issued or paid pursuant to such award only upon the achievement of certain pre-established performance goals during a designated performance period. The maximum benefit number of shares that may be granted to a participant in any calendar year attributable to performance stock awards may not exceed shares of common stock and the maximum value that may be granted to a participant in any calendar year attributable to performance cash awards may not exceed $.

Other Stock Awards. The plan administrator may grant other awards based in whole or in part by reference to our common stock. The plan administrator will set the number of shares under the award and all other terms and conditions of such awards.

Changes to Capital Structure. In the event that there is a specified type of change in our capital structure, such as a stock split, appropriate adjustments will be made to (a) the class and maximum number of shares reserved under the 2012 Plan, (b) the class and maximum number of shares subject to options, stock appreciation rights and performance stock awards that can be granted in a calendar year, (c) the class and maximum number of shares that may be issued upon exercise of incentive stock options and (d) the number of shares and exercise price or strike price, if applicable, of all outstanding stock awards.

Corporate Transactions. The 2012 Plan provides that, in the event of a sale, lease or other disposition of all or substantially all of the assets of us or specified types of mergers or consolidations, or a corporate transaction, any surviving or acquiring corporation shall either assume awards outstanding under the 2012 Plan or substitute similar awards for those outstanding under the 2012 Plan. If any surviving corporation declines to assume awards outstanding under the 2012 Plan or to substitute similar awards, then, with respect to participants whose service with us has not terminated prior to the time of such corporate transaction, the vesting and the time during which such awards may be exercised will be accelerated in full, and all outstanding awards will terminate if the participant does not exercise such awards at or prior to the corporate transaction. With respect to any awards that are held by other participants that terminated service with us prior to the corporate transaction, the vesting and exercisability provisions of such awards will not be accelerated and such awards will terminate if not exercised prior to the corporate transaction.

Changes in Control. Our board of directors has the discretion to provide that a stock award under the 2012 Plan will immediately vest as to all or any portion of the shares subject to the stock award in the event a participant's service with us or a successor entity is terminated actually or constructively within a designated period following the occurrence of certain specified change in control transactions. Stock awards held by participants under the 2012 Plan will not vest automatically on such an accelerated basis unless specifically provided in the participant's applicable award agreement.

Plan Suspension or Termination. Our board of directors has the authority to suspend or terminate the 2012 Plan at any time provided that such action does not impair the existing rights of any participant.

Securities Laws and Federal Income Taxes. The 2012 Plan is designed to comply with various securities and federal tax laws as follows:

Securities Laws. The 2012 Plan is intended to conform to all provisions of the Securities Act of 1933, as amended, and the Exchange Act and any and all regulations and rules promulgated by the SEC thereunder, including, without limitation, Rule 16b-3. The 2012 Plan will be administered, and options will be granted and may be exercised, only in such a manner as to conform to such laws, rules and regulations.

Section 409A of the Code. Certain awards under the 2012 Plan may be considered "nonqualified deferred compensation" for purposes of Section 409A of the Code, which imposes certain additional requirements regarding the payment of deferred compensation. Generally, if at any time during a taxable year a nonqualified deferred compensation plan fails to meet the requirements of Section 409A, or is not operated in accordance with those requirements, all amounts deferred under the 2012 Plan and all other equity incentive plans for the taxable year and all preceding taxable years, by any participant with respect to whom the failure relates, are includible in gross income for the taxable year to the extent not subject to a substantial risk of forfeiture and not previously included in gross income. If a deferred amount is required to be included in income under Section 409A, the amount also is subject to interest and an additional income tax. The interest imposed is equal to the interest at the underpayment rate plus one percentage point, imposed on the underpayments that would have occurred had the compensation been includible in income for the taxable year when first deferred, or if later, when not subject to a substantial risk of forfeiture. The additional federal income tax is equal to 20% of the compensation required to be included in gross income. In addition, certain states, including California, have laws similar to Section 409A, which impose additional state penalty taxes on such compensation.

Section 162(m) of the Code. In general, under Section 162(m) of the Code, income tax deductions of publicly held corporations may be limited to the extent total compensation (including, but not limited to, base salary, annual bonus, and income attributable to stock option exercises and other non-qualified benefits) for certain executive officers exceeds $1,000,000 (less the amount of any "excess parachute payments" as defined in Section 280G of the Code) in any taxable year of the corporation. However, under Section 162(m), the deduction limit does not apply to certain "performance-based compensation" established by an independent compensation committee that is adequately disclosed to, and approved by, stockholders. In particular, stock options and stock appreciation rights will satisfy the "performance-based compensation" exception if the awards are made by a qualifying compensation committee, the 2012 Plan sets the maximum number of shares that can be granted to any person within a specified period and the compensation is based solely on an increase in the stock price after the grant date. Specifically, the option exercise price must be equal to or greater than the fair market value of the stock subject to the award on the grant date.

We have attempted to structure the 2012 Plan in such a manner that the compensation attributable to stock options, stock appreciation rights and other performance-based awards which meet the other requirements of Section 162(m) will not be subject to the $1,000,000 limitation. We have not, however, requested a ruling from the Internal Revenue Service or an opinion of counsel regarding this issue.

2012 Employee Stock Purchase Plan

We expect our board of directors to adopt the 2012 Purchase Plan, subject to stockholder approval, that will become effective upon the closing of this offering. The purpose of the 2012 Purchase Plan is to assist us in retaining the services of new employees and securing the services of new and existing employees while providing incentives for such individuals to exert maximum efforts toward our success.

Share Reserve. Following this offering, the 2012 Purchase Plan authorizes the issuance of shares of our common stock pursuant to purchase rights granted to our employees or to employees of our subsidiaries. The number of shares of our common stock reserved for issuance will automatically increase on January 1 of each calendar year, from January 1, 2013 through January 1, 2022, by the lesser of % of the total number of shares of our common stock outstanding on December 31 of the preceding calendar year or a number determined by our board of directors. The 2012 Purchase Plan is intended to qualify as an "employee stock purchase plan" within the meaning of Section 423 of the Code. As of the date hereof, no shares of our common stock have been purchased under the 2012 Purchase Plan. No more than shares of our common stock may be issued under our 2012 purchase plan, and no other shares may be added to this plan without the approval of our stockholders.

Administration. Our board of directors has delegated its authority to administer the 2012 Purchase Plan to our Compensation Committee. The 2012 Purchase Plan is implemented through a series of offerings of purchase rights to eligible employees. Under the 2012 Purchase Plan, we may specify offerings with durations of not more than 27 months, and may specify shorter purchase periods within each offering. Each offering will have one or more purchase dates on which shares of our common stock will be purchased for employees participating in the offering. An offering may be terminated under certain circumstances.

Payroll Deductions. Generally, all regular employees, including executive officers, employed by us or by any of our designated affiliates, may participate in the 2012 Purchase Plan and may contribute, normally through payroll deductions, up to 15% of their earnings for the purchase of our common stock under the 2012 Purchase Plan. Unless otherwise determined by our board of directors, common stock will be purchased for accounts of employees participating in the 2012 Purchase Plan at a price per share equal to the lower of (a) 85% of the fair market value of a share of our common stock on the first date of an offering or (b) 85% of the fair market value of a share of our common stock on the date of purchase.

Limitations. Employees may have to satisfy one or more of the following service requirements before participating in the 2012 Purchase Plan, as determined by our board of directors: (a) customarily employed for more than 20 hours per week, (b) customarily employed for more than five months per calendar year or (c) continuous employment with us or one of our affiliates for a period of time not to exceed two years. No holder will have the right to purchase our shares at a rate which, when aggregated with purchase rights under all our employee stock purchase plans that are also outstanding in the same calendar year(s), have a fair market value of more than $25,000, determined in accordance with Section 423 of the Code, for each calendar year in which that right is outstanding. Finally, no employee will be eligible for the grant of any purchase rights under the 2012 Purchase Plan if immediately after such rights are granted, such employee has voting power over 5% or more of our outstanding capital stock measured by vote or value pursuant to Code Section 424(d).

Changes to Capital Structure. In the event a change in our capital structure occurs through such actions as a stock split, merger, consolidation, reorganization, recapitalization, reincorporation, stock dividend, dividend in property other than cash, liquidating dividend, combination of shares, exchange of shares, change in corporate structure or similar transaction, the board of directors will make appropriate adjustments to (a) the number of shares reserved under the 2012 Purchase Plan, (b) the maximum number of shares that may be issued under the 2012 Purchase Plan and (c) the number of shares and purchase price of all outstanding purchase rights.

Corporate Transactions. In the event of a change in control transaction, each outstanding right to purchase shares under our 2012 Purchase Plan may be assumed or substituted by our successor. In the event that the successor refuses to assume or substitute the outstanding purchase rights, any offering periods that commenced prior to the closing of the proposed change in control transaction will be shortened and terminated on a new purchase date. The new purchase date will occur prior to the closing of the proposed change in control and our 2012 Purchase Plan will then terminate on the closing of the proposed change in control.

Plan Amendment or Termination. Our board has the authority to amend or terminate the 2012 Purchase Plan at any time. If our board determines that the amendment or termination of an offering is in our best interests and

the best interests of our stockholders, then our board may terminate any offering on any purchase date, establish a new purchase date with respect to any offering then in progress, or terminate any offering and return any money contributed by participants that has not been used to purchase shares back to the participants. We will obtain stockholder approval of any amendment to the 2012 Purchase Plan as required by applicable law.

401(k) Plan

We maintain a defined contribution employee retirement plan for our U.S. employees. The plan is intended to qualify as a tax-qualified 401(k) plan so that contributions to the 401(k) plan, and income earned on such contributions, are not taxable to participants until withdrawn or distributed from the 401(k) plan. Participants may make pre-tax contributions to the 401(k) plan from their eligible earnings up to the statutorily prescribed annual limit on pre-tax contributions under the Code. The 401(k) plan provides that each participant may contribute up to 100% of eligible compensation on a pre-tax or, in the case of the Roth 401(k), after tax basis into their accounts. Participants who are at least 50 years old may also contribute additional amounts based on the statutory limits for “catch-up” contributions. Under the 401(k) plan, each employee is fully vested in his or her deferred salary contributions. Employee contributions are held and invested by the plan’s trustee. Although the 401(k) plan provides for a discretionary employer profit sharing contribution and a discretionary employer matching contribution, we have not made any such contributions on behalf of participating employees to date.

Limitation of Liability and Indemnification

Our restated certificate of incorporation contains provisions that limit the liability of our directors for monetary damages to the fullest extent permitted by Delaware law. Consequently, our directors will not be personally liable to us or our stockholders for monetary damages for any breach of fiduciary duties as directors, except liability for:

- any breach of the director’s duty of loyalty to us or our stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the Delaware General Corporation Law; or
- any transaction from which the director derived an improper personal benefit.

Our restated certificate of incorporation provides that we are required to indemnify our directors and our restated bylaws provide that we are required to indemnify our directors and officers, in each case to the fullest extent permitted by Delaware law. Any repeal of or modification to our restated certificate of incorporation or restated bylaws may not adversely affect any right or protection of a director or officer for or with respect to any acts or omissions of such director or officer occurring prior to such amendment or repeal. Our restated bylaws also provide that we shall advance expenses incurred by a director or officer in advance of the final disposition of any action or proceeding, and permit us to secure insurance on behalf of any officer, director, employee or other agent for any liability arising out of his or her actions in that capacity regardless of whether we would otherwise be permitted to indemnify him or her under the provisions of Delaware law. We have entered and expect to continue to enter into agreements to indemnify our directors, executive officers and other employees as determined by our board of directors. With certain exceptions, these agreements provide for indemnification for related expenses including, among other things, attorneys’ fees, judgments, fines and settlement amounts incurred by any of these individuals in any action or proceeding. We believe that these restated bylaw provisions and indemnification agreements are necessary to attract and retain qualified persons as directors and officers. We also maintain directors’ and officers’ liability insurance.

The limitation of liability and indemnification provisions in our restated certificate of incorporation and restated bylaws may discourage stockholders from bringing a lawsuit against our directors for breach of their

fiduciary duty. They may also reduce the likelihood of derivative litigation against our directors and officers, even though an action, if successful, might benefit us and other stockholders. Further, a stockholder's investment may be adversely affected to the extent we pay the costs of settlement and damage awards against directors and officers as required by these indemnification provisions. At present, there is no pending litigation or proceeding involving any of our directors, officers or employees for which indemnification is sought, and we are not aware of any threatened litigation that may result in claims for indemnification.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

In addition to the executive officer and director compensation arrangements discussed above under “Management” and “Executive Compensation,” the following is a description of transactions since January 1, 2009 to which we have been a participant, in which the amount involved in the transaction exceeds or will exceed $120,000 and in which any of our directors, executive officers or holders of more than 5% of our capital stock, or any immediate family member of, or person sharing the household with, any of these individuals, had or will have a direct or indirect material interest or such other persons as may be required to be disclosed pursuant to Item 404 of Regulation S-K, which we refer collectively refer to as related parties.

Preferred Stock Financings

In April 2009, we entered into a Series C Preferred Stock Purchase Agreement pursuant to which we issued and sold to JMI Equity Fund V, L.P. and its affiliates, or JMI Equity, an aggregate of 491,803 shares of Series C convertible preferred stock at a purchase price of $6.10 per share, for aggregate consideration of $2,999,998.30 and to JMI Incubator, L.P. and its affiliates, or JMI Incubator, an aggregate of 491,803 shares of Series C convertible preferred stock at a purchase price of $6.10 per share, for aggregate consideration of $2,999,998.30. Upon the closing of this offering, these shares will convert into 7,868,848 shares of common stock. JMI Equity and Incubator collectively holds more than 5% of our capital stock. Paul V. Barber, one of our directors, is a Managing Member of JMI Associates V, LLC, the general partner of JMI Equity. Charles E. Noell, III, one of our directors, is a Managing Member of JMI Incubator Associates, LLC, the general partner of JMI Incubator. Additional detail regarding the equity holdings of JMI Equity and JMI Incubator is provided in “Principal Stockholders.” The proceeds were used to offset an outstanding loan to Frederic B. Luddy in the amount of $6.0 million. Mr. Luddy subsequently settled the loan by delivering to us 7,868,848 shares of common stock.

In November 2009, we entered into a Series D Preferred Stock Purchase Agreement pursuant to which we issued and sold to Sequoia Capital U.S. Growth Fund IV, L.P. and its affiliates, or Sequoia Growth, an aggregate of 2,990,635 shares of Series D convertible preferred stock in multiple closings at a purchase price of $17.267333 per share, for aggregate consideration of $51,640,290. Upon the closing of this offering, these shares will convert into 23,925,080 shares of common stock. Sequoia Growth collectively holds more than 5% of our capital stock. Douglas M. Leone, one of our directors, is a Managing Member of SCGF IV Management, L.P., the general partner of Sequoia Growth. Additional detail regarding the equity holdings of Sequoia Growth is provided in “Principal Stockholders.”

In connection with the first closing of the sale and issuance of Series D convertible preferred stock in November 2009, we entered into agreements to repurchase an aggregate of 19,164,000 shares of our common stock held by Frederic B. Luddy, Andrew J. Chedrick, Robert Luddy, Laura Pierce and certain other employees at a purchase price of $2.1584166 per share. In connection with the second closing of the Series D convertible preferred stock financing in December 2009, we offered to purchase up to 11,064,216 shares of our common stock at a purchase price of $2.1584166 per share from our former and current employees that started their employment with us on or prior to November 1, 2009, of which 4,346,264 shares were repurchased. In addition, we repurchased two warrants to purchase an aggregate of 51,852 shares of our Series B convertible preferred stock at a price per warrant share of $16.013772 held by a financial institution. The following table presents the aggregate consideration paid to each related party pursuant to these stock repurchases:

Stockholder	Common Stock Repurchased	Aggregate Consideration
Frederic B. Luddy(1)	16,480,000	$ 35,570,706
Andrew J. Chedrick(2)	1,440,000	3,108,120
Robert Luddy(3)	448,000	966,971
Laura Pierce(4)	68,000	146,772

(1) At the time of the stock repurchase, Mr. Frederic B. Luddy was serving as our President and Chief Executive Officer.
(2) At the time of the stock repurchase, Mr. Chedrick was serving as our Chief Financial Officer.

(3) Mr. Robert Luddy is the brother of Mr. Frederic B. Luddy.
(4) Ms. Laura Pierce is the sister of Mr. Frederic B. Luddy.

In connection with the sale and issuance of Series D convertible preferred stock, we entered into amended and restated investor rights, voting, and right of first refusal and co-sale agreements containing voting rights, information rights, rights of first refusal and registration rights, among other things, with certain holders of our convertible preferred stock and certain holders of our common stock. These stockholder agreements will terminate upon the closing of this offering, except for the registration rights granted under our third amended and restated investor rights agreement, as more fully described below in “Description of Capital Stock—Registration Rights.”

Common Stock Financing

In February 2012, we entered into a Common Stock Purchase Agreement pursuant to which we issued and sold to Greylock XIII Limited Partnership and its affiliates, or Greylock, an aggregate of 1,750,980 shares of common stock at a purchase price of $10.20 per share, for aggregate consideration of $17,859,996. In connection with this transaction, Frederic Luddy, our Chief Product Officer, also sold 700,000 shares of our common stock to Greylock at a purchase price of $10.20 per share, for aggregate consideration of $7,140,000. We waived our right of first refusal in order to allow Mr. Luddy to complete this sale to Greylock.

Employment Agreements

We have entered into employment arrangements with our executive officers, as more fully described in “Executive Compensation—Employment Agreements,” “—Employment Arrangements,” “—Post-Employment Compensation” and “—Potential Payments upon Termination or Change in Control.”

Equity Grants to Executive Officers and Directors

We have granted stock options to our executive officers and directors, as more fully described in the section entitled “Executive Compensation.” We granted 1,000,000 RSUs to Mr. Frederic B. Luddy in March 2012. These RSUs vest annually in four equal installments, on the anniversary of the date of grant.

Employment Arrangements with Immediate Family Members of Our Executive Officers and Directors

Robert Luddy, the brother of Frederic B. Luddy, our founder and Chief Product Officer, has been employed by us since July 1, 2005. During 2009, 2010, and 2011, Mr. Robert Luddy had total cash compensation, including base salary, bonus and other compensation, of $435,293, $517,623 and $464,080, respectively. During fiscal 2010 and 2011 we granted to Mr. Robert Luddy options to purchase 320,000 and 160,000 shares of common stock, respectively. He did not receive any grants in fiscal 2009 or the six months ended December 31, 2011.

Laura Pierce, the sister of Frederic B. Luddy, has been employed by us since January 1, 2007. During 2009, 2010, and 2011, Ms. Pierce had total cash compensation, including base salary, bonus and other compensation, of $101,500, $109,108 and $111,868. During fiscal 2011 and the six months ended December 31, 2011, we granted to Ms. Laura Pierce options to purchase 80,000 and 20,000 shares of common stock, respectively. She did not receive any grants in fiscal 2009 or 2010.

Indemnification Agreements

We have entered into indemnification agreements with each of our directors and executive officers, as described in “Executive Compensation—Limitation of Liability and Indemnification.”

Review, Approval or Ratification of Transactions with Related Parties

The charter of our Audit Committee requires that any transaction with a related party that must be reported under applicable rules of the SEC, other than compensation related matters, must be reviewed and approved or ratified by our Audit Committee. The Audit Committee has not adopted policies or procedures for review of, or standards for approval of, these transactions.

PRINCIPAL AND SELLING STOCKHOLDERS

The following table sets forth information regarding beneficial ownership of our capital stock outstanding as of February 29, 2012:

- Each person, or group of affiliated persons, known by us to beneficially own more than 5% of our common stock;
- Each of our directors;
- Each of our named executive officers;
- All of our directors and executive officers as a group; and
- Each of the selling stockholders.

We have determined beneficial ownership in accordance with the rules of the SEC. Except as indicated by the footnotes below, we believe, based on the information furnished to us, that the persons and entities named in the table below have sole voting and investment power with respect to all shares of common stock that they beneficially own, subject to applicable community property laws.

Applicable percentage ownership is based on 111,036,741 shares of common stock outstanding at February 29, 2012, assuming conversion of all outstanding shares of preferred stock into 83,703,016 shares of common stock. For purposes of the table below, we have assumed that shares of common stock will be sold in this offering. In computing the number of shares of common stock beneficially owned by a person and the percentage ownership of that person, we deemed to be outstanding all shares of common stock subject to options, warrants or other convertible securities held by that person or entity that are currently exercisable or will be exercisable within 60 days of February 29, 2012. We did not deem these shares outstanding, however, for the purpose of computing the percentage ownership of any other person. Except as otherwise noted below, the address for each person or entity listed in the table is c/o ServiceNow, Inc., 12225 El Camino Real, Suite 100, San Diego, California 92130.

	Shares Beneficially Owned Prior to the Offering		Shares Being	Shares Beneficially Owned After the Offering	
Name of Beneficial Owner	Number	Percent	Offered	Number	Percent
5% or Greater Stockholders					
Entities affiliated with JMI Equity[1]	59,826,072	53.88%	—		%
Entities affiliated with Sequoia Capital[2]	23,944,344	21.56	—		
Certain Other Stockholders					
Entities affiliated with Greylock Partners[3]	2,450,980	2.21	—		
Directors and Named Executive Officers					
Frank Slootman[4]	6,550,456	5.58	—		
Frederic B. Luddy[5]	15,111,152	13.58			
Michael P. Scarpelli[6]	1,654,852	1.47	—		
David L. Schneider[7]	1,654,852	1.47	—		
Arne Josefsberg[8]	1,350,000	1.20	—		
Daniel R. McGee[9]	1,200,000	1.07	—		
Andrew J. Chedrick	592,498	*	—		
Paul V. Barber[10]	40,580,508	36.55	—		
Ronald E. F. Codd[11]	200,000	*	—		
Douglas M. Leone[12]	23,944,344	21.56	—		
Jeffrey A. Miller[13]	200,000	*	—		
Charles E. Noell, III[14]	59,826,072	53.88	—		
William L. Strauss[15]	200,000	*	—		
All executive officers and directors as a group (13 persons)[16]	112,484,226	91.00	—		

* Represents beneficial ownership of less than one percent.

(1) Consists of (i) 28,275,358 shares held by JMI Equity Fund V, L.P., (ii) 1,637,678 shares held by JMI Equity Fund V (AI), L.P., (iii) 7,494,302 held by JMI Equity Fund IV, L.P., (iv) 593,470 shares held by JMI Equity Fund IV (AI), L.P., (v) 2,393,038 shares held by JMI Euro Equity Fund IV, L.P., (vi) 186,662 JMI Equity Side Fund, L.P., (vii) 9,751,654 shares held by JMI Participating Partners (viii) 4,746,955 shares held by JMI Services, LLC, and (ix) 4,746,955 shares held by the Rebecca Ann Moores Family Trust. JMI Associates V, L.L.C. is the General Partner of each of JMI Equity Fund V, L.P. and JMI Equity Fund V (AI), L.P. Charles E. Noell III, Harry S. Gruner, Paul V. Barber, Robert F. Smith, Bradford D. Woloson, Peter C. Arrowsmith, Charles T. Dieveney and Jit Sinha share voting and investment power as managing members of JMI Associates V, L.L.C. Each of Messrs. Noell, Gruner, Barber, Smith, Woloson, Arrowsmith, Dieveney and Sinha disclaim beneficial ownership of such shares except to the extent of their pecuniary interest therein. JMI Associates IV, L.L.C. is the General Partner of each of JMI Equity Fund IV, L.P., JMI Equity Fund IV (AI), L.P. and JMI Euro Equity Fund IV, L.P. Messrs. Noell, Gruner, Barber, Smith, Woloson and Arrowsmith share voting and investment power as managing members of JMI Associates IV, L.L.C. Each of Messrs. Noell, Gruner, Barber, Smith, Woloson and Arrowsmith disclaim beneficial ownership of such shares except to the extent of their pecuniary interest therein. JMI Equity Side Associates, L.L.C. is the General Partner of JMI Equity Side Fund, L.P. Messrs. Noell, Gruner, Barber and Woloson are officers of JMI Equity Side Associates, L.L.C. Messrs. Noell, Gruner, Barber and Woloson disclaim beneficial ownership of such shares except to the extent of their pecuniary interest therein. El Camino Advisors, LLC is the Managing General Partner of JMI Participating Partners. Mr. Noell, John J. Moores and Bryant W. Burke share voting and investment power as members of El Camino Advisors, LLC. Messrs. Noell, Moores and Burke disclaim beneficial ownership of such shares except to the extent of their pecuniary interest therein. JMTX Manager, Inc. is the manager of JMI Services, LLC. Messrs. Noell and Burke are directors of, and Messrs. Noell and Burke are officers of JMTX Manager, Inc. Messrs. Noell and Burke do not have any economic interest in JMTX Manager, Inc. and disclaim beneficial ownership of such shares, except to the extent of their respective pecuniary interests therein. In addition, JMI Equity Fund IV, L.P., JMI Equity Fund IV (AI), L.P., JMI Euro Equity Fund IV, L.P., JMI Equity Side Fund, L.P., JMI Participating Partners, JMI Services, LLC and the Rebecca Ann Moores Family Trust have entered into the Voting Agreement, dated as of February 23, 2012 with JMI Incubator Fund, L.P. and JMI Incubator Fund (QP), L.P., pursuant to which each such person has agreed, among other things, to grant a proxy to and vote its shares as directed by JMI Incubator Fund, L.P. JMI Incubator Associates, L.L.C. is the general partner of JMI Incubator Fund, L.P. and may be deemed to have voting power over the shares held by other parties to the Voting Agreement. John J. Moores and Messrs. Noell and Gruner are managing members of JMI Incubator Associates, L.L.C. and may be deemed the beneficial owners of the shares beneficially owned by JMI Incubator Associates, L.L.C. Messrs. Moores, Noell and Gruner disclaim beneficial ownership of the shares beneficially owned by JMI Incubator Associates, L.L.C. and the JMI Incubator Fund, L.P., except to the extent of their respective pecuniary interests therein. JMI Services, LLC has entered into a Revolving Loans (Committed Loan) Loan Agreement and a Security and Pledge Agreement, dated as of February 24, 2012, pursuant to which JMI Services, LLC has granted to the lender a security interest in all of our shares held by it. The principal address for JMI Associates V, L.L.C., JMI Associates IV, L.L.C., JMI Equity Fund V, L.P., JMI Equity Fund V (AI), L.P., JMI Side Associates, L.L.C., JMI Equity Fund IV, L.P., JMI Equity Fund IV (AI), L.P., JMI Euro Equity Fund IV, L.P., and JMI Equity Side Fund, L.P. is 100 International Drive, Suite 19100, Baltimore, Maryland 21202. The principal address for JMI Services, LLC, JMI Participating Partners and the Rebecca Ann Moores Family Trust is 111 Congress Avenue, Suite 2600, Austin, Texas 78701.

(2) Consists of (i) 22,948,252 shares held by Sequoia Capital U.S. Growth Fund IV, LP (Sequoia Growth), and (ii) 996,092 shares held by Sequoia Capital USGF Principals Fund IV, LP (Sequoia Principals). SCGF IV Management, L.P. is the general partner of Sequoia Growth and Sequoia Principals. Mr. Leone, a member of our board of directors, is a Managing Member of SCGF IV Management, L.P. and may be deemed to share voting and investment power over these shares. The address for the entities affiliated with Sequoia Capital is 3000 Sand Hill Road, 4-250, Menlo Park, CA 94025.

(3) Consists of 2,184,460 shares held by Greylock XIII Limited Partnership, 196,667 shares held by Greylock XIII-A Limited Partnership and 69,853 shares held by Greylock XIII Principals LLC. The address for the entities affiliated with Greylock is 1 Brattle Square, Cambridge, MA 02138.

(4) Consists of (i) 200,000 shares held by the Slootman Living Trust dated September 8, 1999, of which Mr. Slootman is a co-trustee; and (ii) 6,350,456 shares subject to options held by Mr. Slootman that are exercisable within 60 days of February 29, 2012, all of which are unvested and early exercisable and would be subject to a right of repurchase in our favor upon Mr. Slootman's cessation of service prior to vesting.

(5) Consists of (i) 1,500,000 shares held by the Luddy Family 2011 Dynasty Trust dated October 14, 2011 of which Mr. Luddy is a beneficiary and (ii) 240,000 shares subject to options held by Mr. Luddy that are exercisable within 60 days of February 29, 2012, of which 85,000 are unvested and early exercisable and would be subject to a right of repurchase in our favor upon Mr. Luddy's cessation of service prior to vesting, and (iii) 13,371,152 shares of common stock held by Mr. Luddy.

(6) Consists of (i) 1,379,044 shares subject to options held by Mr. Scarpelli that are exercisable within 60 days of February 29, 2012, all of which are unvested and early exercisable and would be subject to a right of repurchase in our favor upon Mr. Scarpelli's cessation of service prior to vesting, and (ii) 275, 808 shares of common stock held by Mr. Scarpelli.

(7) Consists of 1,654,852 shares subject to options held by Mr. Schneider that are exercisable within 60 days of February 29, 2012, all of which are unvested and early exercisable and would be subject to a right of repurchase in our favor upon Mr. Schneider's cessation of service prior to vesting.

(8) Consists of 1,350,000 shares subject to options held by Mr. Josefsberg that are exercisable within 60 days of February 29, 2012, all of which are unvested and early exercisable and would be subject to a right of repurchase in our favor upon Mr. Josefsberg's cessation of service prior to vesting.

(9) Consists of 1,200,000 shares subject to options held by Mr. McGee that are exercisable within 60 days of February 29, 2012, all of which are unvested and early exercisable and would be subject to a right of repurchase in our favor upon Mr. McGee's cessation of service prior to vesting.

(10) Consists of the shares referred to in footnote (1) above held by JMI Equity Fund V, L.P., JMI Equity Fund V (AI), L.P., JMI Equity Fund IV, L.P., JMI Equity Fund IV (AI), L.P., JMI Euro Equity Fund IV, L.P., and JMI Equity Side Fund, L.P. Mr. Barber disclaims beneficial ownership of the shares referred to in footnote (1), except to the extent of his pecuniary interest therein.

(11) Consists of 200,000 shares subject to options held by Mr. Codd that are exercisable within 60 days of February 29, 2012, of which 141,676 are unvested are early exercisable and would be subject to a right of repurchase in our favor upon Mr. Codd's cessation of service prior to vesting.

(12) Consists of the shares referred to in footnote (2) above. Mr. Leone disclaims beneficial ownership of the shares referred to in footnote (2), except to the extent of his pecuniary interest therein.

(13) Consists of (i) 100,000 shares held by the Miller Living Trust, dtd 7/7/85 of which Mr. Miller is co-trustee and (ii) 100,000 shares of common stock held by Mr. Miller.

(14) Consists of the shares referred to in footnote (1) above. Mr. Noell disclaims beneficial ownership of the shares referred to in footnote (1), except to the extent of his pecuniary interest therein.

(15) Consists of 200,000 shares subject to options held by Mr. Strauss that are exercisable within 60 days of February 29, 2012, of which 150,000 are unvested and early exercisable and would be subject to a right of repurchase in our favor upon Mr. Strauss' cessation of service prior to vesting.

(16) Consists of (i) 99,909,874 shares of common stock and (ii) 12,574,352 shares of common stock subject to options that are exercisable within 60 days of February 29, 2012.

DESCRIPTION OF CAPITAL STOCK

General

Upon the closing of this offering, our authorized capital stock will consist of shares of common stock, $0.001 par value per share, and shares of preferred stock, $0.001 par value per share. A description of the material terms and provisions of our restated certificate of incorporation and restated bylaws affecting the rights of holders of our capital stock is set forth below. The description is intended as a summary, and is qualified in its entirety by reference to the form of our restated certificate of incorporation and the form of our restated bylaws to be in effect upon the closing of this offering that will be filed as exhibits to the registration statement relating to this prospectus.

As of December 31, 2011, and after giving effect to the conversion of all of our outstanding preferred stock into common stock upon closing of this offering and including the sale and issuance of 1,750,980 shares of common stock in a private placement by us in February 2012, there were:

- 107,683,974 shares of common stock outstanding held by approximately 111 stockholders;
- 39,314,140 shares of common stock issuable upon exercise of outstanding stock options under our 2005 Stock Plan; and
- 6,657,210 shares of common stock available for future issuance under our 2005 Stock Plan.

Common Stock

Dividend Rights

Subject to preferences that may apply to shares of preferred stock outstanding at the time, the holders of outstanding shares of our common stock are entitled to receive dividends out of funds legally available if our board of directors, in its discretion, determines to issue dividends and only then at the times and in the amounts that our board of directors may determine.

Voting Rights

Each holder of common stock is entitled to one vote for each share of common stock held on all matters submitted to a vote of stockholders. Our restated certificate of incorporation eliminates the right of stockholders to cumulate votes for the election of directors. Our restated certificate of incorporation to be in effect upon the closing of this offering will establish a classified board of directors, to be divided into three classes with staggered three-year terms. Only one class of directors will be elected at each annual meeting of our stockholders, with the other classes continuing for the remainder of their respective three-year terms.

No Preemptive or Similar Rights

Our common stock is not entitled to preemptive rights and is not subject to conversion, redemption or sinking fund provisions.

Right to Receive Liquidation Distributions

Upon our dissolution, liquidation or winding-up, the assets legally available for distribution to our stockholders are distributable ratably among the holders of our common stock, subject to prior satisfaction of all outstanding debt and liabilities and the preferential rights and payment of liquidation preferences, if any, on any outstanding shares of preferred stock.

Preferred Stock

Upon the closing of this offering, each currently outstanding share of preferred stock will be converted into common stock.

Upon the closing of this offering, we will be authorized, subject to limitations prescribed by Delaware law, to issue preferred stock in one or more series, to establish from time to time the number of shares to be included in each series and to fix the designation, powers, preferences and rights of the shares of each series and any of its qualifications, limitations or restrictions. Our board of directors also can increase or decrease the number of shares of any series, but not below the number of shares of that series then outstanding, without any further vote or action by our stockholders. Our board of directors may authorize the issuance of preferred stock with voting or conversion rights that could adversely affect the voting power or other rights of the holders of the common stock. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions and other corporate purposes, could, among other things, have the effect of delaying, deferring or preventing a change in control of our company and may adversely affect the market price of our common stock and the voting and other rights of the holders of common stock. We have no current plan to issue any shares of preferred stock.

Equity Grants

As of December 31, 2011, 39,314,140 shares of our common stock were issuable upon exercise of outstanding options under our 2005 Stock Plan.

Registration Rights

Common and Preferred Stock

According to the terms of our third amended and restated investor rights agreement entered into in November 2009, certain investors are entitled to demand, "piggyback" and Form S-3 registration rights. The stockholders who are a party to the investor rights agreement will hold an aggregate of 83,703,016 shares, or %, of our common stock upon the closing of this offering and the conversion of all existing series of our convertible preferred stock into shares of our common stock that are subject to the registration rights under that investor rights agreement. Such stockholders have waived their registration rights with respect to this offering.

Demand Registration Rights. At any time beginning on November 25, 2012, the holders of at least 40% of the shares having demand registration rights have the right to make up to two demands that we file a registration statement to register all or a portion of their shares so long as the aggregate number of securities requested to be sold under such registration statement is at least $4,000,000, subject to specified exceptions.

Form S-3 Registration Rights. If we are eligible to file a registration statement on Form S-3, the holders of at least 40% of the shares having registration rights have the right to demand that we file a registration statement on Form S-3 so long as the aggregate value of the securities to be sold under the registration statement on Form S-3 is at least $1,000,000, subject to specified exceptions.

"Piggyback" Registration Rights. If we register any securities for public sale, holders of registration rights are entitled to written notice of the registration and will have the right to include their shares in the registration statement. The underwriters of any offering will have the right to limit the number of shares having registration rights to be included in the registration statement, but not below 25% of the total number of shares included in the registration statement, unless such offering is our initial public offering and such registration does not include shares of any other selling stockholders, in which case any and all shares held by selling stockholders may be excluded from the offering.

Expenses of Registration. Generally, we are required to bear all registration and selling expenses incurred in connection with the demand, piggyback and Form S-3 registrations described above, other than underwriting discounts and commissions, stock transfer taxes and fees of counsel for any holder other than the reasonable fees of a single special counsel for the holders of registration rights.

Expiration of Registration Rights. The demand, piggyback and Form S-3 registration rights discussed above will terminate four years following the closing of this offering. In addition, the registration rights discussed above will terminate with respect to any stockholder entitled to these registration rights on the date when such stockholder holds less than three percent of our common stock then outstanding and is able to sell all of its registrable common stock in a single 90-day period under Rule 144 of the Securities Act.

Anti-Takeover Provisions

The provisions of Delaware law, our restated certificate of incorporation and our restated bylaws may have the effect of delaying, deferring or discouraging another person from acquiring control of our company.

Delaware Law

We are governed by the provisions of Section 203 of the Delaware General Corporation Law regulating corporate takeovers. This section prevents some Delaware corporations, including us, from engaging, under some circumstances, in a business combination, which includes a merger or sale of at least 10% of the corporation's assets with any interested stockholder, meaning a stockholder who, together with affiliates and associates, owns or, within three years prior to the determination of interested stockholder status, did own 15% or more of the corporation's outstanding voting stock, unless:

- the transaction is approved by the board of directors prior to the time that the interested stockholder became an interested stockholder;
- upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced; or
- at or subsequent to such time that the stockholder became an interested stockholder, the business combination is approved by the board of directors and authorized at an annual or special meeting of stockholders by at least two-thirds of the outstanding voting stock not owned by the interested stockholder.

A Delaware corporation may "opt out" of these provisions with an express provision in its original certificate of incorporation or an express provision in its certificate or incorporation or bylaws resulting from a stockholders' amendment approved by at least a majority of the outstanding voting shares. We do not plan to "opt out" of these provisions. The statute could prohibit or delay mergers or other takeover or change in control attempts and, accordingly, may discourage attempts to acquire us.

Restated Certificate of Incorporation and Restated Bylaw Provisions

Our restated certificate of incorporation and our restated bylaws to be in effect upon the closing of this offering will include a number of provisions that may have the effect of deterring hostile takeovers or delaying or preventing changes in control, including the following:

- *Board of Directors Vacancies*. Our restated certificate of incorporation and restated bylaws will authorize only our board of directors to fill vacant directorships. In addition, the number of directors constituting our board of directors will be set only by resolution adopted by a majority vote of our entire board of directors. These provisions prevent a stockholder from increasing the size of our board of directors and gaining control of our board of directors by filling the resulting vacancies with its own nominees.
- *Classified Board*. Our restated certificate of incorporation and restated bylaws will provide that our board of directors is classified into three classes of directors. The existence of a classified board could delay a successful tender offeror from obtaining majority control of our board of directors, and the prospect of that delay might deter a potential offeror.

- *Stockholder Action; Special Meeting of Stockholders*. Our restated certificate of incorporation will provide that our stockholders may not take action by written consent, but may only take action at annual or special meetings of our stockholders. Stockholders will not be permitted to cumulate their votes for the election of directors. Our restated bylaws will further provide that special meetings of our stockholders may be called only by a majority of our board of directors, the chairman of our board of directors, our chief executive officer or our president.
- *Advance Notice Requirements for Stockholder Proposals and Director Nominations*. Our restated bylaws will provide advance notice procedures for stockholders seeking to bring business before our annual meeting of stockholders, or to nominate candidates for election as directors at our annual meeting of stockholders. Our restated bylaws also will specify certain requirements regarding the form and content of a stockholder's notice. These provisions may preclude our stockholders from bringing matters before our annual meeting of stockholders or from making nominations for directors at our annual meeting of stockholders.
- *Issuance of Undesignated Preferred Stock*. Our board of directors will have the authority, without further action by the stockholders, to issue up to 10,000,000 shares of undesignated preferred stock with rights and preferences, including voting rights, designated from time to time by the board of directors. The existence of authorized but unissued shares of preferred stock enables our board of directors to render more difficult or to discourage an attempt to obtain control of us by means of a merger, tender offer, proxy contest or otherwise.
- *Super Majority Vote to Amend Certificate of Incorporation and Bylaws*. Our restated certificate of incorporation will provide that if two-thirds of our board of directors approves the amendment of our certificate of incorporation and bylaws, or any provisions thereof, then such amendment need only be approved by stockholders holding a majority of our outstanding shares of common stock entitled to vote. Otherwise, such amendment must be approved by stockholders holding two-thirds of our outstanding shares of common stock entitled to vote.

New York Stock Exchange Listing

We expect to apply for the listing of our common stock on the New York Stock Exchange under the symbol "NOW."

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is Wells Fargo Shareowner Services.

SHARES ELIGIBLE FOR FUTURE SALE

Before this offering, there has not been a public market for shares of our common stock. Future sales of substantial amounts of shares of our common stock, including shares issued upon the exercise of outstanding options, in the public market after this offering, or the possibility of these sales occurring, could cause the prevailing market price for our common stock to fall or impair our ability to raise equity capital in the future.

Upon the closing of this offering, a total of shares of common stock will be outstanding, assuming 107,683,974 shares outstanding as of December 31, 2011 and that there are no exercises of options after December 31, 2011. Of these shares, all shares of common stock sold in this offering by us and the selling stockholders will be freely tradable in the public market without restriction or further registration under the Securities Act, unless these shares are held by "affiliates," as that term is defined in Rule 144 under the Securities Act.

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

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

- on the date of this prospectus, of the shares will be available for sale in the public market without restriction; and
- beginning 181 days after the date of this prospectus, subject to extension as described in "Underwriting," shares will become eligible for sale in the public market, of which shares will be freely tradable under Rules 144 and 701, and shares will be freely tradable, subject to the limitations under Rules 144 and 701, of which shares will be unvested and subject to our right of repurchase.

In addition, of the 39,314,140 shares of our common stock that were subject to stock options outstanding as of December 31, 2011, options to purchase 9,836,358 shares of common stock were vested as of December 31, 2011 and will be eligible for sale 181 days following the effective date of this prospectus, subject to extension as described in "Underwriting."

Rule 144

In general, under Rule 144 as currently in effect, once we have been subject to public company reporting requirements for at least 90 days, a person who is not deemed to have been one of our affiliates for purposes of the Securities Act at any time during the 90 days preceding a sale and who has beneficially owned the shares proposed to be sold for at least six months, including the holding period of any prior owner other than our affiliates, is entitled to sell those shares without complying with the manner of sale, volume limitation or notice provisions of Rule 144, subject to compliance with the public information requirements of Rule 144. If such a person has beneficially owned the shares proposed to be sold for at least one year, including the holding period of any prior owner other than our affiliates, then that person is entitled to sell those shares without complying with any of the requirements of Rule 144.

In general, under Rule 144, as currently in effect, our affiliates or persons selling shares on behalf of our affiliates are entitled to sell upon the expiration of the lock-up agreements described below, within any three-month period beginning 90 days after the date of this prospectus, a number of shares that does not exceed the greater of:

- 1% of the number of shares of common stock then outstanding, which will equal approximately shares immediately after the offering, or

- the average weekly trading volume of the common stock during the four calendar weeks preceding the filing of a notice on Form 144 with respect to such sale.

Sales under Rule 144 by our affiliates or persons selling shares on behalf of our affiliates are also subject to certain manner of sale provisions and notice requirements and to the availability of current public information about us.

Rule 701

In general, under Rule 701 as currently in effect, any of our employees, consultants or advisors who purchase shares from us in connection with a compensatory stock or option plan or other written agreement in a transaction before the effective date of this offering that was completed in reliance on Rule 701 and complied with the requirements of Rule 701 will, subject to the lock-up restrictions described below, be eligible to resell such shares 90 days after the date of this prospectus in reliance on Rule 144, but without compliance with certain restrictions, including the holding period, contained in Rule 144.

Lock-Up Agreements

We and each of our directors, officers and the holders of substantially all of our capital stock have agreed to the lock-up provisions described under “Underwriting.”

Registration Rights

Upon the closing of this offering, the holders of an aggregate of 83,703,016 shares of our common stock, or their permitted transferees, will be entitled to rights with respect to the registration of these shares under the Securities Act. Registration of these shares under the Securities Act would result in these shares becoming fully tradable without restriction under the Securities Act immediately upon the effectiveness of the registration statement, except for shares purchased by affiliates. See “Description of Capital Stock—Registration Rights” for additional information.

Registration Statements

We intend to file a registration statement on Form S-8 under the Securities Act covering all of the shares of common stock subject to equity grants outstanding and reserved for issuance under our stock plans. We expect to file this registration statement as soon as practicable after this offering. However, none of the shares registered on Form S-8 will be eligible for resale until the expiration of the lock-up agreements to which they are subject.

CERTAIN MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS FOR NON-U.S. HOLDERS OF COMMON STOCK

This section summarizes certain United States federal income tax considerations relating to the ownership and disposition of common stock for a non-U.S. holder (as defined below). This summary does not provide a complete analysis of all potential tax considerations. The information provided below is based upon provisions of the Code, and Treasury regulations promulgated thereunder, administrative rulings and judicial decisions currently in effect. These authorities may change at any time, possibly on a retroactive basis, or the Internal Revenue Service, or IRS, might interpret the existing authorities differently. In either case, the tax considerations of owning or disposing of common stock could differ from those described below. For purposes of this summary, a “non-U.S. holder” is any holder other than an entity taxable as a partnership for United States federal income tax purposes or:

- an individual who is a citizen or resident of the United States;
- a corporation, or other entity taxable as a corporation for United States federal income tax purposes, created or organized under the laws of the United States, any state or the District of Columbia;
- a trust that is (1) subject to the primary supervision of a United States court and one of more United States persons have authority to control all substantial decisions of the trust or (2) has a valid election in effect under applicable United States Treasury regulations to be treated as a United States person; or
- an estate whose income is subject to United States income tax regardless of source.

If you are a non-U.S. citizen that is an individual, you may, in many cases, be deemed to be a resident alien, as opposed to a nonresident alien, by virtue of being present in the United States for at least 31 days in the calendar year and for an aggregate of at least 183 days during a three-year period ending in the current calendar year. For these purposes, all the days present in the current year, one-third of the days present in the immediately preceding year, and one-sixth of the days present in the second preceding year are counted. Resident aliens are subject to United States federal income tax as if they were United States citizens. Such an individual is urged to consult his or her own tax advisor regarding the United States federal income tax consequences of the sale, exchange of other disposition of common stock. If a partnership or other pass-through entity is a beneficial owner of common stock, the tax treatment of a partner in the partnership or an owner of the entity will depend upon the status of the partner or other owner and the activities of the partnership or other entity. Any partner in a partnership or member in a pass-through entity holding shares of our common stock should consult its own tax advisor.

This discussion assumes that a non-U.S. holder will hold our common stock as a capital asset (generally, property held for investment). This summary generally does not address tax considerations that may be relevant to particular investors because of their specific circumstances, or because they are subject to special rules, including, without limitation, if the investor is a United States expatriate, “controlled foreign corporation,” “passive foreign investment company,” corporation that accumulates earnings to avoid United States federal income tax, dealer in securities or currencies, financial institution, regulated investment company, real estate investment trust, tax-exempt entity, insurance company, person holding our common stock as part of a hedging, integrated, conversion or constructive sale transaction or a straddle, trader in securities that elects to use a mark-to-market method of accounting, person liable for the alternative minimum tax, person whose functional currency is other than the U.S. dollar, person who acquired our common stock as compensation for services, and partner or beneficial owner in a pass-through entity. Finally, this summary does not describe the effects of any applicable foreign, state or local laws, or, except to the extent discussed below, the effects of any applicable gift or estate tax laws.

INVESTORS CONSIDERING THE PURCHASE OF OUR COMMON STOCK SHOULD CONSULT THEIR OWN TAX ADVISORS REGARDING THE APPLICATION OF THE UNITED STATES FEDERAL INCOME AND ESTATE TAX LAWS TO THEIR PARTICULAR SITUATIONS AND THE CONSEQUENCES OF FOREIGN, STATE OR LOCAL LAWS, AND TAX TREATIES.

Dividends

We do not expect to declare or pay any dividends on our common stock in the foreseeable future. If we do pay dividends on shares of our common stock, however, such distributions will constitute dividends for United States federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under United States federal income tax principles. Distributions in excess of our current and accumulated earnings and profits will constitute a return of capital that is applied against and reduces, but not below zero, a non-U.S. holder's adjusted tax basis in shares of our common stock. Any remaining excess will be treated as gain realized on the sale or other disposition of our common stock. See "—Sale of Common Stock."

Any dividend paid to a non-U.S. holder on our common stock will generally be subject to United States withholding tax at a 30% rate. The withholding tax might not apply, however, or might apply at a reduced rate, under the terms of an applicable income tax treaty between the United States and the non-U.S. holder's country of residence. You should consult your tax advisors regarding your entitlement to benefits under a relevant income tax treaty. Generally, in order for us or our paying agent to withhold tax at a lower treaty rate, a non-U.S. holder must certify its entitlement to treaty benefits. A non-U.S. holder generally can meet this certification requirement by providing a Form W-8BEN (or any successor form) or appropriate substitute form to us or our paying agent. If the non-U.S. holder holds the stock through a financial institution or other agent acting on the holder's behalf, the holder will be required to provide appropriate documentation to the agent. The holder's agent will then be required to provide certification to us or our paying agent, either directly or through other intermediaries. For payments made to a foreign partnership or other pass-through entity, the certification requirements generally apply to the partners or other owners rather than to the partnership or other entity, and the partnership or other entity must provide the partners' or other owners' documentation to us or our paying agent. If you are eligible for a reduced rate of United States federal withholding tax under an income tax treaty, you may obtain a refund or credit of any excess amounts withheld by filing an appropriate claim for a refund with the IRS in a timely manner.

Dividends received by a non-U.S. holder that are effectively connected with a U.S. trade or business conducted by the non-U.S. holder, or, if an income tax treaty between the United States and the non-U.S. holder's country of residence applies, are attributable to a permanent establishment maintained by the non-U.S. holder in the United States, are not subject to such withholding tax. To obtain this exemption, a non-U.S. holder must provide us with an IRS Form W-8ECI properly certifying such exemption. Such effectively connected dividends, although not subject to withholding tax, are generally taxed at the same graduated rates applicable to U.S. persons, net of certain deductions and credits. In addition to the graduated tax described above, dividends received by corporate non-U.S. holders that are effectively connected with a U.S. trade or business of the corporate non-U.S. holder may also be subject to a branch profits tax at a rate of 30% or such lower rate as may be specified by an applicable tax treaty.

Sale of Common Stock

Non-U.S. holders will generally not be subject to United States federal income tax on any gains realized on the sale, exchange or other disposition of common stock unless:

- the gain (1) is effectively connected with the conduct by the non-U.S. holder of a United States trade or business and (2) if required by an applicable income tax treaty between the United States and the non-U.S. holder's country of residence applies, the gain is attributable to a permanent establishment (or, in the case of an individual, a fixed base) maintained by the non-U.S. holder in the United States (in which case the special rules described below apply);
- the non-U.S. holder is an individual who is present in the United States for 183 days or more in the taxable year of the sale, exchange or other disposition of our common stock, and certain other requirements are met (in which case the gain would be subject to a flat 30% tax, or such reduced rate as may be specified by an applicable income tax treaty, which may be offset by U.S. source capital losses, even though the individual is not considered a resident of the United States); or

- the rules of the Foreign Investment in Real Property Tax Act, or FIRPTA, treat the gain as effectively connected with a United States trade or business.

The FIRPTA rules may apply to a sale, exchange or other disposition of our common stock if we are, or were within the shorter of the five-year period preceding the disposition and the non-U.S. holder's holding period a "U.S. real property holding corporation," or USRPHC. In general, we would be a USRPHC if interests in United States real estate comprised at least half of our business assets. We do not believe that we are a USRPHC and we do not anticipate becoming one in the future. Even if we become a USRPHC, as long as our common stock is regularly traded on an established securities market, such common stock will be treated as United States real property interests only if a non-U.S. holder actually owns or constructively holds more than 5% of our outstanding common stock.

If any gain from the sale, exchange or other disposition of common stock, (1) is effectively connected with a United States trade or business conducted by a non-U.S. holder and (2) if an income tax treaty between the United States and the non-U.S. holder's country of residence applies, is attributable to a permanent establishment (or, in the case of an individual, a fixed base) maintained by such non-U.S. holder in the United States, then the gain generally will be subject to United States federal income tax at the same graduated rates applicable to U.S. persons, net of certain deductions and credits. If the non-U.S. holder is a corporation, under certain circumstances, that portion of its earnings and profits that is effectively connected with its United States trade or business, subject to certain adjustments, generally would be subject to a "branch profits tax." The branch profits tax rate is generally 30%, although an applicable income tax treaty between the United States and the non-U.S. holder's country of residence might provide for a lower rate.

United States Federal Estate Tax

The estates of nonresident alien individuals generally are subject to United States federal estate tax on property with a United States situs. Because we are a United States corporation, our common stock will be United States situs property and therefore will be included in the taxable estate of a nonresident alien decedent, unless an applicable tax treaty between the United States and the decedent's country of residence provides otherwise.

Backup Withholding and Information Reporting

The Code and the Treasury regulations require those who make specified payments to report the payments to the IRS. Among the specified payments are dividends and proceeds paid by brokers to their customers. The required information returns enable the IRS to determine whether the recipient properly included the payments in income. This reporting regime is reinforced by "backup withholding" rules. These rules require the payors to withhold tax from payments subject to information reporting if the recipient fails to cooperate with the reporting regime by failing to provide his taxpayer identification number to the payor, furnishing an incorrect identification number, or failing to report interest or dividends on his returns. The backup withholding tax rate is currently 28% for all payments made through December 31, 2012. The backup withholding rules do not apply to payments to corporations, whether domestic or foreign, provided that they establish such exemption.

Payments to non-U.S. holders of dividends on common stock generally will not be subject to backup withholding, and payments of proceeds made to non-U.S. holders by a broker upon a sale of common stock will not be subject to information reporting or backup withholding, in each case so long as the non-U.S. holder certifies its nonresident status (and we or our paying agent do not have actual knowledge or reason to know the holder is a United States person or that the conditions of any other exemption are not, in fact, satisfied) or otherwise establishes an exemption. The provision of a properly executed Form W-8BEN will generally satisfy the certification requirements necessary to avoid the backup withholding tax as well. We must report annually to the IRS any dividends paid to each non-U.S. holder and the tax withheld, if any, with respect to these dividends. Copies of these reports may be made available to tax authorities in the country where the non-U.S. holder resides.

Under the Treasury regulations, the payment of proceeds from the disposition of shares of our common stock by a non-U.S. holder made to or through a United States office of a broker generally will be subject to information reporting and backup withholding unless the beneficial owner certifies, under penalties of perjury, among other things, its status as a non-U.S. holder (and we or our paying agent do not have actual knowledge or reason to know the holder is a United States person) or otherwise establishes an exemption. The payment of proceeds from the disposition of shares of our common stock by a non-U.S. holder made to or through a non-United States office of a broker generally will not be subject to backup withholding and information reporting, except as noted below. Information reporting, but not backup withholding, will apply to a payment of proceeds, even if that payment is made outside of the United States, if you sell our common stock through a non-United States office of a broker that is:

- a United States person (including a foreign branch or office of such person);
- a “controlled foreign corporation” for United States federal income tax purposes;
- a foreign person 50% or more of whose gross income from certain periods is effectively connected with a United States trade or business; or
- a foreign partnership if at any time during its tax year (a) one or more of its partners are United States persons who, in the aggregate, hold more than 50% of the income or capital interests of the partnership or (b) the foreign partnership is engaged in a United States trade or business;

unless the broker has documentary evidence that the beneficial owner is a non-U.S. holder and certain other conditions are satisfied, or the beneficial owner otherwise establishes an exemption (and the broker has no actual knowledge or reason to know to the contrary).

Backup withholding is not an additional tax. Any amounts withheld from a payment to a holder of common stock under the backup withholding rules can be credited against any United States federal income tax liability of the holder and may entitle the holder to a refund, provided that the required information is furnished to the IRS in a timely manner.

Foreign Account Tax Compliance Act

Recent legislation will impose withholding at a rate of 30% on payments to certain foreign entities of dividends on and the gross proceeds of dispositions of U.S. common stock, unless various U.S. information reporting and due diligence requirements (generally relating to ownership by U.S. persons of interests in or accounts with those entities) have been satisfied. The withholding would apply to payments of dividends on U.S. common stock beginning January 1, 2014 and to gross proceeds from dispositions of U.S. common stock beginning January 1, 2015. Non-U.S. holders should consult their tax advisors regarding the possible implications of this legislation on their investment in our common stock.

THE PRECEDING DISCUSSION OF UNITED STATES FEDERAL TAX CONSIDERATIONS IS FOR GENERAL INFORMATION ONLY. IT IS NOT TAX ADVICE. EACH PROSPECTIVE INVESTOR SHOULD CONSULT ITS OWN TAX ADVISOR REGARDING THE PARTICULAR UNITED STATES FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF PURCHASING, HOLDING AND DISPOSING OF OUR COMMON STOCK, INCLUDING THE CONSEQUENCES OF ANY PROPOSED CHANGE IN APPLICABLE LAWS.

UNDERWRITING

Under the terms and subject to the conditions in an underwriting agreement dated the date of this prospectus, the underwriters named below, for whom Morgan Stanley & Co. LLC is acting as representative, have severally agreed to purchase, and we have agreed to sell to them the number of shares indicated below:

Name	Number of Shares
Morgan Stanley & Co. LLC	
Citigroup Global Markets, Inc.	
Deutsche Bank Securities Inc.	
Barclays Capital Inc.	
Credit Suisse Securities (USA) LLC	
UBS Securities LLC	
Pacific Crest Securities LLC	
Wells Fargo Securities, LLC	
Total	

The underwriters are offering the shares of common stock subject to their acceptance of the shares and subject to prior sale. The underwriting agreement provides that the obligations of the several underwriters to pay for and accept delivery of the shares of common stock offered by this prospectus are subject to the approval of certain legal matters by their counsel and to certain other conditions. The underwriters are obligated to take and pay for all of the shares of common stock offered by this prospectus if any such shares are taken. The offering of the shares by the underwriters is subject to receipt and acceptance and subject to the underwriters' right to reject any order in whole or in part. In addition, the underwriters are not required to take or pay for the shares covered by the underwriters' over-allotment option described below.

The underwriters initially propose to offer part of the shares of common stock directly to the public at the public offering price listed on the cover page of this prospectus and part to certain dealers. After the initial offering of the shares of common stock, the offering price and other selling terms may from time to time be varied by the representatives.

We and the selling stockholders have granted to the underwriters an option, exercisable for 30 days from the date of this prospectus, to purchase up to additional shares of common stock at the public offering price listed on the cover page of this prospectus, less underwriting discounts and commissions. The underwriters may exercise this option solely for the purpose of covering over-allotments, if any, made in connection with the offering of the shares of common stock offered by this prospectus. To the extent the option is exercised, each underwriter will become obligated, subject to certain conditions, to purchase approximately the same percentage of the additional shares of common stock as the number of shares listed next to the underwriter's name in the preceding table bears to the total number of shares of common stock listed next to the names of all underwriters in the preceding table.

The following table shows the per share and total public offering price, underwriting discounts and commissions, and proceeds before expenses to us and the selling stockholders. These amounts are shown assuming both no exercise and full exercise of the underwriters' option to purchase up to an additional shares of common stock from us and the selling stockholders.

		Total	
	Per Share	No Exercise	Full Exercise
Public offering price	$	$	$
Underwriting discounts and commissions to be paid by:	$	$	$
Us	$	$	$
The selling stockholders	$	$	$
Proceeds, before expenses, to us	$	$	$
Proceeds, before expenses, to selling stockholders	$	$	$

The estimated offering expenses payable by us, exclusive of the underwriting discounts and commissions, are approximately $.

The underwriters have informed us that they do not intend sales to discretionary accounts to exceed 5% of the total number of shares of common stock offered by them.

We intend to apply to list our common stock on the New York Stock Exchange under the trading symbol "NOW."

We have agreed that, without the prior written consent of Morgan Stanley & Co. LLC on behalf of the underwriters, we will not, during the period ending 180 days after the date of this prospectus, subject to certain exceptions:

- offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase lend or otherwise transfer or dispose of, directly or indirectly, any shares of common stock or any securities convertible into or exercisable or exchangeable for shares of common stock;
- file any registration statement with the SEC relating to the offering of any shares of common stock or any securities convertible into or exercisable or exchangeable for common stock; or
- enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the common stock;

whether any such transaction described above is to be settled by delivery of common stock or such other securities, in cash or otherwise.

The 180-day restricted period described in the preceding paragraph will be extended if:

- during the last 17 days of the 180-day restricted period we issue an earnings release or a material news event relating to us occurs; or
- prior to the expiration of the 180-day restricted period, we announce that we will release earnings results during the 16-day period beginning on the last day of the 180-day period;

in which case the restrictions described in the preceding paragraph will continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event.

All of our officers and directors and the holders of substantially all of our capital stock have entered into lock-up agreements with us which provide that they will not offer, sell or transfer any shares of our common

stock beneficially owned by them for 180 days, subject in certain cases to extension under certain circumstances, following the date of this prospectus. We have agreed with Morgan Stanley & Co. LLC not to waive these lock-up restrictions without their prior consent.

In order to facilitate the offering of the common stock, the underwriters may engage in transactions that stabilize, maintain or otherwise affect the price of the common stock. Specifically, the underwriters may sell more shares than they are obligated to purchase under the underwriting agreement, creating a short position. A short sale is covered if the short position is no greater than the number of shares available for purchase by the underwriters under the over-allotment option. The underwriters can close out a covered short sale by exercising the over-allotment option or purchasing shares in the open market. In determining the source of shares to close out a covered short sale, the underwriters will consider, among other things, the open market price of shares compared to the price available under the over-allotment option. The underwriters may also sell shares in excess of the over-allotment option, creating a naked short position. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market after pricing that could adversely affect investors who purchase in this offering. As an additional means of facilitating this offering, the underwriters may bid for, and purchase, shares of common stock in the open market to stabilize the price of the common stock. These activities may raise or maintain the market price of the common stock above independent market levels or prevent or retard a decline in the market price of the common stock. The underwriters are not required to engage in these activities and may end any of these activities at any time. The underwriters may also impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because the representatives have repurchased shares sold by or for the account of such underwriter in stabilizing or short covering transactions.

We, the selling stockholders and the underwriters have agreed to severally indemnify each other against certain liabilities, including liabilities under the Securities Act.

A prospectus in electronic format may be made available on websites maintained by one or more underwriters, or selling group members, if any, participating in this offering. The representatives may agree to allocate a number of shares of common stock to underwriters for sale to their online brokerage account holders. Internet distributions will be allocated by the representatives to underwriters that may make Internet distributions on the same basis as other allocations.

The estimated initial public offering price range set forth on the cover page of this preliminary prospectus is subject to change as a result of market conditions and other factors. We cannot assure you that the prices at which the shares will sell in the public market after this offering will not be lower than the initial public offering price or that an active trading market in our common stock will develop and continue after this offering.

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities. Certain of the underwriters and their respective affiliates have, from time to time, performed, and may in the future perform, various financial advisory and investment banking services for the issuer, for which they received or will receive customary fees and expenses. Certain of the underwriters or their affiliates are lenders under our credit facility.

In the ordinary course of their various business activities, the underwriters and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers, and such investment and securities activities may involve securities and instruments of the issuer. The underwriters and their respective affiliates may also make investment recommendations and publish or express independent research views in respect of such securities or instruments and may at any time hold, or recommend to clients that they acquire, long and short positions in such securities and instruments.

Pricing of the Offering

Prior to this offering, there has been no public market for the shares of common stock. The initial public offering price will be determined by negotiations between us and the representative. Among the factors to be considered in determining the initial public offering price will be our future prospects and those of our industry in general, our sales, earnings and certain other financial and operating information in recent periods, and the price-earnings ratios, price-sales ratios, market prices of securities and certain financial and operating information of companies engaged in activities similar to ours.

Selling Restrictions

European Economic Area

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive, or Relevant Member State, an offer to the public of any shares of our common stock may not be made in that Relevant Member State, except that an offer to the public in that Relevant Member State of any shares of our common stock may be made at any time under the following exemptions under the Prospectus Directive, if they have been implemented in that Relevant Member State:

- to any legal entity which is a qualified investor as defined in the Prospectus Directive;
- to fewer than 100 or, if the Relevant Member State has implemented the relevant provisions of the 2010 PD Amending Directive, 150, natural or legal persons (other than qualified investors as defined in the Prospectus Directive), as permitted under the Prospectus Directive, subject to obtaining the prior consent of the representatives for any such offer; or
- in any other circumstances falling within Article 3(2) of the Prospectus Directive, provided that no such offer of shares of our common stock shall result in a requirement for the publication by us or any underwriter of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an “offer to the public” in relation to any shares of our common stock in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and any shares of our common stock to be offered so as to enable an investor to decide to purchase any shares of our common stock, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State, the expression “Prospectus Directive” means Directive 2003/71/EC (and amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State), and includes any relevant implementing measure in the Relevant Member State, and the expression “2010 PD Amending Directive” means Directive 2010/73/EU.

United Kingdom

This prospectus and any other material in relation to the shares described herein is only being distributed to, and is only directed at, persons in the United Kingdom that are qualified investors within the meaning of Article 2(1)(e) of the Prospective Directive, or qualified investors, that also (i) have professional experience in matters relating to investments falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended, or the Order, (ii) who fall within Article 49(2)(a) to (d) of the Order or (iii) to whom it may otherwise lawfully be communicated (all such persons together being referred to as “relevant persons”). The shares are only available to, and any invitation, offer or agreement to purchase or otherwise acquire such shares will be engaged in only with, relevant persons. This prospectus and its contents are confidential and should not be distributed, published or reproduced (in whole or in part) or disclosed by recipients to any other person in the United Kingdom. Any person in the United Kingdom that is not a relevant person should not act or rely on this prospectus or any of its contents.

Hong Kong

The shares may not be offered or sold by means of any document other than (i) in circumstances which do not constitute an offer to the public within the meaning of the Companies Ordinance (Cap.32, Laws of Hong Kong), or (ii) to "professional investors" within the meaning of the Securities and Futures Ordinance (Cap.571, Laws of Hong Kong) and any rules made thereunder, or (iii) in other circumstances which do not result in the document being a "prospectus" within the meaning of the Companies Ordinance (Cap.32, Laws of Hong Kong), and no advertisement, invitation or document relating to the shares may be issued or may be in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the laws of Hong Kong) other than with respect to shares which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" within the meaning of the Securities and Futures Ordinance (Cap.571 Laws of Hong Kong) and any rules made thereunder.

Singapore

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore, or SFA, (ii) to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the shares are subscribed or purchased under Section 275 by a relevant person which is: (a) a corporation (which is not an accredited investor) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary is an accredited investor, shares, debentures and units of shares and debentures of that corporation or the beneficiaries' rights and interest in that trust shall not be transferable for six months after that corporation or that trust has acquired the shares under Section 275 except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA; (2) where no consideration is given for the transfer; or (3) by operation of law.

Japan

The securities have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (the Financial Instruments and Exchange Law) and each underwriter has agreed that it will not offer or sell any securities, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Law and any other applicable laws, regulations and ministerial guidelines of Japan.

Notice to Prospective Investors in Switzerland

The shares may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange, or SIX, or on any other stock exchange or regulated trading facility in Switzerland. This document has been prepared without regard to the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the

Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this document nor any other offering or marketing material relating to the shares or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, our company, or the shares have been or will be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of shares will not be supervised by, the Swiss Financial Market Supervisory Authority FINMA, and the offer of shares has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes, or CISA. The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of the shares.

Notice to Prospective Investors in the Dubai International Financial Centre

This prospectus relates to an Exempt Offer in accordance with the Offered Securities Rules of the Dubai Financial Services Authority, or DFSA. This prospectus is intended for distribution only to persons of a type specified in the Offered Securities Rules of the DFSA. It must not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The DFSA has not approved this prospectus nor taken steps to verify the information set forth herein and has no responsibility for the prospectus. The shares to which this prospectus relates may be illiquid and subject to restrictions on their resale. Prospective purchasers of the shares offered should conduct their own due diligence on the shares. If you do not understand the contents of this prospectus you should consult an authorized financial advisor.

LEGAL MATTERS

The validity of the shares of common stock offered hereby will be passed upon for us by Fenwick & West LLP, Mountain View, California. Cooley LLP, Palo Alto, California, is acting as counsel to the underwriters.

CHANGE IN ACCOUNTANTS

On February 4, 2011, we retained PricewaterhouseCoopers LLP as our independent registered public accounting firm. Our independent registered public accounting firm was previously Grant Thornton LLP. The decision to dismiss Grant Thornton LLP and appoint PricewaterhouseCoopers LLP was approved by our audit committee on December 3, 2010. Subsequent to their appointment, we engaged PricewaterhouseCoopers LLP to reaudit our consolidated financial statements as of June 30, 2009 and 2010, and for each of the two years in the period then ended, which had previously been audited by Grant Thornton LLP.

The reports of Grant Thornton LLP on our consolidated financial statements did not contain any adverse opinion or disclaimer of opinion, nor were such reports qualified or modified as to uncertainty, audit scope or accounting principles. We had no disagreements with Grant Thornton LLP on any matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure, which disagreements, if not resolved to its satisfaction, would have caused Grant Thornton LLP to make reference in connection with its opinion to the subject matter of the disagreement during its audits of the years ended June 30, 2010 and 2009. During the two most recent fiscal years preceding our discharge of Grant Thornton LLP, and the subsequent interim period through December 3, 2010, there were no “reportable events” as such term is defined in Item 304(a)(1)(v) of Regulation S-K.

During the two years ended June 30, 2010 and through the period ended February 4, 2011, we did not consult with PricewaterhouseCoopers LLP on matters that involved the application of accounting principles to a specified transaction, either completed or proposed, the type of audit opinion that might be rendered on our financial statements or any other matter that was the subject of a disagreement as that term is used in Item 304 (a)(1)(iv) of Regulation S-K and the related instructions to Item 304 of Regulation S-K or a reportable event as that term is used in Item 304(a)(1)(v) and the related instructions to Item 304 of Regulation S-K.

EXPERTS

The consolidated financial statements as of June 30, 2010 and 2011 and December 31, 2011, for each of the three fiscal years in the period ended June 30, 2011 and for the six months ended December 31, 2011 included in this prospectus have been so included in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of common stock offered hereby. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement or the exhibits filed therewith. For further information about us and the common stock offered hereby, reference is made to the registration statement and the exhibits filed therewith. Statements contained in this prospectus regarding the contents of any contract or any other document that is filed as an exhibit to the registration statement are not necessarily complete, and each such statement is qualified in all respects by reference to the full text of such contract or other document filed as an exhibit to the registration statement. We currently do not file periodic reports with the SEC. Upon closing of this offering, we will be required to file periodic reports, proxy statements and other information with the SEC pursuant to the Exchange Act. A copy of the registration statement and the exhibits filed therewith may be inspected without charge at the public reference room maintained by the SEC, located at 100 F Street, NE, Washington, DC 20549, and copies of all or any part of the registration statement may be obtained from that office. Please call the SEC at 1-800-SEC-0330 for further information about the public reference room. The SEC also maintains a website that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC. The address of the website is www.sec.gov.

SERVICE-NOW.COM

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders of Service-now.com:

In our opinion, the accompanying consolidated balance sheets and the related consolidated statements of comprehensive income (loss), changes in convertible preferred stock and stockholders' deficit, and cash flows present fairly, in all material respects, the financial position of Service-now.com and its subsidiaries at December 31, 2011, June 30, 2011 and 2010, and the results of their operations and their cash flows for each of the three years in the period ended June 30, 2011 and the six months ended December 31, 2011 in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As discussed in Note 2 to the consolidated financial statements, the Company changed the manner in which it accounts for multiple element revenue arrangements beginning July 1, 2010.

/s/ PricewaterhouseCoopers LLP

San Diego, California
March 30, 2012

SERVICE-NOW.COM
CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share data)

	June 30, 2010	June 30, 2011	December 31, 2011	Pro forma as of December 31, 2011 (Unaudited)
Assets				
Current assets:				
Cash	$ 29,402	$ 59,853	$ 68,088	$ 85,948
Restricted cash	395	45	45	45
Accounts receivable	9,732	24,495	44,860	44,860
Current portion of deferred commissions	2,267	3,922	6,087	6,087
Prepaid expenses and other current assets	5,696	8,578	9,883	9,883
Current portion of deferred tax assets	—	—	1,544	1,544
Total current assets	47,492	96,893	130,507	148,367
Deferred commissions, less current portion	2,052	1,941	4,597	4,597
Property and equipment, net	1,698	9,467	20,695	20,695
Other assets	127	445	524	524
Total assets	$ 51,369	$108,746	$156,323	$ 174,183
Liabilities, Convertible Preferred Stock and Stockholders' Equity (Deficit)				
Current liabilities:				
Accounts payable	$ 1,570	$ 2,098	$ 9,411	$ 9,411
Accrued expenses and other current liabilities	12,729	18,584	25,608	25,608
Current portion of deferred revenue	31,282	66,894	91,087	91,087
Current portion of deferred rent	113	410	455	455
Total current liabilities	45,694	87,986	126,561	126,561
Deferred revenue, less current portion	9,449	7,752	13,549	13,549
Deferred rent, less current portion	249	3,132	2,935	2,935
Other long-term liabilities	12	397	2,532	2,532
Total liabilities	55,404	99,267	145,577	145,577
Commitments and contingencies				
Convertible preferred stock:				
Series C redeemable convertible preferred stock, $0.001 par value; 983,606 shares authorized, issued and outstanding; liquidation preference of $6,000 at December 31, 2011	5,930	5,948	5,957	—
Series A redeemable convertible preferred stock, $0.001 par value; 2,500,000 shares authorized, issued and outstanding; liquidation preference of $3,805 at December 31, 2011	3,504	3,704	3,805	—
Series B redeemable convertible preferred stock, $0.001 par value; 4,040,488 shares authorized; 3,988,636 shares issued and outstanding; liquidation preference of $7,165 at December 31, 2011	6,548	6,963	7,165	—
Series D convertible preferred stock, $0.001 par value; 3,830,379 shares authorized; 2,990,635 shares issued and outstanding; liquidation preference of $51,640 at December 31, 2011	51,245	51,245	51,245	—
Stockholders' equity (deficit):				
Common stock $0.001 par value; 200,000,000 shares authorized; 16,493,488, 20,772,944, and 22,229,978 shares issued and outstanding at June 30, 2010 and 2011, and December 31, 2011, respectively; 107,683,974 shares issued and outstanding pro forma	16	21	22	108
Additional paid-in capital	—	2,936	9,793	95,739
Accumulated other comprehensive income	8	118	899	899
Accumulated deficit	(71,286)	(61,456)	(68,140)	(68,140)
Total stockholders' equity (deficit)	(71,262)	(58,381)	(57,426)	28,606
Total liabilities, convertible preferred stock and stockholders' equity (deficit)	$ 51,369	$108,746	$156,323	$ 174,183

See accompanying notes to consolidated financial statements

SERVICE-NOW.COM
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(in thousands, except share and per share data)

	Fiscal Years Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010 (Unaudited)	2011
Revenues:					
Subscription	$ 17,841	$ 40,078	$ 79,191	$ 33,191	$ 64,886
Professional services and other	1,474	3,251	13,450	4,753	8,489
Total revenues	19,315	43,329	92,641	37,944	73,375
Cost of revenues[1]:					
Subscription	3,140	6,378	15,311	6,096	15,073
Professional services and other	4,711	9,812	16,264	6,778	12,850
Total cost of revenues	7,851	16,190	31,575	12,874	27,923
Gross profit	11,464	27,139	61,066	25,070	45,452
Operating expenses[1]:					
Sales and marketing	8,499	19,334	34,123	13,728	32,501
Research and development	2,433	7,194	7,004	2,758	7,030
General and administrative	6,363	28,810	9,379	3,417	10,084
Total operating expenses	17,295	55,338	50,506	19,903	49,615
Income (loss) from operations	(5,831)	(28,199)	10,560	5,167	(4,163)
Interest and other income (expense), net	(27)	(1,226)	606	289	(1,446)
Income (loss) before provision for income taxes	(5,858)	(29,425)	11,166	5,456	(5,609)
Provision for income taxes	48	280	1,336	653	1,075
Net income (loss)	(5,906)	(29,705)	9,830	4,803	(6,684)
Net income (loss) per share attributable to common stockholders:					
Basic	$ (0.17)	$ (1.31)	$ 0.09	$ 0.04	$ (0.33)
Diluted	$ (0.17)	$ (1.31)	$ 0.08	$ 0.04	$ (0.33)
Weighted-average shares used to compute net income (loss) per share attributable to common stockholders:					
Basic	39,039,066	23,157,576	18,163,977	17,156,445	21,104,219
Diluted	39,039,066	23,157,576	28,095,486	27,622,357	21,104,219
Pro forma net income (loss) per share attributable to common stockholders (unaudited):					
Basic			$ 0.09		$ (0.06)
Diluted			$ 0.09		$ (0.06)
Pro forma weighted-average shares used to compute pro forma net income (loss) per share attributable to common stockholders (unaudited):					
Basic			103,617,973		106,558,215
Diluted			113,633,033		106,558,215
Other comprehensive income (loss), before tax:					
Foreign currency translation adjustments	$ 50	$ (43)	$ 167	$ (49)	$ 807
Provision for (benefit from) income taxes	18	(15)	57	(14)	26
Other comprehensive income (loss), net of tax	32	(28)	110	(35)	781
Comprehensive income (loss)	$ (5,874)	$ (29,733)	$ 9,940	$ 4,768	$ (5,903)

See accompanying notes to consolidated financial statements

SERVICE-NOW.COM
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS) (continued)
(in thousands, except share and per share data)

(1) Includes stock-based compensation as follows:

Cost of revenues:					
Subscription	$ 6	$ 48	$ 548	$225	$ 674
Professional services and other	11	28	117	37	193
Sales and marketing	45	277	1,004	431	2,010
Research and development	50	90	468	207	704
General and administrative	15	102	817	221	2,056

See accompanying notes to consolidated financial statements

SERVICE-NOW.COM
CONSOLIDATED STATEMENTS OF CHANGES IN CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' DEFICIT
(in thousands, except shares)

	Series C Redeemable Convertible Preferred Stock		Series A Redeemable Convertible Preferred Stock		Series B Redeemable Convertible Preferred Stock		Series D Convertible Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount				
Balance at June 30, 2008	—	$ —	2,500,000	$ 3,092	3,988,636	$ 5,718	—	$ —	40,487,504	$ 40	$ —	$ (13,156)	$ 4	$ (13,112)
Stock option exercises	—	—	—	—	—	—	—	—	348,328	1	6	—	—	7
Buyback and retirement of common stock	—	—	—	—	—	—	—	—	(7,868,848)	(8)	(133)	(2,072)	—	(2,213)
Issuance of series C redeemable convertible preferred stock, net of $93 issuance costs	983,606	5,907	—	—	—	—	—	—	—	—	—	—	—	—
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	127	—	—	127
Accretion of preferred stock dividends and issuance costs	—	4	—	206	—	415	—	—	—	—	—	(625)	—	(625)
Other comprehensive income	—	—	—	—	—	—	—	—	—	—	—	—	32	32
Net loss	—	—	—	—	—	—	—	—	—	—	—	(5,906)	—	(5,906)
Balance at June 30, 2009	983,606	$ 5,911	2,500,000	$ 3,298	3,988,636	$ 6,133	—	$ —	32,966,984	$ 33	$ —	$ (21,759)	$ 36	$ (21,690)
Stock option exercises	—	$ —	—	$ —	—	$ —	—	$ —	7,036,768	$ 7	$ 234	$ —	$ —	$ 241
Buyback and retirement of common stock	—	—	—	—	—	—	—	—	(23,510,264)	(24)	(779)	(19,182)	—	(19,985)
Issuance of series D convertible preferred stock, net of $395 issuance costs	—	—	—	—	—	—	2,990,635	51,245	—	—	—	—	—	—
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	545	—	—	545
Accretion of preferred stock dividends and issuance costs	—	19	—	206	—	415	—	—	—	—	—	(640)	—	(640)
Other comprehensive loss	—	—	—	—	—	—	—	—	—	—	—	—	(28)	(28)
Net loss	—	—	—	—	—	—	—	—	—	—	—	(29,705)	—	(29,705)
Balance at June 30, 2010	983,606	$ 5,930	2,500,000	$ 3,504	3,988,636	$ 6,548	2,990,635	$ 51,245	16,493,488	$ 16	$ —	$ (71,286)	$ 8	$ (71,262)

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CONSOLIDATED STATEMENTS OF CHANGES IN CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' DEFICIT (continued)

(in thousands, except shares)

	Series C Redeemable Convertible Preferred Stock		Series A Redeemable Convertible Preferred Stock		Series B Redeemable Convertible Preferred Stock		Series D Convertible Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount				
Stock option exercises	—	—	—	—	—	—	—	—	4,279,456	5	441	—	—	446
Tax benefit from exercise of nonqualified stock options	—	—	—	—	—	—	—	—	—	—	138	—	—	138
Vesting of early exercised stock options	—	—	—	—	—	—	—	—	—	—	36	—	—	36
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	2,954	—	—	2,954
Accretion of preferred stock dividends and issuance costs	—	18	—	200	—	415	—	—	—	—	(633)	—	—	(633)
Other comprehensive income	—	—	—	—	—	—	—	—	—	—	—	—	110	110
Net income	—	—	—	—	—	—	—	—	—	—	—	9,830	—	9,830
Balance at June 30, 2011	983,606	$ 5,948	2,500,000	$ 3,704	3,988,636	$ 6,963	2,990,635	$ 51,245	20,772,944	$ 21	$ 2,936	$ (61,456)	$ 118	$ (58,381)
Stock option exercises	—	$ —	—	$ —	—	$ —	—	$ —	1,469,118	$ 1	$ 1,283	$ —	$ —	$ 1,284
Tax benefit from exercise of nonqualified stock options	—	—	—	—	—	—	—	—	—	—	41	—	—	41
Vesting of early exercised stock options	—	—	—	—	—	—	—	—	—	—	208	—	—	208
Buyback of restricted common stock	—	—	—	—	—	—	—	—	(12,084)	—	—	—	—	—
Stock-based compensation	—	—	—	—	—	—	—	—	—	—	5,637	—	—	5,637
Accretion of preferred stock dividends and issuance costs	—	9	—	101	—	202	—	—	—	—	(312)	—	—	(312)
Other comprehensive income	—	—	—	—	—	—	—	—	—	—	—	—	781	781
Net loss	—	—	—	—	—	—	—	—	—	—	—	(6,684)	—	(6,684)
Balance at December 31, 2011	983,606	$ 5,957	2,500,000	$ 3,805	3,988,636	$ 7,165	2,990,635	$ 51,245	22,229,978	$ 22	$ 9,793	$ (68,140)	$ 899	$ (57,426)

See accompanying notes to consolidated financial statements

SERVICE-NOW.COM
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Fiscal Years Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010 (Unaudited)	2011
Cash flows from operating activities:					
Net income (loss)	$(5,906)	$(29,705)	$ 9,830	$ 4,803	$ (6,684)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:					
Depreciation	164	369	1,472	502	2,045
Amortization of deferred commissions	458	2,189	4,023	1,642	3,492
Stock-based compensation	127	545	2,954	1,121	5,637
Tax benefit from exercise of stock options	—	—	(138)	(117)	(41)
Expense for preferred stock warrants	61	702	—	—	—
Bad debt	5	64	—	—	—
Loss on disposal of property and equipment	—	—	60	—	72
Changes in operating assets and liabilities:					
Accounts receivable	(1,981)	(5,176)	(14,762)	(7,631)	(20,365)
Deferred commissions	(1,694)	(5,271)	(5,568)	(2,180)	(8,313)
Prepaid expenses and other current assets	(778)	(4,851)	(2,872)	(560)	(1,355)
Other assets	97	(91)	(308)	(88)	(90)
Accounts payable	191	912	254	(845)	1,490
Accrued expenses and other current liabilities	2,443	8,901	5,438	1,569	6,921
Deferred rent	62	(85)	3,179	(57)	(151)
Deferred revenue	6,911	23,953	33,915	12,557	29,990
Other long-term liabilities	—	12	(9)	(5)	572
Net cash provided by (used in) operating activities	160	(7,532)	37,468	10,711	13,220
Cash flows from investing activities:					
Purchase of property and equipment	(327)	(1,584)	(8,733)	(2,057)	(7,959)
Restricted cash	(524)	129	350	200	—
Net cash used in investing activities	(851)	(1,455)	(8,383)	(1,857)	(7,959)
Cash flows from financing activities:					
Proceeds from exercise of stock options	7	241	446	105	1,284
Proceeds from early exercise of stock options	—	—	643	—	844
Tax benefit from exercise of stock options	—	—	138	117	41
Net proceeds from issuance of convertible preferred stock	5,907	51,245	—	—	—
Purchase of common stock and restricted stock from stockholders	(2,213)	(20,814)	—	—	(15)
Net cash provided by financing activities	3,701	30,672	1,227	222	2,154
Foreign currency effect on cash	6	(71)	139	(21)	820
Net increase in cash	3,016	21,614	30,451	9,055	8,235
Cash at beginning of period	4,772	7,788	29,402	29,402	59,853
Cash at end of period	$ 7,788	$ 29,402	$ 59,853	$ 38,457	$ 68,088
Supplemental disclosures of other cash flow information:					
Interest paid	$ 4	$ 10	$ 5	$ 1	$ —
Taxes paid	5	4	1,403	—	360
Non-cash investing and financing activities:					
Property and equipment included in accounts payable and accrued expenses	$ 7	$ 196	$ 756	$ 369	$ 6,296
Property and equipment acquired under capital leases	—	25	—	—	—
Vesting of early exercised stock options	—	—	36	—	208
Accretion of preferred stock dividends and issuance costs	625	640	633	320	312

See accompanying notes to consolidated financial statements

SERVICE-NOW.COM
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(1) Description of the Business

Service-now.com is a leading provider of cloud-based services to automate enterprise IT operations. Our service includes a suite of applications built on our proprietary platform that automates workflow and integrates related business processes. We focus on transforming enterprise IT by automating and standardizing business processes and consolidating IT across the global enterprise. Organizations deploy our service to create a single system of record for enterprise IT, to lower operational costs and to enhance efficiency. Additionally, our customers use our extensible platform to build custom applications for automating activities unique to their business requirements.

(2) Summary of Significant Accounting Policies

Principles of Consolidation

The consolidated financial statements have been prepared in conformity with U.S. generally accepted accounting principles, or GAAP, and include our accounts and the accounts of our wholly-owned subsidiaries. All significant intercompany transactions and balances have been eliminated upon consolidation.

Stock Split

The consolidated financial statements reflect three 2-for-1 stock splits of our common stock with no corresponding change in par value, approved by the Board of Directors and stockholders, effective July 30, 2010, May 13, 2011 and December 15, 2011. Share and per share amounts have been retroactively restated to reflect the stock splits for all periods presented.

Per the terms of the convertible preferred stock, this stock split results in a proportional adjustment to the conversion ratio of each series of the convertible preferred stock. As a result, at December 31, 2011, each share of convertible preferred stock is convertible at any time at the option of the holder into eight shares of common stock.

Fiscal Year Change

On February 3, 2012, our Board of Directors approved a change to our fiscal year end from June 30 to December 31. Included in this report is the transition period for the six months ended December 31, 2011. Accordingly, we present the consolidated balance sheets as of June 30, 2010 and 2011 and December 31, 2011, and the consolidated statements of comprehensive income (loss), changes in convertible preferred stock and stockholders' deficit, and cash flows for the fiscal years ended June 30, 2009, 2010 and 2011 and the six months ended December 31, 2010 and 2011. References to fiscal 2009, 2010 and 2011 still refer to the fiscal years ended June 30, 2009, June 30, 2010 and June 30, 2011, respectively.

Use of Estimates

The preparation of consolidated financial statements in conformity with GAAP requires management to make certain estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements, as well as reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Items subject to the use of estimates include revenue recognition, the determination of the provision for income taxes, loss contingencies and the fair value of stock awards.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Unaudited Interim Financial Information

The accompanying consolidated statements of comprehensive income and cash flows for the six months ended December 31, 2010 are unaudited. The unaudited interim financial statements have been prepared on the same basis as the annual consolidated financial statements and, in the opinion of management, reflect all adjustments necessary to state fairly our results of operations and cash flows for the six months ended December 31, 2010. The financial data and the other information disclosed in these notes to the consolidated financial statements related to the six-month period are unaudited.

Unaudited Pro Forma Balance Sheet

Upon the consummation of the initial public offering (IPO), all of the outstanding shares of convertible preferred stock will automatically convert into shares of common stock, assuming we raise at least $50.0 million. The unaudited pro forma data as of December 31, 2011 has been prepared assuming the conversion of the convertible preferred stock outstanding into 83,703,016 shares of common stock. Additionally, this total includes 1,750,980 shares of common stock sold in a private placement to a new stockholder in February 2012 for gross cash proceeds of $17.9 million. Refer to Note 16 for further information.

Segments

We define the term “chief operating decision maker” to be our Chief Executive Officer. Our Chief Executive Officer reviews the financial information presented on a consolidated basis, accompanied by disaggregated information about revenue by geographic region for purposes of allocating resources and evaluation of financial performance. Accordingly, we have determined that we operate in a single reporting segment, enterprise IT operations management.

Revenue Recognition

We derive our revenues from two sources: (i) subscriptions and (ii) professional services and other. Subscription revenues are primarily comprised of fees which give customers access to our suite of on-demand applications, as well as access to our extensible platform to build custom applications. Our contracts typically do not give the customer the right to take possession of the software supporting the solution. Professional services and other revenues consist of fees associated with the implementation and configuration of our service. Professional services and other revenues also include customer training and attendance fees for Knowledge, our annual user conference.

We commence revenue recognition when all of the following conditions are met:

- There is persuasive evidence of an arrangement;
- The service has been provided to the customer;
- The collection of related fees is reasonably assured; and
- The amount of fees to be paid by the customer is fixed or determinable.

Signed agreements are used as evidence of an arrangement. If a signed contract by the customer does not exist, we have historically used either a purchase order or a signed order form as evidence of an arrangement. In cases where both a signed contract and either a purchase order or signed order form exist, we consider the signed contract to be the final persuasive evidence of an arrangement.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Subscription revenues are recognized ratably over the contract term beginning on the commencement date of each contract, which is the date we make our service available to our customers. Once our service is available to customers, amounts that have been invoiced are recorded in accounts receivable and in deferred revenue. The majority of our professional services are priced on a fixed-fee basis. A limited number of our professional services are priced on a time-and-materials basis. Professional services and other revenues are recognized as the services are delivered. In instances where final acceptance of the services are required before revenues are recognized, revenues and the associated costs are deferred until all acceptance criteria have been met.

We assess collectibility based on a number of factors such as past collection history with the customer and creditworthiness of the customer. If we determine collectibility is not reasonably assured, we defer the revenue recognition until collectibility becomes reasonably assured. We assess whether the fee is fixed or determinable based on the payment terms associated with the transaction and whether the sales price is subject to refund or adjustment. Our arrangements do not include general rights of return.

We have multiple element arrangements comprised of subscription fees and professional services. In October 2009, the Financial Accounting Standards Board (FASB) ratified authoritative accounting guidance regarding revenue recognition for arrangements with multiple deliverables effective for fiscal periods beginning on or after June 15, 2010. The guidance affects the determination of separate units of accounting in arrangements with multiple deliverables and the allocation of transaction consideration to each of the identified units of accounting. Previously, a delivered item was considered a separate unit of accounting when (i) it had value to the customer on a stand-alone basis, (ii) there was objective and reliable evidence of the fair value of the undelivered items, and (iii) there was no general right of return relative to the delivered services or the performance of the undelivered services was probable and substantially controlled by the vendor. The new guidance eliminates the requirement for objective and reliable evidence of fair value to exist for the undelivered items in order for a delivered item to be treated as a separate unit of accounting. The guidance also requires arrangement consideration to be allocated at the inception of the arrangement to all deliverables using the relative-selling-price method and eliminates the use of the residual method of allocation. Under the relative-selling-price method, the selling price for each deliverable is determined using vendor-specific objective evidence (VSOE) of selling price or third-party evidence (TPE) of selling price if VSOE does not exist. If neither VSOE nor TPE of selling price exists for a deliverable, the guidance requires an entity to determine the best estimate of selling price (BESP).

Prior to the adoption of this authoritative accounting guidance, we did not have objective and reliable evidence of fair value for the items in our multiple element arrangements. As a result, we accounted for subscription and professional services revenues as one unit of account and recognized total contracted revenues ratably over the contracted term of the subscription agreement.

We adopted the new guidance on a prospective basis for fiscal 2011. As a result, this guidance was applied to all revenue arrangements entered into or materially modified since July 1, 2010. Upon adoption of this authoritative accounting guidance, we have accounted for subscription and professional services revenues as separate units of accounting. To qualify as a separate unit of accounting, the delivered item must have value to the customer on a standalone basis. Subscription services have standalone value because they are routinely sold separately by us. In determining whether professional services have standalone value, we consider the following factors for each professional services agreement: availability of the services from other vendors, the nature of the professional services, the timing of when the professional services contract was signed in comparison to the subscription service start date and the contractual dependence of the subscription service on the customer’s satisfaction with the professional services work.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

We determine the selling price of each deliverable in the arrangement based on the selling price hierarchy. The selling price for each unit of account is based on the BESP since VSOE and TPE are not available for our subscription service or professional services and other. The BESP for each deliverable is determined primarily by considering the historical selling price of these deliverables in similar transactions as well as other factors, including, but not limited to, market competition, review of stand-alone sales and pricing practices. The total arrangement fee for these multiple element arrangements is then allocated to the separate units of account based on the relative selling price. Since professional services and other are generally completed prior to the completion of the subscription service, the revenue allocated to professional services and other is limited to its stated contract price.

Deferred Revenue

Deferred revenue consists primarily of payments received in advance of revenue recognition from our subscriptions and professional services and other described above and is recognized as the revenue recognition criteria are met. We generally invoice our customers in annual installments for subscription services. Accordingly, the deferred revenue balance does not represent the total contract value of annual or multi-year, non-cancelable subscription license agreements. Deferred revenue that will be recognized during the succeeding 12-month period is recorded as current portion of deferred revenue and the remaining portion is recorded as long-term.

Foreign Currency Translation

The functional currencies for our foreign subsidiaries are their local currencies. Assets and liabilities of the wholly-owned foreign subsidiaries are translated into U.S. dollars at exchange rates in effect at each period end. Amounts classified in stockholders' deficit are translated at historical exchange rates. Revenues and expenses are translated at the average exchange rates during the period. The resulting translation adjustments are recorded in accumulated other comprehensive income as a component of stockholders' deficit.

Allocation of Overhead Costs

Overhead associated with facilities, IT costs and depreciation is allocated to cost of revenues and operating expenses based on headcount.

Fair Value Measurements

Our financial instruments consist primarily of accounts receivable, accounts payable and accrued expenses. These financial instruments are stated at their respective carrying values, which approximate their fair values, due to their short-term nature.

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. We use a fair value hierarchy that is based on three levels of inputs, of which the first two are considered observable and the last unobservable. Our assets and liabilities are classified as Level 1, 2 or 3 within the following fair value hierarchy:

Level 1—Quoted prices (unadjusted) in active markets for identical assets or liabilities that we have the ability to access;

Level 2—Inputs other than Level 1 that are directly or indirectly observable, such as quoted prices for identical or similar assets and liabilities, quoted prices in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities, such as interest rates, yield curves and foreign currency spot rates; and

Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets and liabilities.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

We have no assets or liabilities classified as Level 1 or Level 2. Our Level 3 financial liabilities consisted of long-term liabilities related to warrants issued for the purchase of preferred stock that were net settled during fiscal 2010. Measurement of fair values for the warrants is made utilizing the Black-Scholes options pricing model. The inputs used in determining the fair values are discussed in detail in Note 6. Level 3 activity is as follows (in thousands):

	Level 3
Balance at June 30, 2008	$ 67
Interest and other income (expense), net for change in fair value of preferred stock warrants	61
Balance at June 30, 2009	128
Interest and other income (expense), net for change in fair value of preferred stock warrants	702
Net settlement of preferred stock warrant liability	(830)
Balance at June 30, 2010	$ —

Restricted Cash

Cash balances pledged as collateral for letters of credit are considered to be restricted cash and classified as such in the consolidated balance sheets. During fiscal 2010, we entered into fully secured letters of credit with a financial institution for two building lease arrangements in lieu of cash security deposits. These letter of credit agreements replaced our prior agreement with another financial institution, which was not terminated until fiscal 2011. As such, we had two letters of credit outstanding on the same building lease arrangement and a third letter of credit outstanding on another building lease arrangement as of June 30, 2010. These letters of credit were fully secured by certificates of deposit resulting in restricted cash of $0.4 million as of June 30, 2010.

During fiscal 2011, we relocated our headquarters and terminated the lease on our former premises. As a result, a letter of credit was maintained for only one building lease arrangement at June 30, 2011 and December 31, 2011. This letter of credit was fully secured by a certificate of deposit resulting in restricted cash of $0.1 million for both periods.

Accounts Receivable

We record trade accounts receivable at the net invoice value and such receivables are non-interest bearing. We consider receivables past due based on the contractual payment terms. We review our exposure to accounts receivable and write off specific amounts if collectibility is no longer reasonably assured. As of June 30, 2010, and 2011 and December 31, 2011, there was no allowance for doubtful accounts as historical write-offs have not been significant.

Deferred Commissions

Deferred commissions are the incremental costs that are directly associated with non-cancelable subscription contracts with customers and consist of sales commissions paid to our direct sales force and referral fees paid to independent third-parties. The commissions are deferred and amortized on a straight-line basis over the non-cancelable terms of the related customer contracts. Amortization of deferred commissions is included in sales and marketing expense in the consolidated statements of comprehensive income (loss).

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Property and Equipment

Property and equipment are stated at cost, subject to review of impairment, and depreciated using the straight-line method over the estimated useful lives of the assets as follows:

Computer equipment and software	3—5 years
Furniture and fixtures	3—5 years
Leasehold improvements	shorter of the lease term or estimated useful life

When assets are sold, or otherwise disposed of, the cost and related accumulated depreciation are removed from the accounts and any gain or loss is included in operating expenses. Repairs and maintenance are charged to operations as incurred.

Long-Lived Assets

We assess the recoverability of long-lived assets whenever adverse events or changes in circumstances indicate impairment may have occurred. If the future undiscounted cash flows expected to result from the use of the related assets are less than the carrying value of such assets, an impairment has been incurred and a loss is recognized to reduce the carrying value of the long-lived assets to fair value, which is determined by discounting estimated future cash flows.

In addition to the recoverability assessment, we routinely review the remaining estimated lives of our long-lived assets. During fiscal 2009, 2010 and 2011 and the six months ended December 31, 2010 and 2011, there was no change to useful lives and related depreciation expense as we believe these estimates are reflective of the period the assets will be used in operations.

Capitalized Software Costs

Costs incurred to develop our cloud-based service to automate enterprise IT operations are capitalized during the application development stage and amortized over the software's estimated useful life. To date, due to the delivery frequency of our product releases, there have been no material qualifying costs incurred during the application development stage in any of the periods presented.

Leases

Leases are reviewed and classified as capital or operating at their inception. For leases that contain rent escalations or periods during the lease term where rent is not required, we record the total rent payable on a straight-line basis over the term of the lease but exclude lease extension periods. The difference between rent payments and straight-line rent expense is recorded as deferred rent in the consolidated balance sheets. Deferred rent that will be recognized during the succeeding 12-month period is recorded as the current portion of deferred rent and the remainder is recorded as long-term deferred rent.

Under certain leases, we also receive incentives for leasehold improvements, which are recognized as deferred rent and amortized on a straight-line basis over the shorter of the lease term or estimated useful life as a reduction to rent expense. The leasehold improvements are included in property and equipment, net.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Preferred Stock Warrants Liability

In connection with a line of credit with a financial institution, we issued warrants that allowed the holder to exercise the warrants into a fixed number of shares (subject to antidilution adjustments) of series B redeemable convertible preferred stock. These warrants provided for the issuance of shares that were redeemable at the option of the holder, therefore, the warrants were classified as a liability and initially measured at fair value. A corresponding offsetting debt discount was recorded and amortized as additional interest expense over the 12-month term of the associated line of credit. We remeasured the warrants at subsequent reporting periods with the change in fair value reflected as interest and other income (expense), net in the consolidated statements of comprehensive income (loss). We continued to remeasure the warrants to fair value until they were net settled during fiscal 2010.

Convertible Preferred Stock

Our Amended and Restated Articles of Incorporation authorize the issuance of shares of series A redeemable convertible preferred stock (Series A), series B redeemable convertible preferred stock (Series B), series C redeemable convertible preferred stock (Series C) and series D convertible preferred stock (Series D), which hereafter are collectively referred to as our “convertible preferred stock.” The Series A, Series B and Series C include a contingent and optional redemption provision that may require us to redeem the preferred shares. Additionally, the convertible preferred stock includes certain redemption provisions upon liquidation. The holders of our convertible preferred stock, acting as a group, would be able to elect the majority of the Board of Directors and control the outcome of any vote of our stockholders, including a change-in-control that would trigger liquidation. As redemption of our convertible preferred stock is outside of our control, all shares of our convertible preferred stock have been presented outside of stockholders’ deficit in our consolidated balance sheets and consolidated statements of changes in convertible preferred stock and stockholders’ deficit.

Stock-Based Compensation

We measure compensation expense for all stock-based payments made to employees and the Board of Directors based on the estimated fair value of the award as of the date of grant. The expense is recognized, net of forfeiture activity, estimated to be 4% annually, over the requisite service period, which is generally the vesting term of four years. The fair value of awards is estimated using the Black-Scholes options pricing model. Refer to Note 10 for further information.

During fiscal 2009 and 2010, additional compensation expense was recorded as our employees and our founder sold shares of common stock back to us as part of the Series C and Series D financings. The transactions resulted in a premium paid to our employees and our founder in excess of fair value of $3.8 million and $30.8 million reflected as employee compensation for fiscal 2009 and 2010, respectively. There were no such charges for fiscal 2011 and the six months ended December 31, 2011.

Net Income (Loss) Per Share Attributable to Common Stockholders

We compute net income (loss) attributable to common stockholders using the two-class method required for participating securities. We consider our convertible preferred stock and shares of common stock subject to repurchase resulting from the early exercise of stock options to be participating securities since they contain non- forfeitable rights to dividends or dividend equivalents in the event we declare a dividend for common stock. In accordance with the two-class method, earnings allocated to these participating securities, are subtracted from net income after deducting preferred stock dividends and accretion to the redemption value of the Series A, Series B and Series C to determine total undistributed earnings to be allocated to common stockholders.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Basic net income (loss) per share attributable to common stockholders is computed by dividing net income (loss) attributable to common stockholders by the weighted-average number of common shares outstanding during the period. All participating securities are excluded from basic weighted-average common shares outstanding. In computing diluted net income (loss) attributable to common stockholders, undistributed earnings are reallocated to reflect the potential impact of dilutive securities. Diluted net income (loss) per share is computed by dividing net income (loss) attributable to common stockholders by the weighted-average number of shares of common stock outstanding during the period, adjusted for the effects of potentially dilutive common shares, which are comprised of outstanding stock options, warrants, convertible preferred stock and common stock subject to repurchase. The dilutive potential common shares are computed using the treasury stock method or the as-if converted method, as applicable. In periods where the effect of the conversion of preferred stock is dilutive, net income (loss) attributable to common stockholders is adjusted by the associated preferred dividends and accretions. The effects of outstanding stock options, common stock subject to repurchase, warrants and convertible preferred stock are excluded from the computation of diluted net income (loss) per common share in periods in which the effect would be antidilutive.

Concentration of Market and Credit Risk and Significant Customers

We operate in markets that are highly competitive and rapidly changing. Significant technological changes, shifting customer needs, the emergence of competitive products or services with new capabilities and other factors could negatively impact our operating results.

Financial instruments potentially exposing us to credit risk consist primarily of cash, restricted cash and accounts receivable. We maintain cash balances at financial institutions that management believes to have good credit ratings and represent minimal risk of loss of principal. Accounts located in the United States are secured by the Federal Deposit Insurance Corporation.

We review the composition of the accounts receivable balance, historical write-off experience and the potential risk of loss associated with delinquent accounts to determine if an allowance for doubtful accounts is necessary. Individual accounts receivable are written off when we become aware of a specific customer’s inability to meet its financial obligation, and all collection efforts are exhausted. Credit risk arising from accounts receivable is mitigated due to our large number of customers and their dispersion across various industries. At June 30, 2010 and 2011 and December 31, 2011, there were no customers that represented more than 10% of the accounts receivable balance. We had one customer that accounted for approximately 11% of our revenues during fiscal 2009. During fiscal 2010 and 2011 and the six months ended December 31, 2010 and 2011, there were no customers that individually exceeded 10% of our revenues.

Warranties and Indemnification

Our cloud-based service to automate enterprise IT operations is typically warranted to perform in a manner consistent with general industry standards that are reasonably applicable and materially in accordance with our online help documentation under normal use and circumstances.

We include service level commitments to our customers warranting certain levels of uptime reliability and performance and permitting those customers to receive credits in the event we fail to meet those levels. To date, we have not incurred significant costs as a result of such commitments and have not recorded any significant liabilities related to such obligations in the consolidated financial statements.

We have also agreed to indemnify our directors and executive officers for costs associated with any fees, expenses, judgments, fines and settlement amounts incurred by any of these persons in any action or proceeding

to which any of those persons is, or is threatened to be, made a party by reason of the person's service as a director or officer, including any action by us, arising out of that person's services as a director or officer of our company or that person's services provided to any other company or enterprise at our request. We maintain director and officer insurance coverage that may enable us to recover a portion of any future amounts paid. The fair values of these obligations are not material as of each balance sheet date.

Our arrangements include provisions indemnifying customers against liabilities if our products infringe a third-party's intellectual property rights. We have not incurred any costs as a result of such indemnifications and have not recorded any liabilities related to such obligations in the consolidated financial statements.

Income Taxes

We use the asset and liability method of accounting for income taxes in which deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the consolidated financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be reversed. The effect on deferred tax assets and liabilities of a change in tax rates is recognized as income in the period that includes the enactment date. A valuation allowance is established if it is more likely than not that all or a portion of the deferred tax asset will not be realized.

Our tax positions are subject to income tax audits by multiple tax jurisdictions throughout the world. We recognize the tax benefit of an uncertain tax position only if it is more likely than not the position is sustainable upon examination by the taxing authority, based on the technical merits. The tax benefit recognized is measured as the largest amount of benefit which is more likely than not (greater than 50% likely) to be realized upon settlement with the taxing authority. We recognize interest accrued and penalties related to unrecognized tax benefits in our tax provision.

We calculate the current and deferred income tax provision based on estimates and assumptions that could differ from the actual results reflected in income tax returns filed in subsequent years. Adjustments based on filed income tax returns are recorded when identified. The amount of income taxes paid is subject to examination by U.S. federal and state tax authorities. The estimate of the potential outcome of any uncertain tax issue is subject to management's assessment of relevant risks, facts and circumstances existing at that time. To the extent the assessment of such tax position changes, the change in estimate is recorded in the period in which the determination is made.

Adoption of New Accounting Standards

Revenue Recognition. In October 2009, the FASB issued Accounting Standards Update (ASU) 2009-13, *"Revenue Recognition (Topic 605)—Multiple-Deliverable Revenue Arrangements—a Consensus of the FASB Emerging Issues Task Force."* This update provides amendments to the criteria in ASC 605, *"Revenue Recognition,"* for separating consideration in multiple-deliverable arrangements by establishing a selling price hierarchy. The selling price used for each deliverable will be based on VSOE if available, third-party evidence if VSOE is not available, or BESP if neither VSOE nor third-party evidence is available. ASU 2009-13 also eliminates the residual method of allocation and requires that arrangement consideration be allocated at the inception of the arrangement to all deliverables using the relative selling price method. In addition, the guidance expands the disclosure requirements for revenue recognition.

The guidance could be applied on a prospective basis for revenue arrangements entered into or materially modified in fiscal years beginning on or after June 15, 2010, with earlier application permitted on a retrospective

basis. We adopted the guidance prospectively on July 1, 2010, which resulted in a decrease to deferred revenue and a corresponding increase to total revenues as of and for the year ended June 30, 2011. The primary reason for the impact was the recognition of professional service revenue over the performance period, which is shorter than the estimated period over which customers benefited from initial consulting services.

The following table summarizes the effects of this new guidance on our consolidated balance sheets and statements of comprehensive income (loss) (in thousands):

	As of and for the Fiscal Year Ended June 30, 2011		
	As Reported	Under Previous Accounting Guidance	Impact of Adoption of ASU 2009-13
Total deferred revenue	$ 74,646	$ 81,036	$ (6,390)
Revenues:			
Subscription	$ 79,191	$ 78,305	$ 886
Professional services and other	13,450	7,946	5,504
Total revenues	$ 92,641	$ 86,251	$ 6,390

Comprehensive Income. On June 16, 2011, the FASB issued Accounting Standards Update (ASU) No. 2011-05, Presentation of Comprehensive Income, which revises the manner in which companies present comprehensive income in their financial statements. This update requires companies to present components of comprehensive income in either (i) a continuous statement of comprehensive income or (ii) two separate but consecutive statements. It also eliminates the option for companies to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. This guidance is effective for fiscal periods beginning after December 15, 2011, with earlier adoption permitted. Accordingly, we retroactively adopted the provision of ASU 2011-05 during the six-month period ended December 31, 2011. The adoption of this guidance did not result in a material effect on our consolidated financial statements.

(3) Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consists of the following (in thousands):

	June 30,		December 31,
	2010	2011	2011
Founder's receivable	$5,267	$5,267	$ 5,267
Other	429	3,311	4,616
Total prepaid expenses and other current assets	$5,696	$8,578	$ 9,883

Refer to Note 13 for further information regarding our founder's receivable.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

(4) Property and Equipment, net

Property and equipment, net consists of the following (in thousands):

	June 30, 2010	June 30, 2011	December 31, 2011
Computer equipment and software	$1,752	$ 6,562	$ 16,586
Furniture and fixtures	192	1,230	1,755
Leasehold improvements	106	2,747	2,795
Construction in progress	298	1,031	3,740
	2,348	11,570	24,876
Less: accumulated depreciation	(650)	(2,103)	(4,181)
Total property and equipment, net	$1,698	$ 9,467	$ 20,695

Construction in progress consists primarily of leasehold improvements and servers, networking equipment and storage infrastructure being provisioned in our new third-party data center hosting facilities. Depreciation expense for fiscal 2009, 2010 and 2011 and the six months ended December 31, 2010 and 2011 was $0.2 million, $0.4 million, $1.5 million, $0.5 million and $2.0 million, respectively.

(5) Accrued Expenses and Other Current Liabilities

Accrued expenses and other current liabilities consists of the following (in thousands):

	June 30, 2010	June 30, 2011	December 31, 2011
Taxes payable	$ 6,127	$ 6,851	$ 7,399
Bonuses and commissions	3,176	3,613	6,080
Accrued compensation	891	1,856	3,570
Accrued third-party professional services	541	1,798	1,919
Other employee expenses	286	716	1,809
Other	1,708	3,750	4,831
Total accrued expenses and other current liabilities	$12,729	$18,584	$ 25,608

Refer to Notes 12 and 13 for further information regarding taxes payable.

(6) Warrants for the Purchase of Series B Redeemable Convertible Preferred Stock

In June 2006 and 2007, we issued warrants exercisable for 19,943 and 31,909 shares of Series B, respectively, with an exercise price of $1.25 per share. The warrants were fully exercisable and each had a term of seven years from the date of issuance. The fair values of the warrants were determined on the date of issuance and subsequently using the Black-Scholes options pricing model until they were net settled during fiscal 2010. The assumptions used to determine the fair value of the warrants as of June 30, 2009 were as follows: estimated volatility of 70%, expected term of 4.61 years, risk-free interest rate of 2.37%, and expected dividend yield of zero. The weighted-average fair value of the warrants on the date of issuance was approximately $3.01 per share.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

(7) Convertible Preferred Stock

In April 2009, we entered into a Series C Preferred Stock Purchase Agreement, pursuant to which we issued and sold an aggregate of 983,606 shares of Series C, at a purchase price of $6.10 per share, for gross proceeds of approximately $6.0 million. The total gross proceeds were remitted to our founder in exchange for a non-interest bearing promissory note (the Note) in the amount of $6.0 million. The Note was settled through the exchange of 7,868,848 shares of common stock at $0.76 per share, which we subsequently cancelled. At the time the Note was settled, the estimated fair value of our common stock was $0.28 per share. This resulted in compensation expense of $3.8 million in fiscal 2009.

On November 20, 2009, we entered into a Series D Preferred Stock Purchase Agreement (the Series D Preferred Agreement) with a new stockholder. The new stockholder purchased 2,990,635 shares of Series D at a price of $17.27 per share, for gross proceeds of $51.6 million. Concurrent with the sale and issuance of Series D preferred stock, we repurchased and subsequently cancelled 23,510,264 shares of common stock from eligible stockholders, including 16,480,000 shares of common stock from our founder, at a price of $2.16 per share. We also offered to repurchase 51,852 vested warrants from a financial institution for $17.27 per share, less the strike price of $1.25 per warrant. Gross proceeds from this transaction to our stockholders and warrant holders were $51.6 million. Eligible stockholders consist of all former and current employees whose employment commenced on or prior to November 1, 2009 and had vested shares as of December 2, 2009. Current employees were required to retain a minimum of 30% of their vested shares, while former employees could sell 100% of their shares.

At the time we repurchased the common stock and warrants, the estimated fair value of our common stock was $0.85 per share. The difference between the fair value and the price paid resulted in a premium paid to repurchase the common stock of approximately $30.8 million, of which $0.7 million, $2.0 million, $3.6 million and $24.5 million are reflected in cost of revenues, sales and marketing expenses, research and development expenses, and general and administrative expenses in the consolidated statement of comprehensive income (loss) for fiscal 2010, respectively. Additionally, the difference between the fair value and the price paid for the warrants resulted in a premium of $0.3 million reflected in interest and other income (expense), net in the consolidated statement of comprehensive income (loss) for fiscal 2010.

The rights, preferences and privileges of our convertible preferred stock are as follows:

Dividends

The holders of shares of the Series A and Series B are entitled to receive dividends of cash at the rate of 8% of the original issue price per annum, payable when and if declared by our Board of Directors or in connection with a liquidation event. The right to receive dividends is cumulative. As of June 30, 2010, and 2011 and December 31, 2011, no dividends have been declared or paid.

Voting Rights

Each holder of convertible preferred stock shall be entitled to the number of votes equal to the number of whole shares of common stock into which the shares of convertible preferred stock held by such holder are then convertible.

Conversion

Each share of convertible preferred stock is convertible at any time at the option of the holder into eight shares of common stock (subject to customary adjustments to protect against dilution). In addition, each series of convertible preferred stock automatically converts into common stock upon the vote of the majority of the outstanding shares of such series and all series of convertible preferred stock automatically convert into common stock upon the closing of an IPO in which the cash proceeds, net of underwriting discounts and commissions, are at least $50.0 million. We have reserved sufficient shares of common stock for the conversion of preferred stock.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Redemption

The Series A, Series B, and Series C have redemption provisions requiring us to redeem all of the then outstanding Series A, Series B, and Series C in three annual installments, beginning on a date no sooner than five years after November 25, 2009 if the holders of a majority of the Series A, the holders of a majority of the Series B, and the holders of a majority of the Series C all elect such a redemption. Upon redemption, the amount payable for each share of Series A, Series B and Series C shall be equal to the original issue price of such share plus, in the case of the Series A and Series B, an amount equal to 8% of the original issue price per annum on such share calculated from the date of issue of the first share of Series A or Series B, as applicable.

Due to the redemption provisions, the Series A, Series B and Series C are classified outside of permanent equity as “mezzanine” at their original fair value on the date of issue, net of issuance costs. Subsequent accretion charges are recorded to increase the net amount of these shares to the redemption amount, including the additional 8% per annum redemption amounts payable in respect of the Series A and Series B, at the earliest possible redemption date. The accretion charges are charged against additional paid-in capital as we currently do not have retained earnings, and to accumulated deficit once there is no additional paid-in capital available.

The combined aggregate amount of redemption requirements for all issuances of capital stock that are redeemable assuming exercise of redemption rights at the earliest possible date, is as follows as of December 31, 2011 (in thousands):

	Series A	Series B	Series C	Total
Years Ended December 31,				
2012	$ —	$ —	$ —	$ —
2013	—	—	—	—
2014	216	410	2,000	2,626
2015	2,263	4,304	2,000	8,567
2016	2,107	4,013	2,000	8,120
Total redemption requirements	$4,586	$8,727	$6,000	$19,313

Liquidation Preference

Upon the liquidation, dissolution or winding up of our company, a consolidation or merger involving a change in control of our company or the conveyance of substantially all of our assets, the holders of Series C have a preference in liquidation over the Series A, Series B, Series D and common stockholders equal to the original issue price plus all declared and unpaid dividends. If our assets are insufficient to fulfill the Series C liquidation amount, the Series C stockholders will share in the distribution of the assets on a pro rata basis based on the full liquidation preference owed to each Series C stockholder.

After the payment in full of the liquidation preference of the Series C, the holders of the Series A and Series B have a preference in liquidation over the Series D and common stockholders equal to the original issue price plus all accrued or declared and unpaid dividends. If our assets are insufficient to fulfill the Series A and Series B liquidation amounts, the Series A and Series B stockholders will share in the distribution of the assets on a pari-passu, pro rata basis based on the full liquidation preference owed to each Series A and Series B stockholder.

After the payment in full of the liquidation preference of the Series C, Series A and Series B, the holders of the Series D have a preference in liquidation over the common stockholders equal to the original issue price plus

all declared and unpaid dividends. If our assets are insufficient to fulfill the Series D liquidation amounts, the Series D stockholders will share in the distribution of the assets on a pro rata basis based on the full liquidation preference owed to each Series D stockholder.

After payment in full of the liquidation preference of the Series C, Series A, Series B and Series D, our assets that are legally available for distribution will be distributed ratably to the holders of common stock.

All preferred stock liquidation preferences are subject to appropriate adjustment in the event of any stock dividends, combinations, splits, recapitalizations and the like affecting such shares.

Due to the liquidation provisions of Series D, these shares are also classified outside of permanent equity as “mezzanine” at the redemption value as the deemed liquidation events and related timing are not solely within our control.

(8) Common Stock

We are authorized to issue 200,000,000 shares at December 31, 2011. Holders of our common stock are not entitled to receive dividends unless declared by the Board of Directors. Any such dividends would be subject to the preferential dividend rights of the convertible preferred stock.

As of December 31, 2011, we had 22,229,978 shares of common stock outstanding and had reserved shares of common stock for future issuance as follows:

	December 31, 2011
Series A	20,000,000
Series B	31,909,088
Series C	7,868,848
Series D	23,925,080
Stock option plan:	
Options outstanding	39,314,140
Options available for future grants	6,657,210
Total reserved shares of common stock for future issuance	129,674,366

(9) Stock Options

We have a 2005 Stock Option Plan (the Plan) which provides the granting of stock options to certain employees, officers, directors and consultants to purchase shares of our common stock. The stock options are exercisable at a price equal to the market value of the underlying shares of common stock on the date of the grant as determined by our Board of Directors. Stock options granted under the Plan to new employees generally vest 25% one year from the date the requisite service period begins and continue to vest monthly for each month of continued employment with us over the remaining three years. Options granted to the Board of Directors and to existing employees generally vest in 48 equal monthly installments. Options granted generally are exercisable up to 10 years. Option holders can exercise unvested options to acquire restricted stock. Upon termination of service, we have the right to repurchase at the original purchase price any unvested (but issued) shares of common stock. Shares of common stock purchased under the Plan are subject to certain restrictions, including the right of first refusal by us for the sale or transfer of these shares to outside parties. Our right of first refusal terminates upon completion of an IPO.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

As of December 31, 2011, we had 59,580,440 total shares of common stock reserved for issuance under the Plan. A summary of the stock option activity for fiscal 2009, 2010 and 2011 and the six months ended December 31, 2011 is as follows:

	Number of Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term	Aggregate Intrinsic Value
Outstanding at June 30, 2008	16,333,664	$ 0.03		
Granted	4,160,000	0.21		
Exercised	(348,328)	0.02		
Forfeited	(981,336)	0.05		
Outstanding at June 30, 2009	19,164,000	0.07		
Granted	4,684,000	1.00		
Exercised	(7,036,768)	0.03		
Forfeited	(290,248)	0.41		
Outstanding at June 30, 2010	16,520,984	0.34		
Granted	15,402,456	2.15		
Exercised	(4,279,456)	0.25		
Forfeited	(867,590)	0.87		
Expired	(450,000)	0.18		
Outstanding at June 30, 2011	26,326,394	1.40		
Granted	17,055,120	3.29		
Exercised	(1,469,118)	1.45		
Forfeited	(2,598,256)	1.60		
Outstanding at December 31, 2011	39,314,140	$ 2.20	8.64 years	$ 109,997,796
Vested and expected to vest as of June 30, 2009	18,842,329	$ 0.06	7.76 years	$ 4,079,780
Vested and exercisable as of June 30, 2009	10,723,479	$ 0.03	7.06 years	$ 2,748,003
Vested and expected to vest as of June 30, 2010	16,175,929	$ 0.33	7.72 years	$ 14,458,066
Vested and exercisable as of June 30, 2010	7,895,777	$ 0.07	6.63 years	$ 9,051,521
Vested and expected to vest as of June 30, 2011	26,025,366	$ 1.39	8.37 years	$ 31,601,963
Vested and exercisable as of June 30, 2011	8,628,975	$ 0.35	6.53 years	$ 19,421,343
Vested and expected to vest as of December 31, 2011	38,435,919	$ 2.18	8.61 years	$ 108,447,221
Vested and exercisable as of December 31, 2011	9,836,358	$ 0.55	6.49 years	$ 43,809,598

Aggregate intrinsic value represents the difference between the estimated fair value of our common stock and the exercise price of outstanding, in-the-money options. Our estimated fair value of common stock was $111.1 million as of December 31, 2011. The total intrinsic value of options exercised was approximately $0.1 million, $10.1 million, $7.5 million, $2.8 million and $3.3 million for fiscal 2009, 2010 and 2011 and the six months ended December 31, 2010 and 2011, respectively. The weighted-average grant date fair value of options granted was $1.6 million, $2.9 million, $17.7 million, $5.4 million and $40.3 million for fiscal 2009, 2010 and 2011 and for the six months ended December 31, 2010 and 2011, respectively.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

As of December 31, 2011, total unrecognized compensation cost, adjusted for estimated forfeitures, related to unvested stock options was approximately $46.8 million. The weighted average remaining vesting period of unvested stock options at December 31, 2011 was 3.18 years.

The following table summarizes information about outstanding and vested stock options as of December 31, 2011:

	Options Outstanding			Options Vested and Exercisable	
Range of Exercise Prices	Number Outstanding	Weighted-Average Remaining Contractual Life (Years)	Weighted-Average Exercise Price	Number of Shares	Weighted-Average Exercise Price
$0.00 to $0.07	4,936,928	4.97	$ 0.03	4,930,261	$ 0.03
$0.08 to $0.13	146,264	6.32	0.08	128,096	0.08
$0.14 to $0.30	1,756,922	7.07	0.23	1,175,663	0.22
$0.31 to $0.70	1,064,686	7.69	0.34	611,176	0.34
$0.71 to $1.10	235,000	8.09	1.00	110,495	1.00
$1.11 to $1.35	1,251,000	8.31	1.21	592,328	1.21
$1.36 to $3.00	26,135,340	9.33	2.59	2,288,339	1.72
$3.01 to $4.65	3,788,000	9.89	4.29	—	—
Total	39,314,140			9,836,358	

We issued 453,243 and 360,852 shares of restricted stock in fiscal 2011 and the six months ended December 31, 2011, respectively, for stock options exercised prior to vesting via cash exercise. No such shares were issued during fiscal 2009 and 2010. The proceeds initially are recorded as a liability from the early exercise of stock options and reclassified to common stock as our repurchase right lapses. We repurchased 12,084 unvested shares during the six months ended December 31, 2011. For fiscal 2009, 2010 and 2011, we did not repurchase any unvested shares.

A summary of the restricted stock activity for fiscal 2011 and the six months ended December 31, 2011 is as follows:

	Number Outstanding	Weighted-average Grant Date Fair Value
Balance at June 30, 2010	—	$ —
Early exercised	453,243	0.86
Vested	(37,755)	0.58
Balance at June 30, 2011	415,488	0.89
Early exercised	360,852	1.29
Vested	(185,640)	0.66
Repurchased	(12,084)	0.74
Balance at December 31, 2011	578,616	1.21

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

(10) Stock-Based Compensation

We use the Black-Scholes options pricing model to estimate the fair value of stock options granted. This model incorporates various assumptions including expected volatility, expected term, risk-free interest rates and expected dividend yields. The weighted-average assumptions used for the specified reporting periods and the resulting estimates of weighted-average fair value per share of options granted are as follows:

	Fiscal Years Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010 (Unaudited)	2011
Expected volatility	69% - 75%	65%	50% - 69%	57% - 67%	56% - 69%
Expected term (in years)	5.62	6.02	6.05	6.04	5.75
Risk-free interest rate	1.48% - 3.77%	2.57 - 3.04%	1.43% - 2.96%	1.43% - 2.96%	0% - 1.92%
Dividend yield	— %	— %	— %	— %	— %

Expected volatility. We use the historic volatility of publicly traded peer companies as an estimate for expected volatility. In considering peer companies, characteristics such as industry, stage of development, size and financial leverage are considered.

Expected term. We follow the simplified method when estimating the expected life of our options due to lack of relevant historical data. The simplified method calculates the expected term as the mid-point between the vesting date and the 10-year contractual lives of all options awarded.

Risk-free interest rate. The risk-free interest rate is based on the U.S. Treasury yield curve in effect at the time of grant for the expected term of the stock-based award.

Expected dividend yield. The expected dividend yield is zero as we have never paid dividends and currently have no plans to do so.

Expected forfeiture rate. We consider our pre-vesting forfeiture history to determine our expected forfeiture rate.

Fair value of common stock. The fair value of our common stock was determined by the Board of Directors, which intended all options granted to be exercisable at a price per share not less than the per share fair value of the common stock underlying those options on the date of grant. The valuations of our common stock were determined in accordance with the guidelines outlined in the American Institute of Certified Public Accountants Practice Aid, *Valuation of Privately-Held-Company Equity Securities Issued as Compensation*. The assumptions used in the valuation model are based on future expectations combined with management judgment.

Since March 2010, we utilize the probability weighted expected return method, or PWERM, approach to allocate value to our common shares. The PWERM approach employs various market approach and income approach calculations depending upon the likelihood of various liquidation scenarios. For each of the various scenarios, an equity value is estimated and the rights and preferences for each shareholder class are considered to allocate the equity value to common shares. The common share value is then multiplied by a discount factor reflecting the calculated discount rate and the timing of the event. Lastly, the common share value is multiplied by an estimated probability for each scenario. The probability and timing of each scenario are based upon discussions between our board of directors and our management team. Under the PWERM, the value of our common stock is based upon four possible future events for our company: an IPO; a strategic merger or sale; remaining a private company; and dissolution.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Prior to March 2010, values for our shares of common stock were determined using an option pricing method. Estimates of the volatility were based on available information on the volatility of common stock of comparable, publicly traded companies. The common stock valuations were based on the discounted cash flow method, or DCF, under the income approach and the comparable company method and the recent transaction method under the market-based approach, which we used to estimate the total value of our company. The DCF method estimates enterprise value based on the estimated present value of future net cash flows the business is expected to generate over a forecasted period and an estimate of the present value of cash flows beyond that period, which is referred to as terminal value. The estimated present value is calculated using a discount rate known as the weighted-average cost of capital, which accounts for the time value of money and the appropriate degree of risks inherent in the business. The market-based approach considers multiples of financial metrics based on both acquisitions and trading multiples of a selected peer group of companies. These multiples are then applied to our financial metrics to derive a range of indicated values. If different estimates and assumptions had been used, the valuations could have been different.

(11) Net Income (Loss) Per Share Attributable to Common Stockholders and Pro Forma Net Income (Loss) Per Share

The following tables present the calculation of basic and diluted net income (loss) per share attributable to common stockholders (in thousands, except share and per share data):

	Fiscal Years Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010 (Unaudited)	2011
Numerator:					
Net income (loss)	$ (5,906)	$ (29,705)	$ 9,830	$ 4,803	$ (6,684)
Accretion of redeemable convertible preferred stock	(625)	(640)	(633)	(320)	(312)
Net income attributable to participating securities	—	—	(7,558)	(3,721)	—
Net income (loss) attributable to common stockholders—basic	$ (6,531)	$ (30,345)	$ 1,639	$ 762	$ (6,996)
Undistributed earnings reallocated to participating securities	—	—	671	349	—
Net income (loss) attributable to common stockholders—diluted	$ (6,531)	$ (30,345)	$ 2,310	$ 1,111	$ (6,996)
Denominator:					
Weighted-average shares outstanding Basic	39,039,066	23,157,576	18,163,977	17,156,445	21,104,219
Effect of potentially dilutive securities:					
Common stock options	—	—	9,931,509	10,465,912	—
Weighted-average shares outstanding Diluted	39,039,066	23,157,576	28,095,486	27,622,357	21,104,219
Net income (loss) per share attributable to common stockholders:					
Basic	$ (0.17)	$ (1.31)	$ 0.09	$ 0.04	$ (0.33)
Diluted	$ (0.17)	$ (1.31)	$ 0.08	$ 0.04	$ (0.33)

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Potentially dilutive securities not included in the calculation of diluted net income (loss) per share because doing so would be antidilutive are as follows:

	Fiscal Years Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010	2011
				(Unaudited)	
Common stock options	19,164,000	16,520,984	7,635,190	7,890,844	39,314,140
Warrants	414,816	—	—	—	—
Convertible preferred stock	59,777,936	83,703,016	83,703,016	83,703,016	83,703,016
Common stock subject to repurchase	—	—	83,551	—	578,616
	79,356,752	100,224,000	91,421,757	91,593,860	123,595,772

The unaudited pro forma basic and diluted net income (loss) per share was computed to give effect to the conversion of convertible preferred stock using the as-if converted method into common stock upon our IPO as though the conversion had occurred as of the beginning of the period or the original date of issuance, if later. Additionally, it includes the sale and issuance of 1,750,980 shares of common stock in a private placement in February 2012. Refer to Note 16 for further information.

The following tables present the calculation of basic net income (loss) per share attributable to common stockholders and unaudited pro forma basic and diluted net loss per share (in thousands, except share and per share data):

	Fiscal Year Ended June 30, 2011	Six Months Ended December 31, 2011
	(Unaudited)	
Numerator:		
Net income (loss)	$ 9,830	$ (6,684)
Net income attributable to participating securities	(8)	—
Net income (loss) attributable to common stockholders—basic	$ 9,822	$ (6,684)
Undistributed earnings reallocated to participating securities	8	—
Net income (loss) attributable to common stockholders—diluted	$ 9,830	$ (6,684)
Denominator:		
Weighted-average shares outstanding	18,163,977	21,104,219
Pro forma adjustment to reflect assumed weighted-average effect of the sale of common stock in a private placement	1,750,980	1,750,980
Pro forma adjustment to reflect assumed weighted-average effect of conversion of convertible preferred stock	83,703,016	83,703,016
Pro forma weighted-average shares outstanding—basic	103,617,973	106,558,215
Pro forma adjustments to reflect effect of potentially dilutive securities:		
Common stock options	9,931,509	—
Common stock subject to repurchase	83,551	—
Pro forma weighted-average shares outstanding—diluted	113,633,033	106,558,215
Pro forma net income (loss) per share attributable to common stockholders		
Basic	$ 0.09	$ (0.06)
Diluted	$ 0.09	$ (0.06)

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

(12) Income Taxes

The provision for income taxes consists of the following (in thousands):

	Fiscal Years Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010 (Unaudited)	2011
Current provision:					
Federal	$ —	$ —	$ 62	$ 111	$ 325
State	5	2	988	449	396
Foreign	43	278	286	93	329
	48	280	1,336	653	1,050
Deferred provision:					
Federal	—	—	—	—	22
State	—	—	—	—	3
Foreign	—	—	—	—	—
	—	—	—	—	25
Provision for income taxes	$ 48	$ 280	$ 1,336	$ 653	$ 1,075

The components of income (loss) from continuing operations before income taxes by United States and foreign jurisdictions were as follows (in thousands):

	Fiscal Years Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010 (Unaudited)	2011
United States	$ (5,864)	$(29,602)	$ 10,585	$ 5,368	$ (1,375)
Foreign	6	177	581	88	(4,234)
Total	$ (5,858)	$(29,425)	$ 11,166	$ 5,456	$ (5,609)

The effective income tax rate differs from the federal statutory income tax rate applied to the income (loss) before provision for income taxes due to the following (in thousands):

	Fiscal Years Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010 (Unaudited)	2011
Tax computed at the federal statutory rate	$ (1,991)	$(10,005)	$ 3,799	$ 1,857	$ (1,907)
State tax, federally effected	(312)	(359)	250	122	82
Foreign taxes	(1)	(13)	(47)	(23)	1,589
Stock-based compensation	50	149	727	244	978
Tax credits	(677)	(282)	(409)	(150)	(378)
Tax contingencies	194	265	171	74	178
Permanent differences	226	411	305	120	244
Change in state rate	32	(1,170)	662	295	8
Other	(15)	117	344	379	146
Valuation allowance	2,542	11,167	(4,466)	(2,265)	135
Provision for income taxes	$ 48	$ 280	$ 1,336	$ 653	$ 1,075

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Significant components of our deferred tax assets as of June 30, 2010 and 2011 and December 31, 2011 are shown below (in thousands). A valuation allowance has been recognized to offset our deferred tax assets as realization for fiscal 2010 and 2011 and the six months ended December 31, 2011 of such deferred tax assets has not met the more likely than not threshold.

	June 30,		December 31,
	2010	2011	2011
Deferred tax assets:			
Net operating losses	$ 15,731	$ 9,936	$ 4,182
Deferred revenue	848	2,397	8,434
Accrued state taxes	—	286	28
Accrued expenses	416	363	672
Deferred rent	128	183	201
Credit carryforwards	781	858	1,357
Incentive from lessor	—	1,096	1,023
Stock-based compensation	—	345	1,333
Other	409	461	1,130
Total deferred tax assets	18,313	15,925	18,360
Less valuation allowance	(18,160)	(13,694)	(13,829)
	153	2,231	4,531
Deferred tax liabilities:			
Accrued expenses	—	—	—
Property and equipment	(153)	(2,231)	(4,531)
Net deferred tax assets	$ —	$ —	$ —

As of December 31, 2011, we had net operating loss (NOL) carryforwards of approximately $13.1 million for federal purposes and $39.4 million for state purposes. If not utilized, these carryforwards will begin to expire in 2024 for federal purposes and 2018 for state purposes. Approximately $6.8 million of federal net operating losses and $4.2 million of state NOLs relate to stock-based compensation deductions in excess of book expense, the tax effect of which would be to credit additional paid-in capital, if realized.

We have research credit carryforwards of approximately $0.9 million for federal purposes. If not utilized, the federal carryforward will begin to expire in 2024.

Due to cumulative losses, we maintain a valuation allowance against our deferred tax assets as of December 31, 2011. We consider all available evidence, both positive and negative, in assessing the extent to which a valuation allowance should be applied against deferred tax assets. Our valuation allowance increased $11.2 million for fiscal 2010 as compared to fiscal 2009, decreased $4.5 million for fiscal 2011 as compared to fiscal 2010, and increased $0.1 million during the six months ended December 31, 2011.

Section 382 imposes annual limitations on the utilization of NOL carryforwards and other tax attributes upon an ownership change. In general terms, an ownership change may result from transactions that increase the aggregate ownership of certain stockholders in our stock by more than 50 percentage points over a testing period (generally three years). We completed a Section 382 analysis. Based on this analysis, we do not believe that our NOLs and other tax attributes are limited under Section 382 as of December 31, 2011.

We have not recorded a provision for deferred U.S. tax expense that could result from the remittance of foreign undistributed earnings since we intend to reinvest the earnings of these foreign subsidiaries indefinitely.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Our share of the undistributed earnings of foreign corporations not included in our consolidated federal income tax returns that could be subject to additional U.S. income tax if remitted was approximately $0.2 million, $0.8 million and $0.8 million at June 30, 2010 and 2011 and December 31, 2011, respectively. The determination of the amount of unrecognized U.S federal deferred income tax liability for undistributed earnings is not practicable.

We record liabilities, where appropriate, for all uncertain income tax positions. We recognize potential accrued interest and penalties related to unrecognized tax benefits as income tax expense.

A reconciliation of the beginning and ending balance of total unrecognized tax benefits is as follows (in thousands):

	Fiscal Years Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010 (Unaudited)	2011
Beginning balance	$ 98	$ 185	$ 374	$ 374	$519
Tax provisions taken in the period:					
Additions	87	189	145	73	191
Reductions	—	—	—	—	—
Ending balance	$ 185	$ 374	$ 519	$ 447	$710

As of July 1, 2011, we had total unrecognized tax benefit of approximately $0.5 million. During the six months ended December 31, 2011, we recognized approximately $0.2 million of interest and penalties associated with unrecognized tax benefits. We do not believe there will be a material change in our unrecognized tax positions over the next twelve months.

We file income tax returns with the U.S. federal, various states and certain foreign jurisdictions. Our tax years ending June 30, 2005 through December 31, 2011 remain open in most jurisdictions.

(13) Related Party Transactions

During fiscal 2009, we loaned $6.0 million to our founder in exchange for a non-interest bearing promissory note, which was settled in connection with our sale of Series C preferred stock. Refer to Note 7 for further discussion of this transaction. No loans were issued during fiscal 2010, 2011 or the six months ended December 31, 2011.

In connection with the sale and issuance of our Series D preferred stock, we repurchased and subsequently cancelled 23,510,264 shares of common stock from eligible stockholders, including a total of 18,436,000 shares from our founder and his family, and our former chief financial officer. Refer to Note 7 for further discussion of this transaction.

As part of our sale of Series C and Series D preferred stock, we recorded a liability of $5.3 million for withholding taxes associated with the repurchase of our founder's shares plus potential interest and penalties that may be imposed by the tax authorities. We recorded an offsetting receivable of $5.3 million in prepaid expenses and other current assets at June 30, 2010 and 2011 and December 31, 2011 representing the total amount that was subsequently paid to us by our founder in February 2012 for these withholding taxes. Refer to Note 16 for further information regarding the subsequent settlement of this amount.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

(14) Commitments and Contingencies

Leases

We lease managed and co-location facilities for data center capacity and office space under noncancellable operating lease agreements with various expiration dates. Our data centers are located in the United States, the Netherlands, the United Kingdom, Switzerland, Canada, and Australia. Expenses at our co-location facilities consist primarily of space, power, cooling and ancillary services. Our managed facilities include the same expenses as co-location facilities in addition to leases of equipment, such as servers, networking equipment, and storage infrastructure. Rent expense associated with these facilities, included in cost of revenues, was $1.3 million, $2.7 million, $4.8 million, $2.1 million, and $3.7 million for fiscal 2009, 2010, 2011 and the six months ended December 31, 2010 and 2011, respectively.

We are headquartered in San Diego, California and lease office space in the United States, the United Kingdom, Germany, Australia, the Netherlands, Canada, Denmark and France. Rent expense associated with these leases was $0.9 million, $1.1 million, $2.3 million, $0.5 million and $1.2 million for fiscal 2009, 2010, 2011 and the six months ended December 31, 2010 and 2011, respectively. During fiscal 2011, we relocated our headquarters and terminated a lease on our former premises. The termination fee of $0.7 million is included in rent expense for fiscal 2011.

Annual future minimum payments under these operating leases were as follows as of December 31, 2011 (in thousands):

	Data Centers	Office Leases	Total
Years Ended December 31,			
2012	$ 8,284	$ 2,795	$11,079
2013	8,587	2,247	10,834
2014	3,270	2,409	5,679
2015	197	1,724	1,921
2016	—	1,661	1,661
Thereafter	—	3,603	3,603
Total minimum lease payments	$ 20,338	$ 14,439	$34,777

In February 2012, we signed a lease for a 94,543 square-foot building located in San Diego, California, with total minimum lease commitments of approximately $13.7 million. The lease is for a period of eight years with a commencement date of July 1, 2012.

Legal Proceedings

From time to time, we are party to litigation and other legal proceedings in the ordinary course of business. While the results of any litigation or other legal proceedings are uncertain, management does not believe the ultimate resolution of any pending legal matters is likely to have a material adverse effect on our financial position, results of operations or cash flows, except for those matters for which we have recorded a loss contingency. We accrue for loss contingencies when it is both probable that we will incur the loss and when the amount of the loss can be reasonably estimated.

Generally, our subscription agreements require us to indemnify our customers for third-party intellectual property infringement claims. Any adverse determination related to intellectual property claims or litigation could prevent us from offering our service and adversely affect our financial condition and results of operations.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

(15) Information about Geographic Areas

Revenues by geographic area, based on the billing location of the customer, were as follows for the periods presented (in thousands):

	Fiscal Years Ended June 30,			Six Months Ended December 31,	
	2009	2010	2011	2010 (Unaudited)	2011
Revenues by geography					
North America	$14,062	$31,396	$69,333	$ 27,919	$51,901
Europe	5,018	10,708	20,093	8,693	18,842
Asia Pacific and other	235	1,225	3,215	1,332	2,632
Total revenues	$19,315	$43,329	$92,641	$ 37,944	$73,375

Long-lived assets by geographic area are as follows (in thousands):

	June 30,		December 31,
	2010	2011	2011
Long-lived assets:			
North America	$1,013	$7,859	$ 15,820
Europe	500	1,391	4,537
Asia Pacific and other	185	217	338
Total long-lived assets	$1,698	$9,467	$ 20,695

(16) Subsequent Events

On February 21, 2012, we issued and sold 1,750,980 shares of common stock at a price of $10.20 per share for gross proceeds of $17.9 million in a private placement with a new stockholder. As part of this private placement, our founder sold 700,000 shares of common stock at the same price per share to this new stockholder.

On February 24, 2012, our founder repaid $5.3 million to settle the outstanding receivable for withholding taxes associated with the sale of Series C and Series D preferred stock.

On March 27, 2012, we repurchased and subsequently cancelled 100,000 shares of common stock at a price of $10.00 per share from a former employee.

From January 1 through March 30, 2012, we granted stock options under our 2005 Stock Plan to certain employees and directors to purchase 2,959,500 shares of common stock, having exercise prices ranging from $6.50 to $10.35 per share. Additionally, we granted RSUs under our 2005 Stock Plan to Frederic B. Luddy to purchase 1,000,000 shares of common stock. The RSUs vest annually over a four year period.

We have evaluated subsequent events from the balance sheet date through March 30, 2012, the date at which the consolidated financial statements were issued, and determined there were no other items to disclose.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution.

The following table sets forth all costs and expenses, other than underwriting discounts and commissions, paid or payable by us in connection with the sale of the common stock being registered. All amounts shown are estimates except for the SEC registration fee and the FINRA filing fee and:

	Amount Paid or to be Paid
SEC registration fee	$17,190
FINRA filing fee	15,500
New York Stock Exchange listing fee	*
Blue sky qualification fees and expenses	*
Printing and engraving expenses	*
Legal fees and expenses	*
Accounting fees and expenses	*
Transfer agent and registrar fees and expenses	*
Miscellaneous expenses	*
Total	$ *

* to be provided by amendment

Item 14. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law authorizes a court to award, or a corporation's board of directors to grant, indemnity to directors and officers under certain circumstances and subject to certain limitations. The terms of Section 145 of the Delaware General Corporation Law are sufficiently broad to permit indemnification under certain circumstances for liabilities, including reimbursement of expenses incurred, arising under the Securities Act of 1933, as amended, or the Securities Act.

As permitted by the Delaware General Corporation Law, the Registrant's restated certificate of incorporation to be effective upon the closing of this offering contains provisions that eliminate the personal liability of its directors for monetary damages for any breach of fiduciary duties as a director, except liability for the following:

- any breach of the director's duty of loyalty to the Registrant or its stockholders;
- acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- under Section 174 of the Delaware General Corporation Law (regarding unlawful dividends and stock purchases); or
- any transaction from which the director derived an improper personal benefit.

As permitted by the Delaware General Corporation Law, the Registrant's restated bylaws to be effective upon the closing of this offering, provide that:

- the Registrant is required to indemnify its directors and executive officers to the fullest extent permitted by the Delaware General Corporation Law, subject to very limited exceptions;

- the Registrant may indemnify its other employees and agents as set forth in the Delaware General Corporation Law;
- the Registrant is required to advance expenses, as incurred, to its directors and executive officers in connection with a legal proceeding to the fullest extent permitted by the Delaware General Corporation Law, subject to very limited exceptions; and
- the rights conferred in the restated bylaws are not exclusive.

Prior to the closing of this offering, the Registrant has entered into indemnification agreements with each of its current directors and executive officers to provide these directors and executive officers additional contractual assurances regarding the scope of the indemnification set forth in the Registrant's restated certificate of incorporation and restated bylaws and to provide additional procedural protections. There is no pending litigation or proceeding involving a director or executive officer of the Registrant for which indemnification is sought. Reference is also made to Section 11 of the underwriting agreement to be filed as Exhibit 1.1 to this registration statement, which provides for the indemnification of executive officers, directors and controlling persons of the Registrant against certain liabilities. The indemnification provisions in the Registrant's restated certificate of incorporation, restated bylaws and the indemnification agreements entered into or to be entered into between the Registrant and each of its directors and executive officers may be sufficiently broad to permit indemnification of the Registrant's directors and executive officers for liabilities arising under the Securities Act.

The Registrant currently carries liability insurance for its directors and officers.

Three of Registrant's directors (Paul V. Barber, Douglas M. Leone and Charles E. Noell, III) are also indemnified by their employers with regard to their service on the Registrant's board of directors.

Reference is made to the following documents filed as exhibits to this Registration Statement regarding relevant indemnification provisions described above and elsewhere herein:

Exhibit Document	Number
Form of Underwriting Agreement.	1.1
Form of Restated Certificate of Incorporation to be effective upon the closing of this offering.	3.2
Form of Restated Bylaws to be effective upon the closing of this offering.	3.4
Third Amended and Restated Investors Rights Agreement dated November 25, 2009 among the Registrant and certain of its stockholders, as amended.	4.2
Form of Indemnification Agreement.	10.1

Item 15. Recent Sales of Unregistered Securities.

Since March 1, 2009 and through February 29, 2012, the Registrant has issued and sold the following securities:

(1) From March 1, 2009 to February 29, 2012, we granted stock options under our 2005 Stock Plan to purchase 35,817,963 shares of common stock (net of expirations, forfeitures and cancellations) to our employees, directors and consultants, having exercise prices ranging from $0.2813 to $9.40 per share. Of these, options to purchase 3,123,325 shares of common stock have been exercised through February 29, 2012 for aggregate consideration of $4,437,888.54, at exercise prices ranging from $0.2813 to $4.00 per share.

(2) In April 2009, we entered into a Series C Preferred Stock Purchase Agreement pursuant to which we issued and sold to accredited investors an aggregate of 983,606 shares of Series C preferred stock, at a purchase price of $6.10 per share, for aggregate consideration of $5,999,996.60. Upon the closing of this offering, these shares will convert into 7,868,848 shares of common stock.

(3) In November 2009, we entered into a Series D Preferred Stock Purchase Agreement pursuant to which we issued and sold to accredited investors in multiple closings an aggregate of 2,990,635 shares of Series D preferred stock, at a purchase price of $17.267333 per share, for aggregate consideration of $51,640,290. Upon the closing of this offering, these shares will convert into 23,925,080 shares of common stock.

(4) In February 2012, we entered into a Common Stock Purchase Agreement pursuant to which we issued and sold to accredited investors an aggregate of 1,750,980 shares of common stock, at a purchase price of $10.20 per share, for aggregate consideration of $17,859,996.

(5) In March 2012, we granted 1,000,000 RSUs to Frederic B. Luddy.

The offers, sales and issuances of the securities described in paragraph (1) were deemed to be exempt from registration under the Securities Act in reliance upon Section 4(2) of the Securities Act or Rule 701 promulgated under the Securities Act. The recipients of such securities were our employees, directors or bona fide consultants and received the securities under our 2005 Stock Plan. Appropriate legends were affixed to the securities issued in these transactions. Each of the recipients of securities in these transactions had adequate access, through employment, business or other relationships, to information about us.

The offers, sales and issuances of the securities described in paragraphs (2), (3), (4) and (5) were deemed to be exempt from registration under the Securities Act in reliance on Rule 506 of Regulation D in that the issuance of securities to the accredited investors did not involve a public offering. The recipients of securities in each of these transactions acquired the securities for investment only and not with a view to or for sale in connection with any distribution thereof and appropriate legends were affixed to the securities issued in these transactions. Each of the recipients of securities in these transactions was an accredited investor under Rule 501 of Regulation D.

Item 16. Exhibits and Financial Statement Schedules.

(a) Exhibits.

Exhibit Number	Description of Document
1.1†	Form of Underwriting Agreement.
3.1†	Certificate of Incorporation, as amended to date.
3.2†	Form of Restated Certificate of Incorporation to be effective upon closing of this offering.
3.3†	Bylaws, as currently in effect.
3.4†	Form of Restated Bylaws to be effective upon closing of this offering.
4.1†	Form of Common Stock Certificate.
4.2	Third Amended and Restated Investors Rights Agreement dated November 25, 2009 among the Registrant and certain of its stockholders, as amended.
5.1†	Opinion of Fenwick & West LLP.
10.1†	Form of Indemnification Agreement.
10.2	2005 Stock Plan, Forms of Stock Option Agreement and Form of Restricted Stock Unit Agreement thereunder.
10.3†	2012 Equity Incentive Plan, to become effective immediately prior to the closing of this offering, and forms of stock option award agreement, restricted stock agreement, stock appreciation right award agreement, restricted stock unit award agreement, performance shares award agreement and stock bonus agreement.
10.4†	2012 Employee Stock Purchase Plan, to become effective upon the closing of this offering, and form of subscription agreement.
10.5	Employment Agreement dated May 2, 2011 among the Registrant and Frank Slootman.
10.6	Employment Agreement dated May 12, 2011 among the Registrant and Michael P. Scarpelli.
10.7	Employment Agreement dated May 21, 2011 among the Registrant and David L. Schneider.
10.8	Employment Agreement dated August 1, 2011 among the Registrant and Dan McGee.
10.9	Employment Agreement dated August 15, 2011 among the Registrant and Arne Josefsberg.
10.10	Office Lease dated August 27, 2010 between the Registrant and Kilroy Realty, L.P.
10.11	Office Lease dated February 14, 2012 between the Registrant and The Irvine Company LLC.
16.1	Change in Certifying Accountant Letter
21.1	Subsidiaries of the Registrant.
23.1	Consent of independent registered public accounting firm.
23.2†	Consent of Fenwick & West LLP (included in Exhibit 5.1).
24.1	Power of Attorney. Reference is made to the signature page hereto.

† To be filed by amendment.

(b) Financial Statement Schedule.

No financial statement schedules are provided because the information called for is not required or is shown either in the financial statements or notes.

Item 17. Undertakings.

The undersigned Registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned Registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of San Diego, State of California, on this 30th day of March, 2012.

SERVICENOW, INC.

By: /s/ Frank Slootman
Frank Slootman
President and Chief Executive Officer

KNOW ALL BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Frank Slootman and Michael P. Scarpelli, and each of them, as his true and lawful attorneys-in-fact and agents, each with the full power of substitution, for him and in his name, place or stead, in any and all capacities, to sign any and all amendments to this registration statement (including post-effective amendments), and to sign any registration statement for the same offering covered by this registration statement that is to be effective upon filing pursuant to Rule 462(b) promulgated under the Securities Act, and all post-effective amendments thereto, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Frank Slootman **Frank Slootman**	President, Chief Executive Officer and Director *(Principal Executive Officer)*	March 30, 2012
/s/ Michael P. Scarpelli **Michael P. Scarpelli**	Chief Financial Officer *(Principal Financial Officer and Principal Accounting Officer)*	March 30, 2012
/s/ Frederic B. Luddy **Frederic B. Luddy**	Chief Product Officer and Director	March 30, 2012
/s/ Paul V. Barber **Paul V. Barber**	Director	March 30, 2012
/s/ Ronald E.F. Codd **Ronald E.F. Codd**	Director	March 30, 2012
/s/ Douglas M. Leone **Douglas M. Leone**	Director	March 30, 2012
/s/ Jeffrey A. Miller **Jeffrey A. Miller**	Director	March 30, 2012
/s/ Charles E. Noell, III **Charles E. Noell, III**	Director	March 30, 2012
/s/ William L. Strauss **William L. Strauss**	Director	March 30, 2012

EXHIBIT INDEX

Exhibit Number	Description of Document
1.1†	Form of Underwriting Agreement.
3.1†	Certificate of Incorporation, as amended to date.
3.2†	Form of Restated Certificate of Incorporation to be effective upon closing of this offering.
3.3†	Bylaws, as currently in effect.
3.4†	Form of Restated Bylaws to be effective upon closing of this offering.
4.1†	Form of Common Stock Certificate.
4.2	Third Amended and Restated Investors Rights Agreement dated November 25, 2009 among the Registrant and certain of its stockholders, as amended.
5.1†	Opinion of Fenwick & West LLP.
10.1†	Form of Indemnification Agreement.
10.2	2005 Stock Plan, Forms of Stock Option Agreement and Form of Restricted Stock Unit Agreement thereunder.
10.3†	2012 Equity Incentive Plan, to become effective immediately prior to the closing of this offering, and forms of stock option award agreement, restricted stock agreement, stock appreciation right award agreement, restricted stock unit award agreement, performance shares award agreement and stock bonus agreement.
10.4†	2012 Employee Stock Purchase Plan, to become effective upon the closing of this offering, and form of subscription agreement.
10.5	Employment Agreement dated May 2, 2011 among the Registrant and Frank Slootman.
10.6	Employment Agreement dated May 12, 2011 among the Registrant and Michael P. Scarpelli.
10.7	Employment Agreement dated May 21, 2011 among the Registrant and David L. Schneider.
10.8	Employment Agreement dated August 1, 2011 among the Registrant and Dan McGee.
10.9	Employment Agreement dated August 15, 2011 among the Registrant and Arne Josefsberg.
10.10	Office Lease dated August 27, 2010 between the Registrant and Kilroy Realty, L.P.
10.11	Office Lease dated February 14, 2012 between the Registrant and The Irvine Company LLC.
16.1	Change in Certifying Accountant Letter
21.1	Subsidiaries of the Registrant.
23.1	Consent of independent registered public accounting firm.
23.2†	Consent of Fenwick & West LLP (included in Exhibit 5.1)
24.1	Power of Attorney. Reference is made to the signature page hereto.

† To be filed by amendment.
* Confidential treatment has been requested with respect to certain portions of this exhibit. Omitted portions have been filed separately with the Securities and Exchange Commission.

Exhibit 4.2

SERVICE-NOW.COM

THIRD AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT

THIS THIRD AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT (the ***"Agreement"***) is made and entered into as of November 25, 2009, by and among **SERVICE-NOW.COM**, a California corporation (the ***"Company"***), and the persons and entities listed on **Exhibit A** hereto (the ***"Investors"***).

RECITALS

WHEREAS, in connection with the Company's prior sale of its Series A Preferred Stock (the ***"Series A Stock"***), the Company and certain of the Investors entered into the Investor Rights Agreement dated as of June 24, 2005;

WHEREAS, in connection with the Company's prior sale of its Series B Preferred Stock (the ***"Series B Stock"***), the Company and certain of the Investors entered into the Amended and Restated Investor Rights Agreement dated as of August 3, 2006;

WHEREAS, in connection with the Company's prior sale of its Series C Preferred Stock (the ***"Series C Stock"***), the Company and certain of the Investors entered into the Amended and Restated Investor Rights Agreement dated as of April 16, 2009 (the ***"Prior Agreement"***);

WHEREAS, certain of the Investors are purchasing shares of the Company's Series D Preferred Stock (the ***"Series D Stock"*** and, together with the Series A Stock, the Series B Stock and the Series C Stock, the ***"Preferred Stock"***) pursuant to the Series D Preferred Stock Purchase Agreement (the ***"Purchase Agreement"***) of even date herewith (the ***"Financing"***);

WHEREAS, the obligations in the Purchase Agreement are conditioned upon the execution and delivery of this Agreement; and

WHEREAS, in connection with the consummation of the Financing, the parties desire to enter into this Agreement in order to amend and restate the Prior Agreement and grant registration rights, information rights and other rights to the Investors as set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of these premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. GENERAL.

1.1 Definitions. As used in this Agreement, the following terms shall have the following respective meanings:

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

(b) ***"Form S-3"*** means such form under the Securities Act as in effect on the date hereof or any successor or similar registration form under the Securities Act subsequently adopted by the SEC which permits inclusion or incorporation of substantial information by reference to other documents filed by the Company with the SEC.

(c) ***"Holder"*** means any person owning of record Registrable Securities that have not been sold to the public, or any assignee of record of such Registrable Securities in accordance with Section 2.10 hereof.

(d) ***"Initial Offering"*** means the Company's first firm commitment underwritten public offering of its Common Stock registered under the Securities Act.

(e) ***"Qualified IPO"*** shall have the meaning set forth in the Restated Charter.

(f) ***"Register," "registered,"*** and ***"registration"*** refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act, and the declaration or ordering of effectiveness of such registration statement or document.

(g) ***"Registrable Securities"*** means (a) Common Stock of the Company issuable or issued upon conversion of the Shares and (b) any Common Stock of the Company issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, such above-described securities. Notwithstanding the foregoing, Registrable Securities shall not include any securities (i) sold to the public either pursuant to a registration statement or Rule 144, (ii) sold in a private transaction in which the transferor's rights under Section 2 of this Agreement are not assigned or (iii) held by a Holder (together with its affiliates), if the Company has completed its Initial Offering and all shares of Common Stock of the Company issuable or issued upon conversion of the Shares held by and issuable to such Holder (and its affiliates) may be sold pursuant to Rule 144 during any 90 day period.

(h) ***"Registrable Securities then outstanding"*** shall be the number of shares of the Company's Common Stock that are Registrable Securities and either (a) are then issued and outstanding or (b) are issuable pursuant to then exercisable or convertible securities.

(i) ***"Registration Expenses"*** shall mean all expenses incurred by the Company in complying with Sections 2.2, 2.3 and 2.4 hereof, including, without limitation, all registration and filing fees, printing expenses, fees and disbursements of counsel for the Company, reasonable fees and disbursements of a single special counsel for the Holders, blue sky fees and expenses and the expense of any special audits incident to or required by any such registration (but excluding the compensation of regular employees of the Company, which shall be paid in any event by the Company).

(j) ***"Restated Charter"*** shall have the meaning set forth in the Purchase Agreement.

(k) ***"SEC"*** or ***"Commission"*** means the Securities and Exchange Commission.

(l) ***"Securities Act"*** shall mean the Securities Act of 1933, as amended.

(m) ***"Selling Expenses"*** shall mean all underwriting discounts, selling commissions and stock transfer taxes applicable to any registrations hereunder and fees and disbursements of counsel for any Holder (other than the reasonable fees and disbursements of the single special counsel for the Holders included in Registration Expenses).

(n) ***"Shares"*** shall mean the shares of Preferred Stock held from time to time by the Investors listed on **Exhibit A** hereto and their permitted assigns and the shares of Series B Stock issuable upon exercise of the warrants held by the Investor listed on **Exhibit A** hereto and its permitted assigns.

(o) ***"Special Registration Statement"*** shall mean a registration statement relating to (i) any employee benefit plan, (ii) any corporate reorganization or transaction under Rule 145 of the Securities Act, including any registration statement related to the issuance or resale of securities issued in such a transaction, (iii) stock issued upon conversion of debt securities, or (iv) a registration on any registration form that does not permit secondary sales.

(p) ***"Withdrawn Registration"*** shall mean a forfeited demand registration under Section 2.2 in accordance with the terms and conditions of Section 2.5.

2. REGISTRATION; RESTRICTIONS ON TRANSFER.

2.1 Restrictions on Transfer.

(a) Each Holder agrees not to make any disposition of all or any portion of the Shares or Registrable Securities held by such Holder unless and until:

(i) there is then in effect a registration statement under the Securities Act covering such proposed disposition and such disposition is made in accordance with such registration statement; or

(ii) (A) The transferee has agreed in writing to be bound by the terms of this Agreement, (B) such Holder shall have notified the Company of the proposed disposition and shall have furnished the Company with a detailed statement of the circumstances surrounding the proposed disposition, and (C) if reasonably requested by the Company, such Holder shall have furnished the Company, at such Holder's expense, with an opinion of counsel, reasonably satisfactory to the Company, that such disposition will not require registration of such shares under the Securities Act. It is agreed that the Company will not require opinions of counsel for transactions made pursuant to Rule 144, except in unusual circumstances. After its Initial Offering, the Company will not require the transferee to be bound by the terms of this Agreement.

(b) Notwithstanding the provisions of subsection (a) above, no such restriction shall apply to a transfer by a Holder that is (A) a partnership transferring to its partners or former partners in accordance with partnership interests, (B) a corporation transferring to a wholly-owned subsidiary or a parent corporation that owns all of the capital stock of the Holder, (C) a limited liability company transferring to its members or former members in accordance with

their membership interests, (D) an individual transferring to the Holder's family member or trust for the benefit of an individual Holder or (E) transferring to an entity affiliated by common control (or other related entity) with such Holder; *provided* that in each case the transferee will agree in writing to be subject to the terms of this Agreement to the same extent as if he were an original Holder hereunder.

(c) Each certificate representing Shares or Registrable Securities shall be stamped or otherwise imprinted with legends substantially similar to the following (in addition to any legend required under applicable state securities laws):

> THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE "***ACT***") AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, ASSIGNED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER THE ACT OR UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY AND ITS COUNSEL THAT SUCH REGISTRATION IS NOT REQUIRED.
>
> THE SALE, PLEDGE, HYPOTHECATION OR TRANSFER OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE IS SUBJECT TO THE TERMS AND CONDITIONS OF A CERTAIN INVESTOR RIGHTS AGREEMENT BY AND BETWEEN THE SHAREHOLDER AND THE COMPANY. COPIES OF SUCH AGREEMENT MAY BE OBTAINED UPON WRITTEN REQUEST TO THE SECRETARY OF THE COMPANY.

(d) The Company shall be obligated to promptly reissue unlegended certificates at the request of any Holder thereof if the Company has completed its Initial Offering and if the Holder shall have obtained an opinion of counsel (which counsel may be counsel to the Company) reasonably acceptable to the Company to the effect that the securities proposed to be disposed of may lawfully be so disposed of without registration, qualification and legend.

(e) Any legend endorsed on an instrument pursuant to applicable state securities laws and the stop-transfer instructions with respect to such securities shall be removed upon receipt by the Company of an order of the appropriate blue sky authority authorizing such removal.

2.2 Demand Registration.

(a) Subject to the conditions of this Section 2.2, if the Company shall receive a written request from the Holders of 40% of the Registrable Securities (the ***"Initiating Holders"***) that the Company file a registration statement under the Securities Act covering the registration of Registrable Securities with an anticipated aggregate offering price before underwriting discounts and commissions, of not less than $4,000,000, then the Company shall

promptly give written notice of such request to all Holders, and subject to the limitations of this Section 2.2, effect, as expeditiously as reasonably possible, the registration under the Securities Act of all Registrable Securities that the Initiating Holders request to be registered, together with all Registrable Securities of any other Holder or Holders joining in such request as are specified in a written request given within 15 days after receipt of such written notice from the Company.

(b) If the Initiating Holders intend to distribute the Registrable Securities covered by a request made pursuant to this Section 2.2, or any request pursuant to Section 2.4, by means of an underwriting, they shall so advise the Company as part of such request and the Company shall include such information in the written notice referred to in Section 2.2(a) or Section 2.4(a), as applicable. In such event, the right of any Holder to include its Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided herein. If the Company shall request inclusion in any registration pursuant to Section 2.2 of securities being sold for its own account, or if other persons shall request inclusion in any registration pursuant to Section 2.2 of other securities of the Company held by them, the Initiating Holders shall, on behalf of all Holders, offer to include such securities in the underwriting and such offer shall be conditioned upon the participation of the Company or such other persons in such underwriting and the inclusion of the Company's and such person's other securities of the Company in the underwriting and their acceptance of the further applicable provisions of this Section 2. The Company and all Holders and other persons proposing to distribute their securities through such underwriting shall enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting by a majority in interest of the Initiating Holders (which underwriter or underwriters shall be reasonably acceptable to the Company). Notwithstanding any other provision of this Section 2.2, if the underwriter advises the Company that marketing factors require a limitation of the number of securities to be underwritten (including Registrable Securities), then the Company shall so advise all Holders of Registrable Securities which would otherwise be underwritten and other persons holding securities of the Company included in such underwriting, and the number of shares that may be included in the underwriting shall be allocated as follows: (i) first, among the Holders of such Registrable Securities on a *pro rata* basis based on the number of Registrable Securities held by all such Holders (including the Initiating Holders); (ii) second, to the Company, which the Company may allocate, at its discretion, for its own account, or for the account of other holders or employees of the Company; and (iii) third, among any other persons who have requested inclusion in the applicable registration pursuant to Section 2.2 on a *pro rata* basis based on the number of securities of the Company held by such holders; *provided, however*, that the number of shares of Registrable Securities to be included in such underwriting and registration shall not be reduced unless all other securities of the Company and any other persons who have requested inclusion in the applicable registration pursuant to Section 2.2 are first entirely excluded from the underwriting and registration. Any Registrable Securities excluded or withdrawn from such underwriting shall be withdrawn from the registration. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriter(s) may round the number of shares allocated to any Holder, the Company or any other persons who have requested inclusion in the applicable registration pursuant to Section 2.2 to the nearest 100 shares. If the Company or a person who has requested inclusion in such registration as provided above does not agree to the terms of any such underwriting, the Company or such person shall be excluded therefrom by written notice from the Company, the

underwriter or the Initiating Holders. The securities so excluded shall also be withdrawn from registration. Any securities so excluded and withdrawn from such underwriting shall also be withdrawn from such registration.

(c) The Company shall not be required to effect a registration pursuant to this Section 2.2:

(i) prior to the earlier of (A) the third anniversary of the date of this Agreement or (B) 180 days following the effective date of the registration statement pertaining to the Initial Offering;

(ii) after the Company has effected two registrations pursuant to this Section 2.2, and such registrations have been declared or ordered effective (counting for this purpose any Withdrawn Registrations);

(iii) during the period starting with the date of filing of, and ending on the date 180 days following the effective date of the registration statement pertaining to the Initial Offering; *provided* that the Company makes reasonable good faith efforts to cause such registration statement to become effective;

(iv) if within 30 days of receipt of a written request from Initiating Holders pursuant to Section 2.2(a), the Company gives notice to the Holders of the Company's intention to file a registration statement for its Initial Offering within 90 days;

(v) if the Company shall furnish to the Initiating Holders requesting a registration statement pursuant to this Section 2.2(a) a certificate signed by the Chairman of the Board (or if none, the President of the Company) stating that in the good faith judgment of the Board of Directors of the Company, it would be materially detrimental to the Company and its shareholders for such registration statement to be effected at such time, in which event the Company shall have the right to defer such filing for a period of not more than 180 days after receipt of the written request of the Initiating Holders; *provided* that such right to delay a request shall be exercised by the Company not more than once in any 12 month period;

(vi) if the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made pursuant to Section 2.4 below; or

(vii) in any particular jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance.

2.3 Piggyback Registrations. The Company shall notify all Holders of Registrable Securities in writing at least 15 days prior to the filing of any registration statement under the Securities Act for purposes of a public offering of securities of the Company (including, but not limited to, registration statements relating to secondary offerings of securities of the Company, but excluding Special Registration Statements) and will afford each such Holder an opportunity to include in such registration statement all or part of such Registrable Securities held by such Holder. Each Holder desiring to include in any such registration statement all or any part of the

Registrable Securities held by it shall, within 15 days after the above-described notice from the Company, so notify the Company in writing. Such notice shall state the intended method of disposition of the Registrable Securities by such Holder. If a Holder decides not to include all of its Registrable Securities in any registration statement thereafter filed by the Company, such Holder shall nevertheless continue to have the right to include any Registrable Securities in any subsequent registration statement or registration statements as may be filed by the Company with respect to offerings of its securities, all upon the terms and conditions set forth herein.

(a) Underwriting. If the registration statement under which the Company gives notice under this Section 2.3 is for an underwritten offering, the Company shall so advise the Holders of Registrable Securities. In such event, the right of any such Holder to be included in a registration pursuant to this Section 2.3 shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their Registrable Securities through such underwriting shall enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting by the Company. Notwithstanding any other provision of this Agreement, if the underwriter determines in good faith that marketing factors require a limitation of the number of shares to be underwritten, the number of shares that may be included in the underwriting shall be allocated, first, to the Company; second, to the Holders on a *pro rata* basis based on the total number of Registrable Securities held by the Holders; and third, to any shareholders of the Company (other than the Holders) on a *pro rata* basis based on the total number of Company securities held by such holders; provided, however, that no such reduction shall reduce the amount of securities of the selling Holders included in the registration below 25% of the total amount of securities included in such registration, unless such offering is a Qualified IPO and such registration does not include shares of any other selling shareholders, in which event any or all of the Registrable Securities of the Holders may be excluded in accordance with the immediately preceding clause. In no event will shares of any other selling shareholder be included in such registration that would reduce the number of shares which may be included by Holders without the written consent of Holders of not less than a majority of the Registrable Securities proposed to be sold in the offering. If any Holder disapproves of the terms of any such underwriting, such Holder may elect to withdraw therefrom by written notice to the Company and the underwriter, delivered at least 15 days prior to the effective date of the registration statement. Any Registrable Securities excluded or withdrawn from such underwriting shall be excluded and withdrawn from the registration. For any Holder that is a partnership, limited liability company or corporation, the partners, retired partners, members, retired members, shareholders and affiliates of such Holder, and the estates and family members of any such partners, retired partners, members or retired members and any trusts for the benefit of any of the foregoing persons shall be deemed to be a single "Holder," and any *pro rata* reduction with respect to such "Holder" shall be based upon the aggregate amount of shares carrying registration rights owned by all entities and individuals deemed to be such single "Holder" as provided in this sentence. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriter(s) may round the number of shares allocated to any Holder, the Company or any other shareholder of the Company to the nearest 100 shares.

(b) Right to Terminate Registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 2.3 prior to the

effectiveness of such registration whether or not any Holder has elected to include securities in such registration. The Registration Expenses, if any, of such withdrawn registration shall be borne by the Company in accordance with Section 2.5 hereof.

2.4 Form S-3 Registration. After the Company has qualified for use of Form S-3, if the Company shall receive a written request from the Initiating Holders that the Company effect a registration on Form S-3 and any related qualification or compliance with respect to all or a part of the Registrable Securities owned by such Initiating Holders, the Company will:

(a) promptly give written notice of the proposed registration, and any related qualification or compliance, to all other Holders of Registrable Securities; and

(b) as soon as practicable, effect such registration and all such qualifications and compliances as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Initiating Holders' Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any other Holder or Holders joining in such request as are specified in a written request given within 10 days after receipt of such written notice from the Company; *provided, however*, that the Company shall not be obligated to effect any such registration, qualification or compliance pursuant to this Section 2.4:

(i) if Form S-3 is not available for such offering by the Initiating Holders;

(ii) if the Initiating Holders, together with the holders of any other securities of the Company entitled to inclusion in such registration, propose to sell Registrable Securities and such other securities (if any) at an aggregate price to the public of less than $1,000,000;

(iii) if within 30 days of receipt of a written request from any Initiating Holders pursuant to this Section 2.4, the Company gives notice to such Initiating Holders of the Company's intention to make a public offering within 90 days, other than pursuant to a Special Registration Statement;

(iv) if the Company shall furnish to the Initiating Holders requesting a registration statement pursuant to this Section 2.4 a certificate signed by the Chairman of the Board (or if none, the President of the Company) stating that in the good faith judgment of the Board of Directors of the Company, it would be materially detrimental to the Company and its shareholders for such Form S-3 registration to be effected at such time, in which event the Company shall have the right to defer such filing for a period of not more than 180 days after receipt of the written request of the Initiating Holders; *provided* that such right to delay a request shall be exercised by the Company not more than once in any 12 month period;

(v) if the Company has, within the 12 month period preceding the date of such request, already effected two registrations on Form S-3 for the Initiating Holders pursuant to this Section 2.4; or

(vi) in any particular jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance.

(c) Subject to the foregoing, the Company shall file a Form S-3 registration statement covering the Registrable Securities and other securities so requested to be registered as soon as practicable after receipt of the requests of the Initiating Holders. Registrations effected pursuant to this Section 2.4 shall not be counted as demands for registration or registrations effected pursuant to Section 2.2.

2.5 Expenses of Registration. Except as specifically provided herein, all Registration Expenses incurred in connection with any registration, qualification or compliance pursuant to Section 2.2, or any registration under Section 2.3 or Section 2.4 herein, shall be borne by the Company. All Selling Expenses incurred in connection with any registrations hereunder, shall be borne by the holders of the securities so registered *pro rata* on the basis of the number of shares so registered. The Company shall not, however, be required to pay for expenses of any registration proceeding begun pursuant to Section 2.2 or 2.4, the request of which has been subsequently withdrawn by the Initiating Holders (including because a sufficient number of Holders shall have withdrawn from the registration so that the minimum offering conditions set forth in Section 2.2 and 2.4 are no longer satisfied), unless (a) the withdrawal is based upon material adverse information concerning the Company of which the Initiating Holders were not aware at the time of such request or (b) the Holders of a majority of the Registrable Securities which are issuable or were issued upon conversion of the Preferred Stock agree to forfeit their right to one requested registration pursuant to Section 2.2, in which event such right shall be forfeited by all Holders. If the Holders are required to pay the Registration Expenses, such expenses shall be borne by the holders of securities (including Registrable Securities) requesting such registration in proportion to the number of shares for which registration was requested. If the Company is required to pay the Registration Expenses of a withdrawn offering pursuant to clause (a) above, then the Holders shall not forfeit their right to one requested registration pursuant to Section 2.2.

2.6 Obligations of the Company. Whenever required to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) Prepare and file with the SEC a registration statement with respect to such Registrable Securities and use all reasonable efforts to cause such registration statement to become effective, and, upon the request of the Holders of a majority of the Registrable Securities registered thereunder, keep such registration statement effective for up to 60 days or, if earlier, until the Holder or Holders have completed the distribution related thereto; *provided, however,* that at any time, upon written notice to the participating Holders and for a period not to exceed 30 days thereafter (the ***"Suspension Period"***), the Company may delay the filing or effectiveness of any registration statement or suspend the use or effectiveness of any registration statement (and the Holders hereby agree not to offer or sell any Registrable Securities pursuant to such registration statement during the Suspension Period) if the Company reasonably believes that there is or may be in existence material nonpublic information or events involving the Company, the failure of which to be disclosed in the prospectus included in the registration statement could result in a Violation (as defined below). In the event that the Company shall exercise its right to

delay or suspend the filing or effectiveness of a registration hereunder, the applicable time period during which the registration statement is to remain effective shall be extended by a period of time equal to the duration of the Suspension Period. The Company may extend the Suspension Period for an additional consecutive 30 days with the consent of the holders of a majority of the Registrable Securities registered under the applicable registration statement, which consent shall not be unreasonably withheld. No more than two such Suspension Periods shall occur in any 12 month period. In no event shall any Suspension Period, when taken together with all prior Suspension Periods, exceed 120 days in the aggregate. If so directed by the Company, all Holders registering shares under such registration statement shall (i) not offer to sell any Registrable Securities pursuant to the registration statement during the period in which the delay or suspension is in effect after receiving notice of such delay or suspension and (ii) use reasonable efforts to deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in such Holders' possession, of the prospectus relating to such Registrable Securities current at the time of receipt of such notice.

(b) Prepare and file with the SEC such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement for the period set forth in subsection (a) above.

(c) Furnish to the Holders such number of copies of a prospectus, including a preliminary prospectus, in conformity with the requirements of the Securities Act, and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned by them.

(d) Use its reasonable efforts to register and qualify the securities covered by such registration statement under such other securities or Blue Sky laws of such jurisdictions as shall be reasonably requested by the Holders; *provided* that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions.

(e) In the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing underwriter(s) of such offering. Each Holder participating in such underwriting shall also enter into and perform its obligations under such an agreement.

(f) Notify each Holder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing. The Company will use reasonable efforts to amend or supplement such prospectus in order to cause such prospectus not to include any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing.

(g) Use its reasonable efforts to furnish if requested, on the date that such Registrable Securities are delivered to the underwriters for sale, if such securities are being sold through underwriters, (i) an opinion, dated as of such date, of the counsel representing the Company for the purposes of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering, addressed to the underwriters, if any, and (ii) a letter, dated as of such date, from the independent certified public accountants of the Company, in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering addressed to the underwriters.

2.7 Termination of Registration Rights. All registration rights granted under this Section 2 shall terminate and be of no further force and effect with respect to any Holder on the earlier of (a) such date, on or after a Qualified IPO, on which all shares of Registrable Securities held by such Holder (and any subsidiaries, parents, partners, limited partners, retired partners, members, retired members, stockholders, affiliates or entities under common investment management with such Holder with whom such Holder must aggregate its sales under SEC Rule 144) is less than three percent (3%) of the number of shares of Common Stock outstanding and may immediately be sold under Rule 144 during any ninety (90) day period, and (b) four years after the closing of a Qualified IPO.

2.8 Delay of Registration; Furnishing Information.

(a) No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any such registration as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 2.

(b) It shall be a condition precedent to the obligations of the Company to take any action pursuant to Section 2.2, 2.3 or 2.4 that the selling Holders shall furnish to the Company such information regarding themselves, the Registrable Securities held by them and the intended method of disposition of such securities as shall be required to effect the registration of their Registrable Securities.

(c) The Company shall have no obligation with respect to any registration requested pursuant to Section 2.2 or Section 2.4 if, due to the operation of subsection 2.2(b), the number of shares or the anticipated aggregate offering price of the Registrable Securities to be included in the registration does not equal or exceed the number of shares or the anticipated aggregate offering price required to originally trigger the Company's obligation to initiate such registration as specified in Section 2.2 or Section 2.4, whichever is applicable.

2.9 Indemnification. In the event any Registrable Securities are included in a registration statement under Sections 2.2, 2.3 or 2.4:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each Holder, the partners, members, legal counsel, accountants, officers and directors of each Holder, any underwriter (as defined in the Securities Act) for such Holder and each person, if any, who controls such Holder or underwriter within the meaning of the Securities Act or the Exchange Act, against any losses, claims, damages, or liabilities (joint or several) to which they may become subject under the Securities Act, the Exchange Act or other federal or state

law, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any of the following statements, omissions or violations (collectively a "***Violation***") by the Company: (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement or incorporated by reference therein, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading, or (iii) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any state securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or any state securities law in connection with the offering covered by such registration statement; and the Company will reimburse each such Holder, partner, member, legal counsel, accountant, officer, director, underwriter or controlling person for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; *provided however*, that the indemnity agreement contained in this Section 2.9(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Company, which consent shall not be unreasonably withheld, nor shall the Company be liable in any such case for any such loss, claim, damage, liability or action to the extent that it arises out of or is based upon a Violation which occurs in reliance upon and in conformity with written information furnished by such Holder, partner, member, legal counsel, accountant, officer, director, underwriter or controlling person of such Holder to the Company and stated to be specifically for use in connection with such registration.

(b) To the extent permitted by law, each Holder will, if Registrable Securities held by such Holder are included in the securities as to which such registration, qualification or compliance is being effected, indemnify and hold harmless the Company, each of its directors, officers, legal counsel, and accountants, and each person, if any, who controls the Company within the meaning of the Securities Act, any underwriter and any other Holder selling securities under such registration statement or any of such other Holder's partners, members, directors or officers or any person who controls such Holder, against any losses, claims, damages or liabilities (joint or several) to which the Company or any such director, officer, legal counsel, accountant, controlling person, underwriter or other such Holder, or partner, member, director, officer or controlling person of such other Holder may become subject under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages or liabilities (or actions in respect thereto) arise out of or are based upon any of the following statements: (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement or incorporated by reference therein, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading, or (iii) any violation or alleged violation by the Company of the Securities Act (collectively, a "***Holder Violation***"), in each case to the extent (and only to the extent) that such Holder Violation is made in such registration statement, prospectus, or other document incorporated by reference therein in reliance upon and in conformity with written information furnished by such Holder to the Company and stated to be specifically for use in connection with such registration; and each such Holder will reimburse any legal or other expenses reasonably incurred by the Company or any such director, officer, legal counsel, accountant, controlling person, underwriter or other Holder, or partner, member,

officer, director or controlling person of such other Holder in connection with investigating or defending any such loss, claim, damage, liability or action; *provided, however*, that the indemnity agreement contained in this Section 2.9(b) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Holder, which consent shall not be unreasonably withheld; *provided further*, that in no event shall any indemnity under this Section 2.9 exceed the net proceeds from the offering received by such Holder.

(c) Promptly after receipt by an indemnified party under this Section 2.9 of notice of the commencement of any action (including any governmental action), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 2.9, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume the defense thereof with counsel mutually satisfactory to the parties; *provided, however*, that an indemnified party shall have the right to retain its own counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action, if materially prejudicial to its ability to defend such action, shall relieve such indemnifying party of any liability to the indemnified party under this Section 2.9, but the omission to so deliver written notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 2.9. Each indemnified party shall furnish such information regarding itself or the claim in question as an indemnifying party may reasonably request in writing and as shall be reasonably required in connection with defense of such claim and litigation resulting therefrom.

(d) If the indemnification provided for in this Section 2.9 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any losses, claims, damages or liabilities referred to herein, the indemnifying party, in lieu of indemnifying such indemnified party thereunder, shall to the extent permitted by applicable law contribute to the amount paid or payable by such indemnified party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other in connection with the Violation(s) or Holder Violation(s) that resulted in such loss, claim, damage or liability, as well as any other relevant equitable considerations. The relative fault of the indemnifying party and of the indemnified party shall be determined by a court of law by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission; *provided*, that in no event shall any contribution by a Holder hereunder exceed the net proceeds from the offering received by such Holder.

(e) The obligations of the Company and Holders under this Section 2.9 shall survive completion of any offering of Registrable Securities in a registration statement and the

termination of this Agreement. No indemnifying party, in the defense of any such claim or litigation, shall, except with the consent of each indemnified party, consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect to such claim or litigation.

2.10 Assignment of Registration Rights. The rights to cause the Company to register Registrable Securities pursuant to this Section 2 may be assigned by a Holder to a transferee or assignee of Registrable Securities that (a) is a subsidiary, parent, general partner, limited partner, retired partner, member or retired member of a Holder, (b) is a Holder's family member or trust for the benefit of an individual Holder, (c) acquires at least 20% of the Registrable Securities held by the transferor, (d) is a Holder of Registrable Securities prior to the transfer, or (e) is an entity affiliated by common control (or other related entity) with such Holder; *provided, however,* (i) the transferor shall provide prior written notice to the Company of the name and address of such transferee or assignee and the securities with respect to which such registration rights are being assigned, (ii) such transferee shall agree to be subject to all restrictions set forth in this Agreement, and (iii) such transfer or assignment of Registrable Securities is effected in accordance with Section 2.1 hereof, the Company's Third Amended and Restated Right of First Refusal and Co-Sale Agreement dated as of even date herewith, the Company's Bylaws, and applicable securities laws.

2.11 Amendment of Registration Rights. Any provision of this Section 2 may be amended only with the written consent of the Company and the Holders of a majority of the Registrable Securities then outstanding which are issuable or were issued upon conversion of the Preferred Stock. The rights of all Holders under any provision of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) by delivery to the Company of an instrument in writing waiving such rights executed by the Holders of a majority of the Registrable Securities then outstanding which are issuable or were issued upon conversion of the Preferred Stock. Any party may waive (either generally or in a particular instance and either retroactively or prospectively) its rights under any provision of this Agreement by delivering to the Company an instrument in writing executed by such party. The Company may not, without the prior written consent of the Holders of a majority of the Registrable Securities then outstanding which are issuable or were issued upon conversion of the Preferred Stock, amend or waive any provision of this Section 2. Any amendment or waiver effected in accordance with this Section 2.11 shall be binding upon each Holder, each future holder of all Registrable Securities of a Holder, and the Company. By acceptance of any benefits under this Section 2, Holders of Registrable Securities hereby agree to be bound by the provisions hereunder.

2.12 Limitation on Subsequent Registration Rights. Other than as provided in Section 5.11, after the date of this Agreement, the Company shall not enter into any agreement with any holder or prospective holder of any securities of the Company that would grant such holder registration rights on a parity with or senior to those granted to the Holders hereunder, other than the right to a Special Registration Statement, without the prior written consent of the Holders of a majority of the Registrable Securities then outstanding which are issuable or were issued upon conversion of the Preferred Stock.

2.13 *"Market Stand-Off"* Agreement. Each Holder hereby agrees that such Holder shall not sell, transfer, make any short sale of, grant any option for the purchase of, or enter into any hedging or similar transaction with the same economic effect as a sale with respect to, any Common Stock (or other securities) of the Company held by such Holder (other than those included in the registration) for a period specified by the representative of the underwriters of Common Stock (or other securities) of the Company not to exceed 180 days following the effective date of a registration statement of the Company filed under the Securities Act (the "***Lock-Up Period***"); *provided* that:

(i) such agreement shall apply only to a Qualified IPO; and

(ii) all officers and directors (including any entities with which they are affiliated) of the Company enter into similar agreements.

Each Holder agrees to execute and deliver such other agreements as may be reasonably requested by the Company or the underwriter that are consistent with the Holder's obligations under this Section 2.13 or that are necessary to give further effect thereto. In addition, if requested by the Company or the representative of the underwriters of Common Stock (or other securities) of the Company, each Holder shall provide, within 10 days of such request, such information as may be required by the Company or such representative in connection with the completion of any public offering of the Company's securities pursuant to a registration statement filed under the Securities Act. The obligations described in this Section 2.13 shall not apply to a Special Registration Statement. The Company may impose stop-transfer instructions with respect to the shares of Common Stock (or other securities) subject to the foregoing restriction until the end of such specified period. Each Holder agrees that any transferee of any shares of Registrable Securities shall be bound by this Section 2.13. The underwriters of the Company's stock are intended third party beneficiaries of this Section 2.13 and shall have the right, power and authority to enforce the provisions hereof as though they were a party hereto.

Notwithstanding the foregoing, for the purpose of compliance with NASD Rule 2711(f)(4), if (a) during the last 17 days of the initial Lock-Up Period, the Company releases earnings results or material news or a material event relating to the Company occurs, or (b) prior to the expiration of the initial Lock-Up Period, the Company announces that it will release earnings results during the 16-day period beginning on the last day of the initial Lock-Up Period, then in each case, each Holder hereby consents to an extension to the Lock-Up Period until the expiration of the 18-day period beginning on the date of release of the earnings results or the occurrence of the material news or material event, as applicable, unless such extension is waived in writing.

2.14 Rule 144 Reporting. With a view to making available to the Holders the benefits of certain rules and regulations of the SEC which may permit the sale of the Registrable Securities to the public without registration, the Company agrees to use its commercially reasonable efforts to:

(a) Make and keep public information available, as those terms are understood and defined in SEC Rule 144 or any similar or analogous rule promulgated under the Securities Act, at all times from and after the effective date of the Initial Offering;

(b) File with the SEC, in a timely manner, all reports and other documents required of the Company under the Exchange Act at any time after it has become subject to such reporting requirements; and

(c) So long as a Holder owns any Registrable Securities, furnish to such Holder forthwith upon request: a written statement by the Company as to its compliance with the reporting requirements of SEC Rule 144, and of the Exchange Act (at any time after it has become subject to such reporting requirements); a copy of the most recent annual or quarterly report of the Company filed with the Commission; and such other reports and documents as a Holder may reasonably request in connection with availing itself of any rule or regulation of the SEC allowing it to sell any such securities without registration.

3. COVENANTS OF THE COMPANY.

3.1 Basic Financial Information and Reporting.

(a) The Company will maintain true books and records of account in which full and correct entries will be made of all its business transactions pursuant to a system of accounting established and administered in accordance with generally accepted accounting principles consistently applied (except as noted therein), and will set aside on its books all such proper accruals and reserves as shall be required under generally accepted accounting principles consistently applied (except as noted therein).

(b) So long as any Shares remain outstanding, as soon as practicable after the end of each fiscal year of the Company, and in any event within 120 days thereafter, the Company will furnish the Investors a balance sheet of the Company, as at the end of such fiscal year, and a statement of income and a statement of cash flows of the Company, for such year, all prepared in accordance with generally accepted accounting principles consistently applied (except as noted therein) and setting forth in each case in comparative form the figures for the previous fiscal year (if available), all in reasonable detail. Such financial statements shall be accompanied by a report and opinion thereon by independent public accountants of national standing selected by the Company's Board of Directors.

(c) So long as any Shares remain outstanding, the Company will furnish the Investors, as soon as practicable after the end of each quarter, and in any event within 45 days thereafter, a balance sheet of the Company as of the end of each such quarter, and a statement of income and a statement of cash flows of the Company for such quarter and for the current fiscal year to date, including a comparison to the figures for such quarter and year-to-date period for the previous fiscal year and a comparison to plan figures for such period, prepared in accordance with generally accepted accounting principles consistently applied (except as noted therein), with the exception that no notes need be attached to such statements and year-end audit adjustments may not have been made.

(d) So long as any Shares remain outstanding, the Company will furnish the Investors: (i) at least 30 days prior to the beginning of each fiscal year, an annual operating plan/budget and a strategic plan for such fiscal year (and as soon as available, any subsequent written revisions thereto); and (ii) as soon as practicable after the end of each month, and in any

event within twenty (20) days thereafter, a balance sheet of the Company as of the end of each such month, and a statement of income and a statement of cash flows of the Company for such month and for the current fiscal year to date, including a comparison to the figures for such month and year-to-date period for the previous fiscal year and a comparison to plan figures for such period, prepared in accordance with generally accepted accounting principles consistently applied (except as noted thereon), with the exception that no notes need be attached to such statements and year-end audit adjustments may not have been made.

3.2 Inspection Rights. Each Investor shall have the right to visit and inspect any of the properties of the Company or any of its subsidiaries, and to discuss the affairs, finances and accounts of the Company or any of its subsidiaries with its executive officers, and to review such information as is reasonably requested all at such reasonable times and as often as may be reasonably requested; *provided, however,* that the Company shall not be obligated under this Section 3.2 with respect to any Holder whom the Board determines in good faith to be a competitor of the Company or an officer, employee, director or holder of more than 25% of the capital stock of a competitor of the Company or with respect to information which the Board of Directors determines in good faith is confidential or attorney-client privileged and should not, therefore, be disclosed

3.3 Confidentiality of Records. Each Investor agrees that the information furnished to such Investor pursuant to this Agreement that the Company identifies as being confidential or proprietary is confidential (so long as such information is not in the public domain) and for such Investor's use only, and such Investor will not use such confidential information in violation of the Exchange Act or reproduce, disclose or disseminate such confidential information to any other person other than (i) to any partner, member, subsidiary, parent or affiliate of such Investor for the purpose of evaluating its investment in the Company as long as such partner, member, subsidiary, parent or affiliate is advised of and agrees or has agreed to be bound by the confidentiality provisions of this Section 3.3 or comparable restrictions; (ii) at such time as it enters the public domain through no fault of such Investor; (iii) that is communicated to it free of any obligation of confidentiality; or (iv) that is developed by Investor or its agents independently of and without reference to any confidential information communicated by the Company.

3.4 Reservation of Common Stock. The Company will at all times reserve and keep available, solely for issuance and delivery upon the conversion of the Preferred Stock, all Common Stock issuable from time to time upon such conversion.

3.5 Stock Vesting; Repurchase. Unless otherwise approved by the Board of Directors, all stock options and other stock equivalents issued after the date of this Agreement to employees, directors, consultants and other service providers shall be subject to vesting over a four-year period as follows: (a) 25% of such stock shall vest at the end of the first 12 months of service, and (b) 75% of such stock shall vest in equal monthly installments over the remaining three years. The Company shall maintain a right to repurchase in the applicable documents relating to any stock options and other stock equivalents, at a price equal to the original issue price, any unvested shares issued after the date of this Agreement to employees, directors, consultants and other service providers in the event that such person's employment with the Company is terminated or such person otherwise ceases to perform services for the Company.

3.6 Proprietary Information and Inventions Agreement. The Company shall require all employees to execute and deliver an At-Will Employment, Confidential Information, Invention Assignment, and Arbitration Agreement in the form attached to the Purchase Agreement as Exhibit G.

3.7 Key Man Insurance. The Company will use its reasonable efforts to maintain in full force and effect, a term life insurance policy in the amount of approximately $5,000,000 on the life of Frederic B. Luddy under which the Company is named beneficiary.

3.8 Director and Officer Insurance. The Company will use its reasonable efforts to maintain in full force and effect, director and officer liability insurance in the amount of at least $5,000,000.

3.9 Board of Directors. The Company shall use its reasonable efforts to hold at least four meetings of its Board of Directors every fiscal year and that such meetings are held at least once per fiscal quarter, unless otherwise approved by a majority of the non-employee members of the Board of Directors, and the members of the Board of Directors shall be entitled to reimbursement of reasonable expenses related to travel in connection with service on the Board of Directors.

3.10 Committees of the Board of Directors. The compensation of the Company's Chief Executive Officer shall be subject to advance approval by all members of the Compensation Committee of the Board of Directors. The Compensation Committee and any other committee of the Board of Directors shall include the director elected by the holders of the Series A Stock voting together as a separate class, the director elected by the holders of the Series B Stock voting together as a separate class, and the director elected by the holders of the Series D Stock voting together as a separate class.

3.11 Qualified Small Business. The Company will use its best efforts to comply with the reporting and recordkeeping requirements of Section 1202 of the Internal Revenue Code of 1986, as amended (the ***"Code"***), any regulations promulgated thereunder and any similar state laws and regulations, and agrees not to repurchase any stock of the Company if such repurchase would cause the Shares not to so qualify as ***"Qualified Small Business Stock."*** The Company further covenants to submit to its stockholders and to state and federal taxation authorities such form and filings as may be required to document such compliance, including the California Franchise Tax Board Form 3565, Small Business Stock Questionnaire, with its franchise or income tax return for the current income year.

3.12 Termination of Covenants. All covenants of the Company contained in Section 3 of this Agreement (other than the provisions of Section 3.3) shall terminate upon the earlier of (i) the closing of the Initial Offering, (ii) the closing of a transaction that constitutes an Asset Transfer or Acquisition, each as defined in the Restated Charter, or (iii) such time as the Company becomes subject to the reporting provisions of the Exchange Act.

3.13 Reserved Employee Shares. The Company acknowledges and agrees that the 3,516,846 shares of Common Stock reserved for issuance under the Company's 2005 Stock Plan, as amended, as of the date hereof shall be issued from time to time to key employees of the

Company only under such arrangements, contracts or plans and under such terms and conditions as are recommended by management of the Company and unanimously approved by the Board of Directors.

4. RIGHTS OF FIRST REFUSAL.

4.1 Subsequent Offerings. So long as any Shares remain outstanding and subject to applicable securities laws and the remainder of this Section 4, each Investor shall have a right of first refusal to purchase its *pro rata* share of all Equity Securities, as defined below, that the Company may, from time to time, propose to sell and issue after the date of this Agreement, other than the Equity Securities excluded by Section 4.6 hereof. Each Investor's *pro rata* share is equal to the ratio of (a) the number of shares of the Company's Common Stock (including all shares of Common Stock issuable or issued upon conversion of the Shares or upon the exercise of outstanding warrants or options) of which such Investor is deemed to be a holder immediately prior to the issuance of such Equity Securities to (b) the total number of shares of the Company's outstanding Common Stock (including all shares of Common Stock issued or issuable upon conversion of the Shares or upon the exercise of any outstanding warrants or options) immediately prior to the issuance of such Equity Securities. The term ***"Equity Securities"*** shall mean (i) any Common Stock, Preferred Stock or other equity security of the Company, (ii) any security convertible into or exercisable or exchangeable for, with or without consideration, any Common Stock, Preferred Stock or other equity security (including any option to purchase such a convertible security), (iii) any security carrying any warrant or right to subscribe to or purchase any Common Stock, Preferred Stock or other equity security or (iv) any such warrant or right.

4.2 Exercise of Rights. If the Company proposes to issue any Equity Securities, it shall give each Investor written notice of its intention, describing the Equity Securities, the price and the terms and conditions upon which the Company proposes to issue the same. Each Investor shall have 15 days from the giving of such notice to agree to purchase its *pro rata* share of the Equity Securities for the price and upon the terms and conditions specified in the notice by giving written notice to the Company and stating therein the quantity of Equity Securities to be purchased. Notwithstanding the foregoing, the Company shall not be required to offer or sell such Equity Securities to any Investor who would cause the Company to be in violation of applicable federal securities laws by virtue of such offer or sale.

4.3 Issuance of Equity Securities to Other Persons. If not all of the Investors elect to purchase their *pro rata* share of the Equity Securities, then the Company shall promptly notify in writing the Investors who do so elect and shall offer such Investors the right to acquire such unsubscribed shares on a *pro rata* basis. Each Investor shall have 10 days after receipt of such notice to notify the Company of its election to purchase all or a portion thereof of the unsubscribed shares. The Company shall have 90 days thereafter to sell the Equity Securities in respect of which the Investors' rights were not exercised, at the same price and upon other terms and conditions not materially more favorable to the purchasers thereof than specified in the Company's notice to the Investors pursuant to Section 4.2 hereof. If the Company does not sell such Equity Securities within such 90 day period, the Company shall not thereafter issue or sell such Equity Securities without first offering such Equity Securities to the Investors in the manner provided above.

4.4 Termination and Waiver of Rights of First Refusal. The rights of first refusal set forth in this Section 4 shall not apply to, and shall terminate upon the earliest of (i) the closing of a Qualified IPO or (ii) the closing of a transaction that constitutes a Liquidation Event as defined in the Restated Charter. The rights of first refusal set forth in this Section 4 may be amended with the written consent of the Company, the Investors holding a majority of the Registrable Securities then held by all Investors which are issuable or were issued upon conversion of the Preferred Stock, or as permitted by Section 5.6. The rights of first refusal set forth in this Section 4 of all Holders may be waived (either generally or in a particular instance and either retroactively or prospectively) by delivery to the Company of an instrument in writing waiving such rights executed by the Holders of a majority of the Registrable Securities then outstanding which are issuable or were issued upon conversion of the Preferred Stock. Any party may waive (either generally or in a particular instance and either retroactively or prospectively) its rights under any provision of this Agreement by delivering to the Company an instrument in writing executed by such party. The Company may not, without the prior written consent of the Holders of a majority of the Registrable Securities then outstanding which are issuable or were issued upon conversion of the Preferred Stock, amend or waive any provision of this Section 4. Any amendment or waiver effected in accordance with this Section 4.4 shall be binding upon each Holder, each future holder of all Registrable Securities of a Holder, and the Company. By acceptance of any benefits under this Section 4, Holders of Registrable Securities hereby agree to be bound by the provisions hereunder.

4.5 Transfer of Rights of First Refusal. The rights of first refusal of each Investor set forth in this Section 4 may be transferred to the same parties, and subject to the same restrictions, as any transfer of registration rights pursuant to Section 2.10.

4.6 Excluded Securities. The rights of first refusal set forth in this Section 4 shall have no application to any of the following Equity Securities:

(a) The Shares and the shares of Common Stock issued upon conversion of, or as a dividend or distribution of, the Shares;

(b) shares of Common Stock and/or options, warrants or other Common Stock purchase rights, and the Common Stock issued pursuant to such options, warrants or other rights (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like after the date hereof) issued after the date of this Agreement to employees, officers or directors of, or consultants or advisors to, the Company or any subsidiary pursuant to stock purchase or stock option plans or other arrangements that are unanimously approved by the Board;

(c) any Equity Securities issued or issuable pursuant to any options, warrants, convertible securities or other rights outstanding as of the date of this Agreement, and Equity Securities issued pursuant to any such options, warrants, convertible securities or other rights issued after the date of this Agreement, so long as the rights of first refusal set forth in this Section 4 were complied with or were inapplicable pursuant to any provision of this Section 4.6 with respect to the initial issuance by the Company of such options, warrants, convertible securities or other rights;

(d) any Equity Securities issued for consideration other than cash pursuant to a merger, purchase of substantially all of the assets, consolidation, acquisition, strategic alliance, or similar business combination transaction; *provided* that the issuance of shares therein has been unanimously approved by the Board;

(e) any Equity Securities issued in connection with any stock split, stock dividend or recapitalization by the Company;

(f) any Equity Securities issued or issuable pursuant to any options, warrants, convertible securities or other rights issued in connection with any equipment loan or leasing arrangement, credit agreements, real property leasing arrangement, or debt financing from a bank or similar financial institution; *provided* that the issuance of shares therein has been unanimously approved by the Board;

(g) any Equity Securities issued in a Qualified IPO;

(h) any Equity Securities issued pursuant to the Purchase Agreement;

(i) any Equity Securities issued or issuable pursuant to any options, warrants, convertible securities or other rights issued to third-party service providers in exchange for or as partial consideration for services rendered to the Company; *provided* that the issuance of shares therein has been unanimously approved by the Board;

(j) any Equity Securities issued or issuable pursuant to any options, warrants, convertible securities or other rights issued in connection with strategic transactions involving the Company and other entities, including (i) joint ventures, manufacturing, marketing, customer, vendor or distribution arrangements or (ii) collaboration, technology transfer or development arrangements, including technology licenses; *provided* that the issuance of shares therein has been unanimously approved by the Board; and

(k) any right, option or warrant to acquire any security convertible into the securities set forth in subsections (a) through (j) above.

5. MISCELLANEOUS.

5.1 Corporate Opportunity. The Company acknowledges that the Investors and their affiliates, members, equity holders, director representatives, partners, employees, agents and other related persons are engaged in the business of investing in private and public companies in a wide range of industries, including the industry segment in which the Company operates (the "***Company Industry Segment***"). Accordingly, the Company and the Investors acknowledge and agree that a Covered Person shall:

(a) have no duty to the Company to refrain from participating as a director, investor or otherwise with respect to any company or other person or entity that is engaged in the Company Industry Segment or is otherwise competitive with the Company; and

(b) in connection with making investment decisions, to the fullest extent permitted by law, have no obligation of confidentiality or other duty to the Company to refrain

from using any information, including, but not limited to, market trend and market data, which comes into such Covered Person's possession, whether as a director, investor or otherwise (the "***Information Waiver***"), provided that the Information Waiver shall not apply, and therefore such Covered Person shall be subject to such obligations and duties as would otherwise apply to such Covered Person under applicable law, if the information at issue (i) constitutes confidential information concerning the Company, or (ii) is covered by a contractual obligation of confidentiality to which the Company is subject.

Notwithstanding anything in this Section 5.1 to the contrary, nothing herein shall be construed as a waiver of any Covered Person's duty of loyalty or obligation of confidentiality with respect to the disclosure of confidential information of the Company.

For the purposes of this Section 5.1, "**Covered Person**" shall have the meaning set forth in the Restated Charter.

5.2 Governing Law. This Agreement shall be governed by and construed under the laws of the State of California in all respects as such laws are applied to agreements among California residents entered into and to be performed entirely within California. The parties agree that any action brought by either party under or in relation to this Agreement, including without limitation to interpret or enforce any provision of this Agreement, shall be brought in, and each party agrees to and does hereby submit to the jurisdiction and venue of, any state or federal court located in the County of San Diego, California.

5.3 Successors and Assigns. Except as provided below, this Agreement, and any and all rights, duties and obligations hereunder, shall not be assigned, transferred, delegated or sublicensed by any Investor without the prior written consent of the Company and any attempt by an Investor without such permission to assign, transfer, delegate or sublicense any rights, duties or obligations that arise under this Agreement shall be void. Subject to Section 2.10 hereof, any Investor may assign, transfer, delegate or sublicense any and all of its rights, duties and obligations hereunder to any transferee or assignee of Shares held by such Investor. Subject to the foregoing and except as otherwise provided herein, the provisions of this Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors, assigns, heirs, executors and administrators.

5.4 Entire Agreement. This Agreement, the Exhibit hereto, the Purchase Agreement and the other documents delivered pursuant thereto constitute the full and entire understanding and agreement between the parties with regard to the subjects hereof and thereof and no party shall be liable or bound to any other in any manner by any oral or written representations, warranties, covenants and agreements except as specifically set forth herein and therein. Each party expressly represents and warrants that it is not relying on any oral or written representations, warranties, covenants or agreements outside of this Agreement and the Related Agreements (as defined in the Purchase Agreement). The Company and the Investors hereby agree, as evidenced by their signatures hereto, that this Agreement amends and restates the Prior Agreement in all respects.

5.5 Severability. In the event one or more of the provisions of this Agreement should, for any reason, be held to be invalid, illegal or unenforceable in any respect, such

invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

5.6 Amendment and Waiver.

(a) Except as otherwise expressly provided, this Agreement may be amended or modified only upon the written consent of the Company and the holders of a majority of the Registrable Securities then outstanding which are issuable or were issued upon conversion of the Preferred Stock.

(b) Except as otherwise expressly provided, the obligations of the Company and the rights of all Holders under this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) upon the written consent of the holders of a majority of the Registrable Securities then outstanding which are issuable or were issued upon conversion of the Preferred Stock. Any party may waive (either generally or in a particular instance and either retroactively or prospectively) its rights under any provision of this Agreement by delivering to the Company an instrument in writing executed by such party.

(c) The Company may not, without the prior written consent of the holders of a majority of the Registrable Securities then outstanding which are issuable or were issued upon conversion of the Preferred Stock, amend or waive any provision of this Agreement.

(d) For the purposes of determining the number of Holders or Investors entitled to vote or exercise any rights hereunder, the Company shall be entitled to rely solely on the list of record holders of its stock as maintained by or on behalf of the Company.

Except as otherwise expressly provided herein, any such amendment, waiver, discharge or termination effected in accordance with this Section 5.6 shall be binding upon each Holder and each future holder of all Registrable Securities of Holder. Each Holder acknowledges that by the operation of this paragraph, the holders of a majority of the Registrable Securities then outstanding which are issuable or were issued upon conversion of the Preferred Stock will have the right and power to diminish or eliminate the rights of such Holder under this Agreement except to the extent otherwise expressly provided in this Agreement.

5.7 Delays or Omissions. It is agreed that no delay or omission to exercise any right, power, or remedy accruing to any party, upon any breach, default or noncompliance by another party under this Agreement shall impair any such right, power, or remedy, nor shall it be construed to be a waiver of any such breach, default or noncompliance, or any acquiescence therein, or of any similar breach, default or noncompliance thereafter occurring. It is further agreed that any waiver, permit, consent, or approval of any kind or character on any party's part of any breach, default or noncompliance under the Agreement or any waiver on such party's part of any provisions or conditions of this Agreement must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement, by law, or otherwise afforded to any party, shall be cumulative and not alternative.

5.8 Notices. All notices required or permitted hereunder shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent

by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (c) three days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the party to be notified at the address as set forth on the signature pages hereof or **Exhibit A** hereto or at such other address as such party may designate by five days advance written notice to the other parties hereto.

5.9 Attorneys' Fees. In the event that any suit or action is instituted under or in relation to this Agreement, including without limitation to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all reasonable fees, costs and expenses of appeals.

5.10 Titles and Subtitles. The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

5.11 Additional Investors. Notwithstanding anything to the contrary contained herein, if the Company shall issue additional shares of its Series D Stock pursuant to the Purchase Agreement to a person who is not already an Investor pursuant to this Agreement, any purchaser of such shares of Series D Stock shall become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement and shall be deemed an "***Investor***," a "***Holder***" and a party hereunder. Notwithstanding anything to the contrary contained herein, if the Company shall issue Equity Securities described in Section 4.6 (d), (f), (i) or (j) of this Agreement, any purchaser of such Equity Securities may become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement and shall be deemed an "***Investor***," a "***Holder***" and a party hereunder.

5.12 Counterparts; Facsimile Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by facsimile and upon such delivery the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

5.13 Aggregation of Stock. All shares of Registrable Securities held or acquired by affiliated entities or persons or persons or entities under common management or control shall be aggregated together for the purpose of determining the availability of any rights under this Agreement.

5.14 Pronouns. All pronouns contained herein, and any variations thereof, shall be deemed to refer to the masculine, feminine or neutral, singular or plural, as to the identity of the parties hereto may require.

5.15 Termination Upon Asset Transfer or Acquisition. Notwithstanding anything to the contrary herein, this Agreement (excluding any then-existing obligations) shall terminate upon an Asset Transfer or Acquisition, each as defined in the Restated Charter.

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IN WITNESS WHEREOF, the parties hereto have executed this **THIRD AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** as of the date set forth in the first paragraph hereof.

COMPANY:

SERVICE-NOW.COM,
a California corporation

By: /s/ Frederic B. Luddy
Frederic B. Luddy
President and Chief Executive Officer

531 Stevens Avenue West
Solana Beach, CA 92075

Fax No.: (858) 720-0479

INVESTORS:

JMI EQUITY FUND V, L.P.

By: JMI Associates V, LLC
Its: General Partner

By: /s/ Paul V. Barber
Name: Paul V. Barber
Title: Managing Member

JMI EQUITY FUND V (AI), L.P.

By: JMI Associates V, LLC
Its: General Partner

By: /s/ Paul V. Barber
Name: Paul V. Barber
Title: Managing Member

JMI INCUBATOR FUND, L.P.

By: JMI Incubator Associates, LLC
Its: General Partner

By: /s/ Charles E. Noell
Name: Charles E. Noell
Title: Managing Member

JMI INCUBATOR FUND (QP), L.P.

By: JMI Incubator Associates, LLC
Its: General Partner

By: /s/ Charles E. Noell
Name: Charles E. Noell
Title: Managing Member

IN WITNESS WHEREOF, the parties hereto have executed this **THIRD AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT** as of the date set forth in the first paragraph hereof.

INVESTORS:

SEQUOIA CAPITAL U.S. GROWTH FUND IV, L.P.

By: SCGF IV Management, L.P.
A Cayman Islands exempted limited partnership
Its: General Partner

By: SCGF GenPar, Ltd
A Cayman Islands limited liability company
Its: General Partner

By: /s/ Douglas M. Leone

Name: Douglas M. Leone

Title: Managing Director

EXHIBIT A

INVESTORS

(Page 1 of 2)

NAME AND ADDRESS	SERIES A PREFERRED STOCK	SERIES B PREFERRED STOCK	SERIES C PREFERRED STOCK	SERIES B WARRANTS
JMI EQUITY FUND V, L.P. 2 Hamill Road, Suite 272 Baltimore, MD 21210 Attention: Chuck Dieveney Fax No: (410) 951-0201	1,181,565	1,885,133	464,878	0
JMI EQUITY FUND V (AI), L.P. 2 Hamill Road, Suite 272 Baltimore, MD 21210 Attention: Chuck Dieveney Fax No: (410) 951-0201	68,435	109,185	26,925	0
JMI INCUBATOR, L.P. 12265 El Camino Real Suite 150 San Diego, CA 92130 Fax No: (858) 259-4541	836,830	1,335,124	329,244	0
JMI INCUBATOR (QP), L.P. 12265 El Camino Real Suite 150 San Diego, CA 92130 Fax No: (858) 259-4541	413,170	659,194	162,559	0
SQUARE 1 BANK 406 Blackwell Street, Suite 240 Crowe Building Durham, NC 27701 Fax No: (919) 314-3080	0	0	0	51,852

Copies of all notices sent to the foregoing Investors, excluding Square 1 Bank, should also be sent to:

7590 Fay Ave, Suite 301
La Jolla, CA 92037
Fax No: (858) 259-4843

and

Goodwin Procter LLP
Exchange Place
53 State Street
Boston, MA 02109
Attention: Mark H. Burnett, Esq.
Fax No: (617) 523-1231

EXHIBIT A

INVESTORS

(Page 2 of 2)

NAME AND ADDRESS	SERIES D PREFERRED STOCK
SEQUOIA CAPITAL U.S. GROWTH FUND IV., L.P.	2,395,500
Sequoia Capital	
300 Sand Hill Road, Ste. 4-250	
Menlo Park, CA 94025	
Attention: Douglas Leone	
Fax No: (650) 854-2977	

Copies of all notices sent to the foregoing Investors should also be sent to:

Gunderson Dettmer Stough Villenueve Franklin and Hachigian, LLP
Redwood City, CA 94063
Attention: Scott C. Dettmer
Fax No: (650) 321-2800

Exhibit 10.2

SERVICE-NOW.COM

2005 STOCK PLAN

Adopted by Board of Directors on March 31, 2005
Approved by Shareholders on March 31, 2005

Amended by Board of Directors on July 31, 2006
Amendment Approved by Shareholders on July 31, 2006
Amended by the Board of Directors on December 19, 2007
Amendment Approved by Shareholders on December 20, 2007
Amended by the Board of Directors on April 13, 2009
Amendment Approved by Shareholders on April 13, 2009
Amended by the Board of Directors on November 25, 2009
Amendment Approved by Shareholders on November 25, 2009
Amended by the Board of Directors on July 16, 2010
Amendment Approved by Shareholders on July 16, 2010
Amended by the Board of Directors on May 6, 2011
Amendment Approved by Shareholders on May 6, 2011
Amended by the Board of Directors on August 15, 2011
Amendment Approved by Shareholders on August 26, 2011
Amended by the Compensation Committee of the Board of Directors on September 9, 2011
Amended by the Board of Directors on November 4, 2011
Amendment Approved by Shareholders on November 4, 2011
Amended by the Board of Directors on February 20, 2012

1. Purposes of the Plan. The purposes of this Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to Employees, Directors and Consultants and to promote the success of the Company's business. Options granted under the Plan may be Incentive Stock Options or Nonstatutory Stock Options, as determined by the Administrator at the time of grant. Stock Purchase Rights and RSUs may also be granted under the Plan.

2. Definitions. As used herein, the following definitions shall apply:

(a) "Administrator" means the Board or any of its Committees as shall be administering the Plan in accordance with Section 4 hereof.

(b) "Applicable Laws" means the requirements relating to the administration of stock option plans under U.S. state corporate laws, U.S. federal and state securities laws, the Code, any stock exchange or quotation system on which the Common Stock is listed or quoted and the applicable laws of any other country or jurisdiction where Options, Stock Purchase Rights or RSUs are granted under the Plan.

(c) "Board" means the Board of Directors of the Company.

(d) "Change in Control" means the occurrence of any of the following events:

(i) Any "person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) becomes the "beneficial owner" (as defined in Rule 13d-3 of the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of the total voting power represented by the Company's then outstanding voting securities, except that any change in the beneficial ownership of the securities of the Company as a result of a private financing of the Company that is approved by the Board, shall not be deemed to be a Change in Control; or

(ii) The consummation of the sale or disposition by the Company of all or substantially all of the Company's assets; or

(iii) The consummation of a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or its parent) at least fifty percent (50%) of the total voting power represented by the voting securities of the Company or such surviving entity or its parent outstanding immediately after such merger or consolidation.

(e) "Code" means the Internal Revenue Code of 1986, as amended. Any reference to a section of the Code herein will be a reference to any successor or amended section of the Code.

(f) "Committee" means a committee of Directors or of other individuals satisfying Applicable Laws appointed by the Board in accordance with Section 4 hereof.

(g) "Common Stock" means the Common Stock of the Company.

(h) "Company" means Service-now.com, a California corporation.

(i) "Consultant" means any person who is engaged by the Company or any Parent or Subsidiary to render consulting or advisory services to such entity.

(j) "Director" means a member of the Board.

(k) "Disability" means total and permanent disability as defined in Section 22(e)(3) of the Code.

(l) "Employee" means any person, including officers and Directors, employed by the Company or any Parent or Subsidiary of the Company. Neither service as a Director nor payment of a director's fee by the Company shall be sufficient to constitute "employment" by the Company.

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

(n) "Exchange Program" means a program under which (a) outstanding Options are surrendered or cancelled in exchange for Options of the same type (which may have lower exercise prices and different terms), Options of a different type, and/or cash, and/or (b) the exercise price of an outstanding Option is reduced. The terms and conditions of any Exchange Program will be determined by the Administrator in its sole discretion.

(o) "Fair Market Value" means, as of any date, the value of Common Stock determined as follows:

(i) If the Common Stock is listed on any established stock exchange or a national market system, including without limitation the Nasdaq National Market or The Nasdaq SmallCap Market of The Nasdaq Stock Market, its Fair Market Value shall be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on such exchange or system on the day of determination, as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable;

(ii) If the Common Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, its Fair Market Value shall be the mean between the high bid and low asked prices for the Common Stock on the day of determination; or

(iii) In the absence of an established market for the Common Stock, the Fair Market Value thereof shall be determined in good faith by the Administrator.

(p) "Grantee" means the holder of an outstanding Option, Stock Purchase Right or Restricted Stock Unit granted under the Plan.

(q) "Incentive Stock Option" means an Option intended to qualify as an incentive stock option within the meaning of Section 422 of the Code.

(r) "Nonstatutory Stock Option" means an Option not intended to qualify as an Incentive Stock Option.

(s) "Option" means a stock option granted pursuant to the Plan.

(t) "Option Agreement" means a written or electronic agreement between the Company and a Grantee evidencing the terms and conditions of an individual Option grant. The Option Agreement is subject to the terms and conditions of the Plan.

(u) "Optioned Stock" means the Common Stock subject to an Option or a Stock Purchase Right.

(v) "Parent" means a "parent corporation," whether now or hereafter existing, as defined in Section 424(e) of the Code.

(w) "Plan" means this 2005 Stock Plan, as amended.

(x) "Restricted Stock" means Shares issued pursuant to a Stock Purchase Right or Shares of restricted stock issued pursuant to an Option.

(y) "Restricted Stock Purchase Agreement" means a written or electronic agreement between the Company and the Grantee evidencing the terms and restrictions applying to Shares purchased under a Stock Purchase Right. The Restricted Stock Purchase Agreement is subject to the terms and conditions of the Plan and the notice of grant.

(z) "Restricted Stock Unit" or "RSU" means an award made pursuant to Section 12 hereof.

(aa) "Restricted Stock Unit Agreement" means a written or electronic agreement between the Company and the Grantee evidencing the terms and restrictions applying to RSUs and the Shares acquired pursuant to an RSU. The Restricted Stock Unit Agreement is subject to the terms and conditions of the Plan and the notice of grant.

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

(cc) "Service Provider" means an Employee, Director or Consultant.

(dd) "Share" means a share of the Common Stock, as adjusted in accordance with Section 14 below.

(ee) "Stock Purchase Right" means a right to purchase Common Stock pursuant to Section 11 below.

(ff) "Subsidiary" means a "subsidiary corporation," whether now or hereafter existing, as defined in Section 424(f) of the Code.

3. Stock Subject to the Plan. Subject to the provisions of Section 14 of the Plan, the maximum aggregate number of Shares that may be subject to Options, Stock Purchase Rights or RSUs and sold under the Plan is 29,790,220 Shares. The Shares may be authorized but unissued, or reacquired Common Stock.

If an Option or Stock Purchase Right expires or becomes unexercisable without having been exercised in full, or is surrendered pursuant to an Exchange Program, the unpurchased Shares that were subject thereto shall become available for future grant or sale under the Plan (unless the Plan has terminated). Shares subject to RSUs that are cancelled, forfeited, or in all cases that expire without the issuance of Shares will again be available for grant and issuance under the Plan. However, Shares that have actually been issued under the Plan, upon exercise of either an Option or Stock Purchase Right, shall not be returned to the Plan and shall not become available for future distribution under the Plan, except that if unvested Shares of Restricted Stock are repurchased by the Company at their original purchase price, such Shares shall become available for future grant under the Plan.

4. Administration of the Plan.

(a) Administrator. The Plan shall be administered by the Board or a Committee appointed by the Board, which Committee shall be constituted to comply with Applicable Laws.

(b) Powers of the Administrator. Subject to the provisions of the Plan and, in the case of a Committee, the specific duties delegated by the Board to such Committee, and subject to the approval of any relevant authorities, the Administrator shall have the authority in its discretion:

(i) to determine the Fair Market Value;

(ii) to select the Service Providers to whom Options, Stock Purchase Rights and RSUs may from time to time be granted hereunder;

(iii) to determine the number of Shares to be covered by each such award granted hereunder;

(iv) to approve forms of agreement for use under the Plan;

(v) to determine the terms and conditions of any Option, Stock Purchase Right or RSU granted hereunder. Such terms and conditions include, but are not limited to, the exercise price, the time or times when Options or Stock Purchase Rights may be exercised (which may be based on performance criteria), any vesting acceleration or waiver of forfeiture restrictions, and any restriction or limitation regarding any Option, Stock Purchase Right, RSU or the Common Stock relating thereto, based in each case on such factors as the Administrator, in its sole discretion, shall determine;

(vi) to institute an Exchange Program;

(vii) to prescribe, amend and rescind rules and regulations relating to the Plan, including rules and regulations relating to sub-plans established for the purpose of satisfying applicable foreign laws;

(viii) to allow Grantees to satisfy withholding tax obligations by electing to have the Company withhold from the Shares to be issued upon exercise of an Option or Stock Purchase Right or upon the settlement of an RSU that number of Shares having a Fair Market Value equal to the minimum amount required to be withheld. The Fair Market Value of the Shares to be withheld shall be determined on the date that the amount of tax to be withheld is to be determined. All elections by Grantees to have Shares withheld for this purpose shall be made in such form and under such conditions as the Administrator may deem necessary or advisable; and

(ix) to construe and interpret the terms of the Plan and Options, Stock Purchase Rights, and RSUs granted pursuant to the Plan.

(c) Effect of Administrator's Decision. All decisions, determinations and interpretations of the Administrator shall be final and binding on all Grantees.

5. Eligibility. Nonstatutory Stock Options, Stock Purchase Rights and RSUs may be granted to Service Providers. Incentive Stock Options may be granted only to Employees.

6. Limitations.

(a) Incentive Stock Option Limit. Each Option shall be designated in the Option Agreement as either an Incentive Stock Option or a Nonstatutory Stock Option. However, notwithstanding such designation, to the extent that the aggregate Fair Market Value of the Shares with respect to which Incentive Stock Options are exercisable for the first time by the Grantee during any calendar year (under all plans of the Company and any Parent or Subsidiary) exceeds $100,000, such Options shall be treated as Nonstatutory Stock Options. For purposes of this Section 6(a), Incentive Stock Options shall be taken into account in the order in which they were granted. The Fair Market Value of the Shares shall be determined as of the time the Option with respect to such Shares is granted.

(b) At-Will Employment. Neither the Plan nor any Option, Stock Purchase Right or RSU shall confer upon any Grantee any right with respect to continuing the Grantee's relationship as a Service Provider with the Company, nor shall it interfere in any way with his or her right or the Company's right to terminate such relationship at any time, with or without cause, and with or without notice.

(c) No Disqualification. Notwithstanding any other provision in this Plan, no term of this Plan relating to Incentive Stock Options will be interpreted, amended or altered, nor will any discretion or authority granted under this Plan be exercised, so as to disqualify this Plan under Section 422 of the Code or, without the consent of the Grantee, to disqualify any Grantee's Incentive Stock Option under Section 422 of the Code. In no event shall the total number of Shares issued (counting each reissuance of a Share that was previously issued and then forfeited or repurchased by the Company as a separate issuance) under the Plan upon exercise of Incentive Stock Options exceed 29,790,220 Shares (adjusted in proportion to any adjustments under Section 14 hereof) over the term of the Plan.

7. Term of Plan. Subject to stockholder approval in accordance with Section 20, the Plan shall become effective upon its adoption by the Board. Unless sooner terminated under Section 16, it shall continue in effect for a term of ten (10) years from the later of (i) the effective date of the Plan, or (ii) the earlier of the most recent Board or stockholder approval of an increase in the number of Shares reserved for issuance under the Plan.

8. Term of Option. The term of each Option shall be stated in the Option Agreement; provided, however, that the term shall be no more than ten (10) years from the date of grant thereof. In the case of an Incentive Stock Option granted to a Grantee who, at the time the Option is granted, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the term of the Option shall be five (5) years from the date of grant or such shorter term as may be provided in the Option Agreement.

9. Option Exercise Price and Consideration.

(a) Exercise Price. The per share exercise price for the Shares to be issued upon exercise of an Option shall be such price as is determined by the Administrator, but shall be subject to the following:

(i) In the case of an Incentive Stock Option

(A) granted to an Employee who, at the time of grant of such Option, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the exercise price shall be no less than 110% of the Fair Market Value per Share on the date of grant.

(B) granted to any other Employee, the per Share exercise price shall be no less than 100% of the Fair Market Value per Share on the date of grant.

(ii) In the case of a Nonstatutory Stock Option the exercise price of an Option will be determined by the Administrator when the Option is granted and shall not be less than the Fair Market Value per Share unless expressly determined in writing by the Administrator on the Option's date of grant.

(iii) Notwithstanding the foregoing, Options may be granted with a per Share exercise price other than as required above in accordance with and pursuant to a transaction described in Section 424 of the Code.

(iv) The Administrator may modify, extend or renew outstanding Options and authorize the grant of new Options in substitution therefor, *provided* that any such action may not, without the written consent of a Grantee, impair any of such Grantee's rights under any Option previously granted. Any outstanding Incentive Stock Option that is modified, extended, renewed or otherwise altered will be treated in accordance with Section 424(h) of the Code. Subject to Section 6(c) hereof, the Administrator may reduce the exercise price of outstanding Options without the consent of Grantee by a written notice to them; *provided*, *however*, that the exercise price may not be reduced below the minimum exercise price that would be permitted under Section 9(a)(i) hereof for Options granted on the date the action is taken to reduce the exercise price.

(b) Forms of Consideration. The consideration to be paid for the Shares to be issued upon exercise of an Option, including the method of payment, shall be determined by the Administrator (and, in the case of an Incentive Stock Option, shall be determined at the time of grant). Such consideration may consist of, without limitation, (1) cash, (2) check, (3) full recourse promissory note having such terms as may be approved by the Administrator and bearing interest at a rate sufficient to avoid imputation of income under Sections 483 and 1274 of the Code; *provided*, *however*, that Grantees who are not employees or directors of the Company will not be entitled to purchase Shares with a promissory note unless the note is adequately secured by collateral other than the Shares; *provided*, *further*, that the portion of the exercise price or purchase price, as the case may be, equal to the par value of the Shares must be paid in cash or other legal consideration permitted by the laws under which the Company is then incorporated or organized, (4) other Shares, provided Shares acquired directly from the Company (x) are clear of all liens, claims, encumbrances or security interests for which the Company has received "full payment of the purchase price" within

the meaning of SEC Rule 144 (and, if such shares were purchased from the Company by use of a promissory note, such note has been fully paid with respect to such shares), and (y) have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which such Option shall be exercised, (5) consideration received by the Company under a cashless exercise program implemented by the Company in connection with the Plan, (6) waiver of compensation due or accrued to the Grantee from the Company for services rendered, (7) cancellation of indebtedness of the Company owed to the Grantee, or (8) any combination of the foregoing methods of payment. In making its determination as to the type of consideration to accept, the Administrator shall consider if acceptance of such consideration may be reasonably expected to benefit the Company.

10. Exercise of Option.

(a) Procedure for Exercise; Rights as a Stockholder. Any Option granted hereunder shall be exercisable according to the terms hereof at such times and under such conditions as determined by the Administrator and set forth in the Option Agreement. An Option may not be exercised for a fraction of a Share.

An Option shall be deemed exercised when the Company receives (i) written or electronic notice of exercise (in accordance with the Option Agreement) from the person entitled to exercise the Option, and (ii) full payment for the Shares with respect to which the Option is exercised. Full payment may consist of any consideration and method of payment authorized by the Administrator and permitted by the Option Agreement and the Plan. Shares issued upon exercise of an Option shall be issued in the name of the Grantee or, if requested by the Grantee, in the name of the Grantee and his or her spouse. Until the Shares are issued (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a stockholder shall exist with respect to the Shares, notwithstanding the exercise of the Option. The Company shall issue (or cause to be issued) such Shares promptly after the Option is exercised. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Shares are issued, except as provided in Section 14 of the Plan.

Exercise of an Option in any manner shall result in a decrease in the number of Shares thereafter available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

(b) Termination of Relationship as a Service Provider. If a Grantee ceases to be a Service Provider, such Grantee may exercise his or her Option within thirty (30) days of termination, or such longer period of time as specified in the Option Agreement, to the extent that the Option is vested on the date of termination (but in no event later than the expiration of the term of the Option as set forth in the Option Agreement). Unless the Administrator provides otherwise, if on the date of termination the Grantee is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option shall revert to the Plan. If, after termination, the Grantee does not exercise his or her Option within the time specified by the Administrator, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

(c) Disability of Grantee. If a Grantee ceases to be a Service Provider as a result of the Grantee's Disability, the Grantee may exercise his or her Option within six (6) months of

termination, or such longer period of time as specified in the Option Agreement, to the extent the Option is vested on the date of termination (but in no event later than the expiration of the term of such Option as set forth in the Option Agreement). Unless the Administrator provides otherwise, if on the date of termination the Grantee is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option shall revert to the Plan. If, after termination, the Grantee does not exercise his or her Option within the time specified herein, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

(d) Death of Grantee. If a Grantee dies while a Service Provider, the Option may be exercised within six (6) months following Grantee's death, or such longer period of time as specified in the Option Agreement, to the extent that the Option is vested on the date of death (but in no event later than the expiration of the term of such Option as set forth in the Option Agreement) by the Grantee's designated beneficiary, provided such beneficiary has been designated prior to Grantee's death in a form acceptable to the Administrator. If no such beneficiary has been designated by the Grantee, then such Option may be exercised by the personal representative of the Grantee's estate or by the person(s) to whom the Option is transferred pursuant to the Grantee's will or in accordance with the laws of descent and distribution. If, at the time of death, the Grantee is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option shall immediately revert to the Plan. If the Option is not so exercised within the time specified herein, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

(e) Leaves of Absence.

(i) Unless the Administrator provides otherwise, vesting of Options granted hereunder to officers and Directors shall be suspended during any unpaid leave of absence.

(ii) A Service Provider shall not cease to be an Employee in the case of (A) any leave of absence approved by the Company or (B) transfers between locations of the Company or between the Company, its Parent, any Subsidiary, or any successor.

(iii) For purposes of Incentive Stock Options, no such leave may exceed ninety (90) days, unless reemployment upon expiration of such leave is guaranteed by statute or contract. If reemployment upon expiration of a leave of absence approved by the Company is not so guaranteed, then three (3) months following the 91st day of such leave, any Incentive Stock Option held by the Grantee shall cease to be treated as an Incentive Stock Option and shall be treated for tax purposes as a Nonstatutory Stock Option.

11. Stock Purchase Rights.

(a) Rights to Purchase. Stock Purchase Rights may be issued either alone, in addition to, or in tandem with other awards granted under the Plan and/or cash awards made outside of the Plan. After the Administrator determines that it will offer Stock Purchase Rights under the Plan, it shall advise the offeree in writing or electronically of the terms, conditions and restrictions related to the offer, including the number of Shares that such person shall be entitled to purchase, the price to be paid, and the time within which such person must accept such offer. The terms of the offer shall comply in all respects with Section 260.140.42 of Title 10 of the California Code of Regulations. The offer shall be accepted by execution of a Restricted Stock Purchase Agreement in the form determined by the Administrator.

(b) Repurchase Option. Unless the Administrator determines otherwise, the Restricted Stock Purchase Agreement shall grant the Company a repurchase option exercisable within 90 days of the voluntary or involuntary termination of the purchaser's service with the Company for any reason (including death or disability). Unless the Administrator provides otherwise, the purchase price for Shares repurchased pursuant to the Restricted Stock Purchase Agreement shall be the original price paid by the purchaser and may be paid by cancellation of any indebtedness of the purchaser to the Company. The repurchase option shall lapse at such rate as the Administrator may determine.

(c) Other Provisions. The Restricted Stock Purchase Agreement shall contain such other terms, provisions and conditions not inconsistent with the Plan as may be determined by the Administrator in its sole discretion.

(d) Rights as a Stockholder. Once the Stock Purchase Right is exercised, the purchaser shall have rights equivalent to those of a stockholder and shall be a stockholder when his or her purchase is entered upon the records of the duly authorized transfer agent of the Company. No adjustment shall be made for a dividend or other right for which the record date is prior to the date the Stock Purchase Right is exercised, except as provided in Section 14 of the Plan.

12. Restricted Stock Units.

(a) Awards of Restricted Stock Units. A Restricted Stock Unit ("RSU") is an award covering a number of Shares that may be settled in cash, or by issuance of those Shares at a date in the future. No purchase price shall apply to an RSU settled in Shares. All grants of Restricted Stock Units will be evidenced by a Restricted Stock Unit Award Agreement that will be in such form (which need not be the same for each Grantee) as the Board will from time to time approve, and will comply with and be subject to the terms and conditions of this Plan.

(b) Form and Timing of Settlement. To the extent permissible under applicable law, the Board may permit a Grantee to defer payment under a RSU to a date or dates after the RSU is earned, *provided* that the terms of the RSU and any deferral satisfy the requirements of Section 409A of the Code (or any successor) and any regulations or rulings promulgated thereunder. Payment may be made in the form of cash or whole Shares or a combination thereof, all as the Board determines. As a condition to settlement, the Grantee shall make such arrangements as the Board

may require for the satisfaction of any federal, state, local or foreign withholding tax obligations that may arise in connection with such purchase.

(c) Restrictions. RSU awards shall be subject to such special forfeiture conditions, rights of repurchase, rights of first refusal and other transfer restrictions as the Board may determine. Such restrictions shall be set forth in the applicable Restricted Stock Unit Agreement and shall apply in addition to any restrictions that may apply to holders of Shares generally.

13. Limited Transferability of Options, Stock Purchase Rights and RSUs. Unless determined otherwise by the Administrator, Options, Stock Purchase Rights and RSUs may not be sold, pledged, assigned, hypothecated, transferred, or disposed of in any manner other than by will or the laws of descent and distribution, and may be exercised during the lifetime of the Grantee, only by the Grantee. For the avoidance of doubt, the prohibition against assignment and transfer on Options also applies, prior to exercise, to the shares to be issued on exercise of an Option, and the prohibition against assignment and transfer on RSUs also applies, prior to settlement, to the shares to be issued on the settlement of an RSU and pursuant to the foregoing sentence shall be understood to include, without limitation, a prohibition against any other transfer, including any short position, any “put equivalent position” or any “call equivalent position” (in each case, as defined in Rule 16a-1 promulgated under the Exchange Act). If the Administrator in its sole discretion makes an Option (or, prior to exercise, to the shares to be issued on exercise of an Option), Stock Purchase Right or RSU transferable, such Option (or, prior to exercise, to the shares to be issued on exercise of an Option), Stock Purchase Right or RSU may only be transferred (i) by will, (ii) by the laws of descent and distribution, or (iii) to family members (within the meaning of Rule 701 of the Securities Act) through gifts or domestic relations orders, as permitted by Rule 701 of the Securities Act; provided, that, with respect to Options (or, prior to exercise, to the shares to be issued on exercise of an Option), such transfer is compliant with the requirements of Rule 12h-1(f)(1).

14. Adjustments; Dissolution or Liquidation; Merger or Change in Control.

(a) Adjustments. In the event that any dividend or other distribution (whether in the form of cash, Shares, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Shares or other securities of the Company, or other change in the corporate structure of the Company affecting the Shares occurs, the Administrator, in order to prevent diminution or enlargement of the benefits or potential benefits intended to be made available under the Plan, may (in its sole discretion) adjust the number and class of Shares that may be delivered under the Plan and/or the number, class, and price of Shares covered by each outstanding Option, Stock Purchase Right, or RSU; provided, however, that the Administrator shall make such adjustments to the extent required by Section 25102(o) of the California Corporations Code.

(b) Dissolution or Liquidation. In the event of the proposed dissolution or liquidation of the Company, the Administrator shall notify each Grantee as soon as practicable prior to the effective date of such proposed transaction. To the extent it has not been previously exercised, an Option or Stock Purchase Right will terminate immediately prior to the consummation of such proposed action and RSUs will terminate immediately prior to the consummation of such proposed action.

(c) Merger or Change in Control. In the event of a merger of the Company with or into another corporation, or a Change in Control, each outstanding Option, Stock Purchase Right or RSU shall be assumed or an equivalent option substituted by the successor corporation or a Parent or Subsidiary of the successor corporation. In the event that the successor corporation in a merger or Change in Control refuses to assume or substitute for the Option, Stock Purchase Right or RSU, then the Grantee shall fully vest in the RSUs and fully vest in and have the right to exercise the Option or Stock Purchase Right as to all of the Optioned Stock, including Shares as to which it would not otherwise be vested or exercisable. If an Option or Stock Purchase Right becomes fully vested and exercisable in lieu of assumption or substitution in the event of a merger or Change in Control, the Administrator shall notify the Grantee in writing or electronically that the Option or Stock Purchase Right shall be fully exercisable for a period of time as determined by the Administrator, and the Option or Stock Purchase Right shall terminate upon expiration of such period. For the purposes of this paragraph, the Option, Stock Purchase Right or RSU shall be considered assumed if, following the merger or Change in Control, the option or right confers the right to purchase or receive, for each Share subject to the Option, Stock Purchase Right or RSU immediately prior to the merger or Change in Control, the consideration (whether stock, cash, or other securities or property) received in the merger or Change in Control by holders of Common Stock for each Share held on the effective date of the transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares); provided, however, that if such consideration received in the merger or Change in Control is not solely common stock of the successor corporation or its Parent, the Administrator may, with the consent of the successor corporation, provide for the consideration to be received upon the exercise of the Option or Stock Purchase Right or the settlement of the RSU, for each Share subject to the Option, Stock Purchase Right or RSU, to be solely common stock of the successor corporation or its Parent equal in fair market value to the per share consideration received by holders of common stock in the merger or Change in Control.

15. Time of Granting Options, Stock Purchase Rights and RSUs. The date of grant of an Option or Stock Purchase Right shall, for all purposes, be the date on which the Administrator makes the determination granting such Option, Stock Purchase Right or RSU, or such later date as is determined by the Administrator. Notice of the determination shall be given to each Service Provider to whom an Option, Stock Purchase Right or RSU is so granted within a reasonable time after the date of such grant.

16. Amendment and Termination of the Plan.

(a) Amendment and Termination. The Board may at any time amend, alter, suspend or terminate the Plan.

(b) Stockholder Approval. The Board shall obtain stockholder approval of any Plan amendment to the extent necessary and desirable to comply with Applicable Laws.

(c) Effect of Amendment or Termination. No amendment, alteration, suspension or termination of the Plan shall impair the rights of any Grantee, unless mutually agreed otherwise between the Grantee and the Administrator, which agreement must be in writing and signed by the Grantee and the Company. Termination of the Plan shall not affect the Administrator's ability to

exercise the powers granted to it hereunder with respect to Options, Stock Purchase Rights or RSUs granted under the Plan prior to the date of such termination.

17. Conditions Upon Issuance of Shares.

(a) Legal Compliance. Shares shall not be issued pursuant to the exercise of an Option or Stock Purchase Right or upon the settlement of an RSU unless the exercise of such Option or Stock Purchase Right or the settlement of the RSU and the issuance and delivery of such Shares shall comply with Applicable Laws and shall be further subject to the approval of counsel for the Company with respect to such compliance.

(b) Investment Representations. As a condition to the exercise of an Option or Stock Purchase Right or the settlement of an RSU, the Administrator may require the person exercising such Option or Stock Purchase Right or settling the RSU to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required.

18. Inability to Obtain Authority. The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, shall relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority shall not have been obtained.

19. Reservation of Shares. The Company, during the term of this Plan, shall at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of the Plan.

20. Stockholder Approval. The Plan shall be subject to approval by the stockholders of the Company within twelve (12) months after the date the Plan is adopted. Such stockholder approval shall be obtained in the degree and manner required under Applicable Laws.

21. Information to Grantees. If the Company is relying on the exemption from registration under Section 12(g) of the Exchange Act pursuant to Rule 12h-1(f)(1) promulgated under the Exchange Act, then the Company shall provide the Required Information (as defined below) in the manner required by Rule 12h-1(f)(1) to all Grantees every six months until the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act or is no longer relying on the exemption pursuant to Rule 12h-1(f)(1); provided, that, prior to receiving access to the Required Information each Grantee must agree to keep the Required Information confidential pursuant to a written agreement in the form provided by the Company. For purposes of this Section 20, "Required Information" means the information described in Rules 701(e)(3), (4) and (5) under the Securities Act, with the financial statements being not more than 180 days old.

22. Electronic Delivery. The Company may, in its sole discretion, decide to deliver any documents related to an Option, Restricted Stock or RSU granted hereunder or to participation in the Plan by electronic means or to request the consent of a Grantee to participate in the Plan by electronic means.

SERVICE-NOW.COM 2005 STOCK PLAN

STOCK OPTION AGREEMENT

(Early Exercise)

Unless otherwise defined herein, the terms defined in the 2005 Stock Plan shall have the same defined meanings in this Stock Option Agreement.

I. STOCK OPTION GRANT

The Optionee has been granted an Option to purchase Common Stock of the Company, subject to the terms and conditions of the Plan and this Option Agreement.

Vesting Schedule: See Vesting Schedule Addendum.

Any vesting of the Shares pursuant to the Vesting Schedule Addendum is subject to Optionee continuing to be a Service Provider through each such applicable vesting date.

Termination Period: Except as provided below, the unvested shares subject to this Option shall be forfeited upon the date Optionee ceases to be a Service Provider. The vested shares subject to this Option shall be exercisable for three (3) months after Optionee ceases to be a Service Provider for any reason other than upon Optionee's death or Disability. Upon Optionee's death or Disability, the vested portion of this Option may be exercised for twelve (12) months after Optionee ceases to be a Service Provider.

II. AGREEMENT

1. Grant of Option.

(a) The Administrator hereby grants to the Optionee named in the Notice of Grant (the "Optionee"), an option (the "Option") to purchase the number of Shares set forth in the Notice of Grant, at the exercise price per Share set forth in the Notice of Grant (the "Exercise Price"), and subject to the terms and conditions of the Plan, which is incorporated herein by reference. Except as provided otherwise herein, subject to Section 15(c) of the Plan, in the event of a conflict between the terms and conditions of the Plan and this Option Agreement, the terms and conditions of the Plan shall prevail; provided that capitalized terms explicitly defined in this Option Agreement shall have the meanings set forth in this Option Agreement notwithstanding any meanings set forth in the Plan. Capitalized terms not explicitly defined in this Option Agreement but defined in the Plan shall have the meanings set forth in the Plan.

(b) If designated in the Notice of Grant as an Incentive Stock Option ("ISO"), this Option is intended to qualify as an Incentive Stock Option as defined in Section 422 of the Code. Nevertheless, to the extent that it exceeds the $100,000 rule of Code Section 422(d), this Option shall be treated as a Nonstatutory Stock Option ("NSO").

2. Exercise of Option. This Option shall be exercisable during its term in accordance with the provisions of Sections 9 and 10 of the Plan as follows:

(a) Right to Exercise.

(i) Subject to subsections 2(a)(ii) and 2(a)(iii) below, this Option shall be exercisable cumulatively according to the vesting schedule set forth in the Vesting Schedule Addendum. Alternatively, at the election of the Optionee, this Option may be exercised in whole or in part at any time as to Shares that have not yet vested. Vested Shares shall not be subject to the Company's repurchase right (as set forth in the Restricted Stock Purchase Agreement, attached hereto as Exhibit C-1).

(ii) As a condition to exercising this Option for unvested Shares, the Optionee shall execute the Restricted Stock Purchase Agreement.

(iii) This Option may not be exercised for a fraction of a Share.

(b) Method of Exercise. This Option shall be exercisable by delivery of an exercise notice in the form attached as Exhibit A (the "Exercise Notice") which shall state the election to exercise the Option, the number of Shares with respect to which the Option is being exercised (the "Exercised Shares"), and such other representations and agreements as may be required by the Company. The Exercise Notice shall be accompanied by payment of the aggregate Exercise Price as to all Exercised Shares. This Option shall be deemed to be exercised upon receipt by the Company of such fully executed Exercise Notice accompanied by the aggregate Exercise Price.

No Shares shall be issued pursuant to the exercise of an Option unless such issuance and such exercise comply with Applicable Laws. Assuming such compliance, for income tax purposes the Shares shall be considered transferred to the Optionee on the date on which the Option is exercised with respect to such Shares.

3. Optionee's Representations. In the event the Shares have not been registered under the Securities Act at the time this Option is exercised, the Optionee shall, if required by the Company, concurrently with the exercise of all or any portion of this Option, deliver to the Company his or her Investment Representation Statement in the form attached hereto as Exhibit B.

4. Market Standoff Agreement. Optionee hereby agrees that Optionee shall not offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any Common Stock (or other securities) of the Company or enter into any swap, hedging or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any Common Stock (or other securities) of the Company held by Optionee (other than those included in the registration) for a period specified by the representative of the underwriters of Common Stock (or other securities) of the Company not to exceed one hundred eighty (180) days following the effective date of any registration statement of the Company filed under the Securities Act or such longer period as necessary to permit compliance with NASD Rule 2711 or NYSE Member Rule 472 and similar rules and regulations; *provided, however*, that nothing contained in this section shall prevent the exercise of a repurchase option, if any, in favor of the Company during such period. Optionee

agrees to execute and deliver such other agreements as may be reasonably requested by the Company or the underwriter which are consistent with the foregoing or which are necessary to give further effect thereto. In addition, if requested by the Company or the representative of the underwriters of Common Stock (or other securities) of the Company, Optionee shall provide, within ten (10) days of such request, such information as may be required by the Company or such representative in connection with the completion of any public offering of the Company's securities pursuant to a registration statement filed under the Securities Act. The obligations described in this Section 4 shall not apply to a registration relating solely to (i) employee benefit plans or (ii) an SEC Rule 145 transaction. The Company may impose stop-transfer instructions with respect to the shares of Common Stock (or other securities) subject to the foregoing restriction until the end of said one hundred eighty (180) day period. Optionee agrees that any transferee of the Option or shares acquired pursuant to the Option shall be bound by this Section 4 and that the underwriters of the Company's stock are intended third party beneficiaries of this Section 4 and shall have the right, power and authority to enforce the provisions hereof as though they were a party hereto.

5. Method of Payment. Payment of the aggregate Exercise Price shall be by any of the following, or a combination thereof, at the election of the Optionee:

(a) cash or check;

(b) consideration received by the Company under a formal cashless exercise program adopted by the Company in connection with the Plan; or

(c) surrender of other Shares which, (i) in the case of Shares acquired from the Company, either directly or indirectly, have been owned by the Optionee and not subject to a substantial risk of forfeiture, for more than six (6) months on the date of surrender, and (ii) represent the largest whole number of shares with a Fair Market Value on the date of surrender that does not exceed the aggregate Exercise Price of the Exercised Shares; provided, however that the Company shall accept a cash or other payment from Optionee to the extent of any remaining balance of the aggregate Exercise Price not satisfied by such whole number of shares surrendered.

6. Restrictions on Exercise. This Option may not be exercised until such time as the Plan has been approved by the shareholders of the Company, or if the issuance of such Shares upon such exercise or the method of payment of consideration for such shares would constitute a violation of any Applicable Law.

7. Non-Transferability of Option. This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of Optionee only by Optionee. The terms of the Plan and this Option Agreement shall be binding upon the executors, administrators, heirs, successors and assigns of the Optionee.

8. Electronic Delivery. The Company may, in its sole discretion, decide to deliver any documents related to current or future participation in the Plan by electronic means. The Optionee hereby consents to receive such documents by electronic delivery and agrees to

participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company.

9. Term of Option. This Option may be exercised only within the term set out in the Notice of Grant, and may be exercised during such term only in accordance with the Plan and the terms of this Option.

10. Additional Terms. See Additional Terms Addendum.

11. Tax Obligations.

(a) Withholding Taxes. Optionee agrees to make appropriate arrangements with the Company (or the Parent or Subsidiary employing or retaining Optionee) for the satisfaction of all federal, state, local and foreign income and employment tax withholding requirements applicable to the Option exercise. Optionee acknowledges and agrees that the Company may refuse to honor the exercise and refuse to deliver the Shares if such withholding amounts are not delivered at the time of exercise.

(b) Notice of Disqualifying Disposition of ISO Shares. If the Option granted to Optionee herein is an ISO, and if Optionee sells or otherwise disposes of any of the Shares acquired pursuant to the ISO on or before either (1) the date two years after the Date of Grant or (2) the date one year after the date of exercise, the Optionee shall immediately notify the Company in writing of such disposition. Optionee agrees that Optionee may be subject to income tax withholding by the Company on the compensation income recognized by the Optionee.

(c) 409A Exemption. Optionee hereby agrees that the Company does not have a duty to design or administer the Plan or its other compensation programs in a manner that minimizes Optionee's tax liabilities. Optionee shall not make any claim against the Company, or any of its officers, Directors or Employees related to tax liabilities arising from this Option or Optionee's other compensation. In particular, Optionee acknowledges that this Option is exempt from Section 409A of the Code only if the exercise price per share specified in this Option Agreement is at least equal to the "fair market value" per share of the Common Stock on the date of grant and there is no other impermissible deferral of compensation associated with the Option. Because the Common Stock is not traded on an established securities market, the Fair Market Value is determined by the Board, perhaps in consultation with an independent valuation firm retained by the Company. Optionee acknowledges that there is no guarantee that the Internal Revenue Service will agree with the valuation as determined by the Board, and Optionee shall not make any claim against the Company, or any of its officers, Directors or Employees in the event that the Internal Revenue Service asserts that the valuation determined by the Board is less than the "fair market value" as subsequently determined by the Internal Revenue Service.

12. Entire Agreement; Governing Law. The Plan is incorporated herein by reference. The Plan and this Option Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Optionee with respect to the subject matter hereof, and may not be modified adversely to the Optionee's interest except by means of a writing signed by the Company and

Optionee. This Option Agreement is governed by the internal substantive laws but not the choice of law rules of California.

13. No Guarantee of Continued Service. OPTIONEE AGREES THAT THE VESTING OF SHARES PURSUANT TO THE VESTING SCHEDULE HEREOF IS EARNED ONLY BY CONTINUING AS A SERVICE PROVIDER AT THE WILL OF THE COMPANY (NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED THIS OPTION OR ACQUIRING SHARES HEREUNDER). OPTIONEE FURTHER ACKNOWLEDGES AND AGREES THAT THIS OPTION AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS A SERVICE PROVIDER FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND SHALL NOT INTERFERE IN ANY WAY WITH OPTIONEE'S RIGHT OR THE COMPANY'S RIGHT TO TERMINATE OPTIONEE'S RELATIONSHIP AS A SERVICE PROVIDER AT ANY TIME, WITH OR WITHOUT CAUSE.

Optionee acknowledges receipt of a copy of the Plan and represents that he or she is familiar with the terms and provisions thereof, and hereby accepts this Option subject to all of the terms and provisions thereof. Optionee has reviewed the Plan and this Option in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Option and fully understands all provisions of the Option. Optionee hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan or this Option. Optionee further agrees to notify the Company upon any change in the residence address.

EXHIBIT A

2005 STOCK PLAN

EXERCISE NOTICE

Service-now.com
12225 El Camino Real, Suite 100
San Diego, CA 92130
Attn: Secretary

1. Exercise of Option. Effective as of today, _____, ____, the undersigned ("Optionee") hereby elects to exercise Optionee's option (the "Option") to purchase _____ shares of the Common Stock (the "Shares") of Service-now.com (the "Company") under and pursuant to the 2005 Stock Plan (the "Plan") and the Stock Option Agreement dated _____, _____ (the "Option Agreement").

2. Delivery of Payment. Optionee herewith delivers to the Company the full purchase price of the number of Shares as set forth in the Option Agreement with respect to which the Option is being exercised, and any and all withholding taxes due in connection with the exercise of the Option.

3. Representations of Optionee. Optionee acknowledges that Optionee has received, read and understood the Plan and the Option Agreement and agrees to abide by and be bound by their terms and conditions.

4. Rights as Shareholder. Until the issuance of the Shares (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a shareholder shall exist with respect to the Optioned Stock, notwithstanding the exercise of the Option. The Shares shall be issued to the Optionee as soon as practicable after the Option is exercised in accordance with the Option Agreement. No adjustment shall be made for a dividend or other right for which the record date is prior to the date of issuance except as provided in Section 13 of the Plan.

5. Company's Right of First Refusal. Before any Shares held by Optionee or any transferee (either being sometimes referred to herein as the "Holder") may be sold or otherwise transferred (including transfer by gift or operation of law), the Company or its assignee(s) shall have a right of first refusal to purchase the Shares on the terms and conditions set forth in this Section (the "Right of First Refusal").

(a) Notice of Proposed Transfer. The Holder of the Shares shall deliver to the Company a written notice (the "Notice") stating: (i) the Holder's bona fide intention to sell or otherwise transfer such Shares; (ii) the name of each proposed purchaser or other transferee ("Proposed Transferee"); (iii) the number of Shares to be transferred to each Proposed Transferee; and (iv) the bona fide cash price or other consideration for which the Holder proposes to transfer the Shares (the "Offered Price"), and the Holder shall offer the Shares at the Offered Price to the Company or its assignee(s).

(b) Exercise of Right of First Refusal. At any time within thirty (30) days after receipt of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase up to all of the Shares proposed to be transferred to any one or more of the Proposed Transferees, at the purchase price determined in accordance with subsection (c) below.

(c) Purchase Price. The purchase price ("Purchase Price") for the Shares purchased by the Company or its assignee(s) under this Section shall be the Offered Price. If the Offered Price includes consideration other than cash, the cash equivalent value of the non-cash consideration shall be determined by the Board of Directors of the Company in good faith.

(d) Payment. Payment of the Purchase Price shall be made, at the option of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness of the Holder to the Company (or, in the case of repurchase by an assignee, to the assignee), or by any combination thereof within thirty (30) days after receipt of the Notice or in the manner and at the times set forth in the Notice.

(e) Holder's Right to Transfer. To the extent that the Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section, then the Holder may sell or otherwise transfer such Shares to that Proposed Transferee at the Offered Price or at a higher price, provided that such sale or other transfer is consummated within 120 days after the date of the Notice, that any such sale or other transfer is effected in accordance with any applicable securities laws and that the Proposed Transferee agrees in writing that the provisions of this Section shall continue to apply to the Shares in the hands of such Proposed Transferee. If the Shares described in the Notice are not transferred to the Proposed Transferee within such period, a new Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

(f) Exception for Certain Family Transfers. Anything to the contrary contained in this Section notwithstanding, the transfer of any or all of the Shares during the Optionee's lifetime or on the Optionee's death by will or intestacy to the Optionee's immediate family or a trust for the benefit of the Optionee's immediate family shall be exempt from the provisions of this Section. "Immediate Family" as used herein shall mean spouse, lineal descendant or antecedent, father, mother, brother or sister. In such case, the transferee or other recipient shall receive and hold the Shares so transferred subject to the provisions of this Section, and there shall be no further transfer of such Shares except in accordance with the terms of this Section.

(g) Termination of Right of First Refusal. The Right of First Refusal shall terminate as to any Shares upon the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the Securities and Exchange Commission under the Securities Act.

6. Tax Consultation. Optionee understands that Optionee may suffer adverse tax consequences as a result of Optionee's purchase or disposition of the Shares. Optionee represents that Optionee has consulted with any tax consultants Optionee deems advisable in

connection with the purchase or disposition of the Shares and that Optionee is not relying on the Company for any tax advice.

7. Restrictive Legends and Stop-Transfer Orders.

(a) Legends. Optionee understands and agrees that the Company shall cause the legends set forth below or legends substantially equivalent thereto, to be placed upon any certificate(s) evidencing ownership of the Shares together with any other legends that may be required by the Company or by state or federal securities laws:

> THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER SUCH ACT AND/OR APPLICABLE STATE SECURITIES LAWS, OR UNLESS, IN THE OPINION OF COUNSEL (WHICH MAY BE COUNSEL TO THE CORPORATION) SATISFACTORY TO THE CORPORATION, SUCH REGISTRATION IS NOT REQUIRED.
>
> THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER, INCLUDING A 180-DAY MARKET STANDOFF AGREEMENT, AND A RIGHT OF FIRST REFUSAL HELD BY THE CORPORATION AS SET FORTH IN AN OPTION AGREEMENT AND EXERCISE NOTICE BETWEEN THE CORPORATION AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. SUCH TRANSFER RESTRICTIONS AND RIGHT OF FIRST REFUSAL ARE BINDING ON TRANSFEREES OF THESE SHARES.

(b) Stop-Transfer Notices. Optionee agrees that, in order to ensure compliance with the restrictions referred to herein, the Company may issue appropriate “stop transfer” instructions to its transfer agent, if any, and that, if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

(c) Refusal to Transfer. The Company shall not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Exercise Notice or (ii) to treat as owner of such Shares or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares shall have been so transferred.

8. Successors and Assigns. The Company may assign any of its rights under this Exercise Notice to single or multiple assignees, and this Exercise Notice shall inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer herein set forth, this Exercise Notice shall be binding upon Optionee and his or her heirs, executors, administrators, successors and assigns.

9. Interpretation. Any dispute regarding the interpretation of this Exercise Notice shall be submitted by Optionee or by the Company forthwith to the Administrator which shall review such dispute at its next regular meeting. The resolution of such a dispute by the Administrator shall be final and binding on all parties.

10. Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be delivered personally by hand or by courier, mailed by United States first-class mail, postage prepaid, sent by facsimile or sent by electronic mail directed (a) if to the Optionee, at the Optionee's address, facsimile number or electronic mail address set forth on the signature page to the Option Agreement, or at such other address, facsimile number or electronic mail address as the Optionee may designate by ten (10) days' advance written notice to the Company or (b) if to the Company, to its principal executive office, or at such other address as the Company may designate by ten (10) days' advance written notice to the Optionee. All such notices and other communications shall be deemed given upon personal delivery, on the date of mailing, upon confirmation of facsimile transfer or when directed to the electronic mail address set forth on the signature page to the Option Agreement. With respect to any notice given by the Company under any provision of the California General Corporation Law or the Company's charter or bylaws, the Optionee agrees that such notice may given by facsimile or by electronic mail.

11. Governing Law; Severability. This Exercise Notice is governed by the internal substantive laws, but not the choice of law rules, of California. In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, the remaining provisions hereof will continue in full force and effect.

12. Entire Agreement. The Plan and Option Agreement are incorporated herein by reference. This Exercise Notice, the Plan, the Restricted Stock Purchase Agreement, the Option Agreement and the Investment Representation Statement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Optionee with respect to the subject matter hereof, and may not be modified adversely to the Optionee's interest except by means of a writing signed by the Company and Optionee.

Submitted by:

OPTIONEE:

_____
Signature

_____
Print Name

Accepted by:

SERVICE-NOW.COM

By: _____

Its: _____

_____
Date Received

EXHIBIT B

INVESTMENT REPRESENTATION STATEMENT

OPTIONEE	:	
COMPANY	:	**SERVICE-NOW.COM**
SECURITY	:	COMMON STOCK
NUMBER OF SHARES	:	
DATE	:	

In connection with the purchase of the above-listed Securities, the undersigned Optionee represents to the Company the following:

(a) Optionee is aware of the Company's business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Securities. Optionee is acquiring these Securities for investment for Optionee's own account only and not with a view to, or for resale in connection with, any "distribution" thereof within the meaning of the Securities Act.

(b) Optionee acknowledges and understands that the Securities constitute "restricted securities" under the Securities Act and have not been registered under the Securities Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Optionee's investment intent as expressed herein. In this connection, Optionee understands that, in the view of the Securities and Exchange Commission, the statutory basis for such exemption may be unavailable if Optionee's representation was predicated solely upon a present intention to hold these Securities for the minimum capital gains period specified under tax statutes, for a deferred sale, for or until an increase or decrease in the market price of the Securities, or for a period of one year or any other fixed period in the future. Optionee further understands that the Securities must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Optionee further acknowledges and understands that the Company is under no obligation to register the Securities. Optionee understands that the certificate evidencing the Securities will be imprinted with the legends set forth in Section 7(a) of the Exercise Notice and with any other legend required under applicable state securities laws.

(c) Optionee is familiar with the provisions of Rule 701 and Rule 144, each promulgated under the Securities Act, which, in substance, permit limited public resale of "restricted securities" acquired, directly or indirectly from the issuer thereof, in a non-public offering subject to the satisfaction of certain conditions. Rule 701 provides that if the issuer qualifies under Rule 701 at the time of the grant of the Option to the Optionee, the exercise will be exempt from registration under the Securities Act. In the event the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, ninety (90) days thereafter (or such longer period as any market stand-off agreement may require) the Securities exempt under Rule 701 may be resold, subject to the satisfaction of certain

of the conditions specified by Rule 144, including (1) the resale being made through a broker in an unsolicited “broker’s transaction” or in transactions directly with a market maker (as said term is defined under the Securities Exchange Act of 1934); and, in the case of an affiliate, (2) the availability of certain public information about the Company, (3) the amount of Securities being sold during any three month period not exceeding the limitations specified in Rule 144(e), and (4) the timely filing of a Form 144, if applicable.

In the event that the Company does not qualify under Rule 701 at the time of grant of the Option, then the Securities may be resold in certain limited circumstances subject to the provisions of Rule 144, which requires the resale to occur not less than one year after the later of the date the Securities were sold by the Company or the date the Securities were sold by an affiliate of the Company, within the meaning of Rule 144; and, in the case of acquisition of the Securities by an affiliate, or by a non-affiliate who subsequently holds the Securities less than two years, the satisfaction of the conditions set forth in sections (1), (2), (3) and (4) of the paragraph immediately above.

(d) Optionee further understands that in the event all of the applicable requirements of Rule 701 or 144 are not satisfied, registration under the Securities Act, compliance with Regulation A, or some other registration exemption will be required; and that, notwithstanding the fact that Rules 144 and 701 are not exclusive, the Staff of the Securities and Exchange Commission has expressed its opinion that persons proposing to sell private placement securities other than in a registered offering and otherwise than pursuant to Rules 144 or 701 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales, and that such persons and their respective brokers who participate in such transactions do so at their own risk. Optionee understands that no assurances can be given that any such other registration exemption will be available in such event.

Signature of Optionee:

_____

Date: _____

EXHIBIT C-1

SERVICE-NOW.COM

2005 STOCK PLAN

RESTRICTED STOCK PURCHASE AGREEMENT

THIS AGREEMENT is made between _____ (the "Purchaser") and Service-now.com (the "Company") or its assignees of rights hereunder as of _____, _____.

Unless otherwise defined herein, the terms defined in the 2005 Stock Plan shall have the same defined meanings in this Agreement.

RECITALS

A. Pursuant to the exercise of the option granted to Purchaser under the Plan and pursuant to the Option Agreement dated _____ by and between the Company and Purchaser with respect to such grant (the "Option"), which Plan and Option Agreement are hereby incorporated by reference, Purchaser has elected to purchase _____ of those shares of Common Stock which have not become vested under the vesting schedule set forth in the Option Agreement ("Unvested Shares"). The Unvested Shares and the shares subject to the Option Agreement that have become vested are sometimes collectively referred to herein as the "Shares."

B. As required by the Option Agreement, as a condition to Purchaser's election to exercise the option, Purchaser must execute this Agreement, which sets forth the rights and obligations of the parties with respect to Shares acquired upon exercise of the Option.

1. Repurchase Option.

(a) If Purchaser's status as a Service Provider is terminated for any reason, including for death and Disability, the Company shall have the right and option for ninety (90) days from such date to purchase from Purchaser, or Purchaser's personal representative, as the case may be, all of the Purchaser's Unvested Shares as of the date of such termination at the lower of (i) the Fair Market Value of the Shares on the date of repurchase or (ii) the price paid by the Purchaser for such Shares (such option, the "Repurchase Option").

(b) Upon the occurrence of such termination, the Company may exercise its Repurchase Option by delivering personally or by registered mail, to Purchaser (or his transferee or legal representative, as the case may be) with a copy to the Escrow Agent described in Section 2 below, a notice in writing indicating the Company's intention to exercise the Repurchase Option AND, at the Company's option, (i) by delivering to the Purchaser (or the Purchaser's transferee or legal representative) a check in the amount of the aggregate repurchase price, (ii) by the Company canceling an amount of the Purchaser's indebtedness to the Company equal to the aggregate repurchase price or (iii) by a combination of (i) and (ii) so that the combined payment and cancellation of indebtedness equals such aggregate repurchase price.

Upon delivery of such notice and payment of the aggregate repurchase price in any of the ways described above, the Company shall become the legal and beneficial owner of the Unvested Shares being repurchased and the rights and interests therein or relating thereto, and the Company shall have the right to retain and transfer to its own name the number of Unvested Shares being repurchased by the Company.

(c) Whenever the Company shall have the right to repurchase Unvested Shares hereunder, the Company may designate and assign one or more employees, officers, directors or shareholders of the Company or other persons or organizations to exercise all or a part of the Company's Repurchase Option under this Agreement and purchase all or a part of such Unvested Shares.

(d) If the Company does not elect to exercise the Repurchase Option conferred above by giving the requisite notice within ninety (90) days following the termination, the Repurchase Option shall terminate.

(e) The Repurchase Option shall terminate in accordance with the vesting schedule contained in Purchaser's Option Agreement.

2. Transferability of the Shares; Escrow.

(a) Purchaser hereby authorizes and directs the Secretary of the Company, or such other person designated by the Company, to transfer the Unvested Shares as to which the Repurchase Option has been exercised from Purchaser to the Company.

(b) To insure the availability for delivery of Purchaser's Unvested Shares upon repurchase by the Company pursuant to the Repurchase Option under Section 1, Purchaser hereby appoints the Secretary, or any other person designated by the Company as Escrow Agent (the "Escrow Agent"), as its attorney-in-fact to sell, assign and transfer unto the Company, such Unvested Shares, if any, repurchased by the Company pursuant to the Repurchase Option and shall, upon execution of this Agreement, deliver and deposit with the Escrow Agent, the share certificates representing the Unvested Shares, together with the stock assignment duly endorsed in blank, attached hereto as Exhibit C-2. The Unvested Shares and stock assignment shall be held in escrow by the Escrow Agent, pursuant to the Joint Escrow Instructions of the Company and Purchaser attached as Exhibit C-3 hereto, until the Company exercises its Repurchase Option, until such Unvested Shares are vested, or until such time as this Agreement no longer is in effect. As a further condition to the Company's obligations under this Agreement, the spouse of the Purchaser, if any, shall execute and deliver to the Company the Consent of Spouse attached hereto as Exhibit C-4. Upon vesting of the Unvested Shares, the Escrow Agent shall promptly deliver to the Purchaser the certificate or certificates representing such Shares in the Escrow Agent's possession belonging to the Purchaser, and the Escrow Agent shall be discharged of all further obligations hereunder; provided, however, that the Escrow Agent shall nevertheless retain such certificate or certificates as Escrow Agent if so required pursuant to other restrictions imposed pursuant to this Agreement.

(c) Neither the Company nor the Escrow Agent shall be liable for any act it may do or omit to do with respect to holding the Shares in escrow and while acting in good faith and in the exercise of its judgment.

(d) Transfer or sale of the Shares is subject to restrictions on transfer imposed by any applicable state and federal securities laws. Any transferee shall hold such Shares subject to all the provisions hereof and the Exercise Notice executed by the Purchaser with respect to any Unvested Shares purchased by Purchaser and shall acknowledge the same by signing a copy of this Agreement.

3. Ownership, Voting Rights, Duties. This Agreement shall not affect in any way the ownership, voting rights or other rights or duties of Purchaser, except as specifically provided herein.

4. Legends. The share certificate evidencing the Shares issued hereunder shall be endorsed with the following legend (in addition to any legend required under applicable federal and state securities laws):

> THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER SUCH ACT AND/OR APPLICABLE STATE SECURITIES LAWS, OR UNLESS, IN THE OPINION OF COUNSEL (WHICH MAY BE COUNSEL TO THE CORPORATION) SATISFACTORY TO THE CORPORATION, SUCH REGISTRATION IS NOT REQUIRED.
>
> THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS UPON TRANSFER, RIGHTS OF REPURCHASE AND A RIGHT OF FIRST REFUSAL OPTION IN FAVOR OF THE COMPANY AND/OR ITS ASSIGNEE(S) AS SET FORTH IN AN AGREEMENT BETWEEN THE CORPORATION AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER.

5. Adjustment for Stock Split. All references to the number of Shares and the purchase price of the Shares in this Agreement shall be appropriately adjusted to reflect any stock split, stock dividend or other change in the Shares that maybe made by the Company pursuant to Section 13 of the Plan after the date of this Agreement.

6. Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be delivered personally by hand or by courier, mailed by United States first-class mail, postage prepaid, sent by facsimile or sent by electronic mail directed (a) if to the Purchaser, at the Purchaser's address, facsimile number or electronic mail address set forth on the signature page to the Option Agreement, or at such other address; facsimile number or

electronic mail address as the Purchaser may designate by ten (10) days' advance written notice to the Company or (b) if to the Company, to the address of its principal executive office, or at such other address as the Company may designate by ten (10) days' advance written notice to the Purchaser. All such notices and other communications shall be deemed given upon personal delivery, on the date of mailing, upon confirmation of facsimile transfer or when directed to the electronic mail address set forth on the signature page to the Option Agreement. With respect to any notice given by the Company under any provision of the California General Corporation Law or the Company's charter or bylaws, the Purchaser agrees that such notice may given by facsimile or by electronic mail.

7. Survival of Terms. This Agreement shall apply to and bind Purchaser and the Company and their respective permitted assignees and transferees, heirs, legatees, executors, administrators and legal successors.

8. Section 83(b) Election. Purchaser hereby acknowledges that he or she has been informed that, with respect to the exercise of an Option for Unvested Shares, an election (the "Election") may be filed by the Purchaser with the Internal Revenue Service, within 30 days of the purchase of the exercised Shares, electing pursuant to Section 83(b) of the Code to be taxed currently on any difference between the purchase price of the exercised Shares and their Fair Market Value on the date of purchase. In the case of a Nonstatutory Stock Option, this will result in a recognition of taxable income to the Purchaser on the date of exercise, measured by the excess, if any, of the Fair Market Value of the exercised Shares, at the time the Option is exercised over the purchase price for the exercised Shares. Absent such an Election, taxable income will be measured and recognized by Purchaser at the time or times on which the Company's Repurchase Option lapses. In the case of an Incentive Stock Option, such an Election will result in a recognition of income to the Purchaser for alternative minimum tax purposes on the date of exercise, measured by the excess, if any, of the Fair Market Value of the exercised Shares, at the time the option is exercised, over the purchase price for the exercised Shares. Absent such an Election, alternative minimum taxable income will be measured and recognized by Purchaser at the time or times on which the Company's Repurchase Option lapses. Purchaser is strongly encouraged to seek the advice of his or her own tax consultants in connection with the purchase of the Shares and the advisability of filing of the Election under Section 83(b) of the Code. A form of Election under Section 83(b) is attached hereto as Exhibit C-5 for reference.

PURCHASER ACKNOWLEDGES THAT IT IS PURCHASER'S SOLE RESPONSIBILITY AND NOT THE COMPANY'S TO FILE TIMELY THE ELECTION UNDER SECTION 83(b) OF THE CODE, EVEN IF PURCHASER REQUESTS THE COMPANY OR ITS REPRESENTATIVE TO MAKE THIS FILING ON PURCHASER'S BEHALF.

9. Representations. Purchaser has reviewed with his own tax advisors the federal, state, local and foreign tax consequences of this investment and the transactions contemplated by this Agreement. Purchaser is relying solely on such advisors and not on any statements or representations of the Company or any of its agents. Purchaser understands that he (and not the Company) shall be responsible for his own tax liability that may arise as a result of this investment or the transactions contemplated by this Agreement.

10. Governing Law. This Agreement shall be governed by the internal substantive laws, but not the choice of law rules, of California.

Purchaser represents that he has read this Agreement and is familiar with its terms and provisions. Purchaser hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Board upon any questions arising under this Agreement.

IN WITNESS WHEREOF, this Agreement is deemed made as of the date first set forth above.

OPTIONEE:	SERVICE-NOW.COM
_____	By: _____
Signature	
_____	Its: _____
Print Name	

EXHIBIT C-2

ASSIGNMENT SEPARATE FROM CERTIFICATE

FOR VALUE RECEIVED I, _____, hereby sell, assign and transfer unto Service-now.com _____ shares of the Common Stock of Service-now.com standing in my name of the books of said corporation represented by Certificate No. _____ herewith and do hereby irrevocably constitute and appoint_____, to transfer the said stock on the books of the within named corporation with full power of substitution in the premises.

This Stock Assignment may be used only in accordance with the Restricted Stock Purchase Agreement between Service-now.com and the undersigned dated _____, _____.

Dated: _____, _____ Signature: _____

INSTRUCTIONS: Please do not fill in any blanks other than the signature line. The purpose of this assignment is to enable the Company to exercise its “repurchase option,” as set forth in the Agreement, without requiring additional signatures on the part of the Purchaser.

EXHIBIT C-3

JOINT ESCROW INSTRUCTIONS

_____, _____

Service-now.com
12225 El Camino Real, Suite 100
San Diego, CA 92130
Attn: Secretary

Dear Secretary:

As Escrow Agent for both Service-now.com (the "Company"), and the undersigned purchaser of stock of the Company (the "Purchaser"), you are hereby authorized and directed to hold the documents delivered to you pursuant to the terms of that certain Restricted Stock Purchase Agreement ("Agreement") between the Company and the undersigned, in accordance with the following instructions:

1. In the event the Company and/or any assignee of the Company (referred to collectively for convenience herein as the "Company") exercises the Company's repurchase option set forth in the Agreement, the Company shall give to Purchaser and you a written notice specifying the number of shares of stock to be purchased, the purchase price, and the time for a closing hereunder at the principal office of the Company. Purchaser and the Company hereby irrevocably authorize and direct you to close the transaction contemplated by such notice in accordance with the terms of said notice.

2. At the closing, you are directed (a) to date the stock assignments necessary for the transfer in question, (b) to fill in the number of shares being transferred, and (c) to deliver the stock assignments, together with the certificate evidencing the shares of stock to be transferred, to the Company or its assignee, against the simultaneous delivery to you of the purchase price (by cash, a check, or some combination thereof) for the number of shares of stock being purchased pursuant to the exercise of the Company's repurchase option.

3. Purchaser irrevocably authorizes the Company to deposit with you any certificates evidencing shares of stock to be held by you hereunder and any additions and substitutions to said shares as defined in the Agreement. Purchaser does hereby irrevocably constitute and appoint you as Purchaser's attorney-in-fact and agent for the term of this escrow to execute with respect to such securities all documents necessary or appropriate to make such securities negotiable and to complete any transaction herein contemplated, including but not limited to the filing with any applicable state blue sky authority of any required applications for consent to, or notice of transfer of, the securities. Subject to the provisions of this paragraph 3, Purchaser shall exercise all rights and privileges of a shareholder of the Company while the stock is held by you.

4. Upon written request of the Purchaser, but no more than once per calendar year, unless the Company's repurchase option has been exercised, you will deliver to Purchaser a certificate or certificates representing so many shares of stock as are not then subject to the Company's repurchase option. Within 120 days after cessation of Purchaser's continuous

employment by or services to the Company, or any parent or subsidiary of the Company, you will deliver to Purchaser a certificate or certificates representing the aggregate number of shares held or issued pursuant to the Agreement and not purchased by the Company or its assignees pursuant to exercise of the Company's repurchase option.

5. If at the time of termination of this escrow you should have in your possession any documents, securities or other property belonging to Purchaser, you shall deliver all of the same to Purchaser and shall be discharged of all further obligations hereunder.

6. Your duties hereunder may be altered, amended, modified or revoked only by a writing signed by all of the parties hereto.

7. You shall be obligated only for the performance of such duties as are specifically set forth herein and may rely and shall be protected in relying or refraining from acting on any instrument reasonably believed by you to be genuine and to have been signed or presented by the proper party or parties. You shall not be personally liable for any act you may do or omit to do hereunder as Escrow Agent or as attorney-in-fact for Purchaser while acting in good faith, and any act done or omitted by you pursuant to the advice of your own attorneys shall be conclusive evidence of such good faith.

8. You are hereby expressly authorized to disregard any and all warnings given by any of the parties hereto or by any other person or corporation, excepting only orders or process of courts of law and are hereby expressly authorized to comply with and obey orders, judgments or decrees of any court. In case you obey or comply with any such order, judgment or decree, you shall not be liable to any of the parties hereto or to any other person, firm or corporation by reason of such compliance, notwithstanding any such order, judgment or decree being subsequently reversed, modified, annulled, set aside, vacated or found to have been entered without jurisdiction.

9. You shall not be liable in any respect on account of the identity, authorities or rights of the parties executing or delivering or purporting to execute or deliver the Agreement or any documents or papers deposited or called for hereunder.

10. You shall not be liable for the outlawing of any rights under the Statute of Limitations with respect to these Joint Escrow Instructions or any documents deposited with you.

11. You shall be entitled to employ such legal counsel and other experts as you may deem necessary properly to advise you in connection with your obligations hereunder, may rely upon the advice of such counsel, and may pay such counsel reasonable compensation therefor.

12. Your responsibilities as Escrow Agent hereunder shall terminate if you shall cease to be an officer or agent of the Company or if you shall resign by written notice to each party. In the event of any such termination, the Company shall appoint a successor Escrow Agent.

13. If you reasonably require other or further instruments in connection with these Joint Escrow Instructions or obligations in respect hereto, the necessary parties hereto shall join in furnishing such instruments.

14. It is understood and agreed that should any dispute arise with respect to the delivery and/or ownership or right of possession of the securities held by you hereunder, you are authorized and directed to retain in your possession without liability to anyone all or any part of said securities until such disputes shall have been settled either by mutual written agreement of the parties concerned or by a final order, decree or judgment of a court of competent jurisdiction after the time for appeal has expired and no appeal has been perfected, but you shall be under no duty whatsoever to institute or defend any such proceedings.

15. Any notice required or permitted hereunder shall be given in writing and shall be deemed effectively given upon personal delivery or upon deposit in the United States Post Office, by registered or certified mail with postage and fees prepaid, addressed to each of the other parties thereunto entitled at the following addresses or at such other addresses as a party may designate by ten days' advance written notice to each of the other parties hereto.

16. By signing these Joint Escrow Instructions, you become a party hereto only for the purpose of said Joint Escrow Instructions; you do not become a party to the Agreement.

17. This instrument shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and permitted assigns.

18. These Joint Escrow Instructions shall be governed by the internal substantive laws, but not the choice of law rules, of California.

PURCHASER:

_____
Signature

_____
Print Name

_____

_____
Residence Address

SERVICE-NOW.COM

_____
By

_____
Title

ESCROW AGENT

By: _____

Name: _____

Title: Corporate Secretary of the Company

Dated: _____

EXHIBIT C-4

CONSENT OF SPOUSE

I, _____, spouse of _____, have read and approve the foregoing Restricted Stock Purchase Agreement (the "Agreement"). In consideration of granting of the right to my spouse to purchase shares of Service-now.com, as set forth in the Agreement, I hereby appoint my spouse as my attorney-in-fact in respect to the exercise of any rights under the Agreement and agree to be bound by the provisions of the Agreement insofar as I may have any rights in said Agreement or any shares issued pursuant thereto under the community property laws or similar laws relating to marital property in effect in the state of our residence as of the date of the signing of the foregoing Agreement.

Dated: _____ Signature: _____

EXHIBIT C-5

ELECTION UNDER SECTION 83(b) OF THE INTERNAL REVENUE CODE OF 1986

The undersigned taxpayer hereby elects, pursuant to Sections 55 and 83(b) of the Internal Revenue Code of 1986, as amended, to include in taxpayer's gross income or alternative minimum taxable income, as the case may be, for the current taxable year the amount of any compensation taxable to taxpayer in connection with taxpayer's receipt of the property described below:

1. The name, address, taxpayer identification number and taxable year of the undersigned are as follows:

   NAME: TAXPAYER: SPOUSE:

   ADDRESS:

   IDENTIFICATION NO.: TAXPAYER: SPOUSE:

   TAXABLE YEAR:

2. The property with respect to which the election is made is described as follows: _____ shares (the "Shares") of the Common Stock of Service-now.com (the "Company").

3. The date on which the property was transferred is:

4. The property is subject to the following restrictions:

   The Shares may not be transferred and are subject to forfeiture under the terms of an agreement between the taxpayer and the Company. These restrictions lapse upon the satisfaction of certain conditions contained in such agreement.

5. The fair market value at the time of transfer, determined without regard to any restriction other than a restriction which by its terms will never lapse, of such property is: $_____.

6. The amount (if any) paid for such property is: $_____.

The undersigned has submitted a copy of this statement to the person for whom the services were performed in connection with the undersigned's receipt of the above-described property. The transferee of such property is the person performing the services in connection with the transfer of said property.

The undersigned understands that the foregoing election may not be revoked except with the consent of the Commissioner.

Dated: _____ _____
Taxpayer

The undersigned spouse of taxpayer joins in this election.

Dated: _____ _____
Spouse of Taxpayer

VESTING SCHEDULE ADDENDUM

Vesting Schedule (4 Year: 1 Year Cliff, Monthly thereafter)

One fourth (1/4th) of the Total Number of Shares subject to the Option shall vest on the one (1) year anniversary of the Vesting Commencement Date, and one forty-eighth (1/48th) of the Total Number of Shares subject to the Option shall vest on the corresponding day of each month thereafter over the next three (3) year period, or to the extent such a month does not have a corresponding day, on the last day of any such month, so that the Option will become fully vested on the four (4) year anniversary of the Vesting Commencement Date.

Notwithstanding the foregoing, if the Option has been designated in as an ISO, and the aggregate fair market value of the Shares subject to the Option that may be exercisable for the first time during any calendar year exceeds the $100,000 rule of Code Section 422(d) such that a portion of the Option shall be treated as an NSO, then the portion of the Option which qualifies as an ISO shall vest first until fully vested, and then the portion of the Option which is treated as an NSO shall vest until the Option is fully vested.

VESTING SCHEDULE ADDENDUM

Vesting Schedule (4 Year: Monthly)

One forty-eighth (1/48th) of the Total Number of Shares subject to the Option shall vest on the corresponding day of each month following the Vesting Commencement Date over the next four (4) year period, or to the extent such a month does not have a corresponding day, on the last day of any such month, so that the Option will become fully vested on the four (4) year anniversary of the Vesting Commencement Date.

Notwithstanding the foregoing, if the Option has been designated in as an ISO, and the aggregate fair market value of the Shares subject to the Option that may be exercisable for the first time during any calendar year exceeds the $100,000 rule of Code Section 422(d) such that a portion of the Option shall be treated as an NSO, then the portion of the Option which qualifies as an ISO shall vest first until fully vested, and then the portion of the Option which is treated as an NSO shall vest until the Option is fully vested.

ADDITIONAL TERMS ADDENDUM

Double-Trigger Change in Control.

(a) If a Change in Control (as defined in the Plan) occurs and within one (1) month prior, or within thirteen (13) months after, the effective time of such Change in Control, Optionee ceases to be a Service Provider due to an involuntary termination (not including death or Disability) without Cause (as defined in subsection (b) below) or due to a voluntary termination with Good Reason (as defined in subsection (c) below), then, as of the date that Optionee ceases to be a Service Provider, the vesting of this Option shall be accelerated to the extent of fifty percent (50%) of the then unvested portion of this Option.

(b) "Cause" means the occurrence of any one or more of the following: (i) Optionee's commission of any crime involving fraud, dishonesty or moral turpitude; (ii) Optionee's attempted commission of or participation in a fraud or act of dishonesty against the Company that results in (or might have reasonably resulted in) material harm to the business of the Company; (iii) Optionee's intentional, material violation of any contract or agreement between Optionee and the Company or any statutory duty Optionee owes to the Company; or (iv) Optionee's conduct that constitutes gross insubordination, incompetence or habitual neglect of duties and that results in (or might have reasonably resulted in) material harm to the business of the Company; provided, however, that the action or conduct described in clauses (iii) and (iv) above will constitute "Cause" only if such action or conduct continues after the Company has provided Optionee with written notice thereof and thirty (30) days to cure the same.

(c) "Good Reason" means that one or more of the following are undertaken by the Company without Optionee's express written consent: (i) the assignment to Optionee of any duties or responsibilities that results in a material diminution in Optionee's function as in effect immediately prior to the effective date of the Change in Control; provided, however, that a change in Optionee's title or reporting relationships shall not provide the basis for a voluntary termination with Good Reason; (ii) a material reduction by the Company in Optionee's annual base salary, as in effect on the effective date of the Change in Control or as increased thereafter; provided, however, that Good Reason shall not be deemed to have occurred in the event of a reduction in Optionee's annual base salary that is pursuant to a salary reduction program affecting substantially all of the Employees of the Company and that does not adversely affect Optionee to a greater extent than other similarly situated Employees; (iii) any failure by the Company to continue in effect any benefit plan or program, including incentive plans or plans with respect to the receipt of securities of the Company, in which Optionee was participating immediately prior to the effective date of the Change in Control (hereinafter referred to as "Benefit Plans"), or the taking of any action by the Company that would materially adversely affect Optionee's participation in or materially reduce Optionee's benefits under the Benefit Plans or deprive Optionee of any material fringe benefit that Optionee enjoyed immediately prior to the effective date of the Change in Control; provided, however, that Good Reason shall not be deemed to have occurred if the Company provides for Optionee's participation in benefit plans and programs that, taken as a whole, are comparable to the Benefit Plans; (iv) a relocation of Optionee's business office to a location more than fifty (50) miles from the location at which

Optionee performed Optionee's duties as of the effective date of the Change in Control, except for required travel by Optionee on the Company's business to an extent substantially consistent with Optionee's business travel obligations prior to the effective date of the Change in Control; or (v) a material breach by the Company of any provision of the Plan or the Option Agreement or any other material agreement between Optionee and the Company concerning the terms and conditions of Optionee's employment.

(d) If any payment or benefit Optionee would receive pursuant to a Change in Control from the Company or otherwise ("Payment") would (i) constitute a "parachute payment" within the meaning of Section 280G of the Code, and (ii) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the "Excise Tax"), then such Payment shall be equal to the Reduced Amount. The "Reduced Amount" shall be either (x) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax or (y) the largest portion, up to and including the total, of the Payment, whichever amount, after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in Optionee's receipt, on an after-tax basis, of the greater amount of the Payment notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in payments or benefits constituting "parachute payments" is necessary so that the Payment equals the Reduced Amount, reduction shall occur in the following order unless Optionee elects in writing a different order (provided, however, that such election shall be subject to Company approval if made on or after the effective date of the event that triggers the Payment): reduction of cash payments; cancellation of accelerated vesting of Optioned Stock; reduction of employee benefits. In the event that acceleration of vesting of Optioned Stock compensation is to be reduced, such acceleration of vesting shall be cancelled in the reverse order of the date of grant of Optionee's Optioned Stock (i.e., earliest granted Optioned Stock cancelled last) unless Optionee elects in writing a different order for cancellation.

The accounting firm engaged by the Company for general audit purposes as of the day prior to the effective date of the Change in Control shall perform the foregoing calculations. If the accounting firm so engaged by the Company is serving as accountant or auditor for the individual, entity or group effecting the Change in Control, the Company shall appoint a nationally recognized accounting firm to make the determinations required hereunder. The Company shall bear all expenses with respect to the determinations by such accounting firm required to be made hereunder.

The accounting firm engaged to make the determinations hereunder shall provide its calculations, together with detailed supporting documentation, to Optionee and the Company within fifteen (15) calendar days after the date on which Optionee's right to a Payment is triggered (if requested at that time by Optionee or the Company) or such other time as requested by Optionee or the Company. If the accounting firm determines that no Excise Tax is payable with respect to a Payment, either before or after the application of the Reduced Amount, it shall furnish Optionee and the Company with an opinion reasonably acceptable to Optionee that no Excise Tax will be imposed with respect to such Payment. Any good faith determinations of the accounting firm made hereunder shall be final, binding and conclusive upon Optionee and the Company.

ADDITIONAL TERMS ADDENDUM

NOT APPLICABLE

ADDITIONAL TERMS ADDENDUM

Single-Trigger Change in Control.

(a) If a Change in Control (as defined in the Plan) occurs, the vesting of this Option shall be accelerated in full.

(d) If any payment or benefit Optionee would receive pursuant to a Change in Control from the Company or otherwise ("Payment") would (i) constitute a "parachute payment" within the meaning of Section 280G of the Code, and (ii) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the "Excise Tax"), then such Payment shall be equal to the Reduced Amount. The "Reduced Amount" shall be either (x) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax or (y) the largest portion, up to and including the total, of the Payment, whichever amount, after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in Optionee's receipt, on an after-tax basis, of the greater amount of the Payment notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in payments or benefits constituting "parachute payments" is necessary so that the Payment equals the Reduced Amount, reduction shall occur in the following order unless Optionee elects in writing a different order (provided, however, that such election shall be subject to Company approval if made on or after the effective date of the event that triggers the Payment): reduction of cash payments; cancellation of accelerated vesting of Optioned Stock; reduction of employee benefits. In the event that acceleration of vesting of Optioned Stock compensation is to be reduced, such acceleration of vesting shall be cancelled in the reverse order of the date of grant of Optionee's Optioned Stock (i.e., earliest granted Optioned Stock cancelled last) unless Optionee elects in writing a different order for cancellation.

The accounting firm engaged by the Company for general audit purposes as of the day prior to the effective date of the Change in Control shall perform the foregoing calculations. If the accounting firm so engaged by the Company is serving as accountant or auditor for the individual, entity or group effecting the Change in Control, the Company shall appoint a nationally recognized accounting firm to make the determinations required hereunder. The Company shall bear all expenses with respect to the determinations by such accounting firm required to be made hereunder.

The accounting firm engaged to make the determinations hereunder shall provide its calculations, together with detailed supporting documentation, to Optionee and the Company within fifteen (15) calendar days after the date on which Optionee's right to a Payment is triggered (if requested at that time by Optionee or the Company) or such other time as requested by Optionee or the Company. If the accounting firm determines that no Excise Tax is payable with respect to a Payment, either before or after the application of the Reduced Amount, it shall furnish Optionee and the Company with an opinion reasonably acceptable to Optionee that no Excise Tax will be imposed with respect to such Payment. Any good faith determinations of the accounting firm made hereunder shall be final, binding and conclusive upon Optionee and the Company.

SERVICE-NOW.COM

2005 STOCK PLAN

NOTICE OF RESTRICTED STOCK UNIT AWARD

Terms defined in the Company's 2005 Stock Plan (the "***Plan***") shall have the same meanings in this Notice of Restricted Stock Unit Award ("***Notice of Grant***").

Name:

Address:

You ("***Participant***") have been granted an award of Restricted Stock Units ("***RSUs***"), subject to the terms and conditions of the Plan and the attached Restricted Stock Unit Agreement (hereinafter "***RSU Agreement***") under the Plan, as follows:

Total Number of RSUs:

RSU Grant Date:

Vesting Start Date:

Expiration Date: The earlier to occur of: (a) the date on which settlement of all vested RSUs granted hereunder occurs and (b) the tenth anniversary of the Grant Date.

Vesting: 1/4th of the RSUs will vest on each anniversary of the Vesting Start Date, provided the Participant continues to be a Service Provider through each such applicable vesting date (each, a "***Vesting Event***").

Settlement: RSUs that vest as of a Vesting Event shall be settled before March 15 of the year following the year in which a Vesting Event occurs. Settlement means the delivery of the Shares vested under an RSU. Settlement of RSUs on a Vesting Event shall be in Shares unless at the time of settlement the Administrator, in its sole discretion, determines that settlement shall, in whole or in part, be in the form of cash. Settlement of vested RSUs shall occur whether or not Participant is a Service Provider at the time of settlement. No fractional RSUs or rights for fractional Shares shall be created pursuant to this Notice of Grant.

Participant understands that his or her employment or consulting relationship with the Company is for an unspecified duration, can be terminated at any time (*i.e.*, is "at-will"), and that nothing in this Notice of Grant, the RSU Agreement or the Plan changes the at-will nature of that relationship. Participant acknowledges that the vesting of the RSUs pursuant to this Notice of Grant is conditioned on the occurrence of Vesting Event. Participant also understands that this Notice of Grant is subject to the terms and conditions of both the RSU Agreement and the Plan, both of which are incorporated herein by reference. Participant has read both the RSU Agreement and the Plan.

By your acceptance hereof (whether written, electronic or otherwise), you agree, to the fullest extent permitted by law, that in lieu of receiving documents in paper format, you accept the electronic delivery of any documents the Company, or any third party involved in administering the Plan which the Company may designate, may deliver in connection with this grant (including the Plan, the Notice of Grant, this RSU Agreement, the 701 Disclosures, account statements, or other communications or information) whether via the Company's intranet or the Internet site of such third party or via email or such other means of electronic delivery specified by the Company.

By your signature and the signature of the Company's representative on the Notice of Grant, Participant and the Company agree that this RSU is granted under and governed by the terms and conditions of the Plan, the Notice of Grant and the RSU Agreement.

PARTICIPANT	**SERVICE-NOW.COM**
_____	_____

SERVICE-NOW.COM
RSU AGREEMENT UNDER THE
2005 STOCK PLAN

You have been granted Restricted Stock Units ("***RSUs***") subject to the terms, restrictions and conditions of the Company's 2005 Stock Plan (the "***Plan***"), the Notice of Restricted Stock Unit Award ("***Notice of Grant***") and this Agreement. Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this RSU Agreement (the "***Agreement***").

1. No Stockholder Rights. Unless and until such time as Shares are issued in settlement of vested RSUs, Participant shall have no ownership of the Shares allocated to the RSUs and shall have no right to dividends or to vote such Shares.

2. Dividend Equivalents. Cash dividends, if any, shall not be credited to Participant.

3. No Transfer. The RSUs and any interest therein shall not be sold, assigned, transferred, pledged, hypothecated, or otherwise disposed of, other than by will or by the laws of descent and distribution. Notwithstanding the foregoing, Participant may, in the manner established by the Administrator, designate a beneficiary or beneficiaries to exercise the rights of Participant and receive any property distributable with respect to the RSUs upon the death of Participant. Any transferee who receives an interest in the RSU or the underlying Shares upon the death of Participant shall acknowledge in writing that the RSU shall continue to be subject to the restrictions set forth in this Section 3.

4. Termination. If Participant ceases to be a Service Provider for any reason, all RSUs for which vesting is no longer possible under the terms of the Notice of Grant and this Agreement shall be forfeited to the Company forthwith, and all rights of Participant to such RSUs shall immediately terminate. If Participant ceases to be a Service Provider prior to a Vesting Event, then all RSUs awarded in the Notice of Grant and this Agreement that had not vested shall be forfeited to the Company forthwith, and all rights of Participant to such RSUs shall immediately terminate. In case of any dispute as to whether such termination has occurred, the Administrator shall have sole discretion to determine whether such termination has occurred and the effective date of such termination.

5. Acknowledgement. The Company and Participant agree that the RSUs are granted under and governed by the Notice of Grant, this Agreement and by the provisions of the Plan (incorporated herein by reference). Participant: (i) acknowledges receipt of a copy of each of the foregoing documents, (ii) represents that Participant has carefully read and is familiar with their provisions, and (iii) hereby accepts the RSUs subject to all of the terms and conditions set forth herein and those set forth in the Plan and the Notice of Grant.

6. Limitations on Transfer of Stock. In addition to any other limitation on transfer created by applicable securities laws, Participant shall not assign, encumber or dispose of any interest in the Shares issued pursuant to this Agreement except with the Company's prior written consent and in compliance with the provisions of Section 13 of the Plan, the Company's then current Insider Trading Policy, and applicable securities laws. The restrictions on transfer also include a prohibition on any short position, any "put equivalent position" or any "call equivalent position" by the RSU holder with respect to the RSU itself as well as any shares issuable upon settlement of the RSU prior to the settlement thereof until the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act.

7. Restrictions Binding on Transferees. All transferees of Shares or any interest therein will receive and hold such shares or interest subject to the provisions of this Agreement, including the transfer restrictions of Sections 3, 6, and 16 and the transferee shall acknowledge such restrictions in writing. Any sale or transfer of the Shares shall be void unless the provisions of this Agreement are satisfied.

8. Withholding of Tax. When the RSUs are vested and/or settled the fair market value of the Shares is treated as income subject to withholding by the Company for income and employment taxes if Participant is or was an employee of the Company. The Company shall withhold an amount equal to the tax due at vesting and/or settlement from the Participant's other compensation or require Participant to remit to the Company an amount equal to the tax then due. In its sole discretion, the Company may instead withhold a number of Shares with a fair market value (determined on the date the Shares are settled) equal to the minimum amount the Company is then required to withhold for taxes.

9. Code Section 409A. For purposes of this Agreement, a termination of employment will be determined consistent with the rules relating to a "separation from service" as defined in Section 409A of the Code and the regulations thereunder ("**Section 409A**"). Notwithstanding anything else provided herein, to the extent any payments provided under this Agreement in connection with Participant's termination of employment constitute deferred compensation subject to Section 409A, and Participant is deemed at the time of such termination of employment to be a "specified employee" under Section 409A, then such payment shall not be made or commence until the earlier of (i) the expiration of the 6-month period measured from Participant's separation from service from the Company or (ii) the date of Participant's death following such a separation from service; provided, however, that such deferral shall only be effected to the extent required to avoid adverse tax treatment to Participant including, without limitation, the additional tax for which Participant would otherwise be liable under Section 409A(a)(1)(B) in the absence of such a deferral. The first payment thereof will include a catch-up payment covering the amount that would have otherwise been paid during the period between Participant's termination of employment and the first payment date but for the application of this provision, and the balance of the installments (if any) will be payable in accordance with their original schedule. To the extent that any provision of this Agreement is ambiguous as to its compliance with Section 409A, the provision will be read in such a manner so that all payments hereunder comply with Section 409A. To the extent any payment under this Agreement may be classified as a "short-term deferral" within the meaning of Section 409A, such payment shall be deemed a short-term deferral, even if it may also qualify for an exemption from Section 409A under another provision of Section 409A. Payments pursuant to this section are intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

10. U.S. Tax Consequences. Participant acknowledges that there will be tax consequences upon vesting and/or settlement of the RSUs and/or disposition of the Shares, if any, received in connection therewith, and Participant should consult a tax adviser regarding Participant's tax obligations prior to such settlement or disposition.

11. Compliance with Laws and Regulations. The issuance of Shares will be subject to and conditioned upon compliance by the Company and Participant (including any written representations, warranties and agreements as the Administrator may request of Participant for compliance with Applicable Laws) with all applicable state and federal laws and regulations and with all applicable requirements of any stock exchange or automated quotation system on which the Company's Common Stock may be listed or quoted at the time of such issuance or transfer. Participant may not be issued any Shares if such issuance would constitute a violation of any applicable federal, state or foreign securities laws or other law or regulations or the requirements of any stock exchange or market system upon which the stock may then be listed. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance and sale of any Shares shall relieve the Company of any liability in respect of the failure to issue or sell such shares.

12. Successors and Assigns. The Company may assign any of its rights under this Agreement. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth herein, this Agreement will be binding upon Participant and Participant's heirs, executors, administrators, legal representatives, successors and assigns.

13. Entire Agreement; Severability; Governing Law. The Plan and Notice of Grant are incorporated herein by reference. The Plan, the Notice of Grant and this Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof (including, without limitation, any commitment to make any other form of equity award (such as stock options) that may have been set forth in any employment offer letter or other agreement between the parties). If any provision of this Agreement is determined by a court of law to be illegal or unenforceable, then such provision will be enforced to the maximum extent possible and the other provisions will remain fully effective and enforceable. This Agreement is governed by the internal substantive laws but not the choice of law rules of California.

14. Market Standoff Agreement. Participant hereby agrees that Participant shall not offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any Common Stock (or other securities) of the Company or enter into any swap, hedging or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any Common Stock (or other securities) of the Company held by Participant (other than those included in the registration) for a period specified by the representative of the underwriters of Common Stock (or other securities) of the Company not to exceed one hundred eighty (180) days following the effective date of any registration statement of the Company filed under the Securities Act or such longer period as necessary to permit compliance with NASD Rule 2711 or NYSE Member Rule 472 and similar rules and regulations; *provided, however*, that nothing contained in this section shall prevent the exercise of a repurchase option, if any, in favor of the Company during such period. Participant agrees to execute and deliver such other agreements as may be reasonably requested by the Company or the underwriter which are consistent with the foregoing or which are necessary to give further effect thereto. In addition, if requested by the Company or the representative of the underwriters of Common Stock (or other securities) of the Company, Participant shall provide, within ten (10) days of such request, such information as may be required by the Company or such representative in connection with the completion of any public offering of the Company's securities pursuant to a registration statement filed under the Securities Act. The obligations described in this Section 14 shall not apply to a registration relating solely to (i) employee benefit plans or (ii) an SEC Rule 145 transaction. The Company may impose stop-transfer instructions with respect to the shares of Common Stock (or other securities) subject to the foregoing restriction until the end of said one hundred eighty (180) day period. Participant agrees that any transferee of the RSU or shares acquired pursuant to the RSU shall be bound by this Section 14 and that the underwriters of the Company's stock are intended third party beneficiaries of this Section 14 and shall have the right, power and authority to enforce the provisions hereof as though they were a party hereto.

15. Participant's Representations. In the event the Shares have not been registered under the Securities Act at the time this RSU is settled, the Participant shall, if required by the Company, concurrently with the settlement all or any portion of this RSU, deliver to the Company his or her Investment Representation Statement in the form attached hereto as Exhibit A.

16. Company's Right of First Refusal. Before any Shares held by Participant or any transferee (either being sometimes referred to herein as the "***Holder***") may be sold or otherwise transferred (including transfer by gift or operation of law), the Company or its assignee(s) shall have a right of first refusal to purchase the Shares on the terms and conditions set forth in this Section (the "***Right of First Refusal***").

(a) Notice of Proposed Transfer. The Holder of the Shares shall deliver to the Company a written notice (the "***Notice***") stating: (i) the Holder's bona fide intention to sell or otherwise transfer such Shares; (ii) the name of each proposed purchaser or other transferee ("***Proposed Transferee***"); (iii) the number of Shares to be transferred to each Proposed Transferee; and (iv) the bona fide cash price or other

consideration for which the Holder proposes to transfer the Shares (the "***Offered Price***"), and the Holder shall offer the Shares at the Offered Price to the Company or its assignee(s).

(b) Exercise of Right of First Refusal. At any time within thirty (30) days after receipt of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase up to all of the Shares proposed to be transferred to any one or more of the Proposed Transferees, at the purchase price determined in accordance with subsection (c) below.

(c) Purchase Price. The purchase price ("***Purchase Price***") for the Shares purchased by the Company or its assignee(s) under this Section shall be the Offered Price. If the Offered Price includes consideration other than cash, the cash equivalent value of the non-cash consideration shall be determined by the Board of Directors of the Company in good faith.

(d) Payment. Payment of the Purchase Price shall be made, at the option of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness of the Holder to the Company (or, in the case of repurchase by an assignee, to the assignee), or by any combination thereof within thirty (30) days after receipt of the Notice or in the manner and at the times set forth in the Notice.

(e) Holder's Right to Transfer. To the extent that the Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section, then the Holder may sell or otherwise transfer such Shares to that Proposed Transferee at the Offered Price or at a higher price, provided that such sale or other transfer is consummated within 120 days after the date of the Notice, that any such sale or other transfer is effected in accordance with any applicable securities laws and that the Proposed Transferee agrees in writing that the provisions of this Section shall continue to apply to the Shares in the hands of such Proposed Transferee. If the Shares described in the Notice are not transferred to the Proposed Transferee within such period, a new Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

(f) Exception for Certain Family Transfers. Anything to the contrary contained in this Section notwithstanding, the transfer of any or all of the Shares during the Participant's lifetime or on the Participant's death by will or intestacy to the Participant's immediate family or a trust for the benefit of the Participant's immediate family shall be exempt from the provisions of this Section. "***Immediate Family***" as used herein shall mean spouse, lineal descendant or antecedent, father, mother, brother or sister. In such case, the transferee or other recipient shall receive and hold the Shares so transferred subject to the provisions of this Section, and there shall be no further transfer of such Shares except in accordance with the terms of this Section.

(g) Termination of Right of First Refusal. The Right of First Refusal shall terminate as to any Shares upon the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the Securities and Exchange Commission under the Securities Act.

17. Restrictive Legends and Stop-Transfer Orders.

(a) Legends. Participant understands and agrees that the Company shall cause the legends set forth below or legends substantially equivalent thereto, to be placed upon any certificate(s) evidencing ownership of the Shares together with any other legends that may be required by the Company or by state or federal securities laws:

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN

REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER SUCH ACT AND/OR APPLICABLE STATE SECURITIES LAWS, OR UNLESS, IN THE OPINION OF COUNSEL (WHICH MAY BE COUNSEL TO THE CORPORATION) SATISFACTORY TO THE CORPORATION, SUCH REGISTRATION IS NOT REQUIRED.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER, INCLUDING A 180-DAY MARKET STANDOFF AGREEMENT, AND A RIGHT OF FIRST REFUSAL HELD BY THE CORPORATION AS SET FORTH IN AN RSU AGREEMENT BETWEEN THE CORPORATION AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. SUCH TRANSFER RESTRICTIONS AND RIGHT OF FIRST REFUSAL ARE BINDING ON TRANSFEREES OF THESE SHARES.

(i) Stop-Transfer Notices. Participant agrees that, in order to ensure compliance with the restrictions referred to herein, the Company may issue appropriate “stop transfer” instructions to its transfer agent, if any, and that, if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

(ii) Refusal to Transfer. The Company shall not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Agreement or (ii) to treat as owner of such Shares or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares shall have been so transferred.

18. No Guarantee of Continued Service. PARTICIPANT AGREES THAT THE VESTING OF SHARES PURSUANT TO THE VESTING SCHEDULE HEREOF IS EARNED ONLY BY CONTINUING AS A SERVICE PROVIDER AT THE WILL OF THE COMPANY (NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED THIS RSU OR ACQUIRING SHARES HEREUNDER). PARTICIPANT FURTHER ACKNOWLEDGES AND AGREES THAT THIS RSU AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS A SERVICE PROVIDER FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND SHALL NOT INTERFERE IN ANY WAY WITH PARTICIPANT’S RIGHT OR THE COMPANY’S RIGHT TO TERMINATE PARTICIPANT’S RELATIONSHIP AS A SERVICE PROVIDER AT ANY TIME, WITH OR WITHOUT CAUSE.

19. Information to Participants. If the Company is relying on an exemption from registration under Section 12(h)-1 of the Exchange Act and such information is required to be provided by such Section 12(h)-1, the Company shall provide the information described in Rules 701(e)(3), (4), and (5) of the Securities Act by a method allowed under Section 12(h)-1 of the Exchange Act in accordance with Section 12(h)-1 of the Exchange Act, provided that Participant agrees to keep the information confidential.

20. Delivery of Documents and Notices. Any document relating to participating in the Plan and/or notice required or permitted hereunder shall be given in writing and shall be deemed effectively given (except to the extent that this Agreement provides for effectiveness only upon actual receipt of such notice) upon personal delivery, electronic delivery, or upon deposit in the U.S. Post Office or foreign postal service, by registered or certified mail, with postage and fees prepaid, addressed to the other party

at the e-mail address, if any, provided for Participant by the Company or at such other address as such party may designate in writing from time to time to the other party.

EXHIBIT A

INVESTMENT REPRESENTATION STATEMENT

PARTICIPANT	:	
COMPANY	:	**SERVICE-NOW.COM**
SECURITY	:	COMMON STOCK
NUMBER OF SHARES	:	
DATE	:	

In connection with the acquisition of the above-listed Securities, the undersigned Participant represents to the Company the following:

(i) Participant is aware of the Company's business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Securities. Participant is acquiring these Securities for investment for Participant's own account only and not with a view to, or for resale in connection with, any "distribution" thereof within the meaning of the Securities Act.

(ii) Participant acknowledges and understands that the Securities constitute "restricted securities" under the Securities Act and have not been registered under the Securities Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Participant's investment intent as expressed herein. In this connection, Participant understands that, in the view of the Securities and Exchange Commission, the statutory basis for such exemption may be unavailable if Participant's representation was predicated solely upon a present intention to hold these Securities for the minimum capital gains period specified under tax statutes, for a deferred sale, for or until an increase or decrease in the market price of the Securities, or for a period of one year or any other fixed period in the future. Participant further understands that the Securities must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Participant further acknowledges and understands that the Company is under no obligation to register the Securities. Participant understands that the certificate evidencing the Securities will be imprinted with the legends set forth in Section 17 of the RSU Agreement and with any other legend required under applicable state securities laws.

(iii) Participant is familiar with the provisions of Rule 701 and Rule 144, each promulgated under the Securities Act, which, in substance, permit limited public resale of "restricted securities" acquired, directly or indirectly from the issuer thereof, in a non-public offering subject to the satisfaction of certain conditions. Rule 701 provides that if the issuer qualifies under Rule 701 at the time of the grant of the RSU to the Participant, the settlement will be exempt from registration under the Securities Act. In the event the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, ninety (90) days thereafter (or such longer period as any market stand-off agreement may require) the Securities exempt under Rule 701 may be resold, subject to the satisfaction of certain of the conditions specified by Rule 144, including (1) the resale being made through a broker in an unsolicited "broker's transaction" or in transactions directly with a market maker (as said term is defined under the Securities Exchange Act of 1934); and, in the case of an affiliate, (2) the availability of certain public information about the Company, (3) the amount of Securities being sold during any three month period not exceeding the limitations specified in Rule 144(e), and (4) the timely filing of a Form 144, if applicable.

In the event that the Company does not qualify under Rule 701 at the time of settlement of the

RSU, then the Securities may be resold in certain limited circumstances subject to the provisions of Rule 144, which requires the resale to occur not less than one year after the later of the date the Securities were sold by the Company or the date the Securities were sold by an affiliate of the Company, within the meaning of Rule 144; and, in the case of acquisition of the Securities by an affiliate, or by a non-affiliate who subsequently holds the Securities less than two years, the satisfaction of the conditions set forth in sections (1), (2), (3) and (4) of the paragraph immediately above.

(iv) Participant further understands that in the event all of the applicable requirements of Rule 701 or 144 are not satisfied, registration under the Securities Act, compliance with Regulation A, or some other registration exemption will be required; and that, notwithstanding the fact that Rules 144 and 701 are not exclusive, the Staff of the Securities and Exchange Commission has expressed its opinion that persons proposing to sell private placement securities other than in a registered offering and otherwise than pursuant to Rules 144 or 701 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales, and that such persons and their respective brokers who participate in such transactions do so at their own risk. Participant understands that no assurances can be given that any such other registration exemption will be available in such event.

Signature of Participant:

_____

Date: _____

Exhibit 10.5

SERVICE-NOW.COM
EMPLOYMENT AGREEMENT

This **EMPLOYMENT AGREEMENT** (the ***"Agreement"***) is made and entered into effective as of May 2, 2011 (the "***Effective Date***") by and among **SERVICE-NOW.COM** (the ***"Company"***) and Frank Slootman (the ***"Executive"***). The Company and Executive are hereinafter collectively referred to as the ***"Parties"***, and individually referred to as a ***"Party"***. This Agreement supersedes any and all prior and contemporaneous oral or written employment agreements or arrangements between Executive and the Company.

RECITALS

A. The Company desires assurance of the association and services of Executive in order to retain Executive's experience, skills, abilities, background and knowledge, and is willing to engage Executive's services on the terms and conditions set forth in this Agreement.

B. Executive desires to be in the employ of the Company, and is willing to accept such employment on the terms and conditions set forth in this Agreement.

AGREEMENT

In consideration of the foregoing Recitals and the mutual promises and covenants herein contained, and for other good and valuable consideration, the Parties, intending to be legally bound, agree as follows:

1. EMPLOYMENT.

1.1 Title. Effective as of the Effective Date, Executive's title shall be Chief Executive Officer ("***CEO***") of the Company, subject to the terms and conditions set forth in this Agreement. Executive shall also serve as a member of the Company's Board of Directors (the "***Board***").

1.2 Term. The term of this Agreement shall begin on the Effective Date and shall continue for a period of three (3) years thereafter, unless terminated earlier pursuant to Section 4 herein (the ***"Term"***). The Executive's employment with the Company shall at all times remain at will. Upon the termination of Executive's employment with the Company for any reason, voluntary or involuntary, including a termination due to Complete Disability (as defined below), Executive shall immediately resign from the Board unless otherwise requested by the remaining members of the Board.

1.3 Duties. Executive shall do and perform all services, acts or things necessary or advisable to manage and conduct the business of the Company and that are normally associated with the position of CEO. Executive shall report to the Board.

1.4 Policies and Practices. The employment relationship between the Parties shall be governed by this Agreement and by the policies and practices established by the

Company and/or the Board, or any designated committee thereof. In the event that the terms of this Agreement differ from or are in conflict with the Company's policies or practices or the Company's Employee Handbook, this Agreement shall control.

1.5 Location. Unless the Parties otherwise agree in writing, during the Term Executive shall perform the services Executive is required to perform pursuant to this Agreement at the Company's offices in San Diego, California, ***provided, however,*** that the Company may from time to time require Executive to travel temporarily to other locations in connection with the Company's business.

2. **LOYALTY; NONCOMPETITION; NONSOLICITATION; NONDISPARAGEMENT.**

2.1 Loyalty. During Executive's employment by the Company, Executive shall devote Executive's full business energies, interest, abilities and productive time to the proper and efficient performance of Executive's duties under this Agreement. Notwithstanding the foregoing, Executive may: (1) serve on the Board of Directors of other for-profit corporate entities, with the prior written consent of the Company's Board; (2) serve as a Venture Partner of Greylock Partners and continue his existing relationship with EMC Corporation and its Backup and Recovery Systems Division, in each case subject to annual review and approval by the Board; and (3) devote time to personal investments, philanthropic, educational and civic service, and other personal matters, so long as, with respect to items (1) through (3), any such activities do not interfere with the performance of his duties hereunder.

2.2 Agreement not to Participate in Company's Competitors. During the Term, Executive agrees not to acquire, assume or participate in, directly or indirectly, any position, investment or interest known by Executive to be adverse or antagonistic to the Company, its business, or prospects, financial or otherwise, or in any company, person, or entity that is, directly or indirectly, in competition with the business of the Company or any of its Affiliates (as defined below). Ownership by Executive, in professionally managed funds over which the Executive does not have control or discretion in investment decisions, or as a passive investment, of less than two percent (2%) of the outstanding shares of capital stock of any corporation with one or more classes of its capital stock listed on a national securities exchange or publicly traded on a national securities exchange or in the over-the-counter market shall not constitute a breach of this Section. For purposes of this Agreement, ***"Affiliate,"*** means, with respect to any specific entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified entity.

2.3 Nonsolicitation. For a period of twelve (12) months following the termination of Executive's employment with the Company for any reason, voluntary or involuntary (the "***Restricted Period***"), Executive shall not: (i) solicit or induce, or attempt to solicit or induce, any employee of the Company or its Affiliates to leave the employ of the Company or such Affiliate; or (ii) use confidential information to solicit or attempt to solicit the business of any client or customer of the Company or its Affiliates with respect to products, services, or investments similar to those provided or supplied by the Company or its Affiliates.

2.4 Nondisparagement. During the Restricted Period, Executive shall not disparage the Company, or its officers, directors, employees, shareholders, or agents, in any

manner likely to be harmful to its or their businesses, business reputations, or personal reputations and the Company shall not disparage Executive in a manner likely to be harmful to his business reputation or personal reputation, provided that Executive and the Company will respond accurately and fully to any question, inquiry or request for information when required by legal process.

3. COMPENSATION OF THE EXECUTIVE.

3.1 Base Salary. The Company shall pay Executive a base salary at the annualized rate of Three Hundred Thousand Dollars ($300,000.00) (the ***"Base Salary"***), less payroll deductions and all required withholdings, payable in regular periodic payments in accordance with the Company's normal payroll practices. The Base Salary shall be prorated for any partial year of employment on the basis of a 365-day fiscal year. The Base Salary shall be reviewed by the Compensation Committee of the Board (the "***Compensation Committee***") at least annually, and any change(s) shall be at the sole discretion of the Compensation Committee.

3.2 Discretionary Bonus. At the sole discretion of the Compensation Committee, for each fiscal year of employment Executive shall be eligible to receive a cash target bonus or bonuses in the total sum of up to three hundred thousand dollars ($300,000.00) (the "***Target Bonus(es)***", less payroll deductions and all required withholdings), based on Executive's performance relative to objectives to be established each fiscal year by the Compensation Committee. The Target Bonus objectives for the 2012 and future fiscal years shall be established by the Compensation Committee within ninety (90) days of the beginning of any such fiscal years. For the 2011 fiscal year, no Target Bonus objectives will be established. Any portion of the Target Bonus(es) awarded for the 2011 fiscal year shall be at the discretion of the Compensation Committee and shall be pro-rated based on the number of calendar days Executive was employed during fiscal year 2011 divided by 365. The evaluation of Executive's performance relative to the Bonus objectives and the determination of the portion of the Target Bonus(es) (if any) that will be paid in any given year, shall be made by the Compensation Committee in its sole discretion. Any portion of the Target Bonus(es) paid shall be paid in cash as a single lump-sum payment within ten (10) days following the time such payments are approved.

3.3 Stock Options. Subject to approval by the Board and subject to the terms of the Company's Equity Incentive Plan (the "***Plan***"), as soon as practicable following the Effective Date, Executive will be granted an option to purchase one million, six hundred and thirty-seven thousand, six hundred and fourteen (1,637,614) shares of the Company's common stock (the "***Option***"). On the first anniversary of the grant date of the Option, twenty-five percent (25%) of the shares subject to the Option shall vest, subject to Executive's continued employment with the Company on such date. The balance of the shares subject to the Option shall vest in equal monthly installments on the last day of each month for the thirty-six (36) months thereafter, subject to Executive's continued employment with the Company on each vesting date. The Option will be governed by the Plan and shall be granted pursuant to a separate stock option grant notice and stock option agreement, except as otherwise provided in this Agreement. The exercise price per share of the Option will be equal to the fair market value of a single share of the Company's common stock on the date of the grant as determined in good faith by the Board.

3.4 Acceleration of Stock Options Upon a Change of Control. Executive shall be entitled to full or partial accelerated vesting (as applicable) of the shares subject to his outstanding stock options effective upon the effective date of a Change of Control (as defined below), as follows: If the effective date of the Change of Control occurs prior to the closing of the first sale of shares of capital stock of the Company to the public in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "***IPO***"), Executive's stock options (or other equity compensation) will accelerate vesting on a pro rata basis such that the vesting of fifty percent (50%) of shares subject to each vesting installment of Executive's stock options will be accelerated and become immediately vested and exercisable. The remainder of the shares subject to each of Executive's stock options (or other equity compensation) shall continue to vest pro rata in accordance with the vesting schedule applicable to each such option (or other equity compensation). If the effective date of the Change of Control occurs on or subsequent to the closing of the IPO, Executive shall receive immediate accelerated vesting and exercisability of one hundred percent (100%) of the then-unvested shares subject to each of Executive's outstanding stock options (or other equity compensation). The provisions of this Section 3.4 shall be contained in Executive's option agreements (or other equity compensation agreements) and although contingent upon Executive's continued employment with the Company, shall not be contingent upon the continued effectiveness of this Agreement.

3.5 Temporary Living Benefit. Subject to Executive's continued employment with the Company on each payment date, the Company will pay Executive an additional five thousand dollars ($5,000.00) per month beginning in May 2011 and ending in April 2012 (for a total of up to ten (10) months of payments) in order to assist Executive with additional living expenses Executive incurs while setting up a residence in San Diego, California (the ***"Temporary Living Benefits"***). The Temporary Living Benefits for each month shall be paid to Executive in two equal installments, one in the first payroll period and one in the second payroll period of such month. The Temporary Living Benefits will be treated as taxable income to Executive and shall be subject to standard payroll deductions and withholdings.

3.6 Expense Reimbursements. The Company will reimburse Executive for all reasonable business expenses Executive incurs in conducting his duties hereunder, pursuant to the Company's usual expense reimbursement policies, but in no event later than thirty days after the end of the calendar month following the month in which such expenses were incurred by Executive; provided that Executive supplies the appropriate substantiation for such expenses no later than the end of the calendar month following the month in which such expenses were incurred by Executive. Reimbursable business expenses shall include reasonable, documented expenses for air travel in accordance with the Company's travel policies, to be determined in the reasonable business discretion of the CEO.

3.7 Changes to Compensation. Executive's compensation and benefits will be reviewed periodically (including the review of Executive's Base Salary at least annually as specified above) and may be changed from time to time at the sole discretion of the Compensation Committee subject to Section 4.6.3.

3.8 Employment Taxes. All of Executive's compensation shall be subject to customary withholding taxes and any other employment taxes as are commonly required to be collected or withheld by the Company.

3.9 Benefits. Executive shall, in accordance with Company policy and the terms of the applicable plan documents, be eligible to participate in benefits under any benefit plan or arrangement that may be in effect from time to time and made available to the Company's executive level employees.

3.10 Holidays and Vacation. Executive shall be eligible to accrue up to four (4) weeks of paid vacation per year and will receive paid Company holidays in accordance with Company policy. Vacation accrues pro rata throughout the year.

4. TERMINATION.

4.1 Termination by the Company. Executive's employment with the Company is at will and may be terminated by the Company at any time and for any reason, or for no reason, including, but not limited to, under the following conditions.

4.1.1 Termination by the Company for Cause. The Company may terminate Executive's employment under this Agreement for "Cause" (as defined below) at any time. Such termination shall be effective on the date Executive is so informed, or as otherwise specified by the Company.

4.1.2 Termination by the Company Without Cause. The Company may terminate Executive's employment under this Agreement without Cause at any time and for any reason, or for no reason. Such termination shall be effective on the date Executive is so informed, or as otherwise specified by the Company.

4.2 Termination by Resignation of Executive. Executive's employment with the Company is at will and may be terminated by Executive at any time and for any reason, or for no reason, including via resignation for Good Reason in accordance with the procedures set forth below.

4.3 Termination for Death or Complete Disability. Executive's employment with the Company shall automatically terminate effective upon the date of Executive's death or Complete Disability (as defined below).

4.4 Termination by Mutual Agreement of the Parties. Executive's employment with the Company may be terminated at any time upon a mutual agreement in writing of the Parties. Any such termination of employment shall have the consequences specified in such agreement.

4.5 Compensation Upon Termination.

4.5.1 Death or Complete Disability. If, during the Term of this Agreement, Executive's employment shall be terminated by death or Complete Disability, the Company shall pay to Executive, or to Executive's heirs, as applicable, Executive's accrued base

salary, accrued and unused vacation benefits and any unpaid Temporary Living Benefits earned (or to which Executive is entitled pursuant to Section 3.5) through the date of termination at the rate in effect at the time of termination, less standard deductions and withholdings. The Company shall thereafter have no further obligations to Executive and/or to Executive's heirs under this Agreement, except as otherwise provided by law.

4.5.2 Termination For Cause; Certain Resignations By Executive. If, at any time during the Term of this Agreement: (1) Executive's employment is terminated by the Company for Cause; or (2) Executive resigns his employment hereunder without Good Reason; then the Company shall pay Executive's accrued base salary, accrued and unused vacation benefits and any unpaid Temporary Living Benefits earned (or to which Executive would be entitled pursuant to Section 3.5) through the date of termination at the rate in effect at the time of termination, less standard deductions and withholdings. The Company shall thereafter have no further obligations to Executive under this Agreement, except as otherwise provided by law.

4.5.3 Termination Without Cause and Resignation for Good Reason Other Than in Connection With a Change of Control. If, during the Term of this Agreement, the Company terminates Executive's employment without Cause or Executive resigns his employment hereunder for Good Reason at any time **other than** during the period that begins three (3) months prior to and ends twelve (12) months following the effective date of a Change of Control, the Company shall pay Executive's accrued base salary and accrued and unused vacation benefits earned through the date of termination, at the rate in effect at the time of termination, less standard deductions and withholdings. In addition, subject to the Executive: (a) furnishing to the Company an executed waiver and release of claims in the form attached hereto as **Exhibit A** (or in such other form as may be specified by the Company in order to comply with then-existing legal requirements to effect a valid release of claims) (the ***"Release and Waiver"***) within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination; (b) allowing the Release and Waiver to become effective in accordance with its terms; and (c) complying with, and continuing throughout the Severance Period (as defined below) to comply with, Executive's post-termination nonsolicitation and nondisparagement obligations as set forth in Sections 2.3 and 2.4, then Executive shall be entitled to the following (the "***Severance Package***"):

(i) continuation of Executive's base salary in effect at the time of termination for a period of twelve (12) months following the date of termination (the "***Severance Period***"), with such payments being made commencing with the first regular payroll cycle following the sixtieth (60th) day subsequent to termination of employment; provided, however, that any payments otherwise scheduled to be made prior to such sixtieth (60th) day shall accrue and be paid in such first payroll cycle; and

(ii) any portion of the Target Bonus for 2012 and future years that would have been paid to Executive, subject to achievement of the applicable corporate performance goals but without taking into account negative discretion, if he had been employed on the last day of the applicable fiscal year, to be paid in one lump sum payment within two and one-half (2 1/2) months following the end of the Company's fiscal year in which termination occurs;

(iii) if Executive is eligible for and timely elects continued coverage under COBRA for himself and/or his eligible dependents under the Company's group health insurance plans following the termination of his employment, then the Company shall pay the COBRA premiums necessary to continue the health insurance coverage in effect for Executive and/or his eligible dependents as of the termination date, until the earliest of: (A) the close of the Severance Period; (B) the expiration of Executive's eligibility for continuation coverage under COBRA; and (C) the date when Executive becomes eligible for substantially equivalent health insurance coverage in connection with new employment or self-employment (such period from the termination date through the earliest of (A) through (C), the "***COBRA Payment Period***"). If Executive becomes eligible for coverage under another employer's group health plan or through self-employment, or otherwise ceases to be eligible for COBRA coverage during the period provided in this section, Executive must immediately notify the Company of such event, and the Company's obligation to pay COBRA premiums on Executive's behalf shall cease. Notwithstanding the foregoing, if at any time the Company determines, in its sole discretion, that its payment of COBRA premiums on Executive's behalf would result in a violation of applicable law (including, without limitation, Section 2716 of the Public Health Service Act), then in lieu of paying COBRA premiums on Executive's behalf, the Company will pay Executive on the last day of each remaining month of the COBRA Payment Period a fully taxable cash payment equal to the COBRA premium for that month, subject to applicable tax withholding (such amount, the "***Special Severance Payment***"), such Special Severance Payment to be made without regard to Executive's election of COBRA coverage or payment of COBRA premiums and without regard to the expiration of the COBRA Payment Period prior to twelve (12) months following the termination of Executive's employment. Such Special Severance Payment shall end on the earlier of (x) the date on which Executive commences other employment (including self-employment) and (y) the close of the Severance Period; and

(iv) any unpaid Temporary Living Benefits to which Executive would have been entitled if his employment had not been terminated.

4.5.4 Termination Without Cause or Resignation For Good Reason In Connection With a Change of Control. If, during the Term of this Agreement, the Company terminates Executive's employment without Cause, or the Executive resigns his employment hereunder for Good Reason, at any time during the period that begins three (3) months prior to and ends twelve (12) months following the effective date of a Change of Control (the ***"Change of Control Period***"), then the Company shall pay Executive's accrued base salary and accrued and unused vacation benefits earned through the date of termination, at the rate in effect at the time of termination, less standard deductions and withholdings. In addition, subject to the Executive (a) furnishing to the Company an executed Release and Waiver within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination and (b) allowing the Release and Waiver to become effective in accordance with its terms, then, conditioned upon Executive's complying with, and continuing throughout the Severance Period to comply with, Executive's post-termination nonsolicitation and nondisparagement obligations as set forth in Sections 2.3 and 2.4, Executive shall be entitled to the Severance Package described above; provided however, that (i) payment shall be in one lump cash sum on the sixtieth (60th) day following termination of employment and (ii) the entire Target Bonus for the year of termination shall be payable in lieu of a payment set forth pursuant to subparagraph (ii) of Section 4.5.3. Notwithstanding the foregoing, such amount will be

payable in a lump sum only if the event constituting a Change of Control would also constitute a change in ownership or effective control of the Company or a change in the ownership of a substantial portion of the assets of the Company (both as defined in Section 409A.)

4.5.5 Additional Acceleration. Executive's stock options shall provide that if: (1) the Company terminates Executive's employment without Cause; or (2) Executive resigns his employment for Good Reason or following a material adverse change in Executive's Chief Executive Officer title or reporting relationships of persons reporting to Executive without Executive's consent ("***Adverse Change In Title***"), then, subject to the Executive: (a) furnishing to the Company an executed Release and Waiver within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination; and (b) allowing the Release and Waiver to become effective in accordance with its terms, Executive shall receive immediate accelerated vesting of (x) twelve and one-half (12 1/2%) percent of the total shares subject to the Executive's stock options (or other equity awards) if termination of employment occurs prior to the Change of Control Period or after the Change of Control Period (increased to twenty-five (25%) percent of the total shares subject to the Executive's stock options (or other equity awards) if termination of employment occurs within the first twelve (12) months of employment and prior to the Change of Control Period or after the Change of Control Period) and (y) one hundred percent (100%) of the then-unvested shares subject to each of Executive's outstanding stock options (or other equity awards) if termination of employment occurs during the Change of Control Period, but in the case of (y) only to the extent such acceleration has not already occurred pursuant to Section 3.4. In order to give effect to the foregoing provision, notwithstanding anything to the contrary set forth in the Plan or the applicable form of stock option agreement (or other equity agreement), none of Executive's unvested options (or other equity awards) shall terminate or be forfeited any earlier than three (3) months after any of the following occurrences during the Change of Control Period: (a) any termination of the Executive's employment without Cause; or (b) Executive's resignation for Good Reason or pursuant to an Adverse Change in Title. For the avoidance of doubt, if Executive's resignation is due to an Adverse Change in Title, but does not otherwise qualify as a resignation for Good Reason, Executive shall not be entitled to any of the severance benefits provided under Sections 4.5.3 or 4.5.4. The provisions of this Section 4.5.5 shall be contained in Executive's option agreements and although contingent upon Executive's continued employment with the Company, shall not be contingent upon the continued effectiveness of this Agreement.

4.6 Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

4.6.1 Complete Disability. A termination for ***"Complete Disability"*** shall occur: (i) when the Board has provided a written termination notice to Executive supported by a written statement from a reputable independent physician to the effect that Executive is or shall have become so physically or mentally incapacitated as to be unable to resume, within the ensuing six (6) months, his employment under this Agreement by reason of such physical or mental illness or injury; or (ii) upon rendering of a written termination notice by the Board after the Board determines, in its sole and complete discretion, that Executive has been unable to substantially perform his job duties hereunder for one hundred twenty (120) or more consecutive days, or more than eighty (80) days in any consecutive twelve (12) month period, by reason of any physical or mental illness or injury. For purposes of this Section, at the Company's request

Executive agrees to make himself available and to cooperate in a reasonable examination by a reputable independent physician retained by the Company.

4.6.2 Cause. ***"Cause"*** for the Company to terminate Executive's employment hereunder shall mean the occurrence of any of the following events, as determined by the Company and/or the Board in its and/or their sole and absolute discretion:

(i) Executive's commission of any crime involving fraud, dishonesty or moral turpitude;

(ii) Executive's commission of or participation in a fraud or act of dishonesty against the Company that results in (or might have reasonably resulted in) material harm to the business of the Company;

(iii) Executive's intentional, material violation of any contract or agreement between Executive and the Company or any statutory duty Executive owes to the Company; or

(iv) Executive's conduct that constitutes gross insubordination, incompetence or habitual neglect of duties and that results in (or might have reasonably resulted in) material harm to the business of the Company;

Provided, however, that the action or conduct described in clauses (iii) and (iv) above will constitute "Cause" only if such action or conduct continues after the Company has provided Executive with written notice thereof and thirty (30) days to cure the same.

4.6.3 Good Reason. For purposes of this Agreement, and subject to the caveat at the end of this Section, "***Good Reason***" for Executive to terminate his employment hereunder shall mean the occurrence of any of the following events without Executive's consent:

(i) the assignment to Executive of any duties or responsibilities that results in a material diminution in Executive's authority, duties or responsibilities as in effect immediately prior to such reduction or a material diminution in the ability, duties or responsibilities of the person or persons to whom Executive is required to report; provided, however, that a change solely in Executive's title or reporting relationships of persons reporting to the Executive shall not by itself provide the basis for a voluntary termination with Good Reason;

(ii) a material reduction by the Company in Executive's annual base salary, as initially set forth herein or as increased thereafter; provided, however, that Good Reason shall not be deemed to have occurred in the event of a reduction in Executive's annual base salary that is pursuant to a salary reduction program affecting substantially all of the employees of the Company and that does not adversely affect Executive to a greater extent than other similarly situated employees;

(iii) a relocation of Executive's business office to a location more than fifty (50) miles from the location at which Executive performed Executive's duties immediately prior to the relocation, except for required travel by Executive on the Company's business to an extent substantially consistent with Executive's business travel obligations prior to the relocation; or

(iv) a material breach by the Company of this Agreement.

Provided, however, that, any such termination by Executive shall only be deemed for Good Reason pursuant to this definition if: (1) Executive gives the Company written notice of his intent to terminate for Good Reason within ninety (90) days following the first occurrence of the condition(s) that he believes constitute(s) Good Reason, which notice shall describe such condition(s); (2) the Company fails to remedy such condition(s) within thirty (30) days following receipt of the written notice (the "***Cure Period***"); and (3) Executive voluntarily terminates his employment within one hundred twenty (120) days following the end of the Cure Period.

4.6.4 Change of Control. For purposes of this Agreement, "Change of Control" shall mean the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events (excluding in any case transactions in which the Company or its successors issues securities to investors primarily for capital raising purposes):

(i) the acquisition by a third party of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities other than by virtue of a merger, consolidation or similar transaction;

(ii) a merger, consolidation or similar transaction following which the stockholders of the Company immediately prior thereto do not own at least fifty percent (50%) of the combined outstanding voting power of the surviving entity (or that entity's parent) in such merger, consolidation or similar transaction;

(iii) the dissolution or liquidation of the Company; or

(iv) the sale, lease, exclusive license or other disposition of all or substantially all of the assets of the Company.

Provided, however, that any transaction or transactions effected solely for purposes of changing the Company's domicile will not constitute a Change of Control pursuant to the foregoing definition.

4.7 Survival of Certain Sections. Sections 2, 4, 5 through 13, 15 and 18 of this Agreement will survive the termination of this Agreement.

4.8 Parachute Payment. If any payment or benefit the Executive would receive pursuant to this Agreement (***"Payment"***) would (i) constitute a ***"Parachute Payment"*** within the meaning of Section 280G of the Internal Revenue Code (the ***"Code"***), and (ii) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the ***"Excise Tax"***), then such Payment shall be reduced to the Retained Amount. The ***"Retained Amount"*** shall be the greater of (x) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax or (y) the largest portion of the Payment, which such amount, after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in the Executive's receipt, on an after-tax basis, of the greatest economic benefit notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in payments or benefits constituting Parachute Payments is necessary so that the Payment equals the Retained Amount, reduction shall occur in the manner that results in the greatest economic

benefit for Executive. If more than one method of reduction will result in the same economic benefit, the items so reduced will be reduced pro rata. Any reduction shall be made in the following manner: first a pro rata reduction of (i) cash payments subject to Section 409A of the Code as deferred compensation and (ii) cash payments not subject to Section 409A of the Code, and second a pro rata cancellation of (i) equity-based compensation subject to Section 409A of the Code as deferred compensation and (ii) equity-based compensation not subject to Section 409A of the Code. Reduction in either cash payments or equity compensation benefits shall be made pro rata between and among benefits which are subject to Section 409A of the Code and benefits which are exempt from Section 409A of the Code.

In the event it is subsequently determined by the Internal Revenue Service that some portion of the Retained Amount (as determined pursuant to clause (x) in the preceding paragraph) is subject to the Excise Tax, Executive agrees to promptly return to the Company a sufficient amount of the Payment so that no portion of the Retained Amount is subject to the Excise Tax. For the avoidance of doubt, if the Retained Amount is determined in accordance with clause (y) in the preceding paragraph, Executive will have no obligation to return any portion of the Payment pursuant to the preceding sentence.

Unless Executive and the Company agree on an alternative accounting, law or consulting firm, the accounting firm then engaged by the Company for general tax compliance purposes shall perform the foregoing calculations. If the accounting firm so engaged by the Company is serving as accountant or auditor for the individual, entity or group effecting the Change in Control, the Company shall appoint a nationally recognized accounting, law or consulting firm to make the determinations required hereunder. The Company shall bear all expenses with respect to the determinations by such accounting, law or consulting firm required to be made hereunder.

The Company shall use commercially reasonable efforts such that the accounting, law or consulting firm engaged to make the determinations hereunder shall provide its calculations, together with detailed supporting documentation, to Executive and the Company within fifteen (15) calendar days after the date on which Executive's right to a Payment is triggered (if requested at that time by the Executive or the Company) or such other time as requested by the Executive or the Company.

4.9 Application of Internal Revenue Code Section 409A. Notwithstanding anything to the contrary herein, the following provisions apply to the extent severance benefits provided herein are subject to Section 409A of the Code and the regulations and other guidance thereunder and any state law of similar effect (collectively ***"Section 409A"***). Severance benefits shall not commence until Executive has a "separation from service" for purposes of Section 409A. For purposes of this Agreement, a termination of employment will be determined consistent with the rules relating to a "separation from service" as defined in Section 409A. Notwithstanding anything else provided herein, to the extent any payments provided under this Agreement in connection with Employee's termination of employment constitute deferred compensation subject to Section 409A, and Employee is deemed at the time of such termination of employment to be a "specified employee" under Section 409A, then such payment shall not be made or commence until the earlier of (i) the expiration of the 6-month period measured from Employee's separation from service from the Company or (ii) the date of Employee's death following such a separation from service; provided, however, that such deferral shall only be

effected to the extent required to avoid adverse tax treatment to Employee including, without limitation, the additional tax for which Employee would otherwise be liable under Section 409A(a)(1)(B) in the absence of such a deferral. The first payment thereof will include a catch-up payment covering the amount that would have otherwise been paid during the period between Employee's termination of employment and the first payment date but for the application of this provision, and the balance of the installments (if any) will be payable in accordance with their original schedule. To the extent any payment under this Agreement may be classified as a "short-term deferral" within the meaning of Section 409A, such payment shall be deemed a short-term deferral, even if it may also qualify for an exemption from Section 409A under another provision of Section 409A. Payments pursuant to this Agreement are intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations. Except as otherwise expressly provided herein, to the extent any expense reimbursement or the provision of any in-kind benefit under this Agreement is determined to be subject to Section 409A, the amount of any such expenses eligible for reimbursement, or the provision of any in-kind benefit, in one calendar year shall not affect the expenses eligible for reimbursement in any other taxable year (except for any lifetime or other aggregate limitation applicable to medical expenses), in no event shall any expenses be reimbursed after the last day of the calendar year following the calendar year in which the Employee incurred such expenses, and in no event shall any right to reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

Executive shall receive severance benefits only if Executive executes and returns to the Company, within the applicable time period set forth above, the Release and Waiver, and permits the Release and Waiver to become effective in accordance with its terms (such latest permitted date, the ***"Release Deadline"***). If the severance benefits are not covered by one or more exemptions from the application of Section 409A and the Release and Waiver could become effective in the calendar year following the calendar year in which Executive separates from service, the Release and Waiver will not be deemed effective any earlier than the Release Deadline. None of the severance benefits will be paid or otherwise delivered prior to the effective date or deemed effective date of the Release and Waiver. Except to the minimum extent that payments must be delayed because Executive is a "specified employee" or until the effectiveness of the separation agreement, all amounts will be paid as soon as practicable in accordance with the Company's normal payroll practices.

The severance benefits are intended to qualify for an exemption from application of Section 409A or comply with its requirements to the extent necessary to avoid adverse personal tax consequences under Section 409A, and any ambiguities herein shall be interpreted accordingly.

5. CONFIDENTIAL AND PROPRIETARY INFORMATION.

As a condition of employment, Executive agrees to execute and abide by the Company's Proprietary Information and Inventions Agreement (***"PIIA"***).

6. ASSIGNMENT AND BINDING EFFECT.

This Agreement shall be binding upon and inure to the benefit of Executive and Executive's heirs, executors, personal representatives, assigns, administrators and legal representatives. Because of the unique and personal nature of Executive's duties under this Agreement, neither this Agreement nor any rights or obligations under this Agreement shall be assignable by Executive. This Agreement shall be binding upon and inure to the benefit of the Company and its successors, assigns and legal representatives. Any such successor of the Company will be deemed substituted for the Company under the terms of this Agreement for all purposes. For this purpose, "successor" means any person, firm, corporation or other business entity which at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets or business of the Company.

7. NOTICES.

All notices or demands of any kind required or permitted to be given by the Company or Executive under this Agreement shall be given in writing and shall be personally delivered (and receipted for) or faxed during normal business hours or mailed by certified mail, return receipt requested, postage prepaid, addressed to Company headquarters, or Executive's address of record on file with the Company, as applicable.

Any such written notice shall be deemed given on the earlier of the date on which such notice is personally delivered or three (3) days after its deposit in the United States mail as specified above. Either Party may change its address for notices by giving notice to the other Party in the manner specified in this Section.

8. CHOICE OF LAW.

This Agreement shall be construed and interpreted in accordance with the internal laws of the State of California without regard to its conflict of laws principles.

9. INTEGRATION.

This Agreement, including the PIIA, contains the complete, final and exclusive agreement of the Parties relating to the terms and conditions of Executive's employment and the termination of Executive's employment, and supersedes all prior and contemporaneous oral and written employment agreements or arrangements between the Parties.

10. AMENDMENT.

This Agreement cannot be amended or modified except by a written agreement signed by Executive and the Company.

11. WAIVER.

No term, covenant or condition of this Agreement or any breach thereof shall be deemed waived, except with the written consent of the Party against whom the wavier is claimed, and any waiver or any such term, covenant, condition or breach shall not be deemed to

be a waiver of any preceding or succeeding breach of the same or any other term, covenant, condition or breach.

12. SEVERABILITY.

The finding by a court of competent jurisdiction of the unenforceability, invalidity or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid or illegal. Such court shall have the authority to modify or replace the invalid or unenforceable term or provision with a valid and enforceable term or provision, which most accurately represents the Parties' intention with respect to the invalid or unenforceable term, or provision.

13. INTERPRETATION; CONSTRUCTION.

The headings set forth in this Agreement are for convenience of reference only and shall not be used in interpreting this Agreement. This Agreement has been drafted by legal counsel representing the Company, but the Executive has been encouraged to consult with Executive's own independent counsel and tax advisors with respect to the terms of this Agreement. The Parties acknowledge that each Party and its counsel has reviewed and revised, or had an opportunity to review and revise, this Agreement, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

14. REPRESENTATIONS AND WARRANTIES.

Executive represents and warrants that Executive is not restricted or prohibited, contractually or otherwise, from entering into and performing each of the terms and covenants contained in this Agreement, and that Executive's execution and performance of this Agreement will not violate or breach any other agreements between the Executive and any other person or entity.

15. COUNTERPARTS.

This Agreement may be executed in two counterparts, each of which shall be deemed an original, all of which together shall contribute one and the same instrument.

16. INDEMNIFICATION.

Following the Effective Date, Executive shall sign the Company's standard form of indemnification agreement.

17. TRADE SECRETS OF OTHERS.

It is the understanding of both the Company and Executive that Executive shall not divulge to the Company and/or its subsidiaries any confidential information or trade secrets belonging to others, including Executive's former employers, nor shall the Company and/or its Affiliates seek to elicit from Executive any such information. Consistent with the foregoing,

Executive shall not provide to the Company and/or its Affiliates, and the Company and/or its Affiliates shall not request, any documents or copies of documents containing such information.

18. ADVERTISING WAIVER.

Executive agrees to permit the Company, and persons or other organizations authorized by the Company, to use, publish and distribute advertising or sales promotional literature concerning the products and/or services of the Company, or the machinery and equipment used in the provision thereof, in which Executive's name and/or pictures of Executive taken in the course of Executive's provision of services to the Company appear. Executive hereby waives and releases any claim or right Executive may otherwise have arising out of such use, publication or distribution.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

SERVICE-NOW.COM

By: /s/ Paul Barber

PAUL BARBER, CHAIRMAN OF THE BOARD

Dated: 4/22/11

EXECUTIVE:

/s/ Frank Slootman

FRANK SLOOTMAN

Dated: 4/22/11

EXHIBIT A

RELEASE AND WAIVER OF CLAIMS

TO BE SIGNED ON OR FOLLOWING THE SEPARATION DATE ONLY

In consideration of the payments and other benefits set forth in the Employment Agreement of May 2, 2011, to which this form is attached, I, Frank Slootman, hereby furnish **SERVICE-NOW.COM** (the ***"Company"***), with the following release and waiver (***"Release and Waiver"***).

In exchange for the consideration provided to me by the Employment Agreement that I am not otherwise entitled to receive, I hereby generally and completely release the Company and its current and former directors, officers, employees, stockholders, partners, agents, attorneys, predecessors, successors, parent and subsidiary entities, insurers, affiliates, and assigns (collectively, the "***Released Parties***") from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to or on the date that I sign this Agreement (collectively, the "***Released Claims***"). The Released Claims include, but are not limited to: (a) all claims arising out of or in any way related to my employment with the Company, or the termination of that employment; (b) all claims related to my compensation or benefits from the Company including salary, bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company; (c) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (d) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (e) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, misclassification, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990, the federal Age Discrimination in Employment Act of 1967 (as amended) (the "***ADEA***"), the California Labor Code, and the California Fair Employment and Housing Act (as amended). Notwithstanding the foregoing, the following are not included in the Released Claims (the "***Excluded Claims***"): (a) any rights or claims for indemnification I may have pursuant to any written indemnification agreement or fiduciary insurance policy with the Company to which I am a party with respect to which I am an insured party, the charter, bylaws, or operating agreements of the Company, or under applicable law; (b) any rights or claims to unemployment compensation, funds accrued in my 401k account, or any vested equity incentives; (c) any rights that are not waivable as a matter of law; or (d) any claims arising from the breach of this Agreement. I hereby represent and warrant that, other than the Excluded Claims, I am not aware of any claims I have or might have against any of the Released Parties that are not included in the Released Claims.

I also acknowledge that I have read and understand Section 1542 of the California Civil Code which reads as follows: "**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**" I hereby expressly waive and relinquish all rights and benefits under that

Section and any law of any jurisdiction of similar effect with respect to any claims I may have against the Company.

I acknowledge that, among other rights, I am waiving and releasing any rights I may have under ADEA, that this Release and Waiver is knowing and voluntary, and that the consideration given for this Release and Waiver is in addition to anything of value to which I was already entitled as an executive of the Company. If I am 40 years of age or older upon execution of this Release and Waiver, I further acknowledge that I have been advised, as required by the Older Workers Benefit Protection Act, that: (a) the release and waiver granted herein does not relate to claims under the ADEA which may arise after this Release and Waiver is executed; (b) I should consult with an attorney prior to executing this Release and Waiver; and (c) I have twenty-one (21) days from the date of termination of my employment with the Company in which to consider this Release and Waiver (although I may choose voluntarily to execute this Release and Waiver earlier); (d) I have seven (7) days following the execution of this Release and Waiver to revoke my consent to this Release and Waiver; and (e) this Release and Waiver shall not be effective until the seven (7) day revocation period has expired without my having previously revoked this Release and Waiver.

I acknowledge my continuing obligations under my Proprietary Information and Inventions Agreement. Pursuant to the Proprietary Information and Inventions Agreement I understand that among other things, I must not use or disclose any confidential or proprietary information of the Company and I must immediately return all Company property and documents (including all embodiments of proprietary information) and all copies thereof in my possession or control. I understand and agree that my right to the severance pay I am receiving in exchange for my agreement to the terms of this Release and Waiver is contingent upon my continued compliance with my Proprietary Information and Inventions Agreement.

This Release and Waiver constitutes the complete, final and exclusive embodiment of the entire agreement between the Company and me with regard to the subject matter hereof. I am not relying on any promise or representation by the Company that is not expressly stated herein. This Release and Waiver may only be modified by a writing signed by both me and a duly authorized officer of the Company.

Date: _____ By: _____

Frank Slootman

SERVICE-NOW.COM

AMENDMENT TO EMPLOYMENT AGREEMENT

This Amendment to Employment Agreement (the "Amendment") is made as of May 6, 2011 by and between Service-now.com, a California corporation (the "Company"), and Frank Slootman ("Executive") and amends that certain Employment Agreement dated May 2, 2011 by and between Executive and Company (the "Agreement").

In consideration of the mutual promises, agreements and provisions contained in this Amendment, the Parties hereby agree as follows:

1. Location. Section 1.5 of the Agreement is hereby amended and restated in its entirety to read as follows:

"1.5 Location. Unless the Parties otherwise agree in writing, during the Term Executive shall perform the services Executive is required to perform pursuant to this Agreement at such locations as Executive and the Company mutually determine to be in the best interest of the Company. Executive acknowledges that his position will require him to travel temporarily to other locations in connection with the Company's business, and that the Company may request Executive to take temporary assignments in one or more of it's offices, including the Company's San Diego offices. Expenses associated with such temporary assignments will be paid by the Company and/or reimbursed to Executive to the full extent permitted."

2. Temporary Living Benefits. Section 3.5 of the Agreement, and each reference in the Agreement to "Temporary Living Benefits," are hereby deleted in their entirety.

3. Effectiveness. This Amendment shall become effective as of the date first set forth above upon the execution hereof by the Company and Executive.

3. Counterparts. This Amendment may be signed in counterparts, each of which shall be deemed an original and all of which, taken together, shall be deemed one and the same document.

4. Governing Law. The internal substantive laws, but not the choice of law rules, of California shall govern this Amendment.

5. Effect of Amendment. Except as expressly modified by this Amendment, the Agreement shall remain unmodified and in full force and effect.

[Signature Page Follows]

The parties have executed this Agreement as of the date first set forth above.

SERVICE-NOW.COM

By: /s/ Paul Barber

Its: Chairman of Board

EXECUTIVE:

FRANK SLOOTMAN

/s/ Frank Slootman
(Signature)

Exhibit 10.6

SERVICE-NOW.COM
EMPLOYMENT AGREEMENT

This **EMPLOYMENT AGREEMENT** (the ***"Agreement"***) is made and entered into effective as of May 12, 2011 (the "***Effective Date***") by and among **SERVICE-NOW.COM** (the ***"Company"***) and Michael P. Scarpelli (the ***"Executive"***). The Company and Executive are hereinafter collectively referred to as the ***"Parties"***, and individually referred to as a ***"Party"***. This Agreement supersedes any and all prior and contemporaneous oral or written employment agreements or arrangements between Executive and the Company.

RECITALS

A. The Company desires assurance of the association and services of Executive in order to retain Executive's experience, skills, abilities, background and knowledge, and is willing to engage Executive's services on the terms and conditions set forth in this Agreement.

B. Executive desires to be in the employ of the Company, and is willing to accept such employment on the terms and conditions set forth in this Agreement.

AGREEMENT

In consideration of the foregoing Recitals and the mutual promises and covenants herein contained, and for other good and valuable consideration, the Parties, intending to be legally bound, agree as follows:

1. EMPLOYMENT.

1.1 Title. Effective as of the Employment Commencement Date (defined below), Executive's title shall be Chief Financial Officer ("***CFO***") of the Company, subject to the terms and conditions set forth in this Agreement.

1.2 Term. The term of this Agreement shall begin on or before August 29, 2011 (such date on which Executive's employment actually commences shall be the ***"Employment Commencement Date"***) and shall continue for a period of three (3) years thereafter, unless terminated earlier pursuant to Section 4 herein (the ***"Term"***). The Executive's employment with the Company shall at all times remain at will.

1.3 Duties. Executive shall do and perform all services, acts or things necessary or advisable to manage and conduct the business of the Company and that are normally associated with the position of CFO. Executive shall report to the Companys Chief Executive Officer.

1.4 Policies and Practices. The employment relationship between the Parties shall be governed by this Agreement and by the policies and practices established by the Company and/or the Company's Board of Directors (the "***Board***"), or any designated committee thereof. In the event that the terms of this Agreement differ from or are in conflict with the

Company's policies or practices or the Company's Employee Handbook, this Agreement shall control.

1.5 Location. Unless the Parties otherwise agree in writing, during the Term Executive shall perform the services Executive is required to perform pursuant to this Agreement at such locations as Executive and the Company mutually determine to be in the best interest of the Company. Executive acknowledges that his position will require him to travel temporarily to other locations in connection with the Company's business, and that the Company may request Executive to take temporary assignments in one or more of it's offices, including the Company's San Diego offices. Expenses associated with such temporary assignments will be paid by the Company and/or reimbursed to Executive to the full extent permitted.

2. LOYALTY; NONCOMPETITION; NONSOLICITATION; NONDISPARAGEMENT.

2.1 Loyalty. During Executive's employment by the Company, Executive shall devote Executive's full business energies, interest, abilities and productive time to the proper and efficient performance of Executive's duties under this Agreement. Notwithstanding the foregoing, Executive may: (1) serve on the Board of Directors of other for-profit corporate entities, with the prior written consent of the Company's Board and (2) devote time to personal investments, philanthropic, educational and civic service, and other personal matters, so long as such activities do not interfere with the performance of his duties hereunder.

2.2 Agreement not to Participate in Company's Competitors. During the Term, Executive agrees not to acquire, assume or participate in, directly or indirectly, any position, investment or interest known by Executive to be adverse or antagonistic to the Company, its business, or prospects, financial or otherwise, or in any company, person, or entity that is, directly or indirectly, in competition with the business of the Company or any of its Affiliates (as defined below). Ownership by Executive, in professionally managed funds over which the Executive does not have control or discretion in investment decisions, or as a passive investment, of less than two percent (2%) of the outstanding shares of capital stock of any corporation with one or more classes of its capital stock listed on a national securities exchange or publicly traded on a national securities exchange or in the over-the-counter market shall not constitute a breach of this Section. For purposes of this Agreement, ***"Affiliate,"*** means, with respect to any specific entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified entity.

2.3 Nonsolicitation. For a period of twelve (12) months following the termination of Executive's employment with the Company for any reason, voluntary or involuntary (the "***Restricted Period***"), Executive shall not: (i) solicit or induce, or attempt to solicit or induce, any employee of the Company or its Affiliates to leave the employ of the Company or such Affiliate; or (ii) use confidential information to solicit or attempt to solicit the business of any client or customer of the Company or its Affiliates with respect to products, services, or investments similar to those provided or supplied by the Company or its Affiliates.

2.4 Nondisparagement. During the Restricted Period, Executive shall not disparage the Company, or its officers, directors, employees, shareholders, or agents, in any manner likely to be harmful to its or their businesses, business reputations, or personal

reputations and the Company shall not disparage Executive in a manner likely to be harmful to his business reputation or personal reputation, provided that Executive and the Company will respond accurately and fully to any question, inquiry or request for information when required by legal process.

3. COMPENSATION OF THE EXECUTIVE.

3.1 Base Salary. The Company shall pay Executive a base salary at the annualized rate of Two Hundred Seventy-Five Thousand Dollars ($275,000.00) (the ***"Base Salary"***), less payroll deductions and all required withholdings, payable in regular periodic payments in accordance with the Company's normal payroll practices. The Base Salary shall be prorated for any partial year of employment on the basis of a 365-day fiscal year. The Base Salary shall be reviewed by the CEO and Compensation Committee of the Board (the "***Compensation Committee***") at least annually, and any change(s) shall be at the sole discretion of the Compensation Committee.

3.2 Discretionary Bonus. At the sole discretion of the Compensation Committee, for each fiscal year of employment Executive shall be eligible to receive a cash target bonus or bonuses in the total sum of up to One Hundred Seventy-Five Thousand Dollars ($175,000.00) (the "***Target Bonus(es)***", less payroll deductions and all required withholdings), based on Executive's performance relative to objectives to be established each fiscal year by the CEO and the Compensation Committee. The Target Bonus objectives for the 2012 and future fiscal years shall be established by the Compensation Committee within ninety (90) days of the beginning of any such fiscal years. For the 2011 fiscal year, no Target Bonus objectives will be established. Any portion of the Target Bonus(es) awarded for the 2011 or 2012 fiscal years shall be at the discretion of the Compensation Committee and shall be pro-rated based on the number of calendar days Executive was employed during fiscal year 2011 or 2012, respectively, divided by 365. The evaluation of Executive's performance relative to the Bonus objectives and the determination of the portion of the Target Bonus(es) (if any) that will be paid in any given year, shall be made by the Compensation Committee in its sole discretion. Any portion of the Target Bonus(es) paid shall be paid in cash as a single lump-sum payment within ten (10) days following the time such payments are approved.

3.3 Stock Options.

3.3.1 Subject to approval by the Board and subject to the terms of the Company's Equity Incentive Plan (the "***Plan***"), as soon as practicable following the Employment Commencement Date, Executive will be granted an option to purchase six hundred eighty-nine thousand, five hundred twenty-two (689,522) shares of the Company's common stock (the "***Option***"). On the first anniversary of the grant date of the Option, twenty-five percent (25%) of the shares subject to the Option shall vest, subject to Executive's continued employment with the Company on such date. The balance of the shares subject to the Option shall vest in equal monthly installments on the last day of each month for the thirty-six (36) months thereafter, subject to Executive's continued employment with the Company on each vesting date. The Option will be governed by the Plan and shall be granted pursuant to a separate stock option grant notice and stock option agreement, except as otherwise provided in this Agreement. The exercise price per share of the Option will be equal to the fair market value

of a single share of the Company's common stock on the date of the grant as determined in good faith by the Board.

3.3.2 Subject to approval by the Board and subject to the terms of the Plan, as soon as practicable following the Employment Commencement Date, Executive will also be granted a limited duration option to purchase one hundred thirty-seven thousand nine hundred four (137,904) shares of the Company's common stock (the "***Limited Duration Option***"). The Limited Duration Option shall be fully vested on the date of grant, shall be governed by the Plan and shall be granted pursuant to a separate stock option grant notice and stock option agreement, except as otherwise provided in this Agreement. The exercise price per share of the Limited Duration Option will be equal to the fair market value of a single share of the Company's common stock on the date of the grant as determined in good faith by the Board. The Limited Duration Option shall have a term of thirty (30) days and thereafter will expire if not exercised.

3.4 Acceleration of Stock Options Upon a Change of Control. Executive shall be entitled to full or partial accelerated vesting (as applicable) of the shares subject to his outstanding stock options effective upon the effective date of a Change of Control (as defined below), as follows: If the effective date of the Change of Control occurs prior to the closing of the first sale of shares of capital stock of the Company to the public in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "***IPO***"), Executive's stock options (or other equity compensation) will accelerate vesting on a pro rata basis such that the vesting of fifty percent (50%) of shares subject to each vesting installment of Executive's stock options will be accelerated and become immediately vested and exercisable. The remainder of the shares subject to each of Executive's stock options (or other equity compensation) shall continue to vest pro rata in accordance with the vesting schedule applicable to each such option (or other equity compensation). If the effective date of the Change of Control occurs on or subsequent to the closing of the IPO, Executive shall receive immediate accelerated vesting and exercisability of one hundred percent (100%) of the then-unvested shares subject to each of Executive's outstanding stock options (or other equity compensation). The provisions of this Section 3.4 shall be contained in Executive's option agreements (or other equity compensation agreements) and although contingent upon Executive's continued employment with the Company, shall not be contingent upon the continued effectiveness of this Agreement.

3.5 Expense Reimbursements. The Company will reimburse Executive for all reasonable business expenses Executive incurs in conducting his duties hereunder, pursuant to the Company's usual expense reimbursement policies, but in no event later than thirty days after the end of the calendar month following the month in which such expenses were incurred by Executive; provided that Executive supplies the appropriate substantiation for such expenses no later than the end of the calendar month following the month in which such expenses were incurred by Executive. Reimbursable business expenses shall include reasonable, documented expenses for air travel in accordance with the Company's travel policies.

3.6 Changes to Compensation. Executive's compensation and benefits will be reviewed periodically (including the review of Executive's Base Salary at least annually

as specified above) and may be changed from time to time at the sole discretion of the Compensation Committee subject to Section 4.6.3.

3.7 Employment Taxes. All of Executive's compensation shall be subject to customary withholding taxes and any other employment taxes as are commonly required to be collected or withheld by the Company.

3.8 Benefits. Executive shall, in accordance with Company policy and the terms of the applicable plan documents, be eligible to participate in benefits under any benefit plan or arrangement that may be in effect from time to time and made available to the Company's executive level employees.

3.9 Holidays and Vacation. Executive shall be eligible to accrue up to four (4) weeks of paid vacation per year and will receive paid Company holidays in accordance with Company policy. Vacation accrues pro rata throughout the year.

4. TERMINATION.

4.1 Termination by the Company. Executive's employment with the Company is at will and may be terminated by the Company at any time and for any reason, or for no reason, including, but not limited to, under the following conditions.

4.1.1 Termination by the Company for Cause. The Company may terminate Executive's employment under this Agreement for "Cause" (as defined below) at any time. Such termination shall be effective on the date Executive is so informed, or as otherwise specified by the Company.

4.1.2 Termination by the Company Without Cause. The Company may terminate Executive's employment under this Agreement without Cause at any time and for any reason, or for no reason. Such termination shall be effective on the date Executive is so informed, or as otherwise specified by the Company.

4.2 Termination by Resignation of Executive. Executive's employment with the Company is at will and may be terminated by Executive at any time and for any reason, or for no reason, including via resignation for Good Reason in accordance with the procedures set forth below.

4.3 Termination for Death or Complete Disability. Executive's employment with the Company shall automatically terminate effective upon the date of Executive's death or Complete Disability (as defined below).

4.4 Termination by Mutual Agreement of the Parties. Executive's employment with the Company may be terminated at any time upon a mutual agreement in writing of the Parties. Any such termination of employment shall have the consequences specified in such agreement.

4.5 Compensation Upon Termination.

4.5.1 Death or Complete Disability. If, during the Term of this Agreement, Executive's employment shall be terminated by death or Complete Disability, the Company shall pay to Executive, or to Executive's heirs, as applicable, Executive's accrued base salary, accrued and unused vacation benefits through the date of termination at the rate in effect at the time of termination, less standard deductions and withholdings. The Company shall thereafter have no further obligations to Executive and/or to Executive's heirs under this Agreement, except as otherwise provided by law.

4.5.2 Termination For Cause; Certain Resignations By Executive. If, at any time during the Term of this Agreement: (1) Executive's employment is terminated by the Company for Cause; or (2) Executive resigns his employment hereunder without Good Reason; then the Company shall pay Executive's accrued base salary, accrued and unused vacation benefits through the date of termination at the rate in effect at the time of termination, less standard deductions and withholdings. The Company shall thereafter have no further obligations to Executive under this Agreement, except as otherwise provided by law.

4.5.3 Termination Without Cause and Resignation for Good Reason Other Than in Connection With a Change of Control. If, during the Term of this Agreement, the Company terminates Executive's employment without Cause or Executive resigns his employment hereunder for Good Reason at any time **other than** during the period that begins three (3) months prior to and ends twelve (12) months following the effective date of a Change of Control, the Company shall pay Executive's accrued base salary and accrued and unused vacation benefits earned through the date of termination, at the rate in effect at the time of termination, less standard deductions and withholdings. In addition, subject to the Executive: (a) furnishing to the Company an executed waiver and release of claims in the form attached hereto as **Exhibit A** (or in such other form as may be specified by the Company in order to comply with then-existing legal requirements to effect a valid release of claims) (the ***"Release and Waiver"***) within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination; (b) allowing the Release and Waiver to become effective in accordance with its terms; and (c) complying with, and continuing throughout the Severance Period (as defined below) to comply with, Executive's post-termination nonsolicitation and nondisparagement obligations as set forth in Sections 2.3 and 2.4, then Executive shall be entitled to the following (the "***Severance Package***"):

(i) a payment equal to six (6) months of Executive's base salary in effect at the time of termination, with such payment being made in a single lump sum on the sixtieth (60th) day subsequent to the termination of employment; and

(ii) a pro-rated portion of the Target Bonus for 2012 and future years that would have been paid to Executive, subject to achievement of the applicable corporate performance goals but without taking into account negative discretion, if he had been employed on the last day of the applicable fiscal year, to be paid in one lump sum payment within two and one-half (2 1/2) months following the end of the Company's fiscal year in which termination occurs; provided that Executive's payment pursuant to this section shall be pro-rated to six months of the applicable Target Bonus rather than an entire year; and

(iii) if Executive is eligible for and timely elects continued coverage under COBRA for himself and/or his eligible dependents under the Company's group health insurance plans following the termination of his employment, then the Company shall pay the COBRA premiums necessary to continue the health insurance coverage in effect for Executive and/or his eligible dependents as of the termination date, until the earliest of: (A) the close of the six month period starting on the termination date (the ***"Severance Period"***); (B) the expiration of Executive's eligibility for continuation coverage under COBRA; and (C) the date when Executive becomes eligible for substantially equivalent health insurance coverage in connection with new employment or self-employment (such period from the termination date through the earliest of (A) through (C), the "***COBRA Payment Period***"). If Executive becomes eligible for coverage under another employer's group health plan or through self-employment, or otherwise ceases to be eligible for COBRA coverage during the period provided in this section, Executive must immediately notify the Company of such event, and the Company's obligation to pay COBRA premiums on Executive's behalf shall cease. Notwithstanding the foregoing, if at any time the Company determines, in its sole discretion, that its payment of COBRA premiums on Executive's behalf would result in a violation of applicable law (including, without limitation, Section 2716 of the Public Health Service Act), then in lieu of paying COBRA premiums on Executive's behalf, the Company will pay Executive on the last day of each remaining month of the COBRA Payment Period a fully taxable cash payment equal to the COBRA premium for that month, subject to applicable tax withholding (such amount, the "***Special Severance Payment***"), such Special Severance Payment to be made without regard to Executive's election of COBRA coverage or payment of COBRA premiums and without regard to the expiration of the COBRA Payment Period prior to six (6) months following the termination of Executive's employment. Such Special Severance Payment shall end on the earlier of (x) the date on which Executive commences other employment (including self-employment) and (y) the close of the Severance Period.

4.5.4 Termination Without Cause or Resignation For Good Reason In Connection With a Change of Control. If, during the Term of this Agreement, the Company terminates Executive's employment without Cause, or the Executive resigns his employment hereunder for Good Reason, at any time during the period that begins three (3) months prior to and ends twelve (12) months following the effective date of a Change of Control (the ***"Change of Control Period***"), then the Company shall pay Executive's accrued base salary and accrued and unused vacation benefits earned through the date of termination, at the rate in effect at the time of termination, less standard deductions and withholdings. In addition, subject to the Executive (a) furnishing to the Company an executed Release and Waiver within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination and (b) allowing the Release and Waiver to become effective in accordance with its terms, then, conditioned upon Executive's complying with, and continuing throughout the Severance Period to comply with, Executive's post-termination nonsolicitation and nondisparagement obligations as set forth in Sections 2.3 and 2.4, Executive shall be entitled to the Severance Package described above; provided however, that the entire Target Bonus for the year of termination shall be payable in lieu of a payment set forth pursuant to subparagraph (ii) of Section 4.5.3.

4.5.5 Additional Acceleration. Executive's stock options shall provide that if: (1) the Company terminates Executive's employment without Cause; or (2) Executive

resigns his employment for Good Reason or following a material adverse change in Executive's Chief Financial Officer title or reporting relationships of persons reporting to Executive without Executive's consent ("***Adverse Change In Title***"), then, subject to the Executive: (a) furnishing to the Company an executed Release and Waiver within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination; and (b) allowing the Release and Waiver to become effective in accordance with its terms, Executive shall receive immediate accelerated vesting of (x) twenty-five (25%) percent of the total shares subject to the Executive's stock options (or other equity awards) if termination of employment occurs (i) prior to the Change of Control Period or (ii) after the Change of Control Period and (in either case (i) or (ii)) within the first twelve (12) months of employment, and (y) one hundred percent (100%) of the then-unvested shares subject to each of Executive's outstanding stock options (or other equity awards) if termination of employment occurs during the Change of Control Period, but in the case of (y) only to the extent such acceleration has not already occurred pursuant to Section 3.4. In order to give effect to the foregoing provision, notwithstanding anything to the contrary set forth in the Plan or the applicable form of stock option agreement (or other equity agreement), none of Executive's unvested options (or other equity awards) shall terminate or be forfeited any earlier than three (3) months after any of the following occurrences during the Change of Control Period: (a) any termination of the Executive's employment without Cause; or (b) Executive's resignation for Good Reason or pursuant to an Adverse Change in Title. For the avoidance of doubt, if Executive's resignation is due to an Adverse Change in Title, but does not otherwise qualify as a resignation for Good Reason, Executive shall not be entitled to any of the severance benefits provided under Sections 4.5.3 or 4.5.4. The provisions of this Section 4.5.5 shall be contained in Executive's option agreements and although contingent upon Executive's continued employment with the Company, shall not be contingent upon the continued effectiveness of this Agreement.

4.6 Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

4.6.1 Complete Disability. A termination for ***"Complete Disability"*** shall occur: (i) when the Board has provided a written termination notice to Executive supported by a written statement from a reputable independent physician to the effect that Executive is or shall have become so physically or mentally incapacitated as to be unable to resume, within the ensuing six (6) months, his employment under this Agreement by reason of such physical or mental illness or injury; or (ii) upon rendering of a written termination notice by the Board after the Board determines, in its sole and complete discretion, that Executive has been unable to substantially perform his job duties hereunder for one hundred twenty (120) or more consecutive days, or more than eighty (80) days in any consecutive twelve (12) month period, by reason of any physical or mental illness or injury. For purposes of this Section, at the Company's request Executive agrees to make himself available and to cooperate in a reasonable examination by a reputable independent physician retained by the Company.

4.6.2 Cause. ***"Cause"*** for the Company to terminate Executive's employment hereunder shall mean the occurrence of any of the following events, as determined by the Company and/or the Board in its and/or their sole and absolute discretion:

(i) Executive's commission of any crime involving fraud, dishonesty or moral turpitude;

(ii) Executive's commission of or participation in a fraud or act of dishonesty against the Company that results in (or might have reasonably resulted in) material harm to the business of the Company;

(iii) Executive's intentional, material violation of any contract or agreement between Executive and the Company or any statutory duty Executive owes to the Company; or

(iv) Executive's conduct that constitutes gross insubordination, incompetence or habitual neglect of duties and that results in (or might have reasonably resulted in) material harm to the business of the Company;

Provided, however, that the action or conduct described in clauses (iii) and (iv) above will constitute "Cause" only if such action or conduct continues after the Company has provided Executive with written notice thereof and thirty (30) days to cure the same.

4.6.3 Good Reason. For purposes of this Agreement, and subject to the caveat at the end of this Section, "***Good Reason***" for Executive to terminate his employment hereunder shall mean the occurrence of any of the following events without Executive's consent:

(i) the assignment to Executive of any duties or responsibilities that results in a material diminution in Executive's authority, duties or responsibilities as in effect immediately prior to such reduction or a material diminution in the ability, duties or responsibilities of the person or persons to whom Executive is required to report; provided, however, that a change solely in Executive's title or reporting relationships of persons reporting to the Executive shall not by itself provide the basis for a voluntary termination with Good Reason;

(ii) a material reduction by the Company in Executive's annual base salary, as initially set forth herein or as increased thereafter; provided, however, that Good Reason shall not be deemed to have occurred in the event of a reduction in Executive's annual base salary that is pursuant to a salary reduction program affecting substantially all of the employees of the Company and that does not adversely affect Executive to a greater extent than other similarly situated employees;

(iii) a relocation of Executive's business office to a location more than fifty (50) miles from the location at which Executive performed Executive's duties immediately prior to the relocation, except for required travel by Executive on the Company's business to an extent substantially consistent with Executive's business travel obligations prior to the relocation; or

(iv) a material breach by the Company of this Agreement.

Provided, however, that, any such termination by Executive shall only be deemed for Good Reason pursuant to this definition if: (1) Executive gives the Company written notice of his intent to terminate for Good Reason within ninety (90) days following the first occurrence of the condition(s) that he believes constitute(s) Good Reason, which notice shall describe such condition(s); (2) the Company fails to remedy such condition(s) within thirty (30) days following

receipt of the written notice (the "***Cure Period***"); and (3) Executive voluntarily terminates his employment within one hundred twenty (120) days following the end of the Cure Period.

4.6.4 Change of Control. For purposes of this Agreement, "Change of Control" shall mean the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events (excluding in any case transactions in which the Company or its successors issues securities to investors primarily for capital raising purposes):

(i) the acquisition by a third party of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities other than by virtue of a merger, consolidation or similar transaction;

(ii) a merger, consolidation or similar transaction following which the stockholders of the Company immediately prior thereto do not own at least fifty percent (50%) of the combined outstanding voting power of the surviving entity (or that entity's parent) in such merger, consolidation or similar transaction;

(iii) the dissolution or liquidation of the Company; or

(iv) the sale, lease, exclusive license or other disposition of all or substantially all of the assets of the Company.

Provided, however, that any transaction or transactions effected solely for purposes of changing the Company's domicile will not constitute a Change of Control pursuant to the foregoing definition.

4.7 Survival of Certain Sections. Sections 2, 4, 5 through 13, 15 and 18 of this Agreement will survive the termination of this Agreement.

4.8 Parachute Payment. If any payment or benefit the Executive would receive pursuant to this Agreement (***"Payment"***) would (i) constitute a ***"Parachute Payment"*** within the meaning of Section 280G of the Internal Revenue Code (the ***"Code"***), and (ii) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the ***"Excise Tax"***), then such Payment shall be reduced to the Retained Amount. The ***"Retained Amount"*** shall be the greater of (x) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax or (y) the largest portion of the Payment, which such amount, after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in the Executive's receipt, on an after-tax basis, of the greatest economic benefit notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in payments or benefits constituting Parachute Payments is necessary so that the Payment equals the Retained Amount, reduction shall occur in the manner that results in the greatest economic benefit for Executive. If more than one method of reduction will result in the same economic benefit, the items so reduced will be reduced pro rata. Any reduction shall be made in the following manner: first a pro rata reduction of (i) cash payments subject to Section 409A of the Code as deferred compensation and (ii) cash payments not subject to Section 409A of the Code, and second a pro rata cancellation of (i) equity-based compensation subject to Section 409A of the Code as deferred compensation and (ii) equity-based compensation not subject to Section

409A of the Code. Reduction in either cash payments or equity compensation benefits shall be made pro rata between and among benefits which are subject to Section 409A of the Code and benefits which are exempt from Section 409A of the Code.

In the event it is subsequently determined by the Internal Revenue Service that some portion of the Retained Amount (as determined pursuant to clause (x) in the preceding paragraph) is subject to the Excise Tax, Executive agrees to promptly return to the Company a sufficient amount of the Payment so that no portion of the Retained Amount is subject to the Excise Tax. For the avoidance of doubt, if the Retained Amount is determined in accordance with clause (y) in the preceding paragraph, Executive will have no obligation to return any portion of the Payment pursuant to the preceding sentence.

Unless Executive and the Company agree on an alternative accounting, law or consulting firm, the accounting firm then engaged by the Company for general tax compliance purposes shall perform the foregoing calculations. If the accounting firm so engaged by the Company is serving as accountant or auditor for the individual, entity or group effecting the Change in Control, the Company shall appoint a nationally recognized accounting, law or consulting firm to make the determinations required hereunder. The Company shall bear all expenses with respect to the determinations by such accounting, law or consulting firm required to be made hereunder.

The Company shall use commercially reasonable efforts such that the accounting, law or consulting firm engaged to make the determinations hereunder shall provide its calculations, together with detailed supporting documentation, to Executive and the Company within fifteen (15) calendar days after the date on which Executive's right to a Payment is triggered (if requested at that time by the Executive or the Company) or such other time as requested by the Executive or the Company.

4.9 Application of Internal Revenue Code Section 409A. Notwithstanding anything to the contrary herein, the following provisions apply to the extent severance benefits provided herein are subject to Section 409A of the Code and the regulations and other guidance thereunder and any state law of similar effect (collectively ***"Section 409A"***). Severance benefits shall not commence until Executive has a "separation from service" for purposes of Section 409A. For purposes of this Agreement, a termination of employment will be determined consistent with the rules relating to a "separation from service" as defined in Section 409A. Notwithstanding anything else provided herein, to the extent any payments provided under this Agreement in connection with Employee's termination of employment constitute deferred compensation subject to Section 409A, and Employee is deemed at the time of such termination of employment to be a "specified employee" under Section 409A, then such payment shall not be made or commence until the earlier of (i) the expiration of the 6-month period measured from Employee's separation from service from the Company or (ii) the date of Employee's death following such a separation from service; provided, however, that such deferral shall only be effected to the extent required to avoid adverse tax treatment to Employee including, without limitation, the additional tax for which Employee would otherwise be liable under Section 409A(a)(1)(B) in the absence of such a deferral. The first payment thereof will include a catch-up payment covering the amount that would have otherwise been paid during the period between Employee's termination of employment and the first payment date but for the application of this provision, and the balance of the installments (if any) will be payable in accordance with their

original schedule. To the extent any payment under this Agreement may be classified as a "short-term deferral" within the meaning of Section 409A, such payment shall be deemed a short-term deferral, even if it may also qualify for an exemption from Section 409A under another provision of Section 409A. Payments pursuant to this Agreement are intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations. Except as otherwise expressly provided herein, to the extent any expense reimbursement or the provision of any in-kind benefit under this Agreement is determined to be subject to Section 409A, the amount of any such expenses eligible for reimbursement, or the provision of any in-kind benefit, in one calendar year shall not affect the expenses eligible for reimbursement in any other taxable year (except for any lifetime or other aggregate limitation applicable to medical expenses), in no event shall any expenses be reimbursed after the last day of the calendar year following the calendar year in which the Employee incurred such expenses, and in no event shall any right to reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

Executive shall receive severance benefits only if Executive executes and returns to the Company, within the applicable time period set forth above, the Release and Waiver, and permits the Release and Waiver to become effective in accordance with its terms (such latest permitted date, the ***"Release Deadline"***). If the severance benefits are not covered by one or more exemptions from the application of Section 409A and the Release and Waiver could become effective in the calendar year following the calendar year in which Executive separates from service, the Release and Waiver will not be deemed effective any earlier than the Release Deadline. None of the severance benefits will be paid or otherwise delivered prior to the effective date or deemed effective date of the Release and Waiver. Except to the minimum extent that payments must be delayed because Executive is a "specified employee" or until the effectiveness of the separation agreement, all amounts will be paid as soon as practicable in accordance with the Company's normal payroll practices.

The severance benefits are intended to qualify for an exemption from application of Section 409A or comply with its requirements to the extent necessary to avoid adverse personal tax consequences under Section 409A, and any ambiguities herein shall be interpreted accordingly.

5. CONFIDENTIAL AND PROPRIETARY INFORMATION.

As a condition of employment, Executive agrees to execute and abide by the Company's Proprietary Information and Inventions Agreement (***"PIIA"***).

6. ASSIGNMENT AND BINDING EFFECT.

This Agreement shall be binding upon and inure to the benefit of Executive and Executive's heirs, executors, personal representatives, assigns, administrators and legal representatives. Because of the unique and personal nature of Executive's duties under this Agreement, neither this Agreement nor any rights or obligations under this Agreement shall be assignable by Executive. This Agreement shall be binding upon and inure to the benefit of the Company and its successors, assigns and legal representatives. Any such successor of the Company will be deemed substituted for the Company under the terms of this Agreement for all

purposes. For this purpose, “successor” means any person, firm, corporation or other business entity which at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets or business of the Company.

7. NOTICES.

All notices or demands of any kind required or permitted to be given by the Company or Executive under this Agreement shall be given in writing and shall be personally delivered (and receipted for) or faxed during normal business hours or mailed by certified mail, return receipt requested, postage prepaid, addressed to Company headquarters, or Executive’s address of record on file with the Company, as applicable.

Any such written notice shall be deemed given on the earlier of the date on which such notice is personally delivered or three (3) days after its deposit in the United States mail as specified above. Either Party may change its address for notices by giving notice to the other Party in the manner specified in this Section.

8. CHOICE OF LAW.

This Agreement shall be construed and interpreted in accordance with the internal laws of the State of California without regard to its conflict of laws principles.

9. INTEGRATION.

This Agreement, including the PIIA, contains the complete, final and exclusive agreement of the Parties relating to the terms and conditions of Executive’s employment and the termination of Executive’s employment, and supersedes all prior and contemporaneous oral and written employment agreements or arrangements between the Parties.

10. AMENDMENT.

This Agreement cannot be amended or modified except by a written agreement signed by Executive and the Company.

11. WAIVER.

No term, covenant or condition of this Agreement or any breach thereof shall be deemed waived, except with the written consent of the Party against whom the wavier is claimed, and any waiver or any such term, covenant, condition or breach shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other term, covenant, condition or breach.

12. SEVERABILITY.

The finding by a court of competent jurisdiction of the unenforceability, invalidity or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid or illegal. Such court shall have the authority to modify or replace the invalid or unenforceable term or provision with a valid and enforceable term or

provision, which most accurately represents the Parties' intention with respect to the invalid or unenforceable term, or provision.

13. INTERPRETATION; CONSTRUCTION.

The headings set forth in this Agreement are for convenience of reference only and shall not be used in interpreting this Agreement. This Agreement has been drafted by legal counsel representing the Company, but the Executive has been encouraged to consult with Executive's own independent counsel and tax advisors with respect to the terms of this Agreement. The Parties acknowledge that each Party and its counsel has reviewed and revised, or had an opportunity to review and revise, this Agreement, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

14. REPRESENTATIONS AND WARRANTIES.

Executive represents and warrants that Executive is not restricted or prohibited, contractually or otherwise, from entering into and performing each of the terms and covenants contained in this Agreement, and that Executive's execution and performance of this Agreement will not violate or breach any other agreements between the Executive and any other person or entity.

15. COUNTERPARTS.

This Agreement may be executed in two counterparts, each of which shall be deemed an original, all of which together shall contribute one and the same instrument.

16. INDEMNIFICATION.

Following the Employment Commencement Date, Executive shall sign the Company's standard form of indemnification agreement.

17. TRADE SECRETS OF OTHERS.

It is the understanding of both the Company and Executive that Executive shall not divulge to the Company and/or its subsidiaries any confidential information or trade secrets belonging to others, including Executive's former employers, nor shall the Company and/or its Affiliates seek to elicit from Executive any such information. Consistent with the foregoing, Executive shall not provide to the Company and/or its Affiliates, and the Company and/or its Affiliates shall not request, any documents or copies of documents containing such information.

18. ADVERTISING WAIVER.

Executive agrees to permit the Company, and persons or other organizations authorized by the Company, to use, publish and distribute advertising or sales promotional literature concerning the products and/or services of the Company, or the machinery and equipment used in the provision thereof, in which Executive's name and/or pictures of Executive taken in the course of Executive's provision of services to the Company appear. Executive

hereby waives and releases any claim or right Executive may otherwise have arising out of such use, publication or distribution.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

SERVICE-NOW.COM

By: /s/ Frank Slootman

FRANK SLOOTMAN, CEO

Dated: 5/12/11

EXECUTIVE:

/s/ Michael P. Scarpelli

MICHAEL P. SCARPELLI

Dated: 5/12/11

EXHIBIT A

RELEASE AND WAIVER OF CLAIMS

TO BE SIGNED ON OR FOLLOWING THE SEPARATION DATE ONLY

In consideration of the payments and other benefits set forth in the Employment Agreement of May 12, 2011, to which this form is attached, I, Michael P. Scarpelli, hereby furnish **SERVICE-NOW.COM** (the ***"Company"***), with the following release and waiver (***"Release and Waiver"***).

In exchange for the consideration provided to me by the Employment Agreement that I am not otherwise entitled to receive, I hereby generally and completely release the Company and its current and former directors, officers, employees, stockholders, partners, agents, attorneys, predecessors, successors, parent and subsidiary entities, insurers, affiliates, and assigns (collectively, the "***Released Parties***") from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to or on the date that I sign this Agreement (collectively, the "***Released Claims***"). The Released Claims include, but are not limited to: (a) all claims arising out of or in any way related to my employment with the Company, or the termination of that employment; (b) all claims related to my compensation or benefits from the Company including salary, bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company; (c) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (d) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (e) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, misclassification, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990, the federal Age Discrimination in Employment Act of 1967 (as amended) (the "***ADEA***"), the California Labor Code, and the California Fair Employment and Housing Act (as amended). Notwithstanding the foregoing, the following are not included in the Released Claims (the "***Excluded Claims***"): (a) any rights or claims for indemnification I may have pursuant to any written indemnification agreement or fiduciary insurance policy with the Company to which I am a party with respect to which I am an insured party, the charter, bylaws, or operating agreements of the Company, or under applicable law; (b) any rights or claims to unemployment compensation, funds accrued in my 401k account, or any vested equity incentives; (c) any rights that are not waivable as a matter of law; or (d) any claims arising from the breach of this Agreement. I hereby represent and warrant that, other than the Excluded Claims, I am not aware of any claims I have or might have against any of the Released Parties that are not included in the Released Claims.

I also acknowledge that I have read and understand Section 1542 of the California Civil Code which reads as follows: "**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**" I hereby expressly waive and relinquish all rights and benefits under that

Section and any law of any jurisdiction of similar effect with respect to any claims I may have against the Company.

I acknowledge that, among other rights, I am waiving and releasing any rights I may have under ADEA, that this Release and Waiver is knowing and voluntary, and that the consideration given for this Release and Waiver is in addition to anything of value to which I was already entitled as an executive of the Company. If I am 40 years of age or older upon execution of this Release and Waiver, I further acknowledge that I have been advised, as required by the Older Workers Benefit Protection Act, that: (a) the release and waiver granted herein does not relate to claims under the ADEA which may arise after this Release and Waiver is executed; (b) I should consult with an attorney prior to executing this Release and Waiver; and (c) I have twenty-one (21) days from the date of termination of my employment with the Company in which to consider this Release and Waiver (although I may choose voluntarily to execute this Release and Waiver earlier); (d) I have seven (7) days following the execution of this Release and Waiver to revoke my consent to this Release and Waiver; and (e) this Release and Waiver shall not be effective until the seven (7) day revocation period has expired without my having previously revoked this Release and Waiver.

I acknowledge my continuing obligations under my Proprietary Information and Inventions Agreement. Pursuant to the Proprietary Information and Inventions Agreement I understand that among other things, I must not use or disclose any confidential or proprietary information of the Company and I must immediately return all Company property and documents (including all embodiments of proprietary information) and all copies thereof in my possession or control. I understand and agree that my right to the severance pay I am receiving in exchange for my agreement to the terms of this Release and Waiver is contingent upon my continued compliance with my Proprietary Information and Inventions Agreement.

This Release and Waiver constitutes the complete, final and exclusive embodiment of the entire agreement between the Company and me with regard to the subject matter hereof. I am not relying on any promise or representation by the Company that is not expressly stated herein. This Release and Waiver may only be modified by a writing signed by both me and a duly authorized officer of the Company.

Date: _____ By: _____

Michael P. Scarpelli

Exhibit 10.7

SERVICE-NOW.COM
EMPLOYMENT AGREEMENT

This **EMPLOYMENT AGREEMENT** (the ***"Agreement"***) is made and entered into effective as of May 21, 2011 (the "***Effective Date***") by and among **SERVICE-NOW.COM** (the ***"Company"***) and David L. Schneider (the ***"Executive"***). The Company and Executive are hereinafter collectively referred to as the ***"Parties"***, and individually referred to as a ***"Party"***. This Agreement supersedes any and all prior and contemporaneous oral or written employment agreements or arrangements between Executive and the Company.

RECITALS

A. The Company desires assurance of the association and services of Executive in order to retain Executive's experience, skills, abilities, background and knowledge, and is willing to engage Executive's services on the terms and conditions set forth in this Agreement.

B. Executive desires to be in the employ of the Company, and is willing to accept such employment on the terms and conditions set forth in this Agreement.

AGREEMENT

In consideration of the foregoing Recitals and the mutual promises and covenants herein contained, and for other good and valuable consideration, the Parties, intending to be legally bound, agree as follows:

1. EMPLOYMENT.

1.1 Title. Effective as of the Employment Commencement Date (defined below), Executive's title shall be Senior Vice President of Sales ("***Senior VP Sales***") of the Company, subject to the terms and conditions set forth in this Agreement.

1.2 Term. The term of this Agreement shall begin on or before June 6, 2011 (such date on which Executive's employment actually commences shall be the ***"Employment Commencement Date"***) and shall continue for a period of three (3) years thereafter, unless terminated earlier pursuant to Section 4 herein (the ***"Term"***). The Executive's employment with the Company shall at all times remain at will.

1.3 Duties. Executive shall do and perform all services, acts or things necessary or advisable to manage and conduct the business of the Company and that are normally associated with the position of Senior VP Sales. Executive shall report to the Company's Chief Executive Officer.

1.4 Policies and Practices. The employment relationship between the Parties shall be governed by this Agreement and by the policies and practices established by the Company and/or the Company's Board of Directors (the "***Board***"), or any designated committee thereof. In the event that the terms of this Agreement differ from or are in conflict with the

Company's policies or practices or the Company's Employee Handbook, this Agreement shall control.

1.5 Location. Unless the Parties otherwise agree in writing, during the Term Executive shall perform the services Executive is required to perform pursuant to this Agreement at such locations as Executive and the Company mutually determine to be in the best interest of the Company. Executive acknowledges that his position will require him to travel temporarily to other locations in connection with the Company's business, and that the Company may request Executive to take temporary assignments in one or more of it's offices, including the Company's San Diego offices. Expenses associated with such temporary assignments will be paid by the Company and/or reimbursed to Executive to the full extent permitted.

2. LOYALTY; NONCOMPETITION; NONSOLICITATION; NONDISPARAGEMENT.

2.1 Loyalty. During Executive's employment by the Company, Executive shall devote Executive's full business energies, interest, abilities and productive time to the proper and efficient performance of Executive's duties under this Agreement. Notwithstanding the foregoing, Executive may: (1) serve on the Board of Directors of other for-profit corporate entities, with the prior written consent of the Company's Board and (2) devote time to personal investments, philanthropic, educational and civic service, and other personal matters, so long as such activities do not interfere with the performance of his duties hereunder.

2.2 Agreement not to Participate in Company's Competitors. During the Term, Executive agrees not to acquire, assume or participate in, directly or indirectly, any position, investment or interest known by Executive to be adverse or antagonistic to the Company, its business, or prospects, financial or otherwise, or in any company, person, or entity that is, directly or indirectly, in competition with the business of the Company or any of its Affiliates (as defined below). Ownership by Executive, in professionally managed funds over which the Executive does not have control or discretion in investment decisions, or as a passive investment, of less than two percent (2%) of the outstanding shares of capital stock of any corporation with one or more classes of its capital stock listed on a national securities exchange or publicly traded on a national securities exchange or in the over-the-counter market shall not constitute a breach of this Section. For purposes of this Agreement, ***"Affiliate,"*** means, with respect to any specific entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified entity.

2.3 Nonsolicitation. For a period of twelve (12) months following the termination of Executive's employment with the Company for any reason, voluntary or involuntary (the "***Restricted Period***"), Executive shall not: (i) solicit or induce, or attempt to solicit or induce, any employee of the Company or its Affiliates to leave the employ of the Company or such Affiliate; or (ii) use confidential information to solicit or attempt to solicit the business of any client or customer of the Company or its Affiliates with respect to products, services, or investments similar to those provided or supplied by the Company or its Affiliates.

2.4 Nondisparagement. During the Restricted Period, Executive shall not disparage the Company, or its officers, directors, employees, shareholders, or agents, in any manner likely to be harmful to its or their businesses, business reputations, or personal

reputations and the Company shall not disparage Executive in a manner likely to be harmful to his business reputation or personal reputation, provided that Executive and the Company will respond accurately and fully to any question, inquiry or request for information when required by legal process.

3. COMPENSATION OF THE EXECUTIVE.

3.1 Base Salary. The Company shall pay Executive a base salary at the annualized rate of Two Hundred Fifty Thousand Dollars ($250,000.00) (the ***"Base Salary"***), less payroll deductions and all required withholdings, payable in regular periodic payments in accordance with the Company's normal payroll practices. The Base Salary shall be prorated for any partial year of employment on the basis of a 365-day fiscal year. The Base Salary shall be reviewed by the CEO and Compensation Committee of the Board (the "***Compensation Committee***") at least annually, and any change(s) shall be at the sole discretion of the Compensation Committee.

3.2 Discretionary Bonus. At the sole discretion of the Compensation Committee, for each fiscal year of employment Executive shall be eligible to receive a cash target bonus or bonuses in the total sum of up to Two Hundred Fifty Thousand Dollars ($250,000.00) (the "***Target Bonus(es)***", less payroll deductions and all required withholdings), based on Executive's performance relative to objectives to be established each fiscal year by the CEO and the Compensation Committee. The Target Bonus objectives for the 2012 and future fiscal years shall be established by the Compensation Committee within ninety (90) days of the beginning of any such fiscal years. For the 2011 fiscal year, no Target Bonus objectives will be established. Any portion of the Target Bonus(es) awarded for the 2011 or 2012 fiscal years shall be at the discretion of the Compensation Committee and shall be pro-rated based on the number of calendar days Executive was employed during fiscal year 2011 or 2012, respectively, divided by 365. The evaluation of Executive's performance relative to the Bonus objectives and the determination of the portion of the Target Bonus(es) (if any) that will be paid in any given year, shall be made by the Compensation Committee in its sole discretion. Any portion of the Target Bonus(es) paid shall be paid in cash as a single lump-sum payment within ten (10) days following the time such payments are approved.

3.3 Stock Options.

3.3.1 Subject to approval by the Board and subject to the terms of the Company's Equity Incentive Plan (the "***Plan***"), as soon as practicable following the Employment Commencement Date, Executive will be granted an option to purchase six hundred eighty-nine thousand, five hundred twenty-two (689,522) shares of the Company's common stock (the "***Option***"). On the first anniversary of the grant date of the Option, twenty-five percent (25%) of the shares subject to the Option shall vest, subject to Executive's continued employment with the Company on such date. The balance of the shares subject to the Option shall vest in equal monthly installments on the last day of each month for the thirty-six (36) months thereafter, subject to Executive's continued employment with the Company on each vesting date. The Option will be governed by the Plan and shall be granted pursuant to a separate stock option grant notice and stock option agreement, except as otherwise provided in this Agreement. The exercise price per share of the Option will be equal to the fair market value

of a single share of the Company's common stock on the date of the grant as determined in good faith by the Board.

3.3.2 Subject to approval by the Board and subject to the terms of the Plan, as soon as practicable following the Employment Commencement Date, Executive will be granted an additional option to purchase one hundred thirty-seven thousand nine hundred four (137,904) shares of the Company's common stock (the "***Performance Option***"). The Performance Option shall vest on the same schedule as the Option, provided that no shares underlying the Performance Option shall vest unless and until the Company determines that it has achieved the board-approved worldwide sales goal for the Company's 2012 fiscal year (the ***"Performance Criteria"***) (upon which determination all shares that would have vested up to such point shall immediately vest and thereafter the Performance Option shall vest according to the balance of the baseline vesting schedule). If the Performance Criteria is not met on or before January 1, 2013, then the Performance Option shall be forfeited in it's entirety. The Performance Option shall be governed by the Plan and shall be granted pursuant to a separate stock option grant notice and stock option agreement, except as otherwise provided in this Agreement. The exercise price per share of the Performance Option will be equal to the fair market value of a single share of the Company's common stock on the date of the grant as determined in good faith by the Board. The option acceleration set forth in Section 4.5.5 of this Agreement shall not apply to the Performance Option.

3.4 Acceleration of Stock Options Upon a Change of Control. Executive shall be entitled to full or partial accelerated vesting (as applicable) of the shares subject to his outstanding stock options effective upon the effective date of a Change of Control (as defined below), as follows: If the effective date of the Change of Control occurs prior to the closing of the first sale of shares of capital stock of the Company to the public in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "***IPO***"), Executive's stock options (or other equity compensation) will accelerate vesting on a pro rata basis such that the vesting of fifty percent (50%) of shares subject to each vesting installment of Executive's stock options will be accelerated and become immediately vested and exercisable. The remainder of the shares subject to each of Executive's stock options (or other equity compensation) shall continue to vest pro rata in accordance with the vesting schedule applicable to each such option (or other equity compensation). If the effective date of the Change of Control occurs on or subsequent to the closing of the IPO, Executive shall receive immediate accelerated vesting and exercisability of one hundred percent (100%) of the then-unvested shares subject to each of Executive's outstanding stock options (or other equity compensation); provided, in the case of the Performance Option, that the Performance Critera has been met. The provisions of this Section 3.4 shall be contained in Executive's option agreements (or other equity compensation agreements) and although contingent upon Executive's continued employment with the Company, shall not be contingent upon the continued effectiveness of this Agreement.

3.5 Expense Reimbursements. The Company will reimburse Executive for all reasonable business expenses Executive incurs in conducting his duties hereunder, pursuant to the Company's usual expense reimbursement policies, but in no event later than thirty days after the end of the calendar month following the month in which such expenses were incurred by Executive; provided that Executive supplies the appropriate substantiation for such expenses no

later than the end of the calendar month following the month in which such expenses were incurred by Executive. Reimbursable business expenses shall include reasonable, documented expenses for air travel in accordance with the Company's travel policies.

3.6 Changes to Compensation. Executive's compensation and benefits will be reviewed periodically (including the review of Executive's Base Salary at least annually as specified above) and may be changed from time to time at the sole discretion of the Compensation Committee subject to Section 4.6.3.

3.7 Employment Taxes. All of Executive's compensation shall be subject to customary withholding taxes and any other employment taxes as are commonly required to be collected or withheld by the Company.

3.8 Benefits. Executive shall, in accordance with Company policy and the terms of the applicable plan documents, be eligible to participate in benefits under any benefit plan or arrangement that may be in effect from time to time and made available to the Company's executive level employees.

3.9 Holidays and Vacation. Executive shall be eligible to accrue up to four (4) weeks of paid vacation per year and will receive paid Company holidays in accordance with Company policy. Vacation accrues pro rata throughout the year.

4. TERMINATION.

4.1 Termination by the Company. Executive's employment with the Company is at will and may be terminated by the Company at any time and for any reason, or for no reason, including, but not limited to, under the following conditions.

4.1.1 Termination by the Company for Cause. The Company may terminate Executive's employment under this Agreement for "Cause" (as defined below) at any time. Such termination shall be effective on the date Executive is so informed, or as otherwise specified by the Company.

4.1.2 Termination by the Company Without Cause. The Company may terminate Executive's employment under this Agreement without Cause at any time and for any reason, or for no reason. Such termination shall be effective on the date Executive is so informed, or as otherwise specified by the Company.

4.2 Termination by Resignation of Executive. Executive's employment with the Company is at will and may be terminated by Executive at any time and for any reason, or for no reason, including via resignation for Good Reason in accordance with the procedures set forth below.

4.3 Termination for Death or Complete Disability. Executive's employment with the Company shall automatically terminate effective upon the date of Executive's death or Complete Disability (as defined below).

4.4 Termination by Mutual Agreement of the Parties. Executive's employment with the Company may be terminated at any time upon a mutual agreement in writing of the Parties. Any such termination of employment shall have the consequences specified in such agreement.

4.5 Compensation Upon Termination.

4.5.1 Death or Complete Disability. If, during the Term of this Agreement, Executive's employment shall be terminated by death or Complete Disability, the Company shall pay to Executive, or to Executive's heirs, as applicable, Executive's accrued base salary, accrued and unused vacation benefits through the date of termination at the rate in effect at the time of termination, less standard deductions and withholdings. The Company shall thereafter have no further obligations to Executive and/or to Executive's heirs under this Agreement, except as otherwise provided by law.

4.5.2 Termination For Cause; Certain Resignations By Executive. If, at any time during the Term of this Agreement: (1) Executive's employment is terminated by the Company for Cause; or (2) Executive resigns his employment hereunder without Good Reason; then the Company shall pay Executive's accrued base salary, accrued and unused vacation benefits through the date of termination at the rate in effect at the time of termination, less standard deductions and withholdings. The Company shall thereafter have no further obligations to Executive under this Agreement, except as otherwise provided by law.

4.5.3 Termination Without Cause and Resignation for Good Reason Other Than in Connection With a Change of Control. If, during the Term of this Agreement, the Company terminates Executive's employment without Cause or Executive resigns his employment hereunder for Good Reason at any time **other than** during the period that begins three (3) months prior to and ends twelve (12) months following the effective date of a Change of Control, the Company shall pay Executive's accrued base salary and accrued and unused vacation benefits earned through the date of termination, at the rate in effect at the time of termination, less standard deductions and withholdings. In addition, subject to the Executive: (a) furnishing to the Company an executed waiver and release of claims in the form attached hereto as **Exhibit A** (or in such other form as may be specified by the Company in order to comply with then-existing legal requirements to effect a valid release of claims) (the ***"Release and Waiver"***) within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination; (b) allowing the Release and Waiver to become effective in accordance with its terms; and (c) complying with, and continuing throughout the Severance Period (as defined below) to comply with, Executive's post-termination nonsolicitation and nondisparagement obligations as set forth in Sections 2.3 and 2.4, then Executive shall be entitled to the following (the "***Severance Package***"):

(i) a payment equal to six (6) months of Executive's base salary in effect at the time of termination, with such payment being made in a single lump sum on the sixtieth (60th) day subsequent to the termination of employment; and

(ii) a pro-rated portion of the Target Bonus for 2012 and future years that would have been paid to Executive, subject to achievement of the applicable corporate

performance goals but without taking into account negative discretion, if he had been employed on the last day of the applicable fiscal year, to be paid in one lump sum payment within two and one-half (2 1/2) months following the end of the Company's fiscal year in which termination occurs; provided that Executive's payment pursuant to this section shall be pro-rated to six months of the applicable Target Bonus rather than an entire year; and

(iii) if Executive is eligible for and timely elects continued coverage under COBRA for himself and/or his eligible dependents under the Company's group health insurance plans following the termination of his employment, then the Company shall pay the COBRA premiums necessary to continue the health insurance coverage in effect for Executive and/or his eligible dependents as of the termination date, until the earliest of: (A) the close of the six month period starting on the termination date (the ***"Severance Period"***); (B) the expiration of Executive's eligibility for continuation coverage under COBRA; and (C) the date when Executive becomes eligible for substantially equivalent health insurance coverage in connection with new employment or self-employment (such period from the termination date through the earliest of (A) through (C), the "***COBRA Payment Period***"). If Executive becomes eligible for coverage under another employer's group health plan or through self-employment, or otherwise ceases to be eligible for COBRA coverage during the period provided in this section, Executive must immediately notify the Company of such event, and the Company's obligation to pay COBRA premiums on Executive's behalf shall cease. Notwithstanding the foregoing, if at any time the Company determines, in its sole discretion, that its payment of COBRA premiums on Executive's behalf would result in a violation of applicable law (including, without limitation, Section 2716 of the Public Health Service Act), then in lieu of paying COBRA premiums on Executive's behalf, the Company will pay Executive on the last day of each remaining month of the COBRA Payment Period a fully taxable cash payment equal to the COBRA premium for that month, subject to applicable tax withholding (such amount, the "***Special Severance Payment***"), such Special Severance Payment to be made without regard to Executive's election of COBRA coverage or payment of COBRA premiums and without regard to the expiration of the COBRA Payment Period prior to six (6) months following the termination of Executive's employment. Such Special Severance Payment shall end on the earlier of (x) the date on which Executive commences other employment (including self-employment) and (y) the close of the Severance Period.

4.5.4 Termination Without Cause or Resignation For Good Reason In Connection With a Change of Control. If, during the Term of this Agreement, the Company terminates Executive's employment without Cause, or the Executive resigns his employment hereunder for Good Reason, at any time during the period that begins three (3) months prior to and ends twelve (12) months following the effective date of a Change of Control (the ***"Change of Control Period***"), then the Company shall pay Executive's accrued base salary and accrued and unused vacation benefits earned through the date of termination, at the rate in effect at the time of termination, less standard deductions and withholdings. In addition, subject to the Executive (a) furnishing to the Company an executed Release and Waiver within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination and (b) allowing the Release and Waiver to become effective in accordance with its terms, then, conditioned upon Executive's complying with, and continuing throughout the Severance Period to comply with, Executive's post-termination nonsolicitation and nondisparagement obligations as set forth in Sections 2.3 and 2.4, Executive shall be entitled to

the Severance Package described above; provided however, that the entire Target Bonus for the year of termination shall be payable in lieu of a payment set forth pursuant to subparagraph (ii) of Section 4.5.3.

4.5.5 Additional Acceleration. Executive's stock options shall provide that if: (1) the Company terminates Executive's employment without Cause; or (2) Executive resigns his employment for Good Reason or following a material adverse change in Executive's Senior Vice President of Sales title or reporting relationships of persons reporting to Executive without Executive's consent ("***Adverse Change In Title***"), then, subject to the Executive: (a) furnishing to the Company an executed Release and Waiver within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination; and (b) allowing the Release and Waiver to become effective in accordance with its terms, Executive shall receive immediate accelerated vesting of (x) twenty-five (25%) percent of the total shares subject to the Executive's stock options (or other equity awards) if termination of employment occurs (i) prior to the Change of Control Period or (ii) after the Change of Control Period and (in either case (i) or (ii)) within the first twelve (12) months of employment, and (y) one hundred percent (100%) of the then-unvested shares subject to each of Executive's outstanding stock options (or other equity awards) if termination of employment occurs during the Change of Control Period, but in the case of (y) only to the extent such acceleration has not already occurred pursuant to Section 3.4. In order to give effect to the foregoing provision, notwithstanding anything to the contrary set forth in the Plan or the applicable form of stock option agreement (or other equity agreement), none of Executive's unvested options (or other equity awards) shall terminate or be forfeited any earlier than three (3) months after any of the following occurrences during the Change of Control Period: (a) any termination of the Executive's employment without Cause; or (b) Executive's resignation for Good Reason or pursuant to an Adverse Change in Title. For the avoidance of doubt, if Executive's resignation is due to an Adverse Change in Title, but does not otherwise qualify as a resignation for Good Reason, Executive shall not be entitled to any of the severance benefits provided under Sections 4.5.3 or 4.5.4. The provisions of this Section 4.5.5 shall be contained in Executive's option agreements and although contingent upon Executive's continued employment with the Company, shall not be contingent upon the continued effectiveness of this Agreement.

4.6 Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

4.6.1 Complete Disability. A termination for ***"Complete Disability"*** shall occur: (i) when the Board has provided a written termination notice to Executive supported by a written statement from a reputable independent physician to the effect that Executive is or shall have become so physically or mentally incapacitated as to be unable to resume, within the ensuing six (6) months, his employment under this Agreement by reason of such physical or mental illness or injury; or (ii) upon rendering of a written termination notice by the Board after the Board determines, in its sole and complete discretion, that Executive has been unable to substantially perform his job duties hereunder for one hundred twenty (120) or more consecutive days, or more than eighty (80) days in any consecutive twelve (12) month period, by reason of any physical or mental illness or injury. For purposes of this Section, at the Company's request Executive agrees to make himself available and to cooperate in a reasonable examination by a reputable independent physician retained by the Company.

4.6.2 Cause. ***"Cause"*** for the Company to terminate Executive's employment hereunder shall mean the occurrence of any of the following events, as determined by the Company and/or the Board in its and/or their sole and absolute discretion:

(i) Executive's commission of any crime involving fraud, dishonesty or moral turpitude;

(ii) Executive's commission of or participation in a fraud or act of dishonesty against the Company that results in (or might have reasonably resulted in) material harm to the business of the Company;

(iii) Executive's intentional, material violation of any contract or agreement between Executive and the Company or any statutory duty Executive owes to the Company; or

(iv) Executive's conduct that constitutes gross insubordination, incompetence or habitual neglect of duties and that results in (or might have reasonably resulted in) material harm to the business of the Company;

Provided, however, that the action or conduct described in clauses (iii) and (iv) above will constitute "Cause" only if such action or conduct continues after the Company has provided Executive with written notice thereof and thirty (30) days to cure the same.

4.6.3 Good Reason. For purposes of this Agreement, and subject to the caveat at the end of this Section, "***Good Reason***" for Executive to terminate his employment hereunder shall mean the occurrence of any of the following events without Executive's consent:

(i) the assignment to Executive of any duties or responsibilities that results in a material diminution in Executive's authority, duties or responsibilities as in effect immediately prior to such reduction or a material diminution in the ability, duties or responsibilities of the person or persons to whom Executive is required to report; provided, however, that a change solely in Executive's title or reporting relationships of persons reporting to the Executive shall not by itself provide the basis for a voluntary termination with Good Reason;

(ii) a material reduction by the Company in Executive's annual base salary, as initially set forth herein or as increased thereafter; provided, however, that Good Reason shall not be deemed to have occurred in the event of a reduction in Executive's annual base salary that is pursuant to a salary reduction program affecting substantially all of the employees of the Company and that does not adversely affect Executive to a greater extent than other similarly situated employees;

(iii) a relocation of Executive's business office to a location more than fifty (50) miles from the location at which Executive performed Executive's duties immediately prior to the relocation, except for required travel by Executive on the Company's business to an extent substantially consistent with Executive's business travel obligations prior to the relocation; or

(iv) a material breach by the Company of this Agreement.

Provided, however, that, any such termination by Executive shall only be deemed for Good Reason pursuant to this definition if: (1) Executive gives the Company written notice of his

intent to terminate for Good Reason within ninety (90) days following the first occurrence of the condition(s) that he believes constitute(s) Good Reason, which notice shall describe such condition(s); (2) the Company fails to remedy such condition(s) within thirty (30) days following receipt of the written notice (the "***Cure Period***"); and (3) Executive voluntarily terminates his employment within one hundred twenty (120) days following the end of the Cure Period.

4.6.4 Change of Control. For purposes of this Agreement, "Change of Control" shall mean the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events (excluding in any case transactions in which the Company or its successors issues securities to investors primarily for capital raising purposes):

(i) the acquisition by a third party of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities other than by virtue of a merger, consolidation or similar transaction;

(ii) a merger, consolidation or similar transaction following which the stockholders of the Company immediately prior thereto do not own at least fifty percent (50%) of the combined outstanding voting power of the surviving entity (or that entity's parent) in such merger, consolidation or similar transaction;

(iii) the dissolution or liquidation of the Company; or

(iv) the sale, lease, exclusive license or other disposition of all or substantially all of the assets of the Company.

Provided, however, that any transaction or transactions effected solely for purposes of changing the Company's domicile will not constitute a Change of Control pursuant to the foregoing definition.

4.7 Survival of Certain Sections. Sections 2, 4, 5 through 13, 15 and 18 of this Agreement will survive the termination of this Agreement.

4.8 Parachute Payment. If any payment or benefit the Executive would receive pursuant to this Agreement (***"Payment"***) would (i) constitute a ***"Parachute Payment"*** within the meaning of Section 280G of the Internal Revenue Code (the ***"Code"***), and (ii) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the ***"Excise Tax"***), then such Payment shall be reduced to the Retained Amount. The ***"Retained Amount"*** shall be the greater of (x) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax or (y) the largest portion of the Payment, which such amount, after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in the Executive's receipt, on an after-tax basis, of the greatest economic benefit notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in payments or benefits constituting Parachute Payments is necessary so that the Payment equals the Retained Amount, reduction shall occur in the manner that results in the greatest economic benefit for Executive. If more than one method of reduction will result in the same economic benefit, the items so reduced will be reduced pro rata. Any reduction shall be made in the following manner: first a pro rata reduction of (i) cash payments subject to Section 409A of the

Code as deferred compensation and (ii) cash payments not subject to Section 409A of the Code, and second a pro rata cancellation of (i) equity-based compensation subject to Section 409A of the Code as deferred compensation and (ii) equity-based compensation not subject to Section 409A of the Code. Reduction in either cash payments or equity compensation benefits shall be made pro rata between and among benefits which are subject to Section 409A of the Code and benefits which are exempt from Section 409A of the Code.

In the event it is subsequently determined by the Internal Revenue Service that some portion of the Retained Amount (as determined pursuant to clause (x) in the preceding paragraph) is subject to the Excise Tax, Executive agrees to promptly return to the Company a sufficient amount of the Payment so that no portion of the Retained Amount is subject to the Excise Tax. For the avoidance of doubt, if the Retained Amount is determined in accordance with clause (y) in the preceding paragraph, Executive will have no obligation to return any portion of the Payment pursuant to the preceding sentence.

Unless Executive and the Company agree on an alternative accounting, law or consulting firm, the accounting firm then engaged by the Company for general tax compliance purposes shall perform the foregoing calculations. If the accounting firm so engaged by the Company is serving as accountant or auditor for the individual, entity or group effecting the Change in Control, the Company shall appoint a nationally recognized accounting, law or consulting firm to make the determinations required hereunder. The Company shall bear all expenses with respect to the determinations by such accounting, law or consulting firm required to be made hereunder.

The Company shall use commercially reasonable efforts such that the accounting, law or consulting firm engaged to make the determinations hereunder shall provide its calculations, together with detailed supporting documentation, to Executive and the Company within fifteen (15) calendar days after the date on which Executive's right to a Payment is triggered (if requested at that time by the Executive or the Company) or such other time as requested by the Executive or the Company.

4.9 Application of Internal Revenue Code Section 409A. Notwithstanding anything to the contrary herein, the following provisions apply to the extent severance benefits provided herein are subject to Section 409A of the Code and the regulations and other guidance thereunder and any state law of similar effect (collectively ***"Section 409A"***). Severance benefits shall not commence until Executive has a "separation from service" for purposes of Section 409A. For purposes of this Agreement, a termination of employment will be determined consistent with the rules relating to a "separation from service" as defined in Section 409A. Notwithstanding anything else provided herein, to the extent any payments provided under this Agreement in connection with Employee's termination of employment constitute deferred compensation subject to Section 409A, and Employee is deemed at the time of such termination of employment to be a "specified employee" under Section 409A, then such payment shall not be made or commence until the earlier of (i) the expiration of the 6-month period measured from Employee's separation from service from the Company or (ii) the date of Employee's death following such a separation from service; provided, however, that such deferral shall only be effected to the extent required to avoid adverse tax treatment to Employee including, without limitation, the additional tax for which Employee would otherwise be liable under Section 409A(a)(1)(B) in the absence of such a deferral. The first payment thereof will include a catch-

up payment covering the amount that would have otherwise been paid during the period between Employee's termination of employment and the first payment date but for the application of this provision, and the balance of the installments (if any) will be payable in accordance with their original schedule. To the extent any payment under this Agreement may be classified as a "short-term deferral" within the meaning of Section 409A, such payment shall be deemed a short-term deferral, even if it may also qualify for an exemption from Section 409A under another provision of Section 409A. Payments pursuant to this Agreement are intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations. Except as otherwise expressly provided herein, to the extent any expense reimbursement or the provision of any in-kind benefit under this Agreement is determined to be subject to Section 409A, the amount of any such expenses eligible for reimbursement, or the provision of any in-kind benefit, in one calendar year shall not affect the expenses eligible for reimbursement in any other taxable year (except for any lifetime or other aggregate limitation applicable to medical expenses), in no event shall any expenses be reimbursed after the last day of the calendar year following the calendar year in which the Employee incurred such expenses, and in no event shall any right to reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

Executive shall receive severance benefits only if Executive executes and returns to the Company, within the applicable time period set forth above, the Release and Waiver, and permits the Release and Waiver to become effective in accordance with its terms (such latest permitted date, the ***"Release Deadline"***). If the severance benefits are not covered by one or more exemptions from the application of Section 409A and the Release and Waiver could become effective in the calendar year following the calendar year in which Executive separates from service, the Release and Waiver will not be deemed effective any earlier than the Release Deadline. None of the severance benefits will be paid or otherwise delivered prior to the effective date or deemed effective date of the Release and Waiver. Except to the minimum extent that payments must be delayed because Executive is a "specified employee" or until the effectiveness of the separation agreement, all amounts will be paid as soon as practicable in accordance with the Company's normal payroll practices.

The severance benefits are intended to qualify for an exemption from application of Section 409A or comply with its requirements to the extent necessary to avoid adverse personal tax consequences under Section 409A, and any ambiguities herein shall be interpreted accordingly.

5. CONFIDENTIAL AND PROPRIETARY INFORMATION.

As a condition of employment, Executive agrees to execute and abide by the Company's Proprietary Information and Inventions Agreement (***"PIIA"***).

6. ASSIGNMENT AND BINDING EFFECT.

This Agreement shall be binding upon and inure to the benefit of Executive and Executive's heirs, executors, personal representatives, assigns, administrators and legal representatives. Because of the unique and personal nature of Executive's duties under this Agreement, neither this Agreement nor any rights or obligations under this Agreement shall be

assignable by Executive. This Agreement shall be binding upon and inure to the benefit of the Company and its successors, assigns and legal representatives. Any such successor of the Company will be deemed substituted for the Company under the terms of this Agreement for all purposes. For this purpose, "successor" means any person, firm, corporation or other business entity which at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets or business of the Company.

7. NOTICES.

All notices or demands of any kind required or permitted to be given by the Company or Executive under this Agreement shall be given in writing and shall be personally delivered (and receipted for) or faxed during normal business hours or mailed by certified mail, return receipt requested, postage prepaid, addressed to Company headquarters, or Executive's address of record on file with the Company, as applicable.

Any such written notice shall be deemed given on the earlier of the date on which such notice is personally delivered or three (3) days after its deposit in the United States mail as specified above. Either Party may change its address for notices by giving notice to the other Party in the manner specified in this Section.

8. CHOICE OF LAW.

This Agreement shall be construed and interpreted in accordance with the internal laws of the State of California without regard to its conflict of laws principles.

9. INTEGRATION.

This Agreement, including the PIIA, contains the complete, final and exclusive agreement of the Parties relating to the terms and conditions of Executive's employment and the termination of Executive's employment, and supersedes all prior and contemporaneous oral and written employment agreements or arrangements between the Parties.

10. AMENDMENT.

This Agreement cannot be amended or modified except by a written agreement signed by Executive and the Company.

11. WAIVER.

No term, covenant or condition of this Agreement or any breach thereof shall be deemed waived, except with the written consent of the Party against whom the wavier is claimed, and any waiver or any such term, covenant, condition or breach shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other term, covenant, condition or breach.

12. SEVERABILITY.

The finding by a court of competent jurisdiction of the unenforceability, invalidity or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid or illegal. Such court shall have the authority to modify or replace the invalid or unenforceable term or provision with a valid and enforceable term or provision, which most accurately represents the Parties' intention with respect to the invalid or unenforceable term, or provision.

13. INTERPRETATION; CONSTRUCTION.

The headings set forth in this Agreement are for convenience of reference only and shall not be used in interpreting this Agreement. This Agreement has been drafted by legal counsel representing the Company, but the Executive has been encouraged to consult with Executive's own independent counsel and tax advisors with respect to the terms of this Agreement. The Parties acknowledge that each Party and its counsel has reviewed and revised, or had an opportunity to review and revise, this Agreement, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

14. REPRESENTATIONS AND WARRANTIES.

Executive represents and warrants that Executive is not restricted or prohibited, contractually or otherwise, from entering into and performing each of the terms and covenants contained in this Agreement, and that Executive's execution and performance of this Agreement will not violate or breach any other agreements between the Executive and any other person or entity.

15. COUNTERPARTS.

This Agreement may be executed in two counterparts, each of which shall be deemed an original, all of which together shall contribute one and the same instrument.

16. INDEMNIFICATION.

Following the Employment Commencement Date, Executive shall sign the Company's standard form of indemnification agreement.

17. TRADE SECRETS OF OTHERS.

It is the understanding of both the Company and Executive that Executive shall not divulge to the Company and/or its subsidiaries any confidential information or trade secrets belonging to others, including Executive's former employers, nor shall the Company and/or its Affiliates seek to elicit from Executive any such information. Consistent with the foregoing, Executive shall not provide to the Company and/or its Affiliates, and the Company and/or its Affiliates shall not request, any documents or copies of documents containing such information.

18. ADVERTISING WAIVER.

Executive agrees to permit the Company, and persons or other organizations authorized by the Company, to use, publish and distribute advertising or sales promotional literature concerning the products and/or services of the Company, or the machinery and equipment used in the provision thereof, in which Executive's name and/or pictures of Executive taken in the course of Executive's provision of services to the Company appear. Executive hereby waives and releases any claim or right Executive may otherwise have arising out of such use, publication or distribution.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

SERVICE-NOW.COM

By: /s/ Frank Slootman

FRANK SLOOTMAN, CEO

Dated: 5/23/11

EXECUTIVE:

/s/ David L. Schneider

DAVID L. SCHNEIDER

Dated: 5/22/11

EXHIBIT A

RELEASE AND WAIVER OF CLAIMS

TO BE SIGNED ON OR FOLLOWING THE SEPARATION DATE ONLY

In consideration of the payments and other benefits set forth in the Employment Agreement of May 21, 2011, to which this form is attached, I, David L. Schneider, hereby furnish **SERVICE-NOW.COM** (the ***"Company"***), with the following release and waiver (***"Release and Waiver"***).

In exchange for the consideration provided to me by the Employment Agreement that I am not otherwise entitled to receive, I hereby generally and completely release the Company and its current and former directors, officers, employees, stockholders, partners, agents, attorneys, predecessors, successors, parent and subsidiary entities, insurers, affiliates, and assigns (collectively, the "***Released Parties***") from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to or on the date that I sign this Agreement (collectively, the "***Released Claims***"). The Released Claims include, but are not limited to: (a) all claims arising out of or in any way related to my employment with the Company, or the termination of that employment; (b) all claims related to my compensation or benefits from the Company including salary, bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company; (c) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (d) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (e) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, misclassification, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990, the federal Age Discrimination in Employment Act of 1967 (as amended) (the "***ADEA***"), the California Labor Code, and the California Fair Employment and Housing Act (as amended). Notwithstanding the foregoing, the following are not included in the Released Claims (the "***Excluded Claims***"): (a) any rights or claims for indemnification I may have pursuant to any written indemnification agreement or fiduciary insurance policy with the Company to which I am a party with respect to which I am an insured party, the charter, bylaws, or operating agreements of the Company, or under applicable law; (b) any rights or claims to unemployment compensation, funds accrued in my 401k account, or any vested equity incentives; (c) any rights that are not waivable as a matter of law; or (d) any claims arising from the breach of this Agreement. I hereby represent and warrant that, other than the Excluded Claims, I am not aware of any claims I have or might have against any of the Released Parties that are not included in the Released Claims.

I also acknowledge that I have read and understand Section 1542 of the California Civil Code which reads as follows: "**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**" I hereby expressly waive and relinquish all rights and benefits under that

Section and any law of any jurisdiction of similar effect with respect to any claims I may have against the Company.

I acknowledge that, among other rights, I am waiving and releasing any rights I may have under ADEA, that this Release and Waiver is knowing and voluntary, and that the consideration given for this Release and Waiver is in addition to anything of value to which I was already entitled as an executive of the Company. If I am 40 years of age or older upon execution of this Release and Waiver, I further acknowledge that I have been advised, as required by the Older Workers Benefit Protection Act, that: (a) the release and waiver granted herein does not relate to claims under the ADEA which may arise after this Release and Waiver is executed; (b) I should consult with an attorney prior to executing this Release and Waiver; and (c) I have twenty-one (21) days from the date of termination of my employment with the Company in which to consider this Release and Waiver (although I may choose voluntarily to execute this Release and Waiver earlier); (d) I have seven (7) days following the execution of this Release and Waiver to revoke my consent to this Release and Waiver; and (e) this Release and Waiver shall not be effective until the seven (7) day revocation period has expired without my having previously revoked this Release and Waiver.

I acknowledge my continuing obligations under my Proprietary Information and Inventions Agreement. Pursuant to the Proprietary Information and Inventions Agreement I understand that among other things, I must not use or disclose any confidential or proprietary information of the Company and I must immediately return all Company property and documents (including all embodiments of proprietary information) and all copies thereof in my possession or control. I understand and agree that my right to the severance pay I am receiving in exchange for my agreement to the terms of this Release and Waiver is contingent upon my continued compliance with my Proprietary Information and Inventions Agreement.

This Release and Waiver constitutes the complete, final and exclusive embodiment of the entire agreement between the Company and me with regard to the subject matter hereof. I am not relying on any promise or representation by the Company that is not expressly stated herein. This Release and Waiver may only be modified by a writing signed by both me and a duly authorized officer of the Company.

Date: _____

By: _____
David L. Schneider

Exhibit 10.8

SERVICE-NOW.COM
EMPLOYMENT AGREEMENT

This **EMPLOYMENT AGREEMENT** (the ***"Agreement"***) is made and entered into effective as of August 1, 2011 (the "***Effective Date***") by and among **SERVICE-NOW.COM** (the ***"Company"***) and Dan McGee (the ***"Executive"***). The Company and Executive are hereinafter collectively referred to as the ***"Parties"***, and individually referred to as a ***"Party"***. This Agreement supersedes any and all prior and contemporaneous oral or written employment agreements or arrangements between Executive and the Company.

RECITALS

A. The Company desires assurance of the association and services of Executive in order to retain Executive's experience, skills, abilities, background and knowledge, and is willing to engage Executive's services on the terms and conditions set forth in this Agreement.

B. Executive desires to be in the employ of the Company, and is willing to accept such employment on the terms and conditions set forth in this Agreement.

AGREEMENT

In consideration of the foregoing Recitals and the mutual promises and covenants herein contained, and for other good and valuable consideration, the Parties, intending to be legally bound, agree as follows:

1. EMPLOYMENT.

1.1 Title. Effective as of the Employment Commencement Date (defined below), Executive's title shall be Senior Vice President, Engineering ("***SVP Engineering***") of the Company, subject to the terms and conditions set forth in this Agreement.

1.2 Term. The term of this Agreement shall begin on or before September 6, 2011 (such date on which Executive's employment actually commences shall be the ***"Employment Commencement Date"***) and shall continue for a period of three (3) years thereafter, unless terminated earlier pursuant to Section 4 herein (the ***"Term"***). The Executive's employment with the Company shall at all times remain at will.

1.3 Duties. Executive shall do and perform all services, acts or things necessary or advisable to manage and conduct the business of the Company and that are normally associated with the position of SVP Engineering. Executive shall report to the Company's Chief Executive Officer.

1.4 Policies and Practices. The employment relationship between the Parties shall be governed by this Agreement and by the policies and practices established by the Company and/or the Company's Board of Directors (the "***Board***"), or any designated committee thereof. In the event that the terms of this Agreement differ from or are in conflict with the

Company's policies or practices or the Company's Employee Handbook, this Agreement shall control.

1.5 Location. Unless the Parties otherwise agree in writing, during the Term Executive shall perform the services Executive is required to perform pursuant to this Agreement at such locations as Executive and the Company mutually determine to be in the best interest of the Company. Executive acknowledges that his position will require him to travel temporarily to other locations in connection with the Company's business, and that the Company may request Executive to take temporary assignments in one or more of its offices, including the Company's San Jose and San Diego offices. Expenses associated with such temporary assignments will be paid by the Company and/or reimbursed to Executive to the full extent permitted.

2. LOYALTY; NONCOMPETITION; NONSOLICITATION; NONDISPARAGEMENT.

2.1 Loyalty. During Executive's employment by the Company, Executive shall devote Executive's full business energies, interest, abilities and productive time to the proper and efficient performance of Executive's duties under this Agreement. Notwithstanding the foregoing, Executive may: (1) serve on the Board of Directors of other for-profit corporate entities, with the prior written consent of the Company's Board and (2) devote time to personal investments, philanthropic, educational and civic service, and other personal matters, so long as such activities do not interfere with the performance of his duties hereunder.

2.2 Agreement not to Participate in Company's Competitors. During the Term, Executive agrees not to acquire, assume or participate in, directly or indirectly, any position, investment or interest known by Executive to be adverse or antagonistic to the Company, its business, or prospects, financial or otherwise, or in any company, person, or entity that is, directly or indirectly, in competition with the business of the Company or any of its Affiliates (as defined below). Ownership by Executive, in professionally managed funds over which the Executive does not have control or discretion in investment decisions, or as a passive investment, of less than two percent (2%) of the outstanding shares of capital stock of any corporation with one or more classes of its capital stock listed on a national securities exchange or publicly traded on a national securities exchange or in the over-the-counter market shall not constitute a breach of this Section. For purposes of this Agreement, ***"Affiliate,"*** means, with respect to any specific entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified entity.

2.3 Nonsolicitation. For a period of twelve (12) months following the termination of Executive's employment with the Company for any reason, voluntary or involuntary (the "***Restricted Period***"), Executive shall not: (i) solicit or induce, or attempt to solicit or induce, any employee of the Company or its Affiliates to leave the employ of the Company or such Affiliate; or (ii) use confidential information to solicit or attempt to solicit the business of any client or customer of the Company or its Affiliates with respect to products, services, or investments similar to those provided or supplied by the Company or its Affiliates.

2.4 Nondisparagement. During the Restricted Period, Executive shall not disparage the Company, or its officers, directors, employees, shareholders, or agents, in any manner likely to be harmful to its or their businesses, business reputations, or personal

reputations and the Company shall not disparage Executive in a manner likely to be harmful to his business reputation or personal reputation, provided that Executive and the Company will respond accurately and fully to any question, inquiry or request for information when required by legal process.

3. COMPENSATION OF THE EXECUTIVE.

3.1 Base Salary. The Company shall pay Executive a base salary at the annualized rate of Two Hundred Sixty Thousand Dollars ($260,000.00) (the ***"Base Salary"***), less payroll deductions and all required withholdings, payable in regular periodic payments in accordance with the Company's normal payroll practices. The Base Salary shall be prorated for any partial year of employment on the basis of a 365-day fiscal year. The Base Salary shall be reviewed by the CEO and Compensation Committee of the Board (the "***Compensation Committee***") at least annually, and any change(s) shall be at the sole discretion of the Compensation Committee.

3.2 Discretionary Bonus. At the sole discretion of the Compensation Committee, for each fiscal year of employment Executive shall be eligible to receive a cash target bonus or bonuses in the total sum of up to One Hundred Forty Thousand Dollars ($140,000.00) (less payroll deductions and all required withholdings, the "***Target Bonus(es)***"), based on Executive's performance relative to objectives to be established each fiscal year by the CEO and the Compensation Committee. The Target Bonus objectives for the 2012 and future fiscal years shall be established by the Compensation Committee within ninety (90) days of the Employment Commencement Date or the beginning of any such fiscal years, as applicable. Any portion of the Target Bonus(es) awarded for the 2012 fiscal year shall be at the discretion of the Compensation Committee and shall be pro-rated based on the number of calendar days Executive was employed during fiscal year 2012, divided by 365. The evaluation of Executive's performance relative to the Bonus objectives and the determination of the portion of the Target Bonus(es) (if any) that will be paid in any given year, shall be made by the Compensation Committee in its sole discretion. Any portion of the Target Bonus(es) paid shall be paid in cash as a single lump-sum payment within ten (10) days following the time such payments are approved.

3.3 Stock Option.

3.3.1 Subject to approval by the Board and subject to the terms of the Company's Equity Incentive Plan (the "***Plan***"), as soon as practicable following the Employment Commencement Date, Executive will be granted an option to purchase six hundred thousand (600,000) shares of the Company's common stock (the "***Option***"). On the first anniversary of the grant date of the Option, twenty-five percent (25%) of the shares subject to the Option shall vest, subject to Executive's continued employment with the Company on such date. The balance of the shares subject to the Option shall vest in equal monthly installments on the last day of each month for the thirty-six (36) months thereafter, subject to Executive's continued employment with the Company on each vesting date. The Option will be governed by the Plan and shall be granted pursuant to a separate stock option grant notice and stock option agreement, except as otherwise provided in this Agreement. The exercise price per share of the Option will

be equal to the fair market value of a single share of the Company's common stock on the date of the grant as determined in good faith by the Board.

3.4 Acceleration of Stock Options Upon a Change of Control. Executive shall be entitled to full or partial accelerated vesting (as applicable) of the shares subject to his outstanding stock options effective upon the effective date of a Change of Control (as defined below), as follows: If the effective date of the Change of Control occurs prior to the closing of the first sale of shares of capital stock of the Company to the public in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "***IPO***"), Executive's stock options (or other equity compensation) will accelerate vesting on a pro rata basis such that the vesting of fifty percent (50%) of shares subject to each vesting installment of Executive's stock options will be accelerated and become immediately vested and exercisable. The remainder of the shares subject to each of Executive's stock options (or other equity compensation) shall continue to vest pro rata in accordance with the vesting schedule applicable to each such option (or other equity compensation). If the effective date of the Change of Control occurs on or subsequent to the closing of the IPO, Executive shall receive immediate accelerated vesting and exercisability of one hundred percent (100%) of the then-unvested shares subject to each of Executive's outstanding stock options (or other equity compensation). The provisions of this Section 3.4 shall be contained in Executive's option agreements (or other equity compensation agreements) and although contingent upon Executive's continued employment with the Company, shall not be contingent upon the continued effectiveness of this Agreement.

3.5 Expense Reimbursements. The Company will reimburse Executive for all reasonable business expenses Executive incurs in conducting his duties hereunder, pursuant to the Company's usual expense reimbursement policies, but in no event later than thirty days after the end of the calendar month following the month in which such expenses were incurred by Executive; provided that Executive supplies the appropriate substantiation for such expenses no later than the end of the calendar month following the month in which such expenses were incurred by Executive. Reimbursable business expenses shall include reasonable, documented expenses for air travel in accordance with the Company's travel policies.

3.6 Changes to Compensation. Executive's compensation and benefits will be reviewed periodically (including the review of Executive's Base Salary at least annually as specified above) and may be changed from time to time at the sole discretion of the Compensation Committee subject to Section 4.6.3.

3.7 Employment Taxes. All of Executive's compensation shall be subject to customary withholding taxes and any other employment taxes as are commonly required to be collected or withheld by the Company.

3.8 Benefits. Executive shall, in accordance with Company policy and the terms of the applicable plan documents, be eligible to participate in benefits under any benefit plan or arrangement that may be in effect from time to time and made available to the Company's executive level employees.

3.9 Holidays and Vacation. Executive shall be eligible to accrue up to four (4) weeks of paid vacation per year and will receive paid Company holidays in accordance with Company policy. Vacation accrues pro rata throughout the year.

4. TERMINATION.

4.1 Termination by the Company. Executive's employment with the Company is at will and may be terminated by the Company at any time and for any reason, or for no reason, including, but not limited to, under the following conditions.

4.1.1 Termination by the Company for Cause. The Company may terminate Executive's employment under this Agreement for "Cause" (as defined below) at any time. Such termination shall be effective on the date Executive is so informed, or as otherwise specified by the Company.

4.1.2 Termination by the Company Without Cause. The Company may terminate Executive's employment under this Agreement without Cause at any time and for any reason, or for no reason. Such termination shall be effective on the date Executive is so informed, or as otherwise specified by the Company.

4.2 Termination by Resignation of Executive. Executive's employment with the Company is at will and may be terminated by Executive at any time and for any reason, or for no reason, including via resignation for Good Reason in accordance with the procedures set forth below.

4.3 Termination for Death or Complete Disability. Executive's employment with the Company shall automatically terminate effective upon the date of Executive's death or Complete Disability (as defined below).

4.4 Termination by Mutual Agreement of the Parties. Executive's employment with the Company may be terminated at any time upon a mutual agreement in writing of the Parties. Any such termination of employment shall have the consequences specified in such agreement.

4.5 Compensation Upon Termination.

4.5.1 Death or Complete Disability. If, during the Term of this Agreement, Executive's employment shall be terminated by death or Complete Disability, the Company shall pay to Executive, or to Executive's heirs, as applicable, Executive's accrued base salary, accrued and unused vacation benefits through the date of termination at the rate in effect at the time of termination, less standard deductions and withholdings. The Company shall thereafter have no further obligations to Executive and/or to Executive's heirs under this Agreement, except as otherwise provided by law.

4.5.2 Termination For Cause; Certain Resignations By Executive. If, at any time during the Term of this Agreement: (1) Executive's employment is terminated by the Company for Cause; or (2) Executive resigns his employment hereunder without Good Reason; then the Company shall pay Executive's accrued base salary, accrued and unused

vacation benefits through the date of termination at the rate in effect at the time of termination, less standard deductions and withholdings. The Company shall thereafter have no further obligations to Executive under this Agreement, except as otherwise provided by law.

4.5.3 Termination Without Cause and Resignation for Good Reason Other Than in Connection With a Change of Control. If, during the Term of this Agreement, the Company terminates Executive's employment without Cause or Executive resigns his employment hereunder for Good Reason at any time **other than** during the period that begins three (3) months prior to and ends twelve (12) months following the effective date of a Change of Control, the Company shall pay Executive's accrued base salary and accrued and unused vacation benefits earned through the date of termination, at the rate in effect at the time of termination, less standard deductions and withholdings. In addition, subject to the Executive: (a) furnishing to the Company an executed waiver and release of claims in the form attached hereto as **Exhibit A** (or in such other form as may be specified by the Company in order to comply with then-existing legal requirements to effect a valid release of claims) (the ***"Release and Waiver"***) within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination; (b) allowing the Release and Waiver to become effective in accordance with its terms; and (c) complying with, and continuing throughout the Severance Period (as defined below) to comply with, Executive's post-termination nonsolicitation and nondisparagement obligations as set forth in Sections 2.3 and 2.4, then Executive shall be entitled to the following (the "***Severance Package***"):

(i) a payment equal to six (6) months of Executive's base salary in effect at the time of termination, with such payment being made in a single lump sum on the sixtieth (60th) day subsequent to the termination of employment; and

(ii) a pro-rated portion of the Target Bonus for 2012 and future years that would have been paid to Executive, subject to achievement of the applicable corporate performance goals but without taking into account negative discretion, if he had been employed on the last day of the applicable fiscal year, to be paid in one lump sum payment within two and one-half (2 1/2) months following the end of the Company's fiscal year in which termination occurs; provided that Executive's payment pursuant to this section shall be pro-rated to six months of the applicable Target Bonus rather than an entire year; and

(iii) if Executive is eligible for and timely elects continued coverage under COBRA for himself and/or his eligible dependents under the Company's group health insurance plans following the termination of his employment, then the Company shall pay the COBRA premiums necessary to continue the health insurance coverage in effect for Executive and/or his eligible dependents as of the termination date, until the earliest of: (A) the close of the six month period starting on the termination date (the ***"Severance Period"***); (B) the expiration of Executive's eligibility for continuation coverage under COBRA; and (C) the date when Executive becomes eligible for substantially equivalent health insurance coverage in connection with new employment or self-employment (such period from the termination date through the earliest of (A) through (C), the "***COBRA Payment Period***"). If Executive becomes eligible for coverage under another employer's group health plan or through self-employment, or otherwise ceases to be eligible for COBRA coverage during the period provided in this section, Executive must immediately notify the Company of such event, and the Company's obligation to pay

COBRA premiums on Executive's behalf shall cease. Notwithstanding the foregoing, if at any time the Company determines, in its sole discretion, that its payment of COBRA premiums on Executive's behalf would result in a violation of applicable law (including, without limitation, Section 2716 of the Public Health Service Act), then in lieu of paying COBRA premiums on Executive's behalf, the Company will pay Executive on the last day of each remaining month of the COBRA Payment Period a fully taxable cash payment equal to the COBRA premium for that month, subject to applicable tax withholding (such amount, the "***Special Severance Payment***"), such Special Severance Payment to be made without regard to Executive's election of COBRA coverage or payment of COBRA premiums and without regard to the expiration of the COBRA Payment Period prior to six (6) months following the termination of Executive's employment. Such Special Severance Payment shall end on the earlier of (x) the date on which Executive commences other employment (including self-employment) and (y) the close of the Severance Period.

4.5.4 Termination Without Cause or Resignation For Good Reason In Connection With a Change of Control. If, during the Term of this Agreement, the Company terminates Executive's employment without Cause, or the Executive resigns his employment hereunder for Good Reason, at any time during the period that begins three (3) months prior to and ends twelve (12) months following the effective date of a Change of Control (the ***"Change of Control Period***"), then the Company shall pay Executive's accrued base salary and accrued and unused vacation benefits earned through the date of termination, at the rate in effect at the time of termination, less standard deductions and withholdings. In addition, subject to the Executive (a) furnishing to the Company an executed Release and Waiver within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination and (b) allowing the Release and Waiver to become effective in accordance with its terms, then, conditioned upon Executive's complying with, and continuing throughout the Severance Period to comply with, Executive's post-termination nonsolicitation and nondisparagement obligations as set forth in Sections 2.3 and 2.4, Executive shall be entitled to the Severance Package described above; provided however, that the entire Target Bonus for the year of termination shall be payable in lieu of a payment set forth pursuant to subparagraph (ii) of Section 4.5.3.

4.5.5 Additional Acceleration. Executive's stock options shall provide that if: (1) the Company terminates Executive's employment without Cause; or (2) Executive resigns his employment for Good Reason or following a material adverse change in Executive's Senior Vice President, Engineering title or reporting relationships of persons reporting to Executive without Executive's consent ("***Adverse Change In Title***"), then, subject to the Executive: (a) furnishing to the Company an executed Release and Waiver within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination; and (b) allowing the Release and Waiver to become effective in accordance with its terms, Executive shall receive immediate accelerated vesting of (x) twenty-five (25%) percent of the total shares subject to the Executive's stock options (or other equity awards) if termination of employment occurs (i) prior to the Change of Control Period or (ii) after the Change of Control Period and (in either case (i) or (ii)) within the first twelve (12) months of employment, and (y) one hundred percent (100%) of the then-unvested shares subject to each of Executive's outstanding stock options (or other equity awards) if termination of employment occurs during the Change of Control Period, but in the case of (y) only to the extent such acceleration has not

already occurred pursuant to Section 3.4. In order to give effect to the foregoing provision, notwithstanding anything to the contrary set forth in the Plan or the applicable form of stock option agreement (or other equity agreement), none of Executive's unvested options (or other equity awards) shall terminate or be forfeited any earlier than three (3) months after any of the following occurrences during the Change of Control Period: (a) any termination of the Executive's employment without Cause; or (b) Executive's resignation for Good Reason or pursuant to an Adverse Change in Title. For the avoidance of doubt, if Executive's resignation is due to an Adverse Change in Title, but does not otherwise qualify as a resignation for Good Reason, Executive shall not be entitled to any of the severance benefits provided under Sections 4.5.3 or 4.5.4. The provisions of this Section 4.5.5 shall be contained in Executive's option agreements and although contingent upon Executive's continued employment with the Company, shall not be contingent upon the continued effectiveness of this Agreement.

4.6 Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

4.6.1 Complete Disability. A termination for ***"Complete Disability"*** shall occur: (i) when the Board has provided a written termination notice to Executive supported by a written statement from a reputable independent physician to the effect that Executive is or shall have become so physically or mentally incapacitated as to be unable to resume, within the ensuing six (6) months, his employment under this Agreement by reason of such physical or mental illness or injury; or (ii) upon rendering of a written termination notice by the Board after the Board determines, in its sole and complete discretion, that Executive has been unable to substantially perform his job duties hereunder for one hundred twenty (120) or more consecutive days, or more than eighty (80) days in any consecutive twelve (12) month period, by reason of any physical or mental illness or injury. For purposes of this Section, at the Company's request Executive agrees to make himself available and to cooperate in a reasonable examination by a reputable independent physician retained by the Company.

4.6.2 Cause. ***"Cause"*** for the Company to terminate Executive's employment hereunder shall mean the occurrence of any of the following events, as determined by the Company and/or the Board in its and/or their sole and absolute discretion:

(i) Executive's commission of any crime involving fraud, dishonesty or moral turpitude;

(ii) Executive's commission of or participation in a fraud or act of dishonesty against the Company that results in (or might have reasonably resulted in) material harm to the business of the Company;

(iii) Executive's intentional, material violation of any contract or agreement between Executive and the Company or any statutory duty Executive owes to the Company; or

(iv) Executive's conduct that constitutes gross insubordination, incompetence or habitual neglect of duties and that results in (or might have reasonably resulted in) material harm to the business of the Company;

Provided, however, that the action or conduct described in clauses (iii) and (iv) above will constitute "Cause" only if such action or conduct continues after the Company has provided Executive with written notice thereof and thirty (30) days to cure the same.

4.6.3 Good Reason. For purposes of this Agreement, and subject to the caveat at the end of this Section, "***Good Reason***" for Executive to terminate his employment hereunder shall mean the occurrence of any of the following events without Executive's consent:

(i) the assignment to Executive of any duties or responsibilities that results in a material diminution in Executive's authority, duties or responsibilities as in effect immediately prior to such reduction or a material diminution in the ability, duties or responsibilities of the person or persons to whom Executive is required to report; provided, however, that a change solely in Executive's title or reporting relationships of persons reporting to the Executive shall not by itself provide the basis for a voluntary termination with Good Reason;

(ii) a material reduction by the Company in Executive's annual base salary, as initially set forth herein or as increased thereafter; provided, however, that Good Reason shall not be deemed to have occurred in the event of a reduction in Executive's annual base salary that is pursuant to a salary reduction program affecting substantially all of the employees of the Company and that does not adversely affect Executive to a greater extent than other similarly situated employees;

(iii) a relocation of Executive's business office to a location more than fifty (50) miles from the location at which Executive performed Executive's duties immediately prior to the relocation, except for required travel by Executive on the Company's business to an extent substantially consistent with Executive's business travel obligations prior to the relocation; or

(iv) a material breach by the Company of this Agreement.

Provided, however, that, any such termination by Executive shall only be deemed for Good Reason pursuant to this definition if: (1) Executive gives the Company written notice of his intent to terminate for Good Reason within ninety (90) days following the first occurrence of the condition(s) that he believes constitute(s) Good Reason, which notice shall describe such condition(s); (2) the Company fails to remedy such condition(s) within thirty (30) days following receipt of the written notice (the "***Cure Period***"); and (3) Executive voluntarily terminates his employment within one hundred twenty (120) days following the end of the Cure Period.

4.6.4 Change of Control. For purposes of this Agreement, "Change of Control" shall mean the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events (excluding in any case transactions in which the Company or its successors issues securities to investors primarily for capital raising purposes):

(i) the acquisition by a third party of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities other than by virtue of a merger, consolidation or similar transaction;

(ii) a merger, consolidation or similar transaction following which the stockholders of the Company immediately prior thereto do not own at least fifty percent (50%)

of the combined outstanding voting power of the surviving entity (or that entity's parent) in such merger, consolidation or similar transaction;

(iii) the dissolution or liquidation of the Company; or

(iv) the sale, lease, exclusive license or other disposition of all or substantially all of the assets of the Company.

Provided, however, that any transaction or transactions effected solely for purposes of changing the Company's domicile will not constitute a Change of Control pursuant to the foregoing definition.

4.7 Survival of Certain Sections. Sections 2, 4, 5 through 13, 15 and 18 of this Agreement will survive the termination of this Agreement.

4.8 Parachute Payment. If any payment or benefit the Executive would receive pursuant to this Agreement (***"Payment"***) would (i) constitute a ***"Parachute Payment"*** within the meaning of Section 280G of the Internal Revenue Code (the ***"Code"***), and (ii) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the ***"Excise Tax"***), then such Payment shall be reduced to the Retained Amount. The ***"Retained Amount"*** shall be the greater of (x) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax or (y) the largest portion of the Payment, which such amount, after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in the Executive's receipt, on an after-tax basis, of the greatest economic benefit notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in payments or benefits constituting Parachute Payments is necessary so that the Payment equals the Retained Amount, reduction shall occur in the manner that results in the greatest economic benefit for Executive. If more than one method of reduction will result in the same economic benefit, the items so reduced will be reduced pro rata. Any reduction shall be made in the following manner: first a pro rata reduction of (i) cash payments subject to Section 409A of the Code as deferred compensation and (ii) cash payments not subject to Section 409A of the Code, and second a pro rata cancellation of (i) equity-based compensation subject to Section 409A of the Code as deferred compensation and (ii) equity-based compensation not subject to Section 409A of the Code. Reduction in either cash payments or equity compensation benefits shall be made pro rata between and among benefits which are subject to Section 409A of the Code and benefits which are exempt from Section 409A of the Code.

In the event it is subsequently determined by the Internal Revenue Service that some portion of the Retained Amount (as determined pursuant to clause (x) in the preceding paragraph) is subject to the Excise Tax, Executive agrees to promptly return to the Company a sufficient amount of the Payment so that no portion of the Retained Amount is subject to the Excise Tax. For the avoidance of doubt, if the Retained Amount is determined in accordance with clause (y) in the preceding paragraph, Executive will have no obligation to return any portion of the Payment pursuant to the preceding sentence.

Unless Executive and the Company agree on an alternative accounting, law or consulting firm, the accounting firm then engaged by the Company for general tax compliance purposes

shall perform the foregoing calculations. If the accounting firm so engaged by the Company is serving as accountant or auditor for the individual, entity or group effecting the Change in Control, the Company shall appoint a nationally recognized accounting, law or consulting firm to make the determinations required hereunder. The Company shall bear all expenses with respect to the determinations by such accounting, law or consulting firm required to be made hereunder.

The Company shall use commercially reasonable efforts such that the accounting, law or consulting firm engaged to make the determinations hereunder shall provide its calculations, together with detailed supporting documentation, to Executive and the Company within fifteen (15) calendar days after the date on which Executive's right to a Payment is triggered (if requested at that time by the Executive or the Company) or such other time as requested by the Executive or the Company.

4.9 Application of Internal Revenue Code Section 409A. Notwithstanding anything to the contrary herein, the following provisions apply to the extent severance benefits provided herein are subject to Section 409A of the Code and the regulations and other guidance thereunder and any state law of similar effect (collectively ***"Section 409A"***). Severance benefits shall not commence until Executive has a "separation from service" for purposes of Section 409A. For purposes of this Agreement, a termination of employment will be determined consistent with the rules relating to a "separation from service" as defined in Section 409A. Notwithstanding anything else provided herein, to the extent any payments provided under this Agreement in connection with Employee's termination of employment constitute deferred compensation subject to Section 409A, and Employee is deemed at the time of such termination of employment to be a "specified employee" under Section 409A, then such payment shall not be made or commence until the earlier of (i) the expiration of the 6-month period measured from Employee's separation from service from the Company or (ii) the date of Employee's death following such a separation from service; provided, however, that such deferral shall only be effected to the extent required to avoid adverse tax treatment to Employee including, without limitation, the additional tax for which Employee would otherwise be liable under Section 409A(a)(1)(B) in the absence of such a deferral. The first payment thereof will include a catch-up payment covering the amount that would have otherwise been paid during the period between Employee's termination of employment and the first payment date but for the application of this provision, and the balance of the installments (if any) will be payable in accordance with their original schedule. To the extent any payment under this Agreement may be classified as a "short-term deferral" within the meaning of Section 409A, such payment shall be deemed a short-term deferral, even if it may also qualify for an exemption from Section 409A under another provision of Section 409A. Payments pursuant to this Agreement are intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations. Except as otherwise expressly provided herein, to the extent any expense reimbursement or the provision of any in-kind benefit under this Agreement is determined to be subject to Section 409A, the amount of any such expenses eligible for reimbursement, or the provision of any in-kind benefit, in one calendar year shall not affect the expenses eligible for reimbursement in any other taxable year (except for any lifetime or other aggregate limitation applicable to medical expenses), in no event shall any expenses be reimbursed after the last day of the calendar year following the calendar year in which the Employee incurred such expenses, and in no event shall any right to reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

Executive shall receive severance benefits only if Executive executes and returns to the Company, within the applicable time period set forth above, the Release and Waiver, and permits the Release and Waiver to become effective in accordance with its terms (such latest permitted date, the ***"Release Deadline"***). If the severance benefits are not covered by one or more exemptions from the application of Section 409A and the Release and Waiver could become effective in the calendar year following the calendar year in which Executive separates from service, the Release and Waiver will not be deemed effective any earlier than the Release Deadline. None of the severance benefits will be paid or otherwise delivered prior to the effective date or deemed effective date of the Release and Waiver. Except to the minimum extent that payments must be delayed because Executive is a "specified employee" or until the effectiveness of the separation agreement, all amounts will be paid as soon as practicable in accordance with the Company's normal payroll practices.

The severance benefits are intended to qualify for an exemption from application of Section 409A or comply with its requirements to the extent necessary to avoid adverse personal tax consequences under Section 409A, and any ambiguities herein shall be interpreted accordingly.

5. CONFIDENTIAL AND PROPRIETARY INFORMATION.

As a condition of employment, Executive agrees to execute and abide by the Company's Proprietary Information and Inventions Agreement (***"PIIA"***).

6. ASSIGNMENT AND BINDING EFFECT.

This Agreement shall be binding upon and inure to the benefit of Executive and Executive's heirs, executors, personal representatives, assigns, administrators and legal representatives. Because of the unique and personal nature of Executive's duties under this Agreement, neither this Agreement nor any rights or obligations under this Agreement shall be assignable by Executive. This Agreement shall be binding upon and inure to the benefit of the Company and its successors, assigns and legal representatives. Any such successor of the Company will be deemed substituted for the Company under the terms of this Agreement for all purposes. For this purpose, "successor" means any person, firm, corporation or other business entity which at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets or business of the Company.

7. NOTICES.

All notices or demands of any kind required or permitted to be given by the Company or Executive under this Agreement shall be given in writing and shall be personally delivered (and receipted for) or faxed during normal business hours or mailed by certified mail, return receipt requested, postage prepaid, addressed to Company headquarters, or Executive's address of record on file with the Company, as applicable.

Any such written notice shall be deemed given on the earlier of the date on which such notice is personally delivered or three (3) days after its deposit in the United States mail as specified above. Either Party may change its address for notices by giving notice to the other Party in the manner specified in this Section.

8. CHOICE OF LAW.

This Agreement shall be construed and interpreted in accordance with the internal laws of the State of California without regard to its conflict of laws principles.

9. INTEGRATION.

This Agreement, including the PIIA, contains the complete, final and exclusive agreement of the Parties relating to the terms and conditions of Executive's employment and the termination of Executive's employment, and supersedes all prior and contemporaneous oral and written employment agreements or arrangements between the Parties.

10. AMENDMENT.

This Agreement cannot be amended or modified except by a written agreement signed by Executive and the Company.

11. WAIVER.

No term, covenant or condition of this Agreement or any breach thereof shall be deemed waived, except with the written consent of the Party against whom the wavier is claimed, and any waiver or any such term, covenant, condition or breach shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other term, covenant, condition or breach.

12. SEVERABILITY.

The finding by a court of competent jurisdiction of the unenforceability, invalidity or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid or illegal. Such court shall have the authority to modify or replace the invalid or unenforceable term or provision with a valid and enforceable term or provision, which most accurately represents the Parties' intention with respect to the invalid or unenforceable term, or provision.

13. INTERPRETATION; CONSTRUCTION.

The headings set forth in this Agreement are for convenience of reference only and shall not be used in interpreting this Agreement. This Agreement has been drafted by legal counsel representing the Company, but the Executive has been encouraged to consult with Executive's own independent counsel and tax advisors with respect to the terms of this Agreement. The Parties acknowledge that each Party and its counsel has reviewed and revised, or had an opportunity to review and revise, this Agreement, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

14. REPRESENTATIONS AND WARRANTIES.

Executive represents and warrants that Executive is not restricted or prohibited, contractually or otherwise, from entering into and performing each of the terms and covenants contained in this Agreement, and that Executive's execution and performance of this Agreement will not violate or breach any other agreements between the Executive and any other person or entity.

15. COUNTERPARTS.

This Agreement may be executed in two counterparts, each of which shall be deemed an original, all of which together shall contribute one and the same instrument.

16. INDEMNIFICATION.

Following the Employment Commencement Date, Executive shall sign the Company's standard form of indemnification agreement.

17. TRADE SECRETS OF OTHERS.

It is the understanding of both the Company and Executive that Executive shall not divulge to the Company and/or its subsidiaries any confidential information or trade secrets belonging to others, including Executive's former employers, nor shall the Company and/or its Affiliates seek to elicit from Executive any such information. Consistent with the foregoing, Executive shall not provide to the Company and/or its Affiliates, and the Company and/or its Affiliates shall not request, any documents or copies of documents containing such information.

18. ADVERTISING WAIVER.

Executive agrees to permit the Company, and persons or other organizations authorized by the Company, to use, publish and distribute advertising or sales promotional literature concerning the products and/or services of the Company, or the machinery and equipment used in the provision thereof, in which Executive's name and/or pictures of Executive taken in the course of Executive's provision of services to the Company appear. Executive hereby waives and releases any claim or right Executive may otherwise have arising out of such use, publication or distribution.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

SERVICE-NOW.COM

By: /s/ Frank Slootman

FRANK SLOOTMAN, CEO

Dated: 8/1/2011

EXECUTIVE:

/s/ Dan McGee

DAN MCGEE

Dated: July 29, 2011

EXHIBIT A

RELEASE AND WAIVER OF CLAIMS

TO BE SIGNED ON OR FOLLOWING THE SEPARATION DATE ONLY

In consideration of the payments and other benefits set forth in the Employment Agreement of August , 2011, to which this form is attached, I, Dan McGee, hereby furnish **SERVICE-NOW.COM** (the ***"Company"***), with the following release and waiver (***"Release and Waiver"***).

In exchange for the consideration provided to me by the Employment Agreement that I am not otherwise entitled to receive, I hereby generally and completely release the Company and its current and former directors, officers, employees, stockholders, partners, agents, attorneys, predecessors, successors, parent and subsidiary entities, insurers, affiliates, and assigns (collectively, the "***Released Parties***") from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to or on the date that I sign this Agreement (collectively, the "***Released Claims***"). The Released Claims include, but are not limited to: (a) all claims arising out of or in any way related to my employment with the Company, or the termination of that employment; (b) all claims related to my compensation or benefits from the Company including salary, bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company; (c) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (d) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (e) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, misclassification, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990, the federal Age Discrimination in Employment Act of 1967 (as amended) (the "***ADEA***"), the California Labor Code, and the California Fair Employment and Housing Act (as amended). Notwithstanding the foregoing, the following are not included in the Released Claims (the "***Excluded Claims***"): (a) any rights or claims for indemnification I may have pursuant to any written indemnification agreement or fiduciary insurance policy with the Company to which I am a party with respect to which I am an insured party, the charter, bylaws, or operating agreements of the Company, or under applicable law; (b) any rights or claims to unemployment compensation, funds accrued in my 401k account, or any vested equity incentives; (c) any rights that are not waivable as a matter of law; or (d) any claims arising from the breach of this Agreement. I hereby represent and warrant that, other than the Excluded Claims, I am not aware of any claims I have or might have against any of the Released Parties that are not included in the Released Claims.

I also acknowledge that I have read and understand Section 1542 of the California Civil Code which reads as follows: "**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**" I hereby expressly waive and relinquish all rights and benefits under that

Section and any law of any jurisdiction of similar effect with respect to any claims I may have against the Company.

I acknowledge that, among other rights, I am waiving and releasing any rights I may have under ADEA, that this Release and Waiver is knowing and voluntary, and that the consideration given for this Release and Waiver is in addition to anything of value to which I was already entitled as an executive of the Company. If I am 40 years of age or older upon execution of this Release and Waiver, I further acknowledge that I have been advised, as required by the Older Workers Benefit Protection Act, that: (a) the release and waiver granted herein does not relate to claims under the ADEA which may arise after this Release and Waiver is executed; (b) I should consult with an attorney prior to executing this Release and Waiver; and (c) I have twenty-one (21) days from the date of termination of my employment with the Company in which to consider this Release and Waiver (although I may choose voluntarily to execute this Release and Waiver earlier); (d) I have seven (7) days following the execution of this Release and Waiver to revoke my consent to this Release and Waiver; and (e) this Release and Waiver shall not be effective until the seven (7) day revocation period has expired without my having previously revoked this Release and Waiver.

I acknowledge my continuing obligations under my Proprietary Information and Inventions Agreement. Pursuant to the Proprietary Information and Inventions Agreement I understand that among other things, I must not use or disclose any confidential or proprietary information of the Company and I must immediately return all Company property and documents (including all embodiments of proprietary information) and all copies thereof in my possession or control. I understand and agree that my right to the severance pay I am receiving in exchange for my agreement to the terms of this Release and Waiver is contingent upon my continued compliance with my Proprietary Information and Inventions Agreement.

This Release and Waiver constitutes the complete, final and exclusive embodiment of the entire agreement between the Company and me with regard to the subject matter hereof. I am not relying on any promise or representation by the Company that is not expressly stated herein. This Release and Waiver may only be modified by a writing signed by both me and a duly authorized officer of the Company.

Date: _____ By: _____

Dan McGee

Exhibit 10.9

SERVICE-NOW.COM
EMPLOYMENT AGREEMENT

This **EMPLOYMENT AGREEMENT** (the ***"Agreement"***) is made and entered into effective as of August 15, 2011 (the "***Effective Date***") by and among **SERVICE-NOW.COM** (the ***"Company"***) and Arne Josefsberg (the ***"Executive"***). The Company and Executive are hereinafter collectively referred to as the ***"Parties"***, and individually referred to as a ***"Party"***. This Agreement supersedes any and all prior and contemporaneous oral or written employment agreements or arrangements between Executive and the Company.

RECITALS

A. The Company desires assurance of the association and services of Executive in order to retain Executive's experience, skills, abilities, background and knowledge, and is willing to engage Executive's services on the terms and conditions set forth in this Agreement.

B. Executive desires to be in the employ of the Company, and is willing to accept such employment on the terms and conditions set forth in this Agreement.

AGREEMENT

In consideration of the foregoing Recitals and the mutual promises and covenants herein contained, and for other good and valuable consideration, the Parties, intending to be legally bound, agree as follows:

1. EMPLOYMENT.

1.1 Title. Effective as of the Employment Commencement Date (defined below), Executive's title shall be Chief Technology Officer ("***CTO***") of the Company, subject to the terms and conditions set forth in this Agreement.

1.2 Term. The term of this Agreement shall begin on or before September 19, 2011 (such date on which Executive's employment actually commences shall be the ***"Employment Commencement Date"***) and shall continue for a period of three (3) years thereafter, unless terminated earlier pursuant to Section 4 herein (the ***"Term"***). The Executive's employment with the Company shall at all times remain at will.

1.3 Duties. Executive shall do and perform all services, acts or things necessary or advisable to manage and conduct the business of the Company and that are normally associated with the position of CTO. Executive shall report to the Company's Chief Executive Officer.

1.4 Policies and Practices. The employment relationship between the Parties shall be governed by this Agreement and by the policies and practices established by the Company and/or the Company's Board of Directors (the "***Board***"), or any designated committee thereof. In the event that the terms of this Agreement differ from or are in conflict with the

Company's policies or practices or the Company's Employee Handbook, this Agreement shall control.

1.5 Location. Unless the Parties otherwise agree in writing, during the Term Executive shall perform the services Executive is required to perform pursuant to this Agreement in Seattle, WA, or at such other locations as Executive and the Company mutually determine to be in the best interest of the Company. Executive acknowledges that his position will require him to travel temporarily to other locations in connection with the Company's business, and that the Company may request Executive to take temporary assignments in one or more of its offices, including the Company's San Jose and San Diego offices. Expenses associated with such temporary assignments will be paid by the Company and/or reimbursed to Executive to the full extent permitted.

2. LOYALTY; NONCOMPETITION; NONSOLICITATION; NONDISPARAGEMENT.

2.1 Loyalty. During Executive's employment by the Company, Executive shall devote Executive's full business energies, interest, abilities and productive time to the proper and efficient performance of Executive's duties under this Agreement. Notwithstanding the foregoing, Executive may: (1) serve on the Board of Directors of other for-profit corporate entities, with the prior written consent of the Company's Board and (2) devote time to personal investments, philanthropic, educational and civic service, and other personal matters, so long as such activities do not interfere with the performance of his duties hereunder.

2.2 Agreement not to Participate in Company's Competitors. During the Term, Executive agrees not to acquire, assume or participate in, directly or indirectly, any position, investment or interest known by Executive to be adverse or antagonistic to the Company, its business, or prospects, financial or otherwise, or in any company, person, or entity that is, directly or indirectly, in competition with the business of the Company or any of its Affiliates (as defined below). Ownership by Executive, in professionally managed funds over which the Executive does not have control or discretion in investment decisions, or as a passive investment, of less than two percent (2%) of the outstanding shares of capital stock of any corporation with one or more classes of its capital stock listed on a national securities exchange or publicly traded on a national securities exchange or in the over-the-counter market shall not constitute a breach of this Section. For purposes of this Agreement, ***"Affiliate,"*** means, with respect to any specific entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified entity.

2.3 Nonsolicitation. For a period of twelve (12) months following the termination of Executive's employment with the Company for any reason, voluntary or involuntary (the "***Restricted Period***"), Executive shall not: (i) solicit or induce, or attempt to solicit or induce, any employee of the Company or its Affiliates to leave the employ of the Company or such Affiliate; or (ii) use confidential information to solicit or attempt to solicit the business of any client or customer of the Company or its Affiliates with respect to products, services, or investments similar to those provided or supplied by the Company or its Affiliates.

2.4 Nondisparagement. During the Restricted Period, Executive shall not disparage the Company, or its officers, directors, employees, shareholders, or agents, in any

manner likely to be harmful to its or their businesses, business reputations, or personal reputations and the Company shall not disparage Executive in a manner likely to be harmful to his business reputation or personal reputation, provided that Executive and the Company will respond accurately and fully to any question, inquiry or request for information when required by legal process.

3. COMPENSATION OF THE EXECUTIVE.

3.1 Base Salary. The Company shall pay Executive a base salary at the annualized rate of Two Hundred Seventy Five Thousand Dollars ($275,000.00) (the ***"Base Salary"***), less payroll deductions and all required withholdings, payable in regular periodic payments in accordance with the Company's normal payroll practices. The Base Salary shall be prorated for any partial year of employment on the basis of a 365-day fiscal year. The Base Salary shall be reviewed by the CEO and Compensation Committee of the Board (the "***Compensation Committee***") at least annually, and any change(s) shall be at the sole discretion of the Compensation Committee.

3.2 Discretionary Bonus. At the sole discretion of the Compensation Committee, for each fiscal year of employment Executive shall be eligible to receive a cash target bonus or bonuses in the total sum of up to One Hundred Thirty Five Thousand Dollars ($135,000.00) (less payroll deductions and all required withholdings, the "***Target Bonus(es)***"), based on Executive's performance relative to objectives to be established each fiscal year by the CEO and the Compensation Committee. The Target Bonus objectives for the 2012 and future fiscal years shall be established by the Compensation Committee within ninety (90) days of the Employment Commencement Date or the beginning of any such fiscal years, as applicable. Any portion of the Target Bonus(es) awarded for the 2012 fiscal year shall be at the discretion of the Compensation Committee and shall be pro-rated based on the number of calendar days Executive was employed during fiscal year 2012, divided by 365. The evaluation of Executive's performance relative to the Bonus objectives and the determination of the portion of the Target Bonus(es) (if any) that will be paid in any given year, shall be made by the Compensation Committee in its sole discretion. Any portion of the Target Bonus(es) paid shall be paid in cash as a single lump-sum payment within ten (10) days following the time such payments are approved.

3.3 Stock Option.

3.3.1 Subject to approval by the Board and subject to the terms of the Company's Equity Incentive Plan (the "***Plan***"), as soon as practicable following the Employment Commencement Date, Executive will be granted an option to purchase six hundred seventy five thousand (675,000) shares of the Company's common stock (the "***Option***"). On the first anniversary of the grant date of the Option, twenty-five percent (25%) of the shares subject to the Option shall vest, subject to Executive's continued employment with the Company on such date. The balance of the shares subject to the Option shall vest in equal monthly installments on the last day of each month for the thirty-six (36) months thereafter, subject to Executive's continued employment with the Company on each vesting date. The Option will be governed by the Plan and shall be granted pursuant to a separate stock option grant notice and stock option agreement, except as otherwise provided in this Agreement. The exercise price per

share of the Option will be equal to the fair market value of a single share of the Company's common stock on the date of the grant as determined in good faith by the Board.

3.4 Acceleration of Stock Options Upon a Change of Control. Executive shall be entitled to full or partial accelerated vesting (as applicable) of the shares subject to his outstanding stock options effective upon the effective date of a Change of Control (as defined below), as follows: If the effective date of the Change of Control occurs prior to the closing of the first sale of shares of capital stock of the Company to the public in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "***IPO***"), Executive's stock options (or other equity compensation) will accelerate vesting on a pro rata basis such that the vesting of fifty percent (50%) of shares subject to each vesting installment of Executive's stock options will be accelerated and become immediately vested and exercisable. The remainder of the shares subject to each of Executive's stock options (or other equity compensation) shall continue to vest pro rata in accordance with the vesting schedule applicable to each such option (or other equity compensation). If the effective date of the Change of Control occurs on or subsequent to the closing of the IPO, Executive shall receive immediate accelerated vesting and exercisability of one hundred percent (100%) of the then-unvested shares subject to each of Executive's outstanding stock options (or other equity compensation). The provisions of this Section 3.4 shall be contained in Executive's option agreements (or other equity compensation agreements) and although contingent upon Executive's continued employment with the Company, shall not be contingent upon the continued effectiveness of this Agreement.

3.5 Expense Reimbursements. The Company will reimburse Executive for all reasonable business expenses Executive incurs in conducting his duties hereunder, pursuant to the Company's usual expense reimbursement policies, but in no event later than thirty days after the end of the calendar month following the month in which such expenses were incurred by Executive; provided that Executive supplies the appropriate substantiation for such expenses no later than the end of the calendar month following the month in which such expenses were incurred by Executive. Reimbursable business expenses shall include reasonable, documented expenses for air travel in accordance with the Company's travel policies.

3.6 Changes to Compensation. Executive's compensation and benefits will be reviewed periodically (including the review of Executive's Base Salary at least annually as specified above) and may be changed from time to time at the sole discretion of the Compensation Committee subject to Section 4.6.3.

3.7 Employment Taxes. All of Executive's compensation shall be subject to customary withholding taxes and any other employment taxes as are commonly required to be collected or withheld by the Company.

3.8 Benefits. Executive shall, in accordance with Company policy and the terms of the applicable plan documents, be eligible to participate in benefits under any benefit plan or arrangement that may be in effect from time to time and made available to the Company's executive level employees.

3.9 Holidays and Vacation. Executive shall be eligible to accrue up to four (4) weeks of paid vacation per year and will receive paid Company holidays in accordance with Company policy. Vacation accrues pro rata throughout the year.

4. TERMINATION.

4.1 Termination by the Company. Executive's employment with the Company is at will and may be terminated by the Company at any time and for any reason, or for no reason, including, but not limited to, under the following conditions.

4.1.1 Termination by the Company for Cause. The Company may terminate Executive's employment under this Agreement for "Cause" (as defined below) at any time. Such termination shall be effective on the date Executive is so informed, or as otherwise specified by the Company.

4.1.2 Termination by the Company Without Cause. The Company may terminate Executive's employment under this Agreement without Cause at any time and for any reason, or for no reason. Such termination shall be effective on the date Executive is so informed, or as otherwise specified by the Company.

4.2 Termination by Resignation of Executive. Executive's employment with the Company is at will and may be terminated by Executive at any time and for any reason, or for no reason, including via resignation for Good Reason in accordance with the procedures set forth below.

4.3 Termination for Death or Complete Disability. Executive's employment with the Company shall automatically terminate effective upon the date of Executive's death or Complete Disability (as defined below).

4.4 Termination by Mutual Agreement of the Parties. Executive's employment with the Company may be terminated at any time upon a mutual agreement in writing of the Parties. Any such termination of employment shall have the consequences specified in such agreement.

4.5 Compensation Upon Termination.

4.5.1 Death or Complete Disability. If, during the Term of this Agreement, Executive's employment shall be terminated by death or Complete Disability, the Company shall pay to Executive, or to Executive's heirs, as applicable, Executive's accrued base salary, accrued and unused vacation benefits through the date of termination at the rate in effect at the time of termination, less standard deductions and withholdings. The Company shall thereafter have no further obligations to Executive and/or to Executive's heirs under this Agreement, except as otherwise provided by law.

4.5.2 Termination For Cause; Certain Resignations By Executive. If, at any time during the Term of this Agreement: (1) Executive's employment is terminated by the Company for Cause; or (2) Executive resigns his employment hereunder without Good Reason; then the Company shall pay Executive's accrued base salary, accrued and unused

vacation benefits through the date of termination at the rate in effect at the time of termination, less standard deductions and withholdings. The Company shall thereafter have no further obligations to Executive under this Agreement, except as otherwise provided by law.

4.5.3 Termination Without Cause and Resignation for Good Reason Other Than in Connection With a Change of Control. If, during the Term of this Agreement, the Company terminates Executive's employment without Cause or Executive resigns his employment hereunder for Good Reason at any time **other than** during the period that begins three (3) months prior to and ends twelve (12) months following the effective date of a Change of Control, the Company shall pay Executive's accrued base salary and accrued and unused vacation benefits earned through the date of termination, at the rate in effect at the time of termination, less standard deductions and withholdings. In addition, subject to the Executive: (a) furnishing to the Company an executed waiver and release of claims in the form attached hereto as **Exhibit A** (or in such other form as may be specified by the Company in order to comply with then-existing legal requirements to effect a valid release of claims) (the ***"Release and Waiver"***) within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination; (b) allowing the Release and Waiver to become effective in accordance with its terms; and (c) complying with, and continuing throughout the Severance Period (as defined below) to comply with, Executive's post-termination nonsolicitation and nondisparagement obligations as set forth in Sections 2.3 and 2.4, then Executive shall be entitled to the following (the "***Severance Package***"):

(i) a payment equal to six (6) months of Executive's base salary in effect at the time of termination, with such payment being made in a single lump sum on the sixtieth (60th) day subsequent to the termination of employment; and

(ii) a pro-rated portion of the Target Bonus for 2012 and future years that would have been paid to Executive, subject to achievement of the applicable corporate performance goals but without taking into account negative discretion, if he had been employed on the last day of the applicable fiscal year, to be paid in one lump sum payment within two and one-half (2 1/2) months following the end of the Company's fiscal year in which termination occurs; provided that Executive's payment pursuant to this section shall be pro-rated to six months of the applicable Target Bonus rather than an entire year; and

(iii) if Executive is eligible for and timely elects continued coverage under COBRA for himself and/or his eligible dependents under the Company's group health insurance plans following the termination of his employment, then the Company shall pay the COBRA premiums necessary to continue the health insurance coverage in effect for Executive and/or his eligible dependents as of the termination date, until the earliest of: (A) the close of the six month period starting on the termination date (the ***"Severance Period"***); (B) the expiration of Executive's eligibility for continuation coverage under COBRA; and (C) the date when Executive becomes eligible for substantially equivalent health insurance coverage in connection with new employment or self-employment (such period from the termination date through the earliest of (A) through (C), the "***COBRA Payment Period***"). If Executive becomes eligible for coverage under another employer's group health plan or through self-employment, or otherwise ceases to be eligible for COBRA coverage during the period provided in this section, Executive must immediately notify the Company of such event, and the Company's obligation to pay

COBRA premiums on Executive's behalf shall cease. Notwithstanding the foregoing, if at any time the Company determines, in its sole discretion, that its payment of COBRA premiums on Executive's behalf would result in a violation of applicable law (including, without limitation, Section 2716 of the Public Health Service Act), then in lieu of paying COBRA premiums on Executive's behalf, the Company will pay Executive on the last day of each remaining month of the COBRA Payment Period a fully taxable cash payment equal to the COBRA premium for that month, subject to applicable tax withholding (such amount, the "***Special Severance Payment***"), such Special Severance Payment to be made without regard to Executive's election of COBRA coverage or payment of COBRA premiums and without regard to the expiration of the COBRA Payment Period prior to six (6) months following the termination of Executive's employment. Such Special Severance Payment shall end on the earlier of (x) the date on which Executive commences other employment (including self-employment) and (y) the close of the Severance Period.

4.5.4 Termination Without Cause or Resignation For Good Reason In Connection With a Change of Control. If, during the Term of this Agreement, the Company terminates Executive's employment without Cause, or the Executive resigns his employment hereunder for Good Reason, at any time during the period that begins three (3) months prior to and ends twelve (12) months following the effective date of a Change of Control (the ***"Change of Control Period***"), then the Company shall pay Executive's accrued base salary and accrued and unused vacation benefits earned through the date of termination, at the rate in effect at the time of termination, less standard deductions and withholdings. In addition, subject to the Executive (a) furnishing to the Company an executed Release and Waiver within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination and (b) allowing the Release and Waiver to become effective in accordance with its terms, then, conditioned upon Executive's complying with, and continuing throughout the Severance Period to comply with, Executive's post-termination nonsolicitation and nondisparagement obligations as set forth in Sections 2.3 and 2.4, Executive shall be entitled to the Severance Package described above; provided however, that the entire Target Bonus for the year of termination shall be payable in lieu of a payment set forth pursuant to subparagraph (ii) of Section 4.5.3.

4.5.5 Additional Acceleration. Executive's stock options shall provide that if: (1) the Company terminates Executive's employment without Cause; or (2) Executive resigns his employment for Good Reason or following a material adverse change in Executive's Chief Technical Officer title or reporting relationships of persons reporting to Executive without Executive's consent ("***Adverse Change In Title***"), then, subject to the Executive: (a) furnishing to the Company an executed Release and Waiver within the time period specified therein, but in no event later than forty-five (45) days following Executive's termination; and (b) allowing the Release and Waiver to become effective in accordance with its terms, Executive shall receive immediate accelerated vesting of (x) twenty-five (25%) percent of the total shares subject to the Executive's stock options (or other equity awards) if termination of employment occurs (i) prior to the Change of Control Period or (ii) after the Change of Control Period and (in either case (i) or (ii)) within the first twelve (12) months of employment, and (y) one hundred percent (100%) of the then-unvested shares subject to each of Executive's outstanding stock options (or other equity awards) if termination of employment occurs during the Change of Control Period, but in the case of (y) only to the extent such acceleration has not already occurred pursuant to Section

3.4. In order to give effect to the foregoing provision, notwithstanding anything to the contrary set forth in the Plan or the applicable form of stock option agreement (or other equity agreement), none of Executive's unvested options (or other equity awards) shall terminate or be forfeited any earlier than three (3) months after any of the following occurrences during the Change of Control Period: (a) any termination of the Executive's employment without Cause; or (b) Executive's resignation for Good Reason or pursuant to an Adverse Change in Title. For the avoidance of doubt, if Executive's resignation is due to an Adverse Change in Title, but does not otherwise qualify as a resignation for Good Reason, Executive shall not be entitled to any of the severance benefits provided under Sections 4.5.3 or 4.5.4. The provisions of this Section 4.5.5 shall be contained in Executive's option agreements and although contingent upon Executive's continued employment with the Company, shall not be contingent upon the continued effectiveness of this Agreement.

4.6 Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

4.6.1 Complete Disability. A termination for ***"Complete Disability"*** shall occur: (i) when the Board has provided a written termination notice to Executive supported by a written statement from a reputable independent physician to the effect that Executive is or shall have become so physically or mentally incapacitated as to be unable to resume, within the ensuing six (6) months, his employment under this Agreement by reason of such physical or mental illness or injury; or (ii) upon rendering of a written termination notice by the Board after the Board determines, in its sole and complete discretion, that Executive has been unable to substantially perform his job duties hereunder for one hundred twenty (120) or more consecutive days, or more than eighty (80) days in any consecutive twelve (12) month period, by reason of any physical or mental illness or injury. For purposes of this Section, at the Company's request Executive agrees to make himself available and to cooperate in a reasonable examination by a reputable independent physician retained by the Company.

4.6.2 Cause. ***"Cause"*** for the Company to terminate Executive's employment hereunder shall mean the occurrence of any of the following events, as determined by the Company and/or the Board in its and/or their sole and absolute discretion:

(i) Executive's commission of any crime involving fraud, dishonesty or moral turpitude;

(ii) Executive's commission of or participation in a fraud or act of dishonesty against the Company that results in (or might have reasonably resulted in) material harm to the business of the Company;

(iii) Executive's intentional, material violation of any contract or agreement between Executive and the Company or any statutory duty Executive owes to the Company; or

(iv) Executive's conduct that constitutes gross insubordination, incompetence or habitual neglect of duties and that results in (or might have reasonably resulted in) material harm to the business of the Company;

Provided, however, that the action or conduct described in clauses (iii) and (iv) above will constitute "Cause" only if such action or conduct continues after the Company has provided Executive with written notice thereof and thirty (30) days to cure the same.

4.6.3 Good Reason. For purposes of this Agreement, and subject to the caveat at the end of this Section, "***Good Reason***" for Executive to terminate his employment hereunder shall mean the occurrence of any of the following events without Executive's consent:

(i) the assignment to Executive of any duties or responsibilities that results in a material diminution in Executive's authority, duties or responsibilities as in effect immediately prior to such reduction or a material diminution in the ability, duties or responsibilities of the person or persons to whom Executive is required to report; provided, however, that a change solely in Executive's title or reporting relationships of persons reporting to the Executive shall not by itself provide the basis for a voluntary termination with Good Reason;

(ii) a material reduction by the Company in Executive's annual base salary, as initially set forth herein or as increased thereafter; provided, however, that Good Reason shall not be deemed to have occurred in the event of a reduction in Executive's annual base salary that is pursuant to a salary reduction program affecting substantially all of the employees of the Company and that does not adversely affect Executive to a greater extent than other similarly situated employees;

(iii) a relocation of Executive's business office to a location more than fifty (50) miles from the location at which Executive performed Executive's duties immediately prior to the relocation, except for required travel by Executive on the Company's business to an extent substantially consistent with Executive's business travel obligations prior to the relocation; or

(iv) a material breach by the Company of this Agreement.

Provided, however, that, any such termination by Executive shall only be deemed for Good Reason pursuant to this definition if: (1) Executive gives the Company written notice of his intent to terminate for Good Reason within ninety (90) days following the first occurrence of the condition(s) that he believes constitute(s) Good Reason, which notice shall describe such condition(s); (2) the Company fails to remedy such condition(s) within thirty (30) days following receipt of the written notice (the "***Cure Period***"); and (3) Executive voluntarily terminates his employment within one hundred twenty (120) days following the end of the Cure Period.

4.6.4 Change of Control. For purposes of this Agreement, "Change of Control" shall mean the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events (excluding in any case transactions in which the Company or its successors issues securities to investors primarily for capital raising purposes):

(i) the acquisition by a third party of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities other than by virtue of a merger, consolidation or similar transaction;

(ii) a merger, consolidation or similar transaction following which the stockholders of the Company immediately prior thereto do not own at least fifty percent (50%)

of the combined outstanding voting power of the surviving entity (or that entity's parent) in such merger, consolidation or similar transaction;

(iii) the dissolution or liquidation of the Company; or

(iv) the sale, lease, exclusive license or other disposition of all or substantially all of the assets of the Company.

Provided, however, that any transaction or transactions effected solely for purposes of changing the Company's domicile will not constitute a Change of Control pursuant to the foregoing definition.

4.7 Survival of Certain Sections. Sections 2, 4, 5 through 13, 15 and 18 of this Agreement will survive the termination of this Agreement.

4.8 Parachute Payment. If any payment or benefit the Executive would receive pursuant to this Agreement (***"Payment"***) would (i) constitute a ***"Parachute Payment"*** within the meaning of Section 280G of the Internal Revenue Code (the ***"Code"***), and (ii) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the ***"Excise Tax"***), then such Payment shall be reduced to the Retained Amount. The ***"Retained Amount"*** shall be the greater of (x) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax or (y) the largest portion of the Payment, which such amount, after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in the Executive's receipt, on an after-tax basis, of the greatest economic benefit notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in payments or benefits constituting Parachute Payments is necessary so that the Payment equals the Retained Amount, reduction shall occur in the manner that results in the greatest economic benefit for Executive. If more than one method of reduction will result in the same economic benefit, the items so reduced will be reduced pro rata. Any reduction shall be made in the following manner: first a pro rata reduction of (i) cash payments subject to Section 409A of the Code as deferred compensation and (ii) cash payments not subject to Section 409A of the Code, and second a pro rata cancellation of (i) equity-based compensation subject to Section 409A of the Code as deferred compensation and (ii) equity-based compensation not subject to Section 409A of the Code. Reduction in either cash payments or equity compensation benefits shall be made pro rata between and among benefits which are subject to Section 409A of the Code and benefits which are exempt from Section 409A of the Code.

In the event it is subsequently determined by the Internal Revenue Service that some portion of the Retained Amount (as determined pursuant to clause (x) in the preceding paragraph) is subject to the Excise Tax, Executive agrees to promptly return to the Company a sufficient amount of the Payment so that no portion of the Retained Amount is subject to the Excise Tax. For the avoidance of doubt, if the Retained Amount is determined in accordance with clause (y) in the preceding paragraph, Executive will have no obligation to return any portion of the Payment pursuant to the preceding sentence.

Unless Executive and the Company agree on an alternative accounting, law or consulting firm, the accounting firm then engaged by the Company for general tax compliance purposes

shall perform the foregoing calculations. If the accounting firm so engaged by the Company is serving as accountant or auditor for the individual, entity or group effecting the Change in Control, the Company shall appoint a nationally recognized accounting, law or consulting firm to make the determinations required hereunder. The Company shall bear all expenses with respect to the determinations by such accounting, law or consulting firm required to be made hereunder.

The Company shall use commercially reasonable efforts such that the accounting, law or consulting firm engaged to make the determinations hereunder shall provide its calculations, together with detailed supporting documentation, to Executive and the Company within fifteen (15) calendar days after the date on which Executive's right to a Payment is triggered (if requested at that time by the Executive or the Company) or such other time as requested by the Executive or the Company.

4.9 Application of Internal Revenue Code Section 409A. Notwithstanding anything to the contrary herein, the following provisions apply to the extent severance benefits provided herein are subject to Section 409A of the Code and the regulations and other guidance thereunder and any state law of similar effect (collectively ***"Section 409A"***). Severance benefits shall not commence until Executive has a "separation from service" for purposes of Section 409A. For purposes of this Agreement, a termination of employment will be determined consistent with the rules relating to a "separation from service" as defined in Section 409A. Notwithstanding anything else provided herein, to the extent any payments provided under this Agreement in connection with Employee's termination of employment constitute deferred compensation subject to Section 409A, and Employee is deemed at the time of such termination of employment to be a "specified employee" under Section 409A, then such payment shall not be made or commence until the earlier of (i) the expiration of the 6-month period measured from Employee's separation from service from the Company or (ii) the date of Employee's death following such a separation from service; provided, however, that such deferral shall only be effected to the extent required to avoid adverse tax treatment to Employee including, without limitation, the additional tax for which Employee would otherwise be liable under Section 409A(a)(1)(B) in the absence of such a deferral. The first payment thereof will include a catch-up payment covering the amount that would have otherwise been paid during the period between Employee's termination of employment and the first payment date but for the application of this provision, and the balance of the installments (if any) will be payable in accordance with their original schedule. To the extent any payment under this Agreement may be classified as a "short-term deferral" within the meaning of Section 409A, such payment shall be deemed a short-term deferral, even if it may also qualify for an exemption from Section 409A under another provision of Section 409A. Payments pursuant to this Agreement are intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations. Except as otherwise expressly provided herein, to the extent any expense reimbursement or the provision of any in-kind benefit under this Agreement is determined to be subject to Section 409A, the amount of any such expenses eligible for reimbursement, or the provision of any in-kind benefit, in one calendar year shall not affect the expenses eligible for reimbursement in any other taxable year (except for any lifetime or other aggregate limitation applicable to medical expenses), in no event shall any expenses be reimbursed after the last day of the calendar year following the calendar year in which the Employee incurred such expenses, and in no event shall any right to reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

Executive shall receive severance benefits only if Executive executes and returns to the Company, within the applicable time period set forth above, the Release and Waiver, and permits the Release and Waiver to become effective in accordance with its terms (such latest permitted date, the ***"Release Deadline"***). If the severance benefits are not covered by one or more exemptions from the application of Section 409A and the Release and Waiver could become effective in the calendar year following the calendar year in which Executive separates from service, the Release and Waiver will not be deemed effective any earlier than the Release Deadline. None of the severance benefits will be paid or otherwise delivered prior to the effective date or deemed effective date of the Release and Waiver. Except to the minimum extent that payments must be delayed because Executive is a "specified employee" or until the effectiveness of the separation agreement, all amounts will be paid as soon as practicable in accordance with the Company's normal payroll practices.

The severance benefits are intended to qualify for an exemption from application of Section 409A or comply with its requirements to the extent necessary to avoid adverse personal tax consequences under Section 409A, and any ambiguities herein shall be interpreted accordingly.

5. CONFIDENTIAL AND PROPRIETARY INFORMATION.

As a condition of employment, Executive agrees to execute and abide by the Company's Proprietary Information and Inventions Agreement (***"PIIA"***).

6. ASSIGNMENT AND BINDING EFFECT.

This Agreement shall be binding upon and inure to the benefit of Executive and Executive's heirs, executors, personal representatives, assigns, administrators and legal representatives. Because of the unique and personal nature of Executive's duties under this Agreement, neither this Agreement nor any rights or obligations under this Agreement shall be assignable by Executive. This Agreement shall be binding upon and inure to the benefit of the Company and its successors, assigns and legal representatives. Any such successor of the Company will be deemed substituted for the Company under the terms of this Agreement for all purposes. For this purpose, "successor" means any person, firm, corporation or other business entity which at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets or business of the Company.

7. NOTICES.

All notices or demands of any kind required or permitted to be given by the Company or Executive under this Agreement shall be given in writing and shall be personally delivered (and receipted for) or faxed during normal business hours or mailed by certified mail, return receipt requested, postage prepaid, addressed to Company headquarters, or Executive's address of record on file with the Company, as applicable.

Any such written notice shall be deemed given on the earlier of the date on which such notice is personally delivered or three (3) days after its deposit in the United States mail as specified above. Either Party may change its address for notices by giving notice to the other Party in the manner specified in this Section.

8. CHOICE OF LAW.

This Agreement shall be construed and interpreted in accordance with the internal laws of the State of California without regard to its conflict of laws principles.

9. INTEGRATION.

This Agreement, including the PIIA, contains the complete, final and exclusive agreement of the Parties relating to the terms and conditions of Executive's employment and the termination of Executive's employment, and supersedes all prior and contemporaneous oral and written employment agreements or arrangements between the Parties.

10. AMENDMENT.

This Agreement cannot be amended or modified except by a written agreement signed by Executive and the Company.

11. WAIVER.

No term, covenant or condition of this Agreement or any breach thereof shall be deemed waived, except with the written consent of the Party against whom the wavier is claimed, and any waiver or any such term, covenant, condition or breach shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other term, covenant, condition or breach.

12. SEVERABILITY.

The finding by a court of competent jurisdiction of the unenforceability, invalidity or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid or illegal. Such court shall have the authority to modify or replace the invalid or unenforceable term or provision with a valid and enforceable term or provision, which most accurately represents the Parties' intention with respect to the invalid or unenforceable term, or provision.

13. INTERPRETATION; CONSTRUCTION.

The headings set forth in this Agreement are for convenience of reference only and shall not be used in interpreting this Agreement. This Agreement has been drafted by legal counsel representing the Company, but the Executive has been encouraged to consult with Executive's own independent counsel and tax advisors with respect to the terms of this Agreement. The Parties acknowledge that each Party and its counsel has reviewed and revised, or had an opportunity to review and revise, this Agreement, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

14. REPRESENTATIONS AND WARRANTIES.

Executive represents and warrants that Executive is not restricted or prohibited, contractually or otherwise, from entering into and performing each of the terms and covenants contained in this Agreement, and that Executive's execution and performance of this Agreement will not violate or breach any other agreements between the Executive and any other person or entity.

15. COUNTERPARTS.

This Agreement may be executed in two counterparts, each of which shall be deemed an original, all of which together shall contribute one and the same instrument.

16. INDEMNIFICATION.

Following the Employment Commencement Date, Executive shall sign the Company's standard form of indemnification agreement.

17. TRADE SECRETS OF OTHERS.

It is the understanding of both the Company and Executive that Executive shall not divulge to the Company and/or its subsidiaries any confidential information or trade secrets belonging to others, including Executive's former employers, nor shall the Company and/or its Affiliates seek to elicit from Executive any such information. Consistent with the foregoing, Executive shall not provide to the Company and/or its Affiliates, and the Company and/or its Affiliates shall not request, any documents or copies of documents containing such information.

18. ADVERTISING WAIVER.

Executive agrees to permit the Company, and persons or other organizations authorized by the Company, to use, publish and distribute advertising or sales promotional literature concerning the products and/or services of the Company, or the machinery and equipment used in the provision thereof, in which Executive's name and/or pictures of Executive taken in the course of Executive's provision of services to the Company appear. Executive hereby waives and releases any claim or right Executive may otherwise have arising out of such use, publication or distribution.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

SERVICE-NOW.COM

By: /s/ Frank Slootman

FRANK SLOOTMAN, CEO

Dated: August 15, 2011

EXECUTIVE:

/s/ Arne Josefsberg

ARNE JOSEFSBERG

Dated: 8/12/11

EXHIBIT A

RELEASE AND WAIVER OF CLAIMS

TO BE SIGNED ON OR FOLLOWING THE SEPARATION DATE ONLY

In consideration of the payments and other benefits set forth in the Employment Agreement of August , 2011, to which this form is attached, I, Arne Josefsberg, hereby furnish **SERVICE-NOW.COM** (the ***"Company"***), with the following release and waiver (***"Release and Waiver"***).

In exchange for the consideration provided to me by the Employment Agreement that I am not otherwise entitled to receive, I hereby generally and completely release the Company and its current and former directors, officers, employees, stockholders, partners, agents, attorneys, predecessors, successors, parent and subsidiary entities, insurers, affiliates, and assigns (collectively, the "***Released Parties***") from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to or on the date that I sign this Agreement (collectively, the "***Released Claims***"). The Released Claims include, but are not limited to: (a) all claims arising out of or in any way related to my employment with the Company, or the termination of that employment; (b) all claims related to my compensation or benefits from the Company including salary, bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company; (c) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (d) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (e) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, misclassification, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990, the federal Age Discrimination in Employment Act of 1967 (as amended) (the "***ADEA***"), the California Labor Code, and the California Fair Employment and Housing Act (as amended). Notwithstanding the foregoing, the following are not included in the Released Claims (the "***Excluded Claims***"): (a) any rights or claims for indemnification I may have pursuant to any written indemnification agreement or fiduciary insurance policy with the Company to which I am a party with respect to which I am an insured party, the charter, bylaws, or operating agreements of the Company, or under applicable law; (b) any rights or claims to unemployment compensation, funds accrued in my 401k account, or any vested equity incentives; (c) any rights that are not waivable as a matter of law; or (d) any claims arising from the breach of this Agreement. I hereby represent and warrant that, other than the Excluded Claims, I am not aware of any claims I have or might have against any of the Released Parties that are not included in the Released Claims.

I also acknowledge that I have read and understand Section 1542 of the California Civil Code which reads as follows: "**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**" I hereby expressly waive and relinquish all rights and benefits under that

Section and any law of any jurisdiction of similar effect with respect to any claims I may have against the Company.

I acknowledge that, among other rights, I am waiving and releasing any rights I may have under ADEA, that this Release and Waiver is knowing and voluntary, and that the consideration given for this Release and Waiver is in addition to anything of value to which I was already entitled as an executive of the Company. If I am 40 years of age or older upon execution of this Release and Waiver, I further acknowledge that I have been advised, as required by the Older Workers Benefit Protection Act, that: (a) the release and waiver granted herein does not relate to claims under the ADEA which may arise after this Release and Waiver is executed; (b) I should consult with an attorney prior to executing this Release and Waiver; and (c) I have twenty-one (21) days from the date of termination of my employment with the Company in which to consider this Release and Waiver (although I may choose voluntarily to execute this Release and Waiver earlier); (d) I have seven (7) days following the execution of this Release and Waiver to revoke my consent to this Release and Waiver; and (e) this Release and Waiver shall not be effective until the seven (7) day revocation period has expired without my having previously revoked this Release and Waiver.

I acknowledge my continuing obligations under my Proprietary Information and Inventions Agreement. Pursuant to the Proprietary Information and Inventions Agreement I understand that among other things, I must not use or disclose any confidential or proprietary information of the Company and I must immediately return all Company property and documents (including all embodiments of proprietary information) and all copies thereof in my possession or control. I understand and agree that my right to the severance pay I am receiving in exchange for my agreement to the terms of this Release and Waiver is contingent upon my continued compliance with my Proprietary Information and Inventions Agreement.

This Release and Waiver constitutes the complete, final and exclusive embodiment of the entire agreement between the Company and me with regard to the subject matter hereof. I am not relying on any promise or representation by the Company that is not expressly stated herein. This Release and Waiver may only be modified by a writing signed by both me and a duly authorized officer of the Company.

Date: _____ By: _____

Arne Josefsberg

Exhibit 10.10

OFFICE LEASE

KILROY REALTY

CARMEL VALLEY CORPORATE CENTER

KILROY REALTY, L.P.,

a Delaware corporation,

as Landlord,

and

SERVICE-NOW.COM,

a California corporation,

as Tenant.

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CARMEL VALLEY CORPORATE CENTER

OFFICE LEASE

This Office Lease (the "**Lease**"), dated as of the date set forth in Section 1 of the Summary of Basic Lease Information (the "**Summary**"), below, is made by and between KILROY REALTY, L.P., a Delaware limited partnership ("**Landlord**"), and SERVICE-NOW.COM, a California corporation ("**Tenant**").

SUMMARY OF BASIC LEASE INFORMATION

TERMS OF LEASE	DESCRIPTION
1. Date:	August 27, 2010.
2. Premises:	
2.1 Building:	That certain two (2)-story office building containing approximately 60,480 rentable square feet of space, located and addressed at 12225 El Camino Real, San Diego, California 92130 (the "**Building**").
2.2 Premises:	Approximately 36,480 rentable square feet of space located on the first (1st) and second (2nd) floors of the Building comprised of (*i*) approximately 6,311 rentable square feet of space located on the first (1st) floor of the Building and commonly known as Suite 100, and (*ii*) approximately 30,169 rentable square feet of space located on the second (2nd) floor of the Building and commonly known as Suite 200, each as further identified in **Exhibit A** to this Lease.
2.3 Project:	The Building is part of an office project known as "***Carmel Valley Corporate Center***," as further set forth in Section 1.1.2 of this Lease.
3. Lease Term (Article 2):	
3.1 Length of Term:	Eight (8) years and zero (0) months.
3.2 Lease Commencement Date:	The earlier to occur of (i) the date upon which Tenant first commences to conduct business in the Premises, or (ii) February 1, 2011.

3.3 Lease Expiration Date: The last day of the calendar month in which the eighth (8th) anniversary of the Lease Commencement Date occurs; provided, however, to the extent the Lease Commencement Date occurs on the first day of a calendar month, then the Lease Expiration Date shall be the day immediately preceding the eighth (8th) anniversary of the Lease Commencement Date.

3.4 Option Term: One (1), five (5)-year option to renew, as more particularly set forth in Section 2.2 of this Lease.

4. Base Rent (Article 3):

Period During Lease Term	Annual Base Rent**	Monthly Installment of Base Rent**	Monthly Rental Rate per Rentable Square Foot**
Months 1 – 12*	$1,181,952.00	$ 98,496.00	$ 2.70
Months 13 – 24	$1,217,410.56	$101,450.88	$ 2.78
Months 25 – 36	$1,253,932.88	$104,494.41	$ 2.86
Months 37 – 48	$1,291,550.86	$107,629.24	$ 2.95
Months 49 – 60	$1,330,297.39	$110,858.12	$ 3.04
Months 61 – 72	$1,370,206.31	$114,183.86	$ 3.13
Months 73 – 84	$1,411,312.50	$117,609.37	$ 3.22
Months 85 – 96	$1,453,651.87	$121,137.66	$ 3.32

* Subject to abatement pursuant to Section 3.2, below.

** The initial Annual Base Rent (and Monthly Installment of Base Rent) for the entire Premises was calculated by multiplying the initial Monthly Rental Rate per Rentable Square Foot by the number of rentable square feet of space in the Premises. In all subsequent Lease Years, the calculation of Annual Base Rent (and Monthly Installment of Base Rent) reflects an annual increase of three percent (3%).

5. Base Year (Article 4): Calendar year 2011.

6. Tenant's Share (Article 4): Approximately 60.3175%.

7. Permitted Use (Article 5):	Tenant shall use the Premises solely for general office use and uses incidental thereto (the "**Permitted Use**"); provided, however, that notwithstanding anything to the contrary set forth hereinabove, and as more particularly set forth in the Lease, Tenant shall be responsible for operating and maintaining the Premises pursuant to, and in no event may Tenant's Permitted Use violate, (A) Landlord's "Rules and Regulations," as that term is set forth in Section 5.2 of this Lease, (B) all "Applicable Laws" (as that term is set forth in Article 24 of this Lease), (C) all applicable zoning, building codes and the "CC&Rs" (as that term is set forth in Section 5.3 of this Lease), and (D) the character of the Project as a first-class office building Project.
8. Security Deposit (Article 21):	$121,137.66.
9. Intentionally Omitted	
10. Parking Pass Ratio (Article 28):	Three point eight (3.8) unreserved parking passes for every 1,000 rentable square feet of the Premises (*i.e.*, a total of one hundred thirty nine (139) unreserved parking passes), of which twelve (12) of such foregoing unreserved parking passes may be used for reserved parking spaces.
11. Address of Tenant (Section 29.18):	Service-now.com 120 S. Sierra Avenue Solana Beach, California 92075 Attention: Andrew Chedrick, CFO (Prior to and Commencement Date) *with a copy to*: with a copy to: Service-now.com 12225 El Camino Real, Suite 200 San Diego, California 92130 Attention: Andrew Chedrick, CFO (After Lease Commencement Date)

12. Address of Landlord (Section 29.18):	See Section 29.18 of this Lease.
13. Brokers (Section 29.24):	
Representing Tenant: Mr. Craig S. Knox Irving Hughes 655 West Broadway, Suite 1650 San Diego, California 92101	*Representing Landlord*: Justin Halenza Robert Kuzman Grubb & Ellis / BRE Commercial 4350 La Jolla Village Drive, Suite 500 San Diego, California 92122
14. Improvement Allowance (Section 2 of **Exhibit B**)	One Million Eight Hundred Twenty-Four Thousand and 00/100 Dollars ($1,824,000.00) (*i.e.*, Fifty and 00/100 Dollars ($50.00) per each of the rentable square feet located within the Premises).

ARTICLE 1

PREMISES, BUILDING, PROJECT, AND COMMON AREAS

1.1 **Premises, Building, Project and Common Areas**.

1.1.1 **The Premises**. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the premises set forth in Section 2.2 of the Summary (the "**Premises**"). The outline of the Premises is set forth in **Exhibit A** attached hereto and each floor or floors of the Premises shall have approximately the number of rentable square feet as set forth in Section 2.2 of the Summary. The parties hereto agree that the lease of the Premises is upon and subject to the terms, covenants and conditions (the "**TCCs**") herein set forth, Landlord and Tenant each covenant as a material part of the consideration for this Lease to keep and perform each and all of such TCCs by it to be kept and performed and that this Lease is made upon the condition of such performance. The parties hereto hereby acknowledge that the purpose of **Exhibit A** is to show the approximate location of the Premises in the "Building" (as that term is defined in Section 1.1.2, below), only, and such **Exhibit A** is not meant to constitute an agreement, representation or warranty as to the construction of the Premises, the precise area thereof or the specific location of the "Common Areas" (as that term is defined in Section 1.1.3, below), or the elements thereof or of the accessways to the Premises or the "Project" (as that term is defined in Section 1.1.2, below). Except as specifically set forth in this Lease and in the Work Letter attached hereto as **Exhibit B** (the "**Work Letter**"), Landlord shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Premises. Tenant also acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty regarding the condition of the Premises, the Building or the Project or with respect to the suitability of any of the foregoing for the conduct of Tenant's business, except as specifically set forth in this Lease and the Work Letter. The taking of possession of the Premises by Tenant shall conclusively establish that the Premises and the Building were at such time in good and sanitary order, condition and repair, subject only to (i) the last two (2) sentences of this Section 1.1.1, (ii) punchlist items provided to Landlord in writing within thirty (30) days following Landlord's delivery of the Premises to Tenant, (iii) latent defects to the extent identified and, thereafter, promptly communicated to Landlord, during the first twelve (12) months of the Lease Term, and (iv) Landlord's ongoing obligations set forth in Sections 1.1.3 and 29.33, and Articles 7 and 24 of this Lease. Notwithstanding anything to the contrary set forth in this Lease, Landlord shall, at Landlord's sole cost and expense, deliver the Premises to Tenant with the roof, and all "Building Systems" (as that term is defined in Article 7, below) serving and within the Premises, in good working condition, and Landlord covenants that (A) such that the Building Systems have recently been operated, (B) such Building Systems have been regularly serviced, and (C) such Building Systems and the Building's roof have a remaining useful life extending beyond the initial ninety-six (96) month Lease Term (and if any of the same need to be replaced during the initial ninety-six (96) month Lease Term for any reason other than Tenant's over-standard use of the same or Tenant's failure to properly maintain the same in accordance with Section 6.2 of this Lease, the cost shall be paid by Landlord and not included in Operating Expenses). If, within the first twelve (12) months of the initial Lease Term, it is discovered that Landlord failed to deliver the Premises in compliance with the obligations listed in the immediately preceding sentence, then Landlord shall, at its sole cost and expense, make any repairs and/or replacements necessary to put the Building Systems in

the condition required by the immediately preceding sentence, which repair and/or replacement work may be performed concurrently with Tenant's construction of the "Improvements" (as that term is defined in Work Letter). To the current actual knowledge of Mrs. Kathleen Bristol (Landlord's Asset Manager with respect to the Project), without any duty of investigation or any duty of inquiry, as of the date of this Lease, Landlord has not received from applicable governmental agencies any written notice of violation or violations (or claim thereof) with regard to the Premises or the Building and relating to Applicable Laws, or applicable zoning, ordinances, building codes or CC&R's existing as of the date of this Lease.

1.1.2 **The Building and The Project**. The Premises are a part of the building set forth in Section 2.1 of the Summary (the "**Building**"). The Building is part of an office project known as "*Carmel Valley Corporate Center*" an outline of which is attached hereto, and made a part hereof, as **Exhibit A-1**. The parties hereto hereby acknowledge that the only purpose of **Exhibit A-1** is to show the approximate location of the Building within the Project. The term "**Project**," as used in this Lease, shall mean (i) the Building and the Common Areas, (ii) the land (which is improved with landscaping, parking facilities and other improvements) upon which the Building and the Common Areas are located, and (iii) the other office building located adjacent to the Building and the land upon which such adjacent office building is located.

1.1.3 **Common Areas**. Tenant shall have the non-exclusive right to use in common with other tenants in the Project, and subject to the rules and regulations referred to in Article 5 of this Lease, those portions of the Project which are provided, from time to time, for use in common by Landlord, Tenant and any other tenants of the Project (such areas, together with such other portions of the Project designated by Landlord, in its reasonable discretion, including certain areas designated for the exclusive use of certain tenants, or to be shared by Landlord and certain tenants, are collectively referred to herein as the "**Common Areas**"). The Common Areas shall consist of the "**Project Common Areas**" and the "**Building Common Areas**." The term "**Project Common Areas**," as used in this Lease, shall mean the portion of the Project designated as such by Landlord. The term "**Building Common Areas**," as used in this Lease, shall mean the portions of the Common Areas located within the Building designated as such by Landlord. The manner in which the Common Areas are maintained and operated shall be at the reasonable discretion of Landlord (but at all times in a manner consistent with a first-class office project) and the use thereof shall be subject to such rules, regulations and restrictions as Landlord may make from time to time, provided that such rules, regulations and restrictions do not unreasonably interfere with the rights granted to Tenant under this Lease and the permitted use granted under Section 5.1, below. Landlord reserves the right to close temporarily, make alterations or additions to, or change the location of elements of the Project and the Common Areas; provided that no such changes shall be permitted which materially reduce Tenant's rights or access hereunder. Except when and where Tenant's right of access is specifically excluded in this Lease, Tenant shall have the right of access to the Premises, the Building, and the Project parking facility twenty-four (24) hours per day, seven (7) days per week during the "Lease Term," as that term is defined in Section 2.1, below.

1.2 **Verification of Rentable Square Feet of Premises and Building**. For purposes of this Lease, "rentable square feet" and "usable square feet" shall be calculated pursuant to Office Building: Methods of Measurement and Calculating Rentable Area – 2010 (Method B), and its accompanying guidelines (collectively, "**BOMA**"). Within thirty (30) days after the

Lease Commencement Date, Landlord's space planner/architect shall measure the rentable and usable square feet of the Premises in accordance with the provisions of this Section 1.2 and the results thereof shall be presented to Tenant in writing. Tenant's space planner/architect may review Landlord's space planner/architect's determination of the number of rentable square feet and usable square feet of the Premises and Tenant may, within fifteen (15) business days after Tenant's receipt of Landlord's space planner/architect's written determination, object to such determination by written notice to Landlord. Tenant's failure to deliver written notice of such objection within said fifteen (15) business day period shall be deemed to constitute Tenant's acceptance of Landlord's space planner/architect's determination. If Tenant objects to such determination, Landlord's space planner/architect and Tenant's space planner/architect shall promptly meet and attempt to agree upon the rentable and usable square footage of the Premises. If Landlord's space planner/architect and Tenant's space planner/architect cannot agree on the rentable and useable square footage of the Premises within thirty (30) days after Tenant's objection thereto, Landlord and Tenant shall mutually select an independent third party space measurement professional to field measure the Premises pursuant to BOMA. Such third party independent measurement professional's determination shall be conclusive and binding on Landlord and Tenant. Landlord and Tenant shall each pay one-half (1/2) of the fees and expenses of the independent third party space measurement professional. If the Lease Term commences prior to such final determination, Landlord's determination shall be utilized until a final determination is made, whereupon an appropriate adjustment, if necessary, shall be made retroactively, and Landlord shall make appropriate payment (if applicable) to Tenant. In the event that pursuant to the procedure described in this Section 1.2 above, it is determined that the square footage amounts shall be different from those set forth in this Lease, all amounts, percentages and figures appearing or referred to in this Lease based upon such incorrect amount (including, without limitation, the amount of the "Rent" and any "Security Deposit," as those terms are defined in Section 4.1 and Article 21 of this Lease, respectively) shall be modified in accordance with such determination. If such determination is made, it will be confirmed in writing by Landlord to Tenant

1.3 **Right of First Refusal**. Landlord hereby grants to the Tenant originally named herein (the "**Original Tenant**") and its "Permitted Transferees" (as that term is defined in Section 14.8 of this Lease), subject to the terms of this Section 1.3, an ongoing right of refusal, during the initial ninety-six (96) month Lease Term only, with respect to that certain space located on the first (1st) floor of the Building and commonly known as Suite 125 (the "**First Refusal Space**"). Notwithstanding any provision to the contrary contained in this Section 1.3, Tenant's right of first refusal under this Section 1.3 shall be subject and subordinate to (i) the rights of the existing tenant of the First Refusal Space (specifically including such tenant's right to renew its current lease term with regard to the First Refusal Space), as more particularly identified in the lease between Landlord and such existing tenant as of the date of this Lease, and (ii) the rights of those tenants (i.e., "Third Party Tenants" [as that term is defined in Section 1.3.1.2 below]) leasing the First Refusal Space following Tenant's failure to lease such space after the Tenant has received a First Refusal Notice related thereto (specifically including such tenants' rights to renew its lease term with regard to the

corresponding First Refusal Space, provided that the right to renew is [A] documented in the lease between Landlord and such tenant, and [B] materially consistent with the description thereof set forth in the First Refusal Notice [as that term is defined in Section 1.3.1.1 below] (the "**Superior Rights**")..

1.3.1 **Procedure for Lease**.

1.3.1.1 **Procedure for Offer**. Landlord shall notify Tenant (the "**First Refusal Notice**") from time-to-time when and if Landlord receives a "bona-fide third-party offer" for the First Refusal Space. Pursuant to such First Refusal Notice, Landlord shall offer to lease to Tenant the applicable First Refusal Space. The First Refusal Notice shall describe the First Refusal Space, and the lease term, rent and other fundamental economic terms and conditions upon which Landlord proposes to lease such First Refusal Space pursuant to the bona-fide third-party offer. For purposes of this Section 1.3, a "**bona-fide third-party offer**" shall mean a counter-offer received by Landlord to lease First Refusal Space from an unaffiliated and qualified third party (including any then-existing tenant, except to the extent of a Superior Right) which Landlord would otherwise be willing to accept (or an acceptance of lease terms offered by Landlord to a third party, where there is no counter offer). For purposes of example only, the following would each constitute a bona-fide third-party offer:

(a) Landlord receives a request for proposal from an unaffiliated and qualified third party. Landlord responds to the request for proposal with a lease proposal and subsequently receives a written bona-fide counter proposal from the unaffiliated and qualified third party (or the third-party accepts Landlord's proposal).

(b) Landlord receives a written offer to lease from an unaffiliated and qualified third party. Landlord responds to the offer with a written counter offer and subsequently receives a bona-fide counter to Landlord's counter offer from the unaffiliated and qualified third party (or the third-party accepts Landlord's proposal).

1.3.1.2 **Procedure for Acceptance**. If Tenant wishes to exercise Tenant's right of first refusal with respect to the First Refusal Space described in the First Refusal Notice, then within five (5) business days of delivery of the First Refusal Notice to Tenant, Tenant shall deliver notice to Landlord of Tenant's exercise of its right of first refusal with respect to all of the First Refusal Space described in the First Refusal Notice at the rent, for the term and upon the other fundamental economic terms and conditions contained in such First Refusal Notice, including, but not limited to rental concessions and improvement allowances. If Tenant does not so notify Landlord within such five (5) business day period of Tenant's exercise of its first refusal right, then Landlord shall be free to negotiate and enter into a lease for the First Refusal Space to anyone whom it desires on the net-effective economic terms and the fundamental non-economic terms which are no more than ten percent (10%) more beneficial to such party than those set forth in the First Refusal Notice. In the event Landlord does not lease such First Refusal Space pursuant to the foregoing sentence within a period of ninety (90) days commencing upon the expiration of the five (5) business day period, after which time, Tenant's rights to such space under this Section 1.3 shall renew. Notwithstanding the foregoing, Tenant's ongoing right of first refusal shall be subordinate to all Superior Rights. After Landlord enters into any lease of First Refusal Space ("**Third Party Lease**") to any such third party ("**Third Party Tenant**") in accordance with the foregoing, Tenant's rights under this Section 1.3 shall be subordinate to the rights of the tenant under the Third Party Lease with respect to the First Refusal Space (including any renewal, extension or expansion rights of a Third Party Tenant set forth in the applicable Third Party Lease, regardless of whether such renewal, extension or

expansion rights are executed strictly in accordance with their terms, or pursuant to a lease amendment or a new lease).

1.3.2 **Amendment to Lease**. If Tenant timely exercises Tenant's right of first refusal to lease First Refusal Space as set forth herein, Landlord and Tenant shall within thirty (30) days thereafter execute an amendment to this Lease (the "**First Refusal Space Amendment**") for such First Refusal Space upon the terms set forth in the First Refusal Notice, including, but not limited to rent (the "**First Refusal Space Rent**"), but otherwise upon the TCCs set forth in this Lease and this Section 1.3. Notwithstanding the foregoing, Landlord may, at its sole option, require that a separate lease be executed by Landlord and Tenant in connection with Tenant's lease of the First Refusal Space, in which event such lease (the "**First Refusal Space Lease**") shall be on the same TCCs as this Lease, except as provided in this Section 1.3 and specifically in this Lease to the contrary. The First Refusal Lease, if applicable, shall be executed by Landlord and Tenant within thirty (30) days following Tenant's exercise of its right to lease the First Refusal Space; provided Landlord has delivered such lease to Tenant conforming to the requirements identified herein above. Notwithstanding anything to the contrary in this Section 1.3.2, an otherwise valid exercise of Tenant's right of first refusal shall be of full force and effect irrespective of whether the First Refusal Space Amendment or a First Refusal Space lease is timely signed by Landlord and Tenant (*i.e.* the act of Tenants election to so exercise shall bind the parties).

1.3.3 **No Defaults; Required Financial Condition of Tenant**. The rights contained in this Section 1.3 shall be personal to the Original Tenant and its Permitted Transferees and may only be exercised by the Original Tenant or a Permitted Transferee (and not any other assignee, sublessee or other transferee of the Original Tenant's interest in this Lease) to the extent the Original Tenant and/or such Permitted Transferee occupy or otherwise retain their occupancy rights (even if not then occupying the same) for at least seventy-five percent (75%) of the then existing Premises (*i.e.*, other than to a Permitted Transferee, this Lease has not been assigned or transferred, nor has a subtenant (or subtenants) subleased more than a total of twenty-five percent (25%) of the then existing Premises). The right to lease the First Refusal Space as provided in this Section 1.3 may not be exercised if, as of the date Tenant attempts to exercise its right of first refusal with respect to the First Refusal Space described in the First Refusal Notice, or as of the scheduled date of delivery of such First Refusal Space to Tenant, (A) Tenant is in economic or material non-economic default pursuant to the terms of this Lease (beyond any applicable notice and cure periods), and (B) Tenant has previously been in economic or material non-economic default under this Lease (beyond any applicable notice and cure periods) on more than three (3) occasions during the previous twenty-four (24) month period.

1.3.4 **First Refusal Space Commencement Date; Construction in First Refusal Space**. The commencement date for the First Refusal Space shall be the date set forth in the First Refusal Notice (the "**First Refusal Space Commencement Date**"), and shall thereafter expire as further provided in the First Refusal Notice (the "**First Refusal Space Expiration Date**"). The period of time commencing on the First Refusal Space Commencement Date and ending on the First Refusal Space Expiration Date shall be referred to herein as the "**Refusal Space Lease Term**." Except as otherwise set forth in the First Refusal Notice, Tenant shall take

the First Refusal Space in its "as is" condition, and the construction of improvements in the First Refusal Space shall comply with the terms of Article 8 of this Lease.

1.3.5 **Continuation of First Refusal Right**. Tenant's right of first refusal set forth in this Section 1.3 shall continue throughout the initial ninety-six (96) month Lease Term.

ARTICLE 2

LEASE TERM; OPTION TERM; TERMINATION OPTION

2.1 **Initial Lease Term**. The TCCs and provisions of this Lease shall be effective as of the date of this Lease. The term of this Lease (the "**Lease Term**") shall be as set forth in Section 3.1 of the Summary, shall commence on the date set forth in Section 3.2 of the Summary (the "**Lease Commencement Date**"), and shall terminate on the date set forth in Section 3.3 of the Summary (the "**Lease Expiration Date**") unless this Lease is sooner terminated as hereinafter provided. For purposes of this Lease, the term "**Lease Year**" shall mean each consecutive twelve (12) month period during the Lease Term; provided, however, that, if the Lease Commencement Date is any day other than the first (1st) day of a calendar month, then the first Lease Year shall commence on the Lease Commencement Date and end on the last day of the month in which the first anniversary of the Lease Commencement Date occurs and the second and each succeeding Lease Year shall commence on the first day of the next calendar month; and further provided that the last Lease Year shall end on the Lease Expiration Date. Within the first twelve (12) months of the Lease Term, Landlord shall deliver to Tenant a notice in the form as set forth in **Exhibit C**, attached hereto, as a confirmation only of the information set forth therein, which Tenant shall execute and return to Landlord within ten (10) business days of receipt thereof.

2.2 **Option Term**.

2.2.1 **Option Right**. Landlord hereby grants the Original Tenant and its "Permitted Transferees" (as that term is set forth in Section 14.8 of this Lease), one (1) option to extend the Lease Term for the entire Premises, by a period of five (5) years (the "**Option Term**"). Such option shall be exercisable only by Notice delivered by Tenant to Landlord as provided below, provided that, as of the date of delivery of such Notice, (i) Tenant is not then in economic or material non-economic default under this Lease (beyond the applicable notice and cure periods), (ii) Tenant has not been in economic or material non-economic default under this Lease (beyond the applicable notice and cure periods) more than once during the prior twelve (12) month period, and (iii) Tenant has not been in economic or material non-economic default under this Lease (beyond the applicable notice and cure periods) more than three (3) times during any five (5) year period. Upon the proper exercise of such option to extend, and provided that, as of the end of the then applicable Lease Term, (A) Tenant is not in economic or material non-economic default under this Lease (beyond the applicable notice and cure periods), (B) Tenant has not been in economic or material non-economic default under this Lease (beyond the applicable notice and cure periods) more than once during the prior twelve (12) month period, and (C) Tenant has not been in economic or material non-economic default under this Lease (beyond the applicable notice and cure periods) more than three (3) times during the Lease Term, then the Lease Term, as it applies to the entire Premises, shall be extended for a period of

five (5) years. The rights contained in this Section 2.2 shall only be exercised by the Original Tenant or its Permitted Transferee (and not any other assignee, sublessee or other transferee of the Original Tenant's interest in this Lease) to the extent Original Tenant and/or such Permitted Transferee occupy or otherwise retain their occupancy rights (even if not then occupying the same) for at least seventy-five percent (75%) of the then existing Premises (*i.e.*, other than to a Permitted Transferee, this Lease has not been assigned or transferred, nor has a subtenant (or subtenants) subleased more than a total of twenty-five percent (25%) of the then existing Premises).

2.2.2 **Option Rent**. The Rent payable by Tenant during the Option Term (the "**Option Rent**") shall be equal to the "Market Rent" (as that term is defined in **Exhibit G**, attached hereto and made a part hereof); provided, however, that the Market Rent for each Lease Year during the Option Term, shall be equal to the amount set forth on a "Market Rent Schedule" (as that term is defined hereinbelow). The "**Market Rate Schedule**" shall be derived from the Market Rent for the Option Term as determined pursuant to **Exhibit G**, attached hereto, as follows: (i) the Option Rent for the first Lease Year of the Option Term shall be equal to the Market Rent, as determined pursuant to **Exhibit G** (inclusive of any adjustment for any Renewal Allowance to be provided to Tenant, as more particularly detailed in Section 3 of **Exhibit G** to this Lease), and (ii) the Option Rent for each subsequent Lease Year shall increase annually as determined to be consistent with annual increases for Comparable Transactions. The calculation of the Market Rent shall be derived from a review of, and comparison to, the "Net Equivalent Lease Rates" of the "Comparable Transactions" (as those terms are defined in **Exhibit G**).

2.2.3 **Exercise of Option**. The option contained in this Section 2.2 shall be exercised by Tenant, if at all, only in the manner set forth in this Section 2.2.3. Tenant shall deliver notice (the "**Intent Notice**") to Landlord not more than twelve (12) nor less than ten (10) months prior to the expiration of the initial Lease Term, stating that Tenant intends to exercise its option. Concurrently with such Exercise Notice, Tenant shall deliver to Landlord Tenant's calculation of the Market Rent (the "**Tenant's Option Rent Calculation**"). Landlord shall deliver notice (the "**Landlord Response Notice**") to Tenant on or before the date which is thirty (30) days after Landlord's receipt of the Exercise Notice and Tenant's Option Rent Calculation (the "**Landlord Response Date**"), stating that (A) Landlord is accepting Tenant's Option Rent Calculation as the Market Rent, or (B) rejecting Tenant's Option Rent Calculation and setting forth Landlord's calculation of the Market Rent (the "**Landlord's Option Rent Calculation**"). Within ten (10) business days of its receipt of the Landlord Response Notice, Tenant shall deliver written notice to Landlord (the "**Exercise Notice**"), which shall set forth Tenant's election to either (i) rescind its Intent Notice, in which event the Lease Term shall expire as then-currently scheduled, and the Option shall terminate, (ii) affirm the Intent Notice and may, at its option, accept the Market Rent contained in the Landlord's Option Rent Calculation, or (iii) affirm the Intent Notice but rejects the Market Rent contained in the Landlord's Option Rent Calculation, in which event the parties shall follow the procedure set forth in Section 2.2.4 below, and the Market Rent shall be determined as set forth in Section 2.2.4. Tenant's failure to timely deliver the Exercise Notice shall be conclusively deemed to constitute Tenant's rescission of its Intent Notice pursuant to alternative (i), from the immediately preceding sentence.

2.2.4 **Determination of Market Rent**. In the event Tenant objects or is deemed to have objected to the Market Rent, Landlord and Tenant shall attempt to agree upon

the Market Rent using reasonable good-faith efforts. If Landlord and Tenant fail to reach agreement within forty-five (45) days following Tenant's objection or deemed objection to the Landlord's Option Rent Calculation (the "**Outside Agreement Date**"), then, within five (5) business days following such Re-Submittal Date, re-submit an updated Tenant's Option Rent Calculation, Landlord's Option Rent Calculation respectively (provided that to the extent either Landlord or Tenant fail to re-submit, they shall be deemed to have re-submitted, without change, the previously delivered Tenant's Option Rent Calculation or Landlord's Option Rent Calculation, as the case may be), and (ii) shall thereafter attempt to agree upon the market Rent using reasonable good-faith efforts. If Landlord and Tenant thereafter fail to reach agreement within seven (7) business days following the Re-Submittal Date (the "**Outside Agreement Date**"), then either (A) to the extent the then-applicable Landlord's Option Rent Calculation is no more than one hundred two percent (102%) of the then-applicable Tenant's Option Rent Calculation, then the average of the two shall be the Option Rent, or (B) Tenant's Exercise Notice shall be deemed rescinded, and the Lease Term shall expire upon the originally scheduled Expiration Date.

2.3 **Termination Right**.

2.3.1 **Exercise of Termination Right**. Tenant shall have the one (1)-time right to terminate and cancel this Lease effective anytime after the last day of the fifth (5th) Lease Year (the applicable date identified in the "Termination Notice" [defined below] shall be referred to herein as the "**Termination Date**"), provided that, not later than nine (9) months prior to the Termination Date, Landlord receives (i) written notice from Tenant (the "**Termination Notice**") that Tenant is exercising its right to terminate this Lease pursuant to the terms of this Section 2.3, and (ii) cash in the amount of the "Termination Fee" (as that term is defined hereinbelow), as consideration for such early termination. As used in this Lease, the "**Termination Fee**" shall be equal to the sum of the-then remaining (as of the Termination Date) unamortized amount of the sum of the following: (i) the "Base Rent Abatement," as that term is defined in Section 3.2 below, (ii) the Improvement Allowance, as more particularly set forth in Section 14 of the Summary and **Exhibit B** attached hereto, and (iii) the commission payable in connection with this Lease. For purposes of this Section 2.3.1, the Base Rent Abatement and commissions payable in connection with this Lease (*i.e.*, the foregoing items (i) and (iii)) shall be amortized on a level payment basis over a period of eighty-eight (88) months, employing an interest factor of zero percent (0%) with payments to be made on the first (1st) day of each month. The Improvement Allowance (*i.e.*, the foregoing item (ii)) shall be amortized on a level payment basis (X) with respect to the first fifty percent (50%) of the Improvement Allowance, over a period of time equal to ninety-six (96) months, employing an interest factor of seven percent (7%) per annum with the payments to be made on the first (1st) day of each month, and (Y) with respect to the remaining fifty percent (50%) of the Improvement Allowance, over a period of time equal to one hundred forty-four (144) months, employing an interest factor of seven percent (7%) per annum with the payments to be made on the first (1st) day of each month.

2.3.2 **Termination of Lease**. Provided that Tenant timely elects to terminate this Lease in accordance with Section 2.3.1, above, and concurrently delivers the Termination Fee, this Lease (including any subtenancies) shall automatically terminate and be of no further force or effect, and Landlord and Tenant shall be relieved of their respective obligations under this Lease, as of the Termination Date, except with respect to those obligations set forth in this

Lease which specifically survive the expiration or earlier termination of this Lease, including, without limitation, the payment by Tenant of all amounts owed by Tenant under this Lease which accrued prior to the Termination Date. The termination right contained in this Section 2.3 shall be personal to the Original Tenant and any of its "Permitted Transferees" (as that term is defined in Section 14.8 below) and may only be exercised by the Original Tenant or its Permitted Transferees (and not by any other assignee, sublessee, or other "transferee").

2.3.3 **No Tenant Default**. Notwithstanding anything to the contrary contained in this Section 2.3, Tenant shall have no right to exercise the termination right set forth in this Section 2.3 if Tenant is in economic or material non-economic default under this Lease (beyond any applicable notice and cure periods) as of the date of Tenant's delivery to Landlord of the Termination Notice. If Tenant is in economic or material non-economic default under the Lease (beyond any applicable notice and cure periods) following Tenant's delivery to Landlord of the Termination Notice but prior to the Termination Date, then, at Landlord's option, the Termination Notice shall be null and void and of no further force or effect, and Landlord shall have the right to retain that portion of the Termination Fee that is reasonably necessary to make Landlord whole as a result of Tenant's default and/or the voiding of the Termination Notice.

ARTICLE 3

BASE RENT

3.1 **Base Rent**. Tenant shall pay, without prior notice or demand, to Landlord or Landlord's agent at the management office of the Project, or, at Landlord's option, at such other place as Landlord may from time to time designate in writing, by a check for currency which, at the time of payment, is legal tender for private or public debts in the United States of America, base rent ("**Base Rent**") as set forth in Section 4 of the Summary, payable in equal monthly installments as set forth in Section 4 of the Summary in advance on or before the first day of each and every calendar month during the Lease Term, without any setoff or deduction except as otherwise expressly provided for in this Lease. The Base Rent for the first full month of the Lease Term which occurs after the expiration of any free rent period shall be paid at the time of Tenant's execution of this Lease. If any Rent payment date (including the Lease Commencement Date) falls on a day of the month other than the first day of such month or if any payment of Rent is for a period which is shorter than one month, the Rent for any such fractional month shall accrue on a daily basis during such fractional month and shall total an amount equal to the product of (i) a fraction, the numerator of which is the number of days in such fractional month and the denominator of which is the actual number of days occurring in such calendar month, and (ii) the then-applicable monthly installment of Base Rent. All other payments or adjustments required to be made under the TCCs of this Lease that require proration on a time basis shall be prorated on the same basis.

3.2 **Abatement of Base Rent**. Notwithstanding any provision to the contrary contained herein (specifically including Section 3.2, above) and provided that Tenant faithfully performs all of the terms and conditions of this Lease, Landlord hereby agrees to abate Tenant's obligation to pay monthly Base Rent during the eight (8) month period comprising the second (2nd), third (3rd), fourth (4th), fifth (5th), sixth (6th), seventh (7th), eighth (8th), and ninth (9th) full calendar months of the initial Lease Term (the "**Base Rent Abatement Period**"). The foregoing

abatement of Base Rent provided to Tenant pursuant to this Section 3.2 shall not exceed an aggregate of Seven Hundred Eighty-Seven Thousand Nine Hundred Sixty-Eight and 00/100 Dollars ($787,968.00) (the "**Base Rent Abatement**"). During the Base Rent Abatement Period, Tenant shall still be responsible for the payment of all of its other monetary obligations under this Lease (including, but not limited to, electricity). In the event of a default by Tenant under the terms of this Lease that results in early termination pursuant to the provisions of Article 19, below, then as a part of the recovery set forth in Section 19.2, below, Landlord shall be entitled to recover the then-unamortized portion of the monthly Base Rent that was abated under the provisions of this Section 3.2, which Base Rent Abatement shall be amortized on a level payment basis over a period of eighty-eight (88) months, employing an interest factor of zero percent (0%).

ARTICLE 4

ADDITIONAL RENT

4.1 **General Terms**. In addition to paying the Base Rent specified in Article 3 of this Lease, Tenant shall pay "**Tenant's Share**" of the annual "**Direct Expenses**," as those terms are defined in Sections 4.2.6 and 4.2.2, respectively, of this Lease, which are in excess of the amount of Direct Expenses applicable to the "Base Year," as that term is defined in Section 4.2.1, below; provided, however, that in no event shall any decrease in Direct Expenses for any Expense Year below Direct Expenses for the Base Year entitle Tenant to any decrease in Base Rent or any credit against sums due under this Lease. Such payments by Tenant, together with any and all other amounts payable by Tenant to Landlord pursuant to the TCCs of this Lease, are hereinafter collectively referred to as the "**Additional Rent**," and the Base Rent and the Additional Rent are herein collectively referred to as "**Rent**." All amounts due under this Article 4 as Additional Rent shall be payable for the same periods and in the same manner as the Base Rent; provided, however, the parties hereby acknowledge that the first monthly installment of Tenant's Share of any "Estimated Excess" (as that term is set forth in, and pursuant to the terms and conditions of, Section 4.4.2, below), shall first be due and payable for the calendar month occurring immediately following the expiration of the Base Year. Without limitation on other obligations of Tenant which survive the expiration of the Lease Term, the obligations of Tenant to pay the Additional Rent provided for in this Article 4 shall survive the expiration of the Lease Term.

4.2 **Definitions of Key Terms Relating to Additional Rent**. As used in this Article 4, the following terms shall have the meanings hereinafter set forth:

4.2.1 "**Base Year**" shall mean the period set forth in Section 5 of the Summary.

4.2.2 "**Direct Expenses**" shall mean "Operating Expenses" and "Tax Expenses."

4.2.3 "**Expense Year**" shall mean each calendar year in which any portion of the Lease Term falls, through and including the calendar year in which the Lease Term expires, provided that Landlord, upon notice to Tenant, may change the Expense Year from time to time to any other twelve (12) consecutive month period, and, in the event of any such change,

Tenant's Share of Direct Expenses shall be equitably adjusted for any Expense Year involved in any such change.

4.2.4 "**Operating Expenses**" shall mean all expenses, costs and amounts of every kind and nature which Landlord pays or accrues during any Expense Year because of or in connection with the ownership, management, maintenance, security, repair, replacement, restoration or operation of the Project, or any portion thereof, in accordance with sound real estate management and accounting principles, consistently applied. Without limiting the generality of the foregoing, Operating Expenses shall specifically include any and all of the following: (i) the cost of supplying all utilities, the cost of operating, repairing, maintaining, and renovating the utility, telephone, mechanical, sanitary, storm drainage, and elevator systems, and the cost of maintenance and service contracts in connection therewith; (ii) the cost of licenses, certificates, permits and inspections and the cost of contesting any governmental enactments which may affect Operating Expenses (to the extent of the reasonably anticipated savings), and the costs incurred in connection with a governmentally mandated transportation system management program or similar program; (iii) the cost of all insurance carried by Landlord in connection with the Project (provided that Landlord will not carry earthquake or flood insurance unless required by its lender); (iv) the cost of landscaping, relamping, and all supplies, tools, equipment and materials used in the operation, repair and maintenance of the Project, or any portion thereof; (v) costs incurred in connection with the parking areas servicing the Project; (vi) fees and other costs, including management fees (which management fees shall not exceed three percent (3%) of gross rentals from the Project), consulting fees, legal fees and accounting fees, of all contractors and consultants in connection with the management, operation, maintenance and repair of the Project; (vii) payments under any equipment rental agreements and the fair rental value of any management office space which exclusively serves the Building (or a proportionate amount of such costs based upon the ratio of time actually spent on the management of the Building); (viii) wages, salaries and other compensation and benefits, including taxes levied thereon, of all persons (other than persons generally considered to be higher in rank than the position of "Property Manager") engaged in the operation, maintenance and security of the Project; (ix) costs under any instrument pertaining to the sharing of costs by the Project; (x) operation, repair, maintenance and replacement (to the extent the repair cost exceeds replacement cost) of all systems and equipment and components thereof of the Building; (xi) the cost of janitorial, landscaping, alarm, security and other services to the Project Common Areas, replacement of Common Area wall and floor coverings, ceiling tiles and fixtures in common areas, maintenance and replacement of curbs and walkways, repair of the Project and, repair to roofs and re-roofing (membrane only) of the Building; (xii) amortization of the cost of acquiring or the rental expense of personal property used in the maintenance, operation and repair of the Project, or any portion thereof (which amortization calculation shall include interest at the "Interest Rate," as that term is set forth in Article 25 of this Lease); (xiii) the cost of capital improvements or other costs incurred in connection with the Project (A) which are intended to effect economies in the operation or maintenance of the Project, or any portion thereof, (B) that are required to comply with mandatory conservation programs, or (C) that are required under any governmental law or regulation by a federal, state, or local governmental agency, except for capital repairs, replacements, or other improvements to remedy a condition existing prior to the Lease Commencement Date which an applicable governmental authority, if it had knowledge of such condition prior to the Lease Commencement Date, would have then required to be remedied pursuant to the then current governmental laws or regulations in their form existing as of the

Lease Commencement Date and pursuant to the then current interpretation of such governmental laws or regulations by the applicable governmental authority as of the Lease Commencement Date; provided, however, that any capital expenditure (whether identified under this item (xiii) or another express provision of this Section 4.2.4, above) shall be shall be amortized with interest at the Interest Rate over its useful life as Landlord shall reasonably determine in accordance with sound real estate management and accounting principles; and (xiv) costs, fees, charges or assessments imposed by, or resulting from any mandate imposed on Landlord by, any federal, state or local government for fire and police protection, trash removal, community services, or other services which do not constitute "Tax Expenses" as that term is defined in Section 4.2.5, below. Notwithstanding the foregoing, for purposes of this Lease, Operating Expenses shall not, however, include:

(a) costs, including, without limitation, marketing costs, legal fees, space planners' fees, advertising and promotional expenses, and brokerage fees incurred in connection with the original construction or development, or original or future leasing of the Project, and costs, including permit, license and inspection costs, incurred with respect to the installation of improvements made for new tenants initially occupying space in the Project after the Lease Commencement Date or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space for tenants or other occupants of the Project;

(b) except as set forth in items (xii), (xiii), and (xiv) above, depreciation, interest and principal payments on mortgages and other debt costs, if any, penalties and interest;

(c) costs for which the Landlord is reimbursed or entitled to reimbursement by any tenant or occupant of the Project or by insurance by its carrier or any tenant's carrier or by anyone else, and electric power and other utility costs attributable to any Project Tenant's premises (recognizing that Tenant is directly paying for all such electric power and other utilities attributable to the Premises pursuant to Article 6 of this Lease);

(d) any bad debt loss, rent loss, or reserves for bad debts or rent loss;

(e) costs associated with the operation of the business of the partnership or entity which constitutes the Landlord, as the same are distinguished from the costs of operation of the Project (which shall specifically include, but not be limited to, accounting costs associated with the operation of the Project). Costs associated with the operation of the business of the partnership or entity which constitutes the Landlord include costs of partnership accounting and legal matters, costs of defending any lawsuits with any mortgagee (except as the actions of the Tenant may be in issue), costs of selling, syndicating, financing, mortgaging or hypothecating any of the Landlord's interest in the Project, and costs incurred in connection with any disputes between Landlord and its employees, between Landlord and Project management, or between Landlord and other tenants or occupants, and Landlord's general corporate overhead and general and administrative expenses;

(f) the wages and benefits of any employee who does not devote substantially all of his or her employed time to the Project unless such wages and benefits are prorated to reflect time spent on operating and managing the Project vis-à-vis time spent on

matters unrelated to operating and managing the Project; provided, that in no event shall Operating Expenses for purposes of this Lease include wages and/or benefits attributable to personnel above the level of Project manager;

(g) amount paid as ground rental for the Project by the Landlord;

(h) overhead and profit increment paid to the Landlord or to subsidiaries or affiliates of the Landlord for services in the Project to the extent the same exceeds the costs of such services rendered by qualified, first-class unaffiliated third parties on a competitive basis;

(i) any compensation paid to clerks, attendants or other persons in commercial concessions operated by the Landlord;

(j) rentals and other related expenses incurred in leasing air conditioning systems, elevators or other equipment which if purchased the cost of which would be excluded from Operating Expenses as a capital cost, except equipment not affixed to the Project which is used in providing janitorial or similar services and, further excepting from this exclusion such equipment rented or leased to remedy or ameliorate an emergency condition in the Project ;

(k) all items and services for which Tenant or any other tenant in the Project reimburses Landlord or which Landlord provides selectively to one or more tenants (other than Tenant) without reimbursement;

(l) costs, other than those incurred in ordinary maintenance and repair, for sculpture, paintings, fountains or other objects of art;

(m) any costs expressly excluded from Operating Expenses elsewhere in this Lease;

(n) rent for any office space occupied by Project management personnel to the extent the size or rental rate of such office space exceeds the size or fair market rental value of office space occupied by management personnel of the “Comparable Buildings” (as that term is defined below) in the vicinity of the Building, with adjustment where appropriate for the size of the applicable project;

(o) costs to the extent arising from the gross negligence or willful misconduct of Landlord or its agents, employees, vendors, contractors, or providers of materials or services;

(p) costs incurred to comply with laws relating to the removal of hazardous material (as defined under applicable law) which was in existence in the Building or on the Project prior to the Lease Commencement Date; and costs incurred to remove, remedy, contain, or treat hazardous material, which hazardous material is brought into the Building or onto the Project after the date hereof by Landlord, any of Landlord’s agents, employees, contractors, or licensees, or any other tenant of the Project;

(q) tax penalties incurred as a result of Landlord's negligence, inability or unwillingness to make payments when due or to file any income tax or informational returns when due;

(r) costs incurred to comply with applicable laws with respect to the cleanup, removal, investigation, and/or remediation of any Hazardous Materials (as such term is defined in Article 5, below) in, on or under the Project and/or the Building to the extent such Hazardous Materials are: (1) in existence as of the Lease Commencement Date; or (2) introduced onto the Project and/or the Building after the Lease Commencement Date by Landlord or any of Landlord's agents, employees, contractors, or other tenants in violation of applicable laws in effect at the date of introduction;

(s) any Tax Expenses;

(t) rentals for items (except when needed in connection with normal repairs and maintenance of permanent systems) which, if purchased, rather than rented, would constitute a capital improvement specifically excluded above;

(u) costs (including, without limitation, fines, penalties, interest, and costs of repairs, replacements, alterations and/or improvements) incurred in bringing the Project into compliance with laws in effect as of the Lease Commencement Date and as interpreted by applicable governmental authorities as of such date, including, without limitation, any costs to correct building code violations pertaining to the initial design or construction of the Building or any other improvements to the Project, to the extent such violations exist as of the Lease Commencement Date under any applicable building codes in effect and as interpreted by applicable governmental authorities as of such date;

(v) costs for which Landlord has been compensated by a management fee, to the extent that the inclusion of such costs in Operating Expenses would result in a double charge to Tenant;

(w) costs for the initial development or future expansion of the Project;

(x) costs arising from Landlord's charitable or political contributions;

(y) costs of any "tap fees" or any sewer or water connection fees for the benefit of any particular tenant of the Project;

(z) "in-house" legal and/or accounting fees;

(aa) any expenses incurred by Landlord for use of any portions of the Project to accommodate shows, promotions, kiosks, displays, filming, photography, private events or parties, ceremonies, and advertising beyond the normal expenses otherwise attributable to providing services, such as lighting and HVAC to such public portions of the Project in normal operations of the Project during standard hours of operation; and

(bb) any balloons, flowers, or other gifts provided to any entity whatsoever, to include, but not limited to, Tenant, other tenants, employees, vendors, contractors, prospective tenants, and agents.

If Landlord is not furnishing any particular work or service (the cost of which, if performed by Landlord, would be included in Operating Expenses) to a tenant who has undertaken to perform such work or service in lieu of the performance thereof by Landlord, Operating Expenses shall be deemed to be increased by an amount equal to the additional Operating Expenses which would reasonably have been incurred during such period by Landlord if it had at its own expense furnished such work or service to such tenant. If the Building and/or Project is not at least ninety-five percent (95%) occupied during all or a portion of the Base Year or any Expense Year, Landlord may elect to make an appropriate adjustment to the components of Operating Expenses for such year to determine the amount of Operating Expenses that would have been incurred had the Building and/or Project been at least ninety-five percent (95%) occupied; and the amount so determined shall be deemed to have been the amount of Operating Expenses for such year. Operating Expenses for the Base Year shall include market-wide cost increases (including utility rate increases) due to extraordinary circumstances, including, but not limited to, Force Majeure, boycotts, strikes, conservation surcharges, embargoes or shortages, or amortized costs relating to capital improvements; provided, however that at such time as any such particular increases or costs are no longer included in Operating Expenses, such particular increases or costs shall be excluded from the Base Year calculation of Operating Expenses. In no event shall the components of Direct Expenses for any Expense Year related to Project utility, services, or insurance costs be less than the components of Direct Expenses related to Project utility, services, or insurance costs in the Base Year. Landlord shall not (i) make a profit by charging items to Operating Expenses that are otherwise also charged separately to others and (ii) subject to Landlord's right to adjust the components of Operating Expenses described above in this paragraph, collect Operating Expenses from Tenant and all other tenants in the Building in an amount in excess of what Landlord incurs for the items included in Operating Expenses.

It is understood that Landlord will reduce Operating Expenses by all cash discounts, trade discounts, or quantity discounts actually received by Landlord in connection with the purchase of any goods, services, or utilities in connection with the operation of the Project. Landlord will generally employ commercially reasonable efforts to minimize Operating Expenses, taking into consideration that the Project must be maintained and operated in a first class manner.

4.2.5 **Taxes**.

4.2.5.1 "**Tax Expenses**" shall mean all federal, state, county, or local governmental or municipal taxes, fees, charges or other impositions of every kind and nature, whether general, special, ordinary or extraordinary, (including, without limitation, real estate taxes, general and special assessments, transit taxes, leasehold taxes or taxes based upon the receipt of rent, including gross receipts or sales taxes applicable to the receipt of rent, unless required to be paid by Tenant, personal property taxes imposed upon the fixtures, machinery, equipment, apparatus, systems and equipment, appurtenances, furniture and other personal property used in connection with the Project, or any portion thereof), which shall be paid or

accrued during any Expense Year (without regard to any different fiscal year used by such governmental or municipal authority) because of or in connection with the ownership, leasing and operation of the Project, or any portion thereof. For purposes of this Lease, Tax Expenses for the Base Year shall be calculated as if the tenant improvements in the Building were fully constructed and the Project, the Building, and all improvements in the Building were fully assessed for real estate tax purposes.

4.2.5.2 Tax Expenses shall include, without limitation: (i) Any tax on the rent, right to rent or other income from the Project, or any portion thereof, or as against the business of leasing the Project, or any portion thereof; (ii) Any assessment, tax, fee, levy or charge in addition to, or in substitution, partially or totally, of any assessment, tax, fee, levy or charge previously included within the definition of real property tax, it being acknowledged by Tenant and Landlord that Proposition 13 was adopted by the voters of the State of California in the June 1978 election ("**Proposition 13**") and that assessments, taxes, fees, levies and charges may be imposed by governmental agencies for such services as fire protection, street, sidewalk and road maintenance, refuse removal and for other governmental services formerly provided without charge to property owners or occupants, and, in further recognition of the decrease in the level and quality of governmental services and amenities as a result of Proposition 13, Tax Expenses shall also include any governmental or private assessments or the Project's contribution towards a governmental or private cost-sharing agreement for the purpose of augmenting or improving the quality of services and amenities normally provided by governmental agencies; (iii) Any assessment, tax, fee, levy, or charge allocable to or measured by the area of the Premises or the Rent payable hereunder, including, without limitation, any business or gross income tax or excise tax with respect to the receipt of such rent, or upon or with respect to the possession, leasing, operating, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises, or any portion thereof; and (iv) Any assessment, tax, fee, levy or charge, upon this transaction or any document to which Tenant is a party, creating or transferring an interest or an estate in the Premises.

4.2.5.3 Any costs and expenses (including, without limitation, reasonable attorneys' fees) incurred in attempting to protest, reduce or minimize Tax Expenses shall be included in Tax Expenses in the Expense Year such expenses are paid, but only to the extent savings to Tax Expenses are reasonably anticipated to result from such attempts. Except as set forth in Section 4.2.5.4, below, refunds of Tax Expenses shall be credited against Tax Expenses and refunded to Tenant regardless of when received, based on the Expense Year to which the refund is applicable, provided that in no event shall the amount to be refunded to Tenant for any such Expense Year exceed the total amount paid by Tenant as Additional Rent under this Article 4 for such Expense Year. If Tax Expenses for any period during the Lease Term or any extension thereof are increased after payment thereof for any reason, including, without limitation, error or reassessment by applicable governmental or municipal authorities, Tenant shall pay Landlord upon demand Tenant's Share of any such increased Tax Expenses included by Landlord as Building Tax Expenses pursuant to the TCCs of this Lease. Notwithstanding anything to the contrary contained in this Section 4.2.5 (except as set forth in Section 4.2.5.1, above), there shall be excluded from Tax Expenses (i) all excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes, and other taxes to the extent applicable to Landlord's general or net income (as opposed to rents, receipts or income attributable to operations at the Project), (ii) any items

included as Operating Expenses, (iii) any items paid by Tenant under Section 4.5 of this Lease, (iv) any Taxes for any time prior to the Lease Commencement Date or after the later to occur of (A) the expiration date of this Lease, or (B) the date Tenant vacates the Premises pursuant to Articles 15 and/or 16 hereof, and (v) any special assessments or special taxes as a means of financing improvements to the Building or Project.

4.2.5.4 Notwithstanding anything to the contrary set forth in this Lease, the amount of Tax Expenses for the Base Year and any Expense Year shall be calculated without taking into account any decreases in real estate taxes obtained in connection with Proposition 8, and, therefore, the Tax Expenses in the Base Year and/or an Expense Year may be greater than those actually incurred by Landlord, but shall, nonetheless, be the Tax Expenses due under this Lease; provided that (i) any costs and expenses incurred by Landlord in securing any Proposition 8 reduction shall not be included in Direct Expenses for purposes of this Lease, and (ii) tax refunds under Proposition 8 shall not be deducted from Tax Expenses, but rather shall be the sole property of Landlord. Landlord and Tenant acknowledge that this Section 4.2.5.4 is not intended to in any way affect (A) the inclusion in Tax Expenses of the statutory two percent (2.0%) annual increase in Tax Expenses (as such statutory increase may be modified by subsequent legislation), or (B) the inclusion or exclusion of Tax Expenses pursuant to the terms of Proposition 13, which shall be governed pursuant to the terms of Sections 4.2.5.1 through 4.2.5.3, above

4.2.6 "**Tenant's Share**" shall mean the percentage set forth in Section 6 of the Summary.

4.3 **Method of Allocation of Direct Expenses**. The parties acknowledge that the Building is a part of a multi-building project and that the costs and expenses incurred in connection with the Project (i.e. the Direct Expenses) should be shared between the tenants of the Building and the tenants of the other buildings in the Project. Accordingly, as set forth in Section 4.2 above, Direct Expenses (which consists of Operating Expenses and Tax Expenses) are determined annually for the Project as a whole, and a portion of the Direct Expenses, which portion shall be reasonably determined by Landlord on an equitable basis, shall be allocated to the tenants of the Building (as opposed to the tenants of any other buildings in the Project) and such portion shall be the Direct Expenses for purposes of this Lease. Such portion of Direct Expenses allocated to the tenants of the Building shall include all Direct Expenses attributable solely to the Building and an equitable portion of the Direct Expenses attributable to the Project as a whole.

4.4 **Calculation and Payment of Additional Rent**. If for any Expense Year ending or commencing within the Lease Term, Tenant's Share of Direct Expenses for such Expense Year exceeds Tenant's Share of Direct Expenses applicable to the Base Year, then Tenant shall pay to Landlord, in the manner set forth in Section 4.4.1, below, and as Additional Rent, an amount equal to the excess (the "**Excess**").

4.4.1 **Statement of Actual Building Direct Expenses and Payment by Tenant**. Landlord shall give to Tenant following the end of each Expense Year, a statement (the "**Statement**") which shall state in general major categories the Building Direct Expenses incurred or accrued for the Base Year or such preceding Expense Year, as applicable, and which

shall indicate the amount of the Excess. Landlord shall use commercially reasonable efforts to deliver such Statement to Tenant on or before May 1 following the end of the Expense Year to which such Statement relates. Upon receipt of the Statement for each Expense Year commencing or ending during the Lease Term, if an Excess is present, Tenant shall pay, within thirty (30) days after receipt of the Statement, the full amount of the Excess for such Expense Year, less the amounts, if any, paid during such Expense Year as "Estimated Excess," as that term is defined in Section 4.4.2, below, and if Tenant paid more as Estimated Excess than the actual Excess, Tenant shall receive a credit in the amount of Tenant's overpayment against Rent next due under this Lease. The failure of Landlord to timely furnish the Statement for any Expense Year shall not prejudice Landlord or Tenant from enforcing its rights under this Article 4. Even though the Lease Term has expired and Tenant has vacated the Premises, when the final determination is made of Tenant's Share of Building Direct Expenses for the Expense Year in which this Lease terminates, if an Excess is present, Tenant shall, within thirty (30) days after receipt of the Statement, pay to Landlord such amount, and if Tenant paid more as Estimated Excess than the actual Excess, Landlord shall, within thirty (30) days, deliver a check payable to Tenant in the amount of the overpayment. The provisions of this Section 4.4.1 shall survive the expiration or earlier termination of the Lease Term. Notwithstanding the immediately preceding sentence, Tenant shall not be responsible for Tenant's Share of any Building Direct Expenses attributable to any Expense Year which are first billed to Tenant more than eighteen (18) months after the Lease Expiration Date, provided that in any event Tenant shall be responsible for any Excess attributable to amounts levied by any governmental authority or by any public utility companies at any time following the Lease Expiration Date which are attributable to any Expense Year.

4.4.2 **Statement of Estimated Building Direct Expenses**. In addition, Landlord shall give Tenant a yearly expense estimate statement (the "**Estimate Statement**") which shall set forth in general major categories Landlord's reasonable estimate (the "**Estimate**") of what the total amount of Building Direct Expenses for the then-current Expense Year shall be and the estimated excess (the "**Estimated Excess**") as calculated by comparing the Building Direct Expenses for such Expense Year, which shall be based upon the Estimate, to the amount of Building Direct Expenses for the Base Year. Landlord shall use commercially reasonable efforts to deliver such Estimate Statement to Tenant on or before May 1 of the Expense Year to which such Estimate Statement relates. The failure of Landlord to timely furnish the Estimate Statement for any Expense Year shall not preclude Landlord from enforcing its rights to collect any Additional Rent under this Article 4, nor shall Landlord be prohibited from revising any Estimate Statement or Estimated Excess theretofore delivered to the extent necessary. Thereafter, Tenant shall pay, within thirty (30) days after receipt of the Estimate Statement, a fraction of the Estimated Excess for the then-current Expense Year (reduced by any amounts paid pursuant to the second to last sentence of this Section 4.4.2). Such fraction shall have as its numerator the number of months which have elapsed in such current Expense Year, including the month of such payment, and twelve (12) as its denominator. Until a new Estimate Statement is furnished (which Landlord shall have the right to deliver to Tenant at any time), Tenant shall pay monthly, with the monthly Base Rent installments, an amount equal to one-twelfth (1/12) of the total Estimated Excess set forth in the previous Estimate Statement delivered by Landlord to Tenant. Throughout the Lease Term Landlord shall maintain books and records with respect to Building Direct Expenses in accordance with generally accepted real estate accounting and management practices, consistently applied.

4.5 **Taxes and Other Charges for Which Tenant Is Directly Responsible**.

4.5.1 Tenant shall be liable for and shall pay ten (10) days before delinquency, taxes levied against Tenant's equipment, furniture, fixtures and any other personal property located in or about the Premises. If any such taxes on Tenant's equipment, furniture, fixtures and any other personal property are levied against Landlord or Landlord's property or if the assessed value of Landlord's property is increased by the inclusion therein of a value placed upon such equipment, furniture, fixtures or any other personal property and if Landlord pays the taxes based upon such increased assessment, which Landlord shall have the right to do regardless of the validity thereof but only under proper protest if requested by Tenant, Tenant shall upon demand repay to Landlord the taxes so levied against Landlord or the proportion of such taxes resulting from such increase in the assessment, as the case may be.

4.5.2 If the tenant improvements in the Premises, whether installed and/or paid for by Landlord or Tenant and whether or not affixed to the real property so as to become a part thereof, are assessed for real property tax purposes at a valuation higher than the valuation at which tenant improvements conforming to Landlord's "building standard" in other space in the Building are assessed, then the Tax Expenses levied against Landlord or the property by reason of such excess assessed valuation shall be deemed to be taxes levied against personal property of Tenant and shall be governed by the provisions of Section 4.5.1, above.

4.5.3 Notwithstanding any contrary provision herein, Tenant shall pay prior to delinquency any (i) rent tax or sales tax, service tax, transfer tax or value added tax, or any other applicable tax on the rent or services herein or otherwise respecting this Lease, (ii) taxes assessed upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises or any portion of the Project, including the Project parking facility; or (iii) taxes assessed upon this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises.

4.6 **Landlord's Books and Records**. Upon Tenant's written request given not more than one hundred eighty (180) days after Tenant's receipt of a Statement for a particular Expense Year, and provided that Tenant is not then in default under this Lease beyond the applicable cure period provided in this Lease, Landlord shall furnish Tenant with such reasonable supporting documentation in connection with said Building Direct Expenses as Tenant may reasonably request. Landlord shall provide said information to Tenant within sixty (60) days after Tenant's written request therefor. Within one hundred eighty (180) days after receipt of a Statement by Tenant (the "**Review Period**"), if Tenant disputes the amount of Additional Rent set forth in the Statement, an independent certified public accountant (which accountant (A) is a member of a nationally or regionally recognized accounting firm, and (B) is not working on a contingency fee basis), designated and paid for by Tenant, may, after reasonable notice to Landlord and at reasonable times, inspect Landlord's records with respect to the Statement at Landlord's offices, provided that Tenant is not then in default under this Lease (beyond any applicable notice and cure periods) and Tenant has paid all amounts required to be paid under the applicable Estimate Statement and Statement, as the case may be. In connection with such inspection, Tenant and Tenant's agents must agree in advance to follow Landlord's reasonable rules and procedures regarding inspections of Landlord's records, and shall execute a commercially reasonable confidentiality agreement regarding such inspection. Tenant's failure to dispute the amount of

Additional Rent set forth in any Statement within the Review Period shall be deemed to be Tenant's approval of such Statement and Tenant, thereafter, waives the right or ability to dispute the amounts set forth in such Statement. If after such inspection, Tenant still disputes such Additional Rent, a determination as to the proper amount shall be made, at Tenant's expense, by an independent certified public accountant (the "**Accountant**") selected by Landlord and subject to Tenant's reasonable approval; provided that if such determination by the Accountant proves that Direct Expenses were overstated by more than five percent (5%), then the cost of the Accountant and the cost of such determination shall be paid for by Landlord. Tenant hereby acknowledges that Tenant's sole right to inspect Landlord's books and records and to contest the amount of Direct Expenses payable by Tenant shall be as set forth in this Section 4.6, and Tenant hereby waives any and all other rights pursuant to applicable law to inspect such books and records and/or to contest the amount of Direct Expenses payable by Tenant.

ARTICLE 5

USE OF PREMISES

5.1 **Permitted Use**. Tenant shall use the Premises solely for the Permitted Use set forth in Section 7 of the Summary and Tenant shall not use or permit the Premises, the Building, or the Project to be used for any other purpose or purposes whatsoever without the prior written consent of Landlord, which may be withheld in Landlord's sole discretion.

5.2 **Prohibited Uses**. The uses prohibited under this Lease shall include, without limitation, use of the Premises or a portion thereof for (i) offices of any agency or bureau of the United States or any state or political subdivision thereof; (ii) offices or agencies of any foreign governmental or political subdivision thereof; (iii) offices of any health care professionals or service organization; (iv) schools or other training facilities which are not ancillary to corporate, executive or professional office use; (v) retail or restaurant uses; or (vi) communications firms such as radio and/or television stations. Tenant shall not allow occupancy density of use of the Premises which is greater than five and one-half (5 1/2) persons per one thousand (1,000) rentable square feet of the Premises; provided, however, under no circumstances shall Tenant use, or be entitled to, more parking than the ratio set forth in Section 10 of the Summary. Tenant further covenants and agrees that Tenant shall not use, or suffer or permit any person or persons to use, the Premises or any part thereof for any use or purpose contrary to the provisions of the Rules and Regulations set forth in **Exhibit D**, attached hereto, or in violation of the laws of the United States of America, the State of California, or the ordinances, regulations or requirements of the local municipal or county governing body or other lawful authorities having jurisdiction over the Project) including, without limitation, any such laws, ordinances, regulations or requirements relating to hazardous materials or substances, as those terms are defined by applicable laws now or hereafter in effect; provided, however, Landlord shall not enforce, change or modify the Rules and Regulations in a discriminatory manner and Landlord agrees that the Rules and Regulations shall not be unreasonably modified or enforced in a manner which will unreasonably interfere with the normal and customary conduct of Tenant's business. Tenant shall not do or permit anything to be done in or about the Premises which will in any way damage the reputation of the Project or unreasonably obstruct or interfere with the rights of other tenants or occupants of the Building, or injure or annoy them or use or allow the Premises to be used for any improper, unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in,

on or about the Premises. Tenant shall comply with all recorded covenants, conditions, and restrictions now or hereafter affecting the Project.

5.3 **CC&Rs**. Tenant shall comply with all recorded covenants, conditions, and restrictions currently affecting the Project. Additionally, Tenant acknowledges that the Project may be subject to any future covenants, conditions, and restrictions (the "**CC&Rs**") which Landlord, in Landlord's discretion, deems reasonably necessary or desirable, and Tenant agrees that this Lease shall be subject and subordinate to such CC&Rs. Landlord shall have the right to require Tenant to execute and acknowledge, within fifteen (15) business days of a request by Landlord, a "Recognition of Covenants, Conditions, and Restriction," in a form substantially similar to that attached hereto as **Exhibit F**, agreeing to and acknowledging the CC&Rs.

ARTICLE 6

SERVICES AND UTILITIES

6.1 **Standard Tenant Services**. Landlord shall provide the following services on all days (unless otherwise stated below) during the Lease Term.

6.1.1 Subject to limitations imposed by all governmental rules, regulations and guidelines applicable thereto, Landlord shall provide heating and air conditioning ("**HVAC**") when necessary for normal comfort for normal office use in the Premises from 7:00 A.M. to 6:00 P.M. Monday through Friday, and on Saturdays from 9:00 A.M. to 1:00 P.M. (collectively, the "**Building Hours**"), except for the date of observation of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and, at Landlord's discretion, other locally or nationally recognized holidays (collectively, the "**Holidays**").

6.1.2 The Premises will be separately metered or submetered for electricity. Landlord shall provide adequate electrical wiring and facilities for connection to Tenant's lighting fixtures and incidental use equipment, provided that Tenant will not use electricity in excess of the capacity of the Building, which electrical usage shall be subject to applicable laws and regulations, including Title 24. Tenant shall pay directly to the utility company pursuant to the utility company's separate meters (or to Landlord in the event Landlord provides submeters instead of the utility company's meters), the cost of all electricity provided to and/or consumed in the Premises (including normal and excess consumption and including the cost of electricity to operate the HVAC air handlers, which electricity shall be separately metered (as described above or otherwise equitably allocated and directly charged by Landlord to Tenant and other tenants of the Building). To the extent directly payable by Tenant to Landlord (as opposed to being directly payable to the applicable utility provider), Tenant shall pay such cost (including the cost of such meters or submeters) within twenty (20) days after demand and as Additional Rent under this Lease (and not as part of the Operating Expenses). Landlord shall designate the electricity utility provider from time to time. Tenant will design Tenant's electrical system serving any equipment producing nonlinear electrical loads to accommodate such nonlinear electrical loads, including, but not limited to, oversizing neutral conductors, derating transformers and/or providing power-line filters. In the event that Tenant desires to upgrade or add onto the existing electrical wiring and facilities in the Premises, then subject to Landlord's consent, not to be unreasonably withheld, Tenant shall have the right, at its sole cost and expense, and as an

Alteration in accordance with Article 8 of this Lease, to perform such upgrades or additions (including, without limitation, the cost of all permits, approvals, and any other electrical transformers, circuit breakers, or other electrical facilities, which shall be required to be installed or upgraded in any other portion of the Project in connection with such upgrades or additions). Engineering plans shall include a calculation of Tenant's fully connected electrical design load with and without demand factors and shall indicate the number of watts of unmetered and submetered loads. Tenant shall bear the cost of replacement of lamps, starters and ballasts for non-Building standard lighting fixtures within the Premises.

6.1.3 Landlord shall provide city water from the regular Building outlets for drinking, lavatory and toilet purposes in the Building Common Areas.

6.1.4 Landlord shall provide janitorial services to the Premises, except the date of observation of the Holidays, in and about the Premises and window washing services in a manner consistent with other Comparable Building.

6.1.5 Landlord shall provide nonexclusive, non-attended automatic passenger elevator service during the Building Hours, shall have one elevator available at all other times, except on the Holidays.

6.1.6 Landlord shall maintain a commercially reasonable security contract pursuant to which roving security patrols are to serve the Project.

Tenant shall cooperate fully with Landlord at all times and abide by all regulations and requirements that Landlord may reasonably prescribe for the proper functioning and protection of the HVAC, electrical, mechanical and plumbing systems.

6.2 **Overstandard Tenant Use**. Tenant shall not, without Landlord's prior written consent, use heat-generating machines, machines other than normal fractional horsepower office machines, or equipment or lighting other than Building standard lights in the Premises, which may affect the temperature otherwise maintained by the air conditioning system or increase the water normally furnished for the Premises by Landlord pursuant to the terms of Section 6.1 of this Lease. If such consent is given, Landlord shall have the right to install supplementary air conditioning units or other facilities in the Premises, including supplementary or additional metering devices, and the cost thereof, including the cost of installation, operation and maintenance, increased wear and tear on existing equipment and other similar charges, shall be paid by Tenant to Landlord upon billing by Landlord. If Tenant uses water, electricity, heat or air conditioning in excess of that supplied by Landlord pursuant to Section 6.1 of this Lease, Tenant shall pay to Landlord, upon billing, the cost of such excess consumption, the cost of the installation, operation, and maintenance of equipment which is installed in order to supply such excess consumption, and the cost of the increased wear and tear on existing equipment caused by such excess consumption; and Landlord may install devices to separately meter any increased use and in such event Tenant shall pay the increased cost directly to Landlord, on demand, at the rates charged by the public utility company furnishing the same, including the cost of such additional metering devices. Tenant's use of electricity shall never exceed the capacity of the feeders to the Project or the risers or wiring installation, and subject to the terms of Section 29.32, below, Tenant shall not install or use or permit the installation or use of any

computer or electronic data processing equipment in the Premises (other than in the server room), without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed, provided, however, (i) the foregoing restriction shall not apply to general office use of personal computers on the desktops of Tenant's employees, or the use of portable personal computers and related portable or semi-portable computer equipment, and (ii) to the extent the "Approved Working Drawings," as that term is set forth in Section 3.4 of the Work Letter, creates separately ventilated "computer" and/or "data center" rooms or other similar areas, the foregoing restriction shall not apply within such designated areas. Except with regard to the HVAC equipment servicing the server room, if Tenant desires to use heat, ventilation or air conditioning during hours other than those for which Landlord is obligated to supply such utilities pursuant to the terms of Section 6.1 of this Lease, Tenant shall give Landlord such prior notice, if any, as Landlord shall from time to time establish as appropriate, of Tenant's desired use in order to supply such after-hours usage, and Landlord shall supply such after-hours usage to Tenant at such hourly cost to Tenant (which shall be treated as Additional Rent) as Landlord shall from time to time establish, which is, as of the date hereof, Thirty Five and No/100 Dollars ($35.00) per hour per floor activated (subject to change); provided, however, Landlord shall not mark-up such hourly cost to include administration or similar fees and Landlord shall not make a profit from such hourly cost.

6.3 **Interruption of Use**. Except as otherwise provided in Section 6.4 or elsewhere in this Lease, Tenant agrees that Landlord shall not be liable for damages, by abatement of Rent or otherwise, for failure to furnish or delay in furnishing any service (including telephone and telecommunication services), or for any diminution in the quality or quantity thereof, when such failure or delay or diminution is occasioned, in whole or in part, by breakage, repairs, replacements, or improvements, by any strike, lockout or other labor trouble, by inability to secure electricity, gas, water, or other fuel at the Building or Project after reasonable effort to do so, by any riot or other dangerous condition, emergency, accident or casualty whatsoever, by act or default of Tenant or other parties, or by any other cause beyond Landlord's reasonable control; and such failures or delays or diminution shall never be deemed to constitute an eviction or disturbance of Tenant's use and possession of the Premises or relieve Tenant from paying Rent or performing any of its obligations under this Lease, except as otherwise provided in Section 6.4 or elsewhere in the Lease. Furthermore, Landlord shall not be liable under any circumstances for a loss of, or injury to, property or for injury to, or interference with, Tenant's business, including, without limitation, loss of profits, however occurring, through or in connection with or incidental to a failure to furnish any of the services or utilities as set forth in this Article 6.

6.4 **Abatement Event**. If (i) Landlord fails to perform the obligations required of Landlord under the TCCs of this Lease or to otherwise perform an act required by Landlord to avoid such interference, and (ii) such failure causes all or a portion of the Premises to be untenantable and unusable by Tenant, and (iii) such failure related to (A) the nonfunctioning of any Building System or utility service to the Premises, or (B) a failure to provide access to the Premises, Tenant shall give Landlord notice (the "**Initial Notice**"), specifying such failure to perform by Landlord (the "**Abatement Event**"). If Landlord has not cured such Abatement Event within five (5) business days after the receipt of the Initial Notice (the "**Eligibility Period**"), Tenant may deliver an additional notice to Landlord (the "**Additional Notice**"), specifying such Abatement Event and Tenant's intention to abate the payment of Rent under this Lease. If Landlord does not cure such Abatement Event within five (5) business days of receipt

of the Additional Notice, Tenant may, upon written notice to Landlord, immediately abate Rent payable under this Lease for that portion of the Premises rendered untenantable and not used by Tenant, for the period beginning on the date five (5) business days after the Initial Notice to the earlier of the date Landlord cures such Abatement Event or the date Tenant recommences the use of such portion of the Premises (or as to all of the Premises, if the portion which is untenantable materially impairs Tenant's ability to conduct business from the Premises). Such right to abate Rent shall be Tenant's sole and exclusive remedy at law or in equity for an Abatement Event. Except as provided in this Section 6.4, nothing contained herein shall be interpreted to mean that Tenant is excused from paying Rent due hereunder.

ARTICLE 7

REPAIRS

Landlord shall maintain in first-class condition and operating order and keep in good repair and condition the structural portions of the Building, including the foundation, floor/ceiling slabs, exterior walls, roof structure (as opposed to the roof membrane), curtain wall, exterior glass and mullions, columns, beams, shafts (including elevator shafts), stairs, stairwells, elevator cab, men's and women's washrooms, underground utilities, Building mechanical, electrical and telephone closets, and all common and public areas servicing the Building, including the parking areas, landscaping and exterior Project signage (collectively, the "**Building Structure**") and the Base Building mechanical, electrical, life safety, plumbing, sprinkler systems and HVAC systems which were not constructed by Tenant Parties (collectively, the "**Building Systems**") and the Project Common Areas. Notwithstanding anything in this Lease to the contrary, Tenant shall be required to repair the Building Structure and/or the Building Systems to the extent any damage thereto is caused due to Tenant's use of the Premises for other than a normal and customary implementation of its Permitted Use, unless and to the extent such damage is covered by insurance carried or required to be carried by Landlord pursuant to Article 10 and to which the waiver of subrogation is applicable (such obligation to the extent applicable to Tenant as qualified and conditioned will hereinafter be defined as the "**BS/BS Exception**"). Tenant shall, at Tenant's own expense, keep the Premises, including all improvements, fixtures and furnishings therein, and the floor or floors of the Building on which the Premises are located, in good order, repair and condition at all times during the Lease Term, but such obligation shall not extend to the Building Structure and the Building Systems except pursuant to the BS/BS Exception. In addition, Tenant shall, at Tenant's own expense, but under the supervision and subject to the prior approval of Landlord (which approval shall not be unreasonably withheld or conditioned), and within any reasonable period of time specified by Landlord, promptly and adequately repair all damage to the Premises and replace or repair all damaged, broken, or worn fixtures and appurtenances, but such obligation shall not extend to the Building Structure and the Building Systems except pursuant to the BS/BS Exception; provided however, that, at Landlord's option, or if Tenant fails to make such repairs, Landlord may, after written notice to Tenant and Tenant's failure to repair within five (5) days thereafter (unless more than five (5) days is required to effectuate such repair, in which case Tenant shall have the time reasonably required to complete the repair, so long as Tenant commences the repair during the five (5) day period and diligently completes such repair), but need not, make such repairs and replacements, and Tenant shall pay Landlord the cost thereof, including a percentage of the cost thereof (to be uniformly established for the Building and/or the Project, but not to exceed five percent (5%) of

the cost of such work) sufficient to reimburse Landlord for all overhead, general conditions, fees and other costs or expenses arising from Landlord's involvement with such repairs and replacements forthwith upon being billed for same. Notwithstanding that pursuant to the BS/BS Exception, Tenant may be responsible for certain repairs to the Base Building and/or Building Systems, Landlord shall nevertheless make such repairs at Tenant's expense; provided, however, to the extent the same are covered by Landlord's insurance, Tenant shall only be obligated to pay any deductible in connection therewith. Landlord may, but shall not be required to, enter the Premises at all reasonable times to make such repairs, alterations, improvements or additions to the Premises or to the Project or to any equipment located in the Project as Landlord shall desire or deem necessary or as Landlord may be required to do by governmental or quasi-governmental authority or court order or decree; provided, however, except for (i) emergencies, (ii) repairs, alterations, improvements or additions required by governmental or quasi-governmental authorities or court order or decree, or (iii) repairs which are the obligation of Tenant hereunder, any such entry into the Premises by Landlord shall be performed in a manner so as not to materially interfere with Tenant's use of, or access to, the Premises; provided that, with respect to items (ii) and (iii) above, Landlord shall use commercially reasonable efforts to not materially interfere with Tenant's use of, or access to, the Premises. Tenant hereby waives any and all rights under and benefits of subsection 1 of Section 1932 and Sections 1941 and 1942 of the California Civil Code or under any similar law, statute, or ordinance now or hereafter in effect.

ARTICLE 8

ADDITIONS AND ALTERATIONS

8.1 **Landlord's Consent to Alterations**. Tenant may not make any improvements, alterations, additions or changes to the Premises or any mechanical, plumbing or HVAC facilities or systems pertaining to the Premises (collectively, the "**Alterations**") without first procuring the prior written consent of Landlord to such Alterations, which consent shall be requested by Tenant not less than fifteen (15) business days prior to the commencement thereof, and which consent shall not be unreasonably withheld by Landlord, provided it shall be deemed reasonable for Landlord to withhold its consent to any Alteration which adversely affects the structural portions or the systems or equipment of the Building or is visible from the exterior of the Building (collectively, the "**Major Alterations**"). Notwithstanding the foregoing, Landlord's prior consent shall not be required with respect to any interior Alterations to the Premises which (i) are not Major Alterations, (ii) cost less than Forty Thousand Dollars ($40,000) for any one (1) job, (iii) do not adversely affect the value of the Premises or Building, and (iv) do not require a permit of any kind, as long as (A) Tenant delivers to Landlord notice and a copy of any final plans, specifications and working drawings for any such Alterations at least ten (10) days prior to commencement of the work thereof, and (B) the other conditions of this Article 8 are satisfied including, without limitation, conforming to Landlord's rules, regulations, and insurance requirements which govern contractors; provided, however, that with respect to Alterations consisting solely of painting and carpeting, such Forty Thousand Dollar ($40,000) amount shall be deemed increased to One Hundred Thousand Dollars ($100,000) (the "**Cosmetic Alterations**"). The construction of the initial improvements to the Premises shall be governed by the terms of the Work Letter and not the terms of this Article 8.

8.2 **Manner of Construction**. Landlord may impose, as a condition of its consent to any and all Alterations or repairs of the Premises or about the Premises, such requirements as Landlord in its reasonable discretion may deem desirable, including, but not limited to, the requirement that Tenant utilize for such purposes only contractors reasonably approved by Landlord, and the requirement that upon Landlord's timely request (as more particularly set forth in Section 8.5, below), Tenant shall, at Tenant's expense, remove such Alterations upon the expiration or any early termination of the Lease Term and return the affected portion of the Premises to a building standard tenant improved condition as determined by Landlord. Tenant shall construct such Alterations and perform such repairs in a good and workmanlike manner, in conformance with any and all applicable federal, state, county or municipal laws, rules and regulations and pursuant to a valid building permit, issued by the City of San Diego, California, all in conformance with Landlord's construction rules and regulations; provided, however, that prior to commencing to construct any Alteration, Tenant shall meet with Landlord to discuss Landlord's design parameters and code compliance issues. In the event Tenant performs any Alterations in the Premises which require or give rise to governmentally required changes to the "Base Building," as that term is defined below, then Landlord shall, at Tenant's expense, make such changes to the Base Building. The "**Base Building**" shall include the structural portions of the Building, and the public restrooms, elevators, exit stairwells and the systems and equipment located in the internal core of the Building on the floor or floors on which the Premises are located. In performing the work of any such Alterations, Tenant shall have the work performed in such manner so as not to obstruct access to the Project or any portion thereof, by any other tenant of the Project, and so as not to obstruct the business of Landlord or other tenants in the Project. Tenant shall not use (and upon notice from Landlord shall cease using) contractors, services, workmen, labor, materials or equipment that, in Landlord's reasonable judgment, would disturb labor harmony with the workforce or trades engaged in performing other work, labor or services in or about the Building or the Common Areas. In addition to Tenant's obligations under Article 9 of this Lease, upon completion of any Alterations, Tenant agrees to cause a Notice of Completion to be recorded in the office of the Recorder of the County of San Diego, California in accordance with Section 3093 of the Civil Code of the State of California or any successor statute, and Tenant shall deliver to the Project construction manager a reproducible copy of the "as built" drawings of the Alterations, to the extent applicable, as well as all permits, approvals and other documents issued by any governmental agency in connection with the Alterations.

8.3 **Payment for Improvements**. If payment is made directly to contractors, Tenant shall (i) comply with Landlord's requirements for final lien releases and waivers in connection with Tenant's payment for work to contractors, and (ii) sign Landlord's standard contractor's rules and regulations. If Tenant orders any work directly from Landlord, Tenant shall pay to Landlord an amount equal to five percent (5%) of the cost of such work to compensate Landlord for all overhead, general conditions, fees and other costs and expenses arising from Landlord's involvement with such work. If Tenant does not order any work directly from Landlord, Tenant shall reimburse Landlord for Landlord's reasonable, actual, out-of-pocket costs and expenses actually incurred in connection with Landlord's review of such work.

8.4 **Construction Insurance**. In addition to the requirements of Article 10 of this Lease, in the event that Tenant makes any Alterations, prior to the commencement of such Alterations, Tenant shall provide Landlord with evidence that Tenant or its contractor carries

"Builder's All Risk" insurance in an amount reasonably approved by Landlord covering the construction of such Alterations, and such other insurance as Landlord may reasonably require, it being understood and agreed that all of such Alterations shall be insured by Tenant pursuant to Article 10 of this Lease immediately upon completion thereof. In addition, Landlord may, in its reasonable discretion, require Tenant to obtain a lien and completion bond or some alternate form of security satisfactory to Landlord in an amount sufficient to ensure the lien-free completion of any such Alterations costing in excess of One Hundred Thousand and 00/100 Dollars ($100,000.00) and naming Landlord as a co-obligee.

8.5 **Landlord's Property**. Landlord and Tenant hereby acknowledge and agree that (i) all Alterations, improvements, fixtures and/or appurtenances which may be installed or placed in or about the Premises, from time to time, shall be at the sole cost of Tenant and shall be and become part of the Premises and the property of Landlord, and (ii) the Improvements to be constructed in the Premises pursuant to the TCCs of the Work Letter shall, upon completion of the same, be and become a part of the Premises and the property of Landlord. Furthermore, Landlord may require Tenant, with regard to the Alterations (as opposed to the Improvements being constructed pursuant to the work letter, which Improvements Tenant shall not be required to remove), by written notice to Tenant, given at the time of Landlord's consent to such items (or, with respect to Alterations not requiring Landlord's consent, within three (3) business days after Tenant's written notice to Landlord of such Alterations as provided in Section 8.1, above) at Tenant's expense, to remove any such timely identified Alteration in the Premises, and to repair any damage to the Premises and Building caused by such removal and return the affected portion of the Premises to a building standard tenant improved condition as determined by Landlord. If Tenant fails to complete such removal and/or to repair any damage caused by the removal of any Alterations or improvements in the Premises, either (A) Tenant shall be deemed to be holding over in the Premises and Rent shall continue to accrue in accordance with the terms of Article 16, below, until such work shall be completed, or (B) Landlord may do so and may charge the cost thereof to Tenant. Tenant hereby protects, defends, indemnifies and holds Landlord harmless from any liability, cost, obligation, expense or claim of lien in any manner relating to the installation, placement, removal or financing of any such Alterations, improvements, fixtures and/or equipment in, on or about the Premises by or on behalf of Tenant, which obligations of Tenant shall survive the expiration or earlier termination of this Lease.

ARTICLE 9

COVENANT AGAINST LIENS

Tenant shall keep the Project and Premises free from any liens or encumbrances arising out of the work performed, materials furnished or obligations incurred by or on behalf of Tenant, and shall protect, defend, indemnify and hold Landlord harmless from and against any claims, liabilities, judgments or costs (including, without limitation, reasonable attorneys' fees and costs) arising out of same or in connection therewith. Tenant shall give Landlord notice at least twenty (20) days prior to the commencement of any such work on the Premises (or such additional time as may be necessary under applicable laws) to afford Landlord the opportunity of posting and recording appropriate notices of non-responsibility. Tenant shall remove any such lien or encumbrance by bond or otherwise within twenty (20) days after notice by Landlord, and if Tenant shall fail to do so, Landlord may pay the amount necessary to remove such lien or

encumbrance, without being responsible for investigating the validity thereof. The amount so paid shall be deemed Additional Rent under this Lease payable upon demand, without limitation as to other remedies available to Landlord under this Lease. Nothing contained in this Lease shall authorize Tenant to do any act which shall subject Landlord's title to the Building or Premises to any liens or encumbrances whether claimed by operation of law or express or implied contract. Any claim to a lien or encumbrance upon the Building or Premises arising in connection with any such work or respecting the Premises not performed by or at the request of Landlord shall be null and void, or at Landlord's option shall attach only against Tenant's interest in the Premises and shall in all respects be subordinate to Landlord's title to the Project, Building and Premises.

ARTICLE 10

INSURANCE

10.1 **Indemnification and Waiver**. Except to the extent caused by the negligence or willful misconduct of the "Landlord Parties" (as that term is defined hereinbelow), Tenant hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises and agrees that Landlord, its partners, subpartners and their respective officers, agents, servants, employees, and independent contractors (collectively, "**Landlord Parties**") shall not be liable for, and are hereby released from any responsibility for, any damage either to person or property or resulting from the loss of use thereof, which damage is sustained by Tenant or by other persons claiming through Tenant. Tenant shall indemnify, defend, protect, and hold harmless the Landlord Parties from any and all loss, cost, damage, expense and liability (including without limitation court costs and reasonable attorneys' fees) incurred in connection with or arising from: (a) any causes in, on or about the Premises; (b) the use or occupancy of the Premises by Tenant or any person claiming under Tenant; (c) any activity, work, or thing done, or permitted or suffered by Tenant in or about the Premises; (d) any acts, omission, or negligence of Tenant or any person claiming under Tenant, or the contractors, agents, employees, invitees, or visitors of Tenant or any such person; (e) any breach, violation, or non-performance by Tenant or any person claiming under Tenant or the employees, agents, contractors, invitees, or visitors of Tenant or any such person of any term, covenant, or provision of this Lease or any law, ordinance, or governmental requirement of any kind; (f) any injury or damage to the person, property, or business of Tenant, its employees, agents, contractors, invitees, visitors, or any other person entering upon the Premises under the express or implied invitation of Tenant; or (g) the placement of any personal property or other items within the Premises, provided that the foregoing indemnity shall not apply to the extent of the negligence or willful misconduct of Landlord or the Landlord Parties. Should Landlord be named as a defendant in any suit brought against Tenant in connection with or arising out of Tenant's occupancy of the Premises, Tenant shall pay to Landlord its costs and expenses incurred in such suit, including without limitation, its actual professional fees such as appraisers', accountants' and attorneys' fees. Subject to Tenant's indemnity and the waiver of subrogation provided below, Landlord shall indemnify, defend, protect, and hold harmless Tenant, its partners, and their respective officers, agents, servants, employees, and independent contractors (collectively, "**Tenant Parties**") from any and all loss, cost, damage, expense, and liability (including, without limitation, court costs and reasonable attorneys' fees) arising from the negligence or willful misconduct of Landlord or the Landlord Parties in, on or about the Project either prior to or during the Lease Term, and/or as a

result of Landlord's breach of this Lease, except to the extent caused by the negligence or willful misconduct of Tenant or the Tenant Parties. Further, Tenant's agreement to indemnify Landlord, and Landlord's agreement to indemnify Tenant, each pursuant to this Section 10.1 is not intended and shall not relieve any insurance carrier of its obligations under policies required to be carried pursuant to the provisions of this Lease, to the extent such policies cover the matters subject to the parties' respective indemnification obligations; nor shall they supersede any inconsistent agreement of the parties set forth in any other provision of this Lease. The provisions of this Section 10.1 shall survive the expiration or sooner termination of this Lease with respect to any claims or liability arising in connection with any event occurring prior to such expiration or termination. Notwithstanding anything to the contrary contained in this Lease, nothing in this Lease shall impose any obligations on Tenant or Landlord to be responsible or liable for, and each hereby releases the other from all liability for, consequential damages other than those consequential damages incurred by Landlord in connection with a holdover of the Premises by Tenant after the expiration or earlier termination of this Lease.

10.2 **Tenant's Compliance With Landlord's Fire and Casualty Insurance**. Tenant shall, at Tenant's expense, comply with Landlord's insurance company requirements pertaining to the use of the Premises. If Tenant's conduct or use of the Premises causes any increase in the premium for such insurance policies then Tenant shall reimburse Landlord for any such increase. Tenant, at Tenant's expense, shall comply with all rules, orders, regulations or requirements of the American Insurance Association (formerly the National Board of Fire Underwriters) and with any similar body.

10.3 **Tenant's Insurance**. Tenant shall maintain the following coverages in the following amounts. The required evidence of coverage must be delivered to Landlord on or before the date required under Sections 10.4(I) sub-sections (x) and (y), or Section 10.4(II) below (as applicable). Such policies shall be for a term of at least one (1) year, or the length of the remaining term of this Lease, whichever is less.

10.3.1 Commercial General Liability Insurance, including Broad Form contractual liability covering the insured against claims of bodily injury, personal injury and property damage (including loss of use thereof) based upon or arising out of Tenant's operations, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be written on an "occurrence" basis. Landlord and any other party the Landlord so specifies that has a material financial interest in the Project, including Landlord's managing agent, ground lessor and/or lender, if any, shall be named as additional insureds as their interests may appear using Insurance Service Organization's form CG2011 or a comparable form approved by Landlord. Tenant shall provide an endorsement or policy excerpt showing that Tenant's coverage is primary and any insurance carried by Landlord shall be excess and non-contributing. The coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall include severability of interest and cross-liability (separation of insureds) endorsements. This policy shall include coverage for all liabilities assumed under this Lease as an insured contract for the performance of all of Tenant's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder. Limits of liability insurance shall not be less than the following; provided, however, such limits may be achieved through the use of an Umbrella/Excess Policy:

Bodily Injury and Property Damage Liability	$ 5,000,000 each occurrence
Personal Injury and Advertising Liability	$ 5,000,000 each occurrence
Tenant Legal Liability/Damage to Rented Premises Liability	$ 1,000,000.00

10.3.2 Property Insurance covering (i) all office furniture, personal property, business and trade fixtures, office equipment, free-standing cabinet work, movable partitions, merchandise and all other items of Tenant's business personal property on the Premises installed by, for, or at the expense of Tenant, (ii) the Improvements and any other improvements which exist in the Premises as of the Lease Commencement Date (excluding the Base Building) (the "**Original Improvements**"), and (iii) all Alterations performed in the Premises. Such insurance shall be written on a Special Form basis, for the full replacement cost value (subject to reasonable deductible amounts), without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance and shall include coverage for (a) all perils included in the CP 10 30 04 02 Coverage Special Form, (b) water damage from any cause whatsoever (excluding naturally occurring floods (*i.e*., from heavy rainfall, rather than from a leaking pipe)), including, but not limited to, backup or overflow from sprinkler leakage, bursting, leaking or stoppage of any pipes, explosion, and backup of sewers and drainage, and (c) terrorism (to the extent such terrorism insurance is available as a result of the Terrorism Risk Insurance Act of 2002 (Pub. L. 107-297, 116 Stat. 2322), the Terrorism Risk Insurance Program Reauthorization Act of 2005 (Pub. l. 109-144), and the Terrorism Risk Insurance Program Reauthorization Act of 2007 (Pub. L. 110-160, 121 Stat. 183), any successor statute or regulation, or is otherwise available at commercially reasonable rates).

10.3.2.1 **Adjacent Premises**. Tenant shall pay for any increase in the premiums for the property insurance of the Project if said increase is caused by Tenant's acts, omissions, use or occupancy of the Premises.

10.3.2.2 **Property Damage**. Tenant shall use the proceeds from any such insurance for the replacement of personal property, trade fixtures and Alterations.

10.3.2.3 **No representation of Adequate Coverage**. Landlord makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Tenant's property, business operations or obligations under this Lease.

10.3.3 **Property Insurance Subrogation**. Landlord and Tenant intend that their respective property loss risks shall be borne by insurance carriers to the extent above provided (and, in the case of Tenant, by an insurance carrier satisfying the requirements of Section 10.4(i) below), and Landlord and Tenant hereby agree to look solely to, and seek recovery only from, their respective insurance carriers in the event of a property loss to the extent that such coverage is agreed to be provided hereunder. The parties each hereby waive all rights and claims against each other for such losses, and waive all rights of subrogation of their respective insurers. Landlord and Tenant hereby represent and warrant that their respective "all risk" property

insurance policies include a waiver of (i) subrogation by the insurers, and (ii) all rights based upon an assignment from its insured, against Landlord and/or any of the Landlord Parties or Tenant and/or any of the Tenant Parties (as the case may be) in connection with any property loss risk thereby insured against. Tenant will cause all other occupants of the Premises claiming by, under, or through Tenant to execute and deliver to Landlord a waiver of claims similar to the waiver in this Section 10.3.3 and to obtain such waiver of subrogation rights endorsements. If either party hereto fails to maintain the waivers set forth in items (i) and (ii) above, the party not maintaining the requisite waivers shall indemnify, defend, protect, and hold harmless the other party for, from and against any and all claims, losses, costs, damages, expenses and liabilities (including, without limitation, court costs and reasonable attorneys' fees) arising out of, resulting from, or relating to, such failure.

10.3.4 Business Income Interruption for one year (1) plus Extra Expense insurance in such amounts as will reimburse Tenant for actual direct or indirect loss of earnings attributable to the risks outlined in Section 10.3.2 above.

10.3.5 Worker's Compensation or other similar insurance pursuant to all applicable state and local statutes and regulations, and Employer's Liability with minimum limits of not less than One Million Dollars ($1,000,000) each accident/employee/disease.

10.3.6 Commercial Automobile Liability Insurance covering all Owned (if any), Hired, or Non-owned vehicles with limits not less than One Million Dollars ($1,000,000) combined single limit for bodily injury and property damage.

10.4 **Form of Policies**. The minimum limits of policies of insurance required of Tenant under this Lease shall in no event limit the liability of Tenant under this Lease. Such insurance shall (i) be issued by an insurance company having an AM Best rating of not less than A-X, or which is otherwise acceptable to Landlord and licensed to do business in the State of California, (ii) be in form and content reasonably acceptable to Landlord and complying with the requirements of Section 10.3 (including, Sections 10.3.1 through 10.3.6), (iii) Tenant shall not do or permit to be done anything which invalidates the required insurance policies, and (iv) provide that said insurance shall not be canceled or coverage changed unless Tenant provides thirty (30) days prior written notice to Landlord and any mortgagee of Landlord, the identity of whom has been provided to Tenant in writing. Tenant shall deliver said policy or policies or certificates thereof and applicable endorsements which meet the requirements of this Article 10 to Landlord on or before (I) the earlier to occur of: (*x*) the Lease Commencement Date, and (*y*) the date Tenant and/or its employees, contractors and/or agents first enter the Premises for occupancy, construction of improvements, alterations, or any other move-in activities, and (II) five (5) business days after the renewal of such policies. In the event Tenant shall fail to procure such insurance, or to deliver such policies or certificates and applicable endorsements, Landlord may, at its option, after written notice to Tenant and Tenant's failure to obtain such insurance within five (5) days thereafter, procure such policies for the account of Tenant and the sole benefit of Landlord, and the cost thereof shall be paid to Landlord after delivery to Tenant of bills therefor.

10.5 **Additional Insurance Obligations**. Tenant shall carry and maintain during the entire Lease Term, at Tenant's sole cost and expense, increased amounts of the insurance required to be carried by Tenant pursuant to this Article 10 and such other reasonable types of

insurance coverage and in such reasonable amounts covering the Premises and Tenant's operations therein, as may be reasonably requested by Landlord. Notwithstanding the foregoing, Landlord's request shall only be considered reasonable if such increased coverage amounts and/or such new types of insurance are consistent with the requirements of a majority of Comparable Buildings, and Landlord shall not so increase the coverage amounts or require additional types of insurance during the first five (5) years of the Lease Term and thereafter no more often than one time in any five (5) year period.

10.6 **Third-Party Contractors**. Tenant shall obtain and deliver to Landlord, Third Party Contractor's certificates of insurance and applicable endorsements at least seven (7) business days prior to the commencement of work in or about the Premises by any vendor or any other third-party contractor (collectively, a "**Third Party Contractor**"). All such insurance shall (a) name Landlord as an additional insured under such party's liability policies as required by Section 10.3.1 above and this Section 10.6, (b) provide a waiver of subrogation in favor of Landlord under such Third Party Contractor's commercial general liability insurance, (c) be primary and any insurance carried by Landlord shall be excess and non-contributing, and (d) comply with Landlord's minimum insurance requirements.

10.7 **Landlord's Fire, Casualty, and Liability Insurance**.

10.7.1 Landlord shall maintain Commercial General Liability Insurance with at least Five Million Dollars ($5,000,000) in coverage, with respect to the Building during the Lease Term covering claims for bodily injury, personal injury, and property damage in the Project Common Areas and with respect to Landlord's activities in the Premises.

10.7.2 Landlord shall insure the Building and Landlord's remaining interest in the Improvements and Alterations with a policy of Physical Damage Insurance including building ordinance coverage, written on a standard Causes of Loss – Special Form basis (against loss or damage due to fire and other casualties covered within the classification of fire and extended coverage, vandalism, and malicious mischief, sprinkler leakage, water damage and special extended coverage), covering the full replacement cost of the Base Building, Premises and other improvements (including coverages for enforcement of Applicable Laws requiring the upgrading, demolition, reconstruction and/or replacement of any portion of the Building as a result of a covered loss) without a deduction for depreciation.

10.7.3 Landlord shall maintain Boiler and Machinery/Equipment Breakdown Insurance covering the Building against risks commonly insured against by a Boiler and Machinery/Equipment Breakdown policy and such policy shall cover the full replacement costs, without deduction for depreciation.

10.7.4 The foregoing coverages shall contain commercially reasonable deductible amounts from such companies, and on such other terms and conditions, as Landlord may from time to time reasonably determine.

10.7.5 Additionally, at the option of Landlord, such insurance coverage may include the risk of (i) earthquake, (ii) flood damage and additional hazards, or (iii) a rental loss endorsement for a period of up to two (2) years.

10.7.6 Notwithstanding the foregoing provisions of this Section 10.7, the coverage and amounts of insurance carried by Landlord in connection with the Building shall, at a minimum, be comparable to the coverage and amounts of insurance which are carried by reasonably prudent landlords of Comparable Buildings. In addition, Landlord shall carry Worker's Compensation and Employer's Liability coverage as required by applicable law.

ARTICLE 11

DAMAGE AND DESTRUCTION

11.1 **Repair of Damage to Premises by Landlord**. Tenant shall promptly notify Landlord of any damage to the Premises (unless *de minimus*) resulting from fire or any other casualty. If the Premises or any Common Areas serving or providing access to the Premises shall be damaged by fire or other casualty, Landlord shall use commercially reasonable efforts to promptly and diligently, subject to reasonable delays for insurance adjustment or other matters beyond Landlord's reasonable control, and subject to all other terms of this Article 11, restore the Base Building and such Common Areas. Such restoration shall be to substantially the same condition of the Base Building and the Common Areas prior to the casualty, except for modifications required by zoning and building codes and other laws or by the holder of a mortgage on the Building or Project or any other modifications to the Common Areas deemed desirable by Landlord, which are consistent with the character of the Project, provided that access to the Premises and any common restrooms serving the Premises shall not be materially impaired. Upon the occurrence of any damage to the Premises, upon notice (the "**Landlord Repair Notice**") to Tenant from Landlord, Tenant shall assign to Landlord (or to any party designated by Landlord) all insurance proceeds payable to Tenant under Tenant's insurance required under Section 10.3 of this Lease, and Landlord shall repair any injury or damage to the Improvements and the Original Improvements installed in the Premises and shall return such Improvements and Original Improvements to their original condition; provided that if the cost of such repair by Landlord exceeds the amount of insurance proceeds received by Landlord from Tenant's insurance carrier, as assigned by Tenant, the cost of such repairs shall be paid by Tenant to Landlord prior to Landlord's commencement of repair of the damage. In the event that Landlord does not deliver the Landlord Repair Notice within sixty (60) days following the date the casualty becomes known to Landlord, Tenant shall, at its sole cost and expense, repair any injury or damage to the Improvements and the Original Improvements installed in the Premises and shall return such Improvements and Original Improvements to their original condition. Whether or not Landlord delivers a Landlord Repair Notice, prior to the commencement of construction, Tenant shall submit to Landlord, for Landlord's review and approval, all plans, specifications and working drawings relating thereto, and Landlord shall select the contractors to perform such improvement work (subject to Tenant's reasonable approval). Landlord shall not be liable for any inconvenience or annoyance to Tenant or its visitors, or injury to Tenant's business resulting in any way from such damage or the repair thereof; provided however, that if such fire or other casualty shall have damaged the Premises or Common Areas necessary to Tenant's occupancy, and the Premises are not occupied by Tenant as a result thereof, then during the time and to the extent the Premises are unfit for occupancy, the Rent shall be abated in proportion to the ratio that the amount of rentable square feet of the Premises which is unfit for occupancy for the purposes permitted under this Lease bears to the total rentable square feet of the Premises (or if so much of the Premises are damaged that the remainder of the Premises is

not usable by Tenant, then all of the rent shall abate during the repairs). In the event that Landlord shall not deliver the Landlord Repair Notice, Tenant's right to rent abatement pursuant to the preceding sentence shall terminate as of the date which is reasonably determined by Landlord to be the date Tenant should have completed repairs to the Premises assuming Tenant used reasonable due diligence in connection therewith.

11.2 **Landlord's Option to Repair**. Notwithstanding the terms of Section 11.1 of this Lease, Landlord may elect not to rebuild and/or restore the Premises, Building and/or Project, and instead terminate this Lease, by notifying Tenant in writing of such termination within sixty (60) days after the date of discovery of the damage, such notice to include a termination date giving Tenant sixty (60) days to vacate the Premises, but Landlord may so elect only if the Building or Project shall be damaged by fire or other casualty or cause, whether or not the Premises are affected, and one or more of the following conditions is present: (i) in Landlord's reasonable judgment, repairs cannot reasonably be completed within one hundred eighty (180) days after the date of discovery of the damage (when such repairs are made without the payment of overtime or other premiums); (ii) the holder of any mortgage on the Building or Project or ground lessor with respect to the Building or Project shall require that the insurance proceeds or any portion thereof be used to retire the mortgage debt, or shall terminate the ground lease, as the case may be; (iii) the damage is not at least ninety percent (90%) covered by Landlord's insurance policies; (iv) Landlord decides to rebuild the Building or Common Areas so that they will be substantially different structurally or architecturally; (v) the damage occurs during the last twelve (12) months of the Lease Term; or (vi) any owner of any other portion of the Project, other than Landlord, does not intend to repair the damage to such portion of the Project; provided, however, that if Landlord does not elect to terminate this Lease pursuant to Landlord's termination right as provided above, and the repairs cannot, in the reasonable opinion of Landlord, be completed within one hundred eighty (180) days after being commenced, Tenant may elect, no earlier than sixty (60) days after the date of the damage and not later than ninety (90) days after the date of such damage, to terminate this Lease by written notice to Landlord effective as of the date specified in the notice, which date shall not be less than thirty (30) days nor more than sixty (60) days after the date such notice is given by Tenant. Furthermore, if neither Landlord nor Tenant has terminated this Lease, and the repairs are not actually completed within such 180-day period, Tenant shall have the right to terminate this Lease during the first five (5) business days of each calendar month following the end of such period until such time as the repairs are complete, by notice to Landlord (the "**Damage Termination Notice**"), effective as of a date set forth in the Damage Termination Notice (the "**Damage Termination Date**"), which Damage Termination Date shall not be less than ten (10) business days following the end of each such month. Notwithstanding the foregoing, if Tenant delivers a Damage Termination Notice to Landlord, then Landlord shall have the right to suspend the occurrence of the Damage Termination Date for a period ending thirty (30) days after the Damage Termination Date set forth in the Damage Termination Notice by delivering to Tenant, within five (5) business days of Landlord's receipt of the Damage Termination Notice, a certificate of Landlord's contractor responsible for the repair of the damage certifying that it is such contractor's good faith judgment that the repairs shall be substantially completed within thirty (30) days after the Damage Termination Date. If repairs shall be substantially completed prior to the expiration of such thirty-day period, then the Damage Termination Notice shall be of no force or effect, but if the repairs shall not be substantially completed within such thirty-day period, then this Lease shall terminate upon the expiration of such thirty-day period. At any time, from time to time, after the

date occurring sixty (60) days after the date of the damage, Tenant may request that Landlord inform Tenant of Landlord's reasonable opinion of the date of completion of the repairs and Landlord shall respond to such request within five (5) business days. Notwithstanding the provisions of this Section 11.2, Tenant shall have the right to terminate this Lease under this Section 11.2 only if each of the following conditions is satisfied: (a) the damage to the Project by fire or other casualty was not caused by the gross negligence or intentional act of Tenant or its partners or subpartners and their respective officers, agents, servants, employees, and independent contractors; (b) Tenant is not then in default under this Lease; and (c) as a result of the damage, Tenant cannot reasonably conduct business from the Premises. In the event this Lease is terminated in accordance with the terms of this Section 11.2, Tenant shall assign to Landlord (or to any party designated by Landlord) all insurance proceeds payable to Tenant under Tenant's insurance required under items (ii) and (iii) of Section 10.3.2 of this Lease.

11.3 **Waiver of Statutory Provisions**. The provisions of this Lease, including this Article 11, constitute an express agreement between Landlord and Tenant with respect to any and all damage to, or destruction of, all or any part of the Premises, the Building or the Project, and any statute or regulation of the State of California, including, without limitation, Sections 1932(2) and 1933(4) of the California Civil Code, with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between the parties, and any other statute or regulation, now or hereafter in effect, shall have no application to this Lease or any damage or destruction to all or any part of the Premises, the Building or the Project.

ARTICLE 12

NONWAIVER

No provision of this Lease shall be deemed waived by either party hereto unless expressly waived in a writing signed thereby. The waiver by either party hereto of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No acceptance of a lesser amount than the Rent herein stipulated shall be deemed a waiver of Landlord's right to receive the full amount due, nor shall any endorsement or statement on any check or payment or any letter accompanying such check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the full amount due. No receipt of monies by Landlord from Tenant after the termination of this Lease shall in any way alter the length of the Lease Term or of Tenant's right of possession hereunder, or after the giving of any notice shall reinstate, continue or extend the Lease Term or affect any notice given Tenant prior to the receipt of such monies, it being agreed that after the service of notice or the commencement of a suit, or after final judgment for possession of the Premises, Landlord may receive and collect any Rent due, and the payment of said Rent shall not waive or affect said notice, suit or judgment.

ARTICLE 13

CONDEMNATION

If the whole or any part of the Premises, Building or Project shall be taken by power of eminent domain or condemned by any competent authority for any public or quasi-public use or purpose, or if any adjacent property or street shall be so taken or condemned, or reconfigured or vacated by such authority in such manner as to require the use, reconstruction or remodeling of any part of the Premises, Building or Project, or if Landlord shall grant a deed or other instrument in lieu of such taking by eminent domain or condemnation, Landlord shall have the option to terminate this Lease effective as of the date possession is required to be surrendered to the authority. If more than ten percent (10%) of the rentable square feet of the Premises is taken, or if access to the Premises is substantially impaired, in each case for a period in excess of one hundred eighty (180) days, Tenant shall have the option to terminate this Lease effective as of the date possession is required to be surrendered to the authority. Tenant shall not because of such taking assert any claim against Landlord or the authority for any compensation because of such taking and Landlord shall be entitled to the entire award or payment in connection therewith, except that Tenant shall have the right to file any separate claim available to Tenant for any taking of Tenant's personal property and fixtures belonging to Tenant and removable by Tenant upon expiration of the Lease Term pursuant to the terms of this Lease, and for moving expenses, so long as such claims do not diminish the award available to Landlord, its ground lessor with respect to the Building or Project or its mortgagee, and such claim is payable separately to Tenant. All Rent shall be apportioned as of the date of such termination. If any part of the Premises shall be taken, and this Lease shall not be so terminated, the Rent shall be proportionately abated. Tenant hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of The California Code of Civil Procedure. Notwithstanding anything to the contrary contained in this Article 13, in the event of a temporary taking of all or any portion of the Premises for a period of one hundred and eighty (180) days or less, then this Lease shall not terminate but the Base Rent and the Additional Rent shall be abated for the period of such taking in proportion to the ratio that the amount of rentable square feet of the Premises taken bears to the total rentable square feet of the Premises (or if so much of the Premises are taken that the remainder of the Premises is not usable by Tenant, then all of the rent shall abate during the taking). Landlord shall be entitled to receive the entire award made in connection with any such temporary taking.

ARTICLE 14

ASSIGNMENT AND SUBLETTING

14.1 **Transfers**. Tenant shall not, without the prior written consent of Landlord (which, as more particularly set forth in Section 14.2, below, shall not be unreasonably withheld, conditioned, or delayed), assign, mortgage, pledge, hypothecate, encumber, or permit any lien to attach to, or otherwise transfer, this Lease or any interest hereunder, permit any assignment, or other transfer of this Lease or any interest hereunder by operation of law, sublet the Premises or any part thereof, or enter into any license or concession agreements or otherwise permit the occupancy or use of the Premises or any part thereof by any persons other than Tenant and its employees and contractors (all of the foregoing are hereinafter sometimes referred to collectively

as "**Transfers**" and any person to whom any Transfer is made or sought to be made is hereinafter sometimes referred to as a "**Transferee**"). If Tenant desires Landlord's consent to any Transfer, Tenant shall notify Landlord in writing, which notice (the "**Transfer Notice**") shall include (i) the proposed effective date of the Transfer, which shall not be less than thirty (30) days nor more than one hundred eighty (180) days after the date of delivery of the Transfer Notice, (ii) a description of the portion of the Premises to be transferred (the "**Subject Space**"), (iii) all of the terms of the proposed Transfer and the consideration therefor, including calculation of the "**Transfer Premium**", as that term is defined in Section 14.3 below, in connection with such Transfer, the name and address of the proposed Transferee, and a copy of all existing executed and/or proposed documentation pertaining to the proposed Transfer, including all existing operative documents to be executed to evidence such Transfer or the agreements incidental or related to such Transfer, provided that Landlord shall have the right to require Tenant to utilize Landlord's standard Transfer documents in connection with the documentation of such Transfer, (iv) current financial statements of the proposed Transferee certified by an officer, partner or owner thereof, business credit and personal references and history of the proposed Transferee and any other information reasonably required by Landlord which will enable Landlord to determine the financial responsibility, character, and reputation of the proposed Transferee, nature of such Transferee's business and proposed use of the Subject Space and (v) an executed estoppel certificate from Tenant in the form attached hereto as **Exhibit E**. Any Transfer made without Landlord's prior written consent shall, at Landlord's option, be null, void and of no effect, and shall, at Landlord's option, constitute a default by Tenant under this Lease. Whether or not Landlord consents to any proposed Transfer, Tenant shall pay Landlord's review and processing fees, as well as any reasonable professional fees (including, without limitation, attorneys', accountants', architects', engineers' and consultants' fees) incurred by Landlord, within thirty (30) days after written request by Landlord, in an amount not to exceed Two Thousand Five Hundred and No/100 Dollars ($2,500.00) in the aggregate, but such limitation of fees shall only apply to the extent such Transfer is in the ordinary course of business. Landlord and Tenant hereby agree that a proposed Transfer shall not be considered "in the ordinary course of business" if such Transfer involves the review of documentation by Landlord on more than two (2) occasions.

14.2 **Landlord's Consent**. Landlord shall not unreasonably withhold its consent to any proposed Transfer of the Subject Space to the Transferee on the terms specified in the Transfer Notice. Without limitation as to other reasonable grounds for withholding consent, the parties hereby agree that it shall be reasonable under this Lease and under any applicable law for Landlord to withhold consent to any proposed Transfer where one or more of the following apply:

14.2.1 The Transferee is of a character or reputation or engaged in a business which is not consistent with the quality of the Building or the Project, or would be a significantly less prestigious occupant of the Building than Tenant;

14.2.2 The Transferee intends to use the Subject Space for purposes which are not permitted under this Lease;

14.2.3 The Transferee is either a governmental agency or instrumentality thereof;

14.2.4 The Transferee is not a party of reasonable financial worth and/or financial stability in light of the responsibilities to be undertaken in connection with the Transfer on the date consent is requested;

14.2.5 The proposed Transfer would cause a violation of another lease for space in the Project, or would give an occupant of the Project a right to cancel its lease;

14.2.6 The terms of the proposed Transfer will allow the Transferee to exercise a right of renewal, right of expansion, right of first offer, or other similar right held by Tenant (or will allow the Transferee to occupy space leased by Tenant pursuant to any such right); or

14.2.7 Either the proposed Transferee, or any person or entity which directly or indirectly, controls, is controlled by, or is under common control with, the proposed Transferee, (i) occupies space in the Project at the time of the request for consent to the extent the Project is not at such time at least ninety percent (90%) leased, or (ii) is negotiating with Landlord to lease space in the Project at such time, or (iii) has negotiated with Landlord during the four (4)-month period immediately preceding the Transfer Notice (and Landlord has available space in the Project meeting such proposed Transferee's needs at the time of the request for consent); or

14.2.8 The Transferee does not intend to occupy the entire portion of the Premises to be transferred to the Transferee and conduct its business therefrom for a substantial portion of the term of the Transfer.

If Landlord consents to any Transfer pursuant to the terms of this Section 14.2 (and does not exercise any recapture rights Landlord may have under Section 14.4 of this Lease), Tenant may within six (6) months after Landlord's consent, but not later than the expiration of said six-month period, enter into such Transfer of the Premises or portion thereof, upon substantially the same terms and conditions as are set forth in the Transfer Notice furnished by Tenant to Landlord pursuant to Section 14.1 of this Lease, provided that if there are any changes in the terms and conditions from those specified in the Transfer Notice (i) such that Landlord would initially have been entitled to refuse its consent to such Transfer under this Section 14.2, or (ii) which would cause the proposed Transfer to be at least five percent (5%) more favorable to the Transferee than the terms set forth in Tenant's original Transfer Notice, Tenant shall again submit the Transfer to Landlord for its approval and other action under this Article 14 (including Landlord's right of recapture, if any, under Section 14.4 of this Lease). Notwithstanding anything to the contrary in this Lease, if Tenant or any proposed Transferee claims that Landlord has unreasonably withheld or delayed its consent under Section 14.2 or otherwise has breached or acted unreasonably under this Article 14, their sole remedies shall be a declaratory judgment and an injunction for the relief sought without any monetary damages, and Tenant hereby waives all other remedies, including, without limitation, any right at law or equity to terminate this Lease, on its own behalf and, to the extent permitted under all applicable laws, on behalf of the proposed Transferee.

14.3 **Transfer Premium**. If Landlord consents to a Transfer, as a condition thereto which the parties hereby agree is reasonable, Tenant shall pay to Landlord fifty percent (50%) of any "Transfer Premium," as that term is defined in this Section 14.3, received by Tenant from such Transferee. "**Transfer Premium**" shall mean all rent, additional rent or other consideration

payable by such Transferee in connection with the Transfer in excess of the Rent and Additional Rent payable by Tenant under this Lease during the term of the Transfer on a per rentable square foot basis if less than all of the Premises is transferred, after deducting the reasonable expenses incurred by Tenant for (i) any changes, alterations and improvements to the Premises in connection with the Transfer, (ii) any free base rent or other economic concessions reasonably provided to the Transferee, (iii) any brokerage commissions in connection with the Transfer, (iv) any attorneys' fees incurred by Tenant in connection with the Transfer, (v) any lease takeover costs incurred by Tenant in connection with the Transfer, (vi) any costs of advertising the space which is the subject of the Transfer, and (vii) any review and processing fees paid to Landlord in connection with such Transfer (collectively, the "**Transfer Costs**"). "Transfer Premium" shall also include, but not be limited to, key money, bonus money or other cash consideration paid by Transferee to Tenant in connection with such Transfer, and any payment in excess of fair market value for services rendered by Tenant to Transferee or for tangible assets (as opposed to intellectual property), fixtures, inventory, equipment, or furniture transferred by Tenant to Transferee in connection with such Transfer. In the calculations of the Rent (as it relates to the Transfer Premium calculated under this Section 14.3), the Rent paid during each annual period for the Subject Space, shall be computed after adjusting such rent to the actual effective rent to be paid, taking into consideration any and all leasehold concessions granted in connection therewith, including, but not limited to, any rent credit and tenant improvement allowance. For purposes of calculating any such effective rent all such concessions shall be amortized on a level payment basis over the relevant term with the payments to be made on the first (1st) day of each month.

14.4 **Landlord's Option as to Subject Space**. Notwithstanding any provision to the contrary contained in this Article 14, in the event that Tenant contemplates a Transfer ("**Contemplated Transfer**"), Tenant shall give Landlord notice (the "**Intention to Transfer Notice**") of such contemplated Transfer (whether or not the contemplated Transferee or the terms of such contemplated Transfer have been determined); provided, however, that Landlord hereby acknowledges and agrees that Tenant shall have no obligation to deliver an Intention to Transfer Notice hereunder, and Landlord shall have no right to recapture space with respect to an assignment or sublease pursuant to the terms of Section 14.8, below. The Intention to Transfer Notice shall specify the contemplated date of commencement of the Contemplated Transfer (the "**Contemplated Effective Date**"), and the contemplated length of the term of such contemplated Transfer, and shall specify that such Intention to Transfer Notice is delivered to Landlord pursuant to this Section 14.4 in order to allow Landlord to elect to recapture the Premises for the remainder of the Lease Term. Thereafter, Landlord shall have the option, by giving written notice to Tenant (the "**Recapture Notice**") within twenty (20) days after its receipt of any Intention to Transfer Notice, to recapture all of the Contemplated Transfer Space. However, if Landlord delivers a Recapture Notice to Tenant, Tenant may, within ten (10) days after Tenant's receipt of the Recapture Notice, deliver written notice to Landlord indicating that Tenant is rescinding its request for consent to the proposed Transfer, in which case such Transfer shall not be consummated and this Lease shall remain in full force and effect as to the portion of the Premises that was the subject of the Transfer. Tenant's failure to so notify Landlord in writing within said ten (10) day period shall be deemed to constitute Tenant's election to allow the Recapture Notice to be effective. Any recapture under this Section 14.4 shall cancel and terminate this Lease as of the Contemplated Effective Date. If Landlord declines, or fails to elect in a timely manner, to recapture the Premises under this Section 14.4, then, subject to the other

terms of this Article 14, for a period of nine (9) months (the "**Nine Month Period**") commencing on the last day of such thirty (30) day period, Landlord shall not have any right to recapture the Premises during the Nine Month Period; provided however, that any such Transfer shall be subject to the remaining terms of this Article 14. If such a Transfer is not so consummated within the Nine Month Period, Tenant shall again be required to submit a new Intention to Transfer Notice to Landlord with respect any contemplated Transfer, as provided above in this Section 14.4.

14.5 **Effect of Transfer**. If Landlord consents to a Transfer, (i) the TCCs of this Lease shall in no way be deemed to have been waived or modified, (ii) such consent shall not be deemed consent to any further Transfer by either Tenant or a Transferee, (iii) Tenant shall deliver to Landlord, promptly after execution, an original executed copy of all documentation pertaining to the Transfer in form reasonably acceptable to Landlord, (iv) Tenant shall furnish upon Landlord's request a complete statement, certified by an independent certified public accountant, or Tenant's chief financial officer, setting forth in detail the computation of any Transfer Premium Tenant has derived and shall derive from such Transfer, and (v) no Transfer relating to this Lease or agreement entered into with respect thereto, whether with or without Landlord's consent, shall relieve Tenant or any guarantor of the Lease from any liability under this Lease, including, without limitation, in connection with the Subject Space. Landlord or its authorized representatives shall have the right at all reasonable times to audit the books, records and papers of Tenant relating to any Transfer, and shall have the right to make copies thereof. If the Transfer Premium respecting any Transfer shall be found understated, Tenant shall, within thirty (30) days after demand, pay the deficiency, and if understated by more than three percent (3%), Tenant shall pay Landlord's costs of such audit.

14.6 **Additional Transfers**. For purposes of this Lease, the term "**Transfer**" shall also include (i) if Tenant is a partnership, the withdrawal or change, voluntary, involuntary or by operation of law, of more than fifty percent (50%) or more of the partners, or transfer of more than fifty percent (50%) or more of partnership interests, within a twelve (12)-month period, or the dissolution of the partnership without immediate reconstitution thereof, and (ii) if Tenant is a closely held corporation (*i.e.*, whose stock is not publicly held and not traded through an exchange or over the counter), (A) the dissolution, merger, consolidation or other reorganization of Tenant or (B) the sale or other transfer of an aggregate of more than fifty percent (50%) or more of the voting shares of Tenant (other than to immediate family members by reason of gift or death), within a twelve (12)-month period, or (C) the sale, mortgage, hypothecation or pledge of an aggregate of more than fifty percent (50%) or more of the value of the unencumbered assets of Tenant within a twelve (12)-month period.

14.7 **Occurrence of Default**. Any Transfer hereunder shall be subordinate and subject to the provisions of this Lease, and if this Lease shall be terminated during the term of any Transfer, Landlord shall have the right to: (i) treat such Transfer as cancelled and repossess the Subject Space by any lawful means, or (ii) require that such Transferee attorn to and recognize Landlord as its landlord under any such Transfer. If Tenant shall be in default under this Lease, Landlord is hereby irrevocably authorized, as Tenant's agent and attorney-in-fact, to direct any Transferee to make all payments under or in connection with the Transfer directly to Landlord (which Landlord shall apply towards Tenant's obligations under this Lease) until such default is cured. Such Transferee shall rely on any representation by Landlord that Tenant is in default

hereunder, without any need for confirmation thereof by Tenant. Upon any assignment, the assignee shall assume in writing all obligations and covenants of Tenant thereafter to be performed or observed under this Lease. No collection or acceptance of rent by Landlord from any Transferee shall be deemed a waiver of any provision of this Article 14 or the approval of any Transferee or a release of Tenant from any obligation under this Lease, whether theretofore or thereafter accruing. In no event shall Landlord's enforcement of any provision of this Lease against any Transferee be deemed a waiver of Landlord's right to enforce any term of this Lease against Tenant or any other person. If Tenant's obligations hereunder have been guaranteed, Landlord's consent to any Transfer shall not be effective unless the guarantor also consents to such Transfer.

14.8 **Non-Transfers**. Notwithstanding anything to the contrary contained in this Article 14, provided Tenant is not in economic or material non-economic default under this Lease (beyond any applicable notice and cure periods) (i) an assignment or subletting of all or a portion of the Premises to an affiliate of Tenant (an entity which is controlled by, controls, or is under common control with, Tenant), (ii) an assignment of the Premises to an entity which acquires all or substantially all of the assets or interests (partnership, stock or other) of Tenant, or (iii) an assignment of the Premises to an entity which is the resulting entity of a merger, consolidation, public offering, reorganization, or dissolution of Tenant, shall not be deemed a Transfer under this Article 14, provided that Tenant notifies Landlord of any such assignment or sublease and promptly supplies Landlord with any documents or information requested by Landlord regarding such assignment or sublease or such affiliate, and further provided that such assignment or sublease is not a subterfuge by Tenant to avoid its obligations under this Lease or otherwise effectuate any "release" by Tenant of such obligations and such Permitted Transferee shall thereafter become liable under this Lease, on a joint and several basis, with Tenant. The transferee under a transfer specified in items (i), (ii) or (iii) above shall be referred to as a "**Permitted Transferee**." "**Control**," as used in this Section 14.8, shall mean the ownership, directly or indirectly, of at least fifty-one percent (51%) of the voting securities of, or possession of the right to vote, in the ordinary direction of its affairs, of at least fifty-one percent (51%) of the voting interest in, any person or entity. Furthermore, raising capital through a sale (or other offering) of stock or ownership interests in Tenant will not be deemed a Transfer for purposes of this Lease (*i.e.*, Landlord's consent, as opposed to notice, shall not be required).

ARTICLE 15

SURRENDER OF PREMISES; OWNERSHIP AND REMOVAL OF TRADE FIXTURES

15.1 **Surrender of Premises**. No act or thing done by Landlord or any agent or employee of Landlord during the Lease Term shall be deemed to constitute an acceptance by Landlord of a surrender of the Premises unless such intent is specifically acknowledged in writing by Landlord. The delivery of keys to the Premises to Landlord or any agent or employee of Landlord shall not constitute a surrender of the Premises or effect a termination of this Lease, whether or not the keys are thereafter retained by Landlord, and notwithstanding such delivery Tenant shall be entitled to the return of such keys at any reasonable time upon request until this Lease shall have been properly terminated. The voluntary or other surrender of this Lease by Tenant, whether accepted by Landlord or not, or a mutual termination hereof, shall not work a

merger, and at the option of Landlord shall operate as an assignment to Landlord of all subleases or subtenancies affecting the Premises or terminate any or all such sublessees or subtenancies.

15.2 **Removal of Tenant Property by Tenant**. Upon the expiration of the Lease Term, or upon any earlier termination of this Lease, Tenant shall, subject to the provisions of this Article 15, quit and surrender possession of the Premises to Landlord in good order and condition, reasonable wear and tear and repairs which are specifically made the responsibility of Landlord hereunder excepted. Upon such expiration or termination, Tenant shall, without expense to Landlord, remove or cause to be removed from the Premises all debris and rubbish, and such items of furniture, equipment, business and trade fixtures, free-standing cabinet work, movable partitions and other articles of personal property owned by Tenant or installed or placed by Tenant at its expense in the Premises, and such similar articles of any other persons claiming under Tenant, as Landlord may, in its sole discretion, require to be removed, and Tenant shall repair at its own expense all damage to the Premises and Building resulting from such removal.

ARTICLE 16

HOLDING OVER

If Tenant holds over after the expiration of the Lease Term or earlier termination thereof, with or without the express or implied consent of Landlord, such tenancy shall be from month-to-month only, and shall not constitute a renewal hereof or an extension for any further term, and in such case Rent shall be payable at a monthly rate equal to the product of (i) the Rent applicable during the last rental period of the Lease Term under this Lease, and (ii) a percentage equal to one hundred fifty percent (150%). Such month-to-month tenancy shall be subject to every other applicable term, covenant and agreement contained herein. Nothing contained in this Article 16 shall be construed as consent by Landlord to any holding over by Tenant, and Landlord expressly reserves the right to require Tenant to surrender possession of the Premises to Landlord as provided in this Lease upon the expiration or other termination of this Lease. The provisions of this Article 16 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law. If Tenant fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding tenant founded upon such failure to surrender and any lost profits to Landlord resulting therefrom; provided, however, upon entering into a third party lease which affects all or any portion of the Premises, Landlord shall deliver written notice (the "New Lease Notice") of such lease to Tenant and the terms of the foregoing indemnity shall not be effective until the later of (i) the date that occurs thirty (30) days following the date Landlord delivers such New Lease Notice to Tenant, and (ii) the date which occurs thirty (30) days after the termination or expiration of this Lease.

ARTICLE 17

ESTOPPEL CERTIFICATES

Within ten (10) business days following a request in writing by Landlord, Tenant shall execute, acknowledge and deliver to Landlord an estoppel certificate, which, as submitted by Landlord, shall be substantially in the form of **Exhibit E**, attached hereto (or such other form as may be required by any prospective mortgagee or purchaser of the Project, or any portion thereof), indicating therein any exceptions thereto that may exist at that time, and shall also contain any other information reasonably requested by Landlord or Landlord's mortgagee or prospective mortgagee. Any such certificate may be relied upon by any prospective mortgagee or purchaser of all or any portion of the Project. Tenant shall execute and deliver whatever other instruments may be reasonably required for such purposes. At any time during the Lease Term, but no more frequently than once in any six (6) month period, Landlord may require Tenant to provide Landlord with a current financial statement and financial statements of the two (2) years prior to the current financial statement year. Such statements shall be prepared in accordance with generally accepted accounting principles and, if such is the normal practice of Tenant, shall be audited by an independent certified public accountant. Failure of Tenant to timely execute, acknowledge and deliver such estoppel certificate or other instruments shall constitute an acceptance of the Premises and an acknowledgment by Tenant that statements included in the estoppel certificate are true and correct, without exception. Notwithstanding the foregoing, in the event that (i) stock in the entity which constitutes Tenant under this Lease (as opposed to an entity that "controls" Tenant, as that term is defined in Section 14.8 of this Lease, or is under common control with Tenant) is publicly traded on a national stock exchange, and (ii) Tenant has its own, separate and distinct 10K and 10Q filing requirements (as opposed to joint filings with an entity that controls Tenant or is under common control with Tenant), then Tenant's obligation to provide Landlord with a copy of its most recent current financial statement shall be deemed satisfied.

ARTICLE 18

SUBORDINATION

Landlord covenants that there is no existing mortgage, deed of trust or other encumbrance encumbering the Project or any portion thereof as of the date of this Lease. Landlord covenants that there is no existing ground lessor with respect to the Building and/or Project. This Lease shall be subject and subordinate to all present and future ground or underlying leases of the Building or Project and to the lien of any mortgage, trust deed or other encumbrances now or hereafter in force against the Building or Project or any part thereof, if any, and to all renewals, extensions, modifications, consolidations and replacements thereof, and to all advances made or hereafter to be made upon the security of such mortgages or trust deeds, unless the holders of such mortgages, trust deeds or other encumbrances, or the lessors under such ground lease or underlying leases, require in writing that this Lease be superior thereto. Landlord's delivery to Tenant of commercially reasonable non-disturbance agreement(s) in favor of Tenant from any ground lessor, mortgage holders and lien holders of Landlord, and the holders of any other encumbrance to which Tenant's leasehold estate may be subordinate (collectively, "**Lenders**"), which later come into existence at any time prior to the expiration of the Lease Term shall be in

consideration of, and a condition precedent to, Tenant's agreement to be bound by the terms and conditions of this Article 18. Tenant covenants and agrees in the event any proceedings are brought for the foreclosure of any such mortgage or deed in lieu thereof (or if any ground lease is terminated), to attorn, without any deductions or set-offs whatsoever, to the lienholder or purchaser or any successors thereto upon any such foreclosure sale or deed in lieu thereof (or to the ground lessor), if so requested to do so by such purchaser or lienholder or ground lessor, and to recognize such purchaser or lienholder or ground lessor as the lessor under this Lease, provided such lienholder or purchaser or ground lessor shall agree to accept this Lease and not disturb Tenant's occupancy, so long as Tenant timely pays the rent and observes and performs the TCCs of this Lease to be observed and performed by Tenant. Landlord's interest herein may be assigned as security at any time to any lienholder. Tenant shall, within ten (10) business days of request by Landlord, execute such further instruments or assurances as Landlord may reasonably deem necessary to evidence or confirm the subordination or superiority of this Lease to any such mortgages, trust deeds, ground leases or underlying leases. Tenant waives the provisions of any current or future statute, rule or law which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease and the obligations of the Tenant hereunder in the event of any foreclosure proceeding or sale.

ARTICLE 19

DEFAULTS; REMEDIES

19.1 **Events of Default**. The occurrence of any of the following shall constitute a default of this Lease by Tenant:

19.1.1 Any failure by Tenant to pay any Rent or any other charge required to be paid under this Lease, or any part thereof, when due unless such failure is cured within three (3) business days after notice; or

19.1.2 Except where a specific time period is otherwise set forth for Tenant's performance in this Lease, in which event the failure to perform by Tenant within such time period shall be a default by Tenant under this Section 19.1.2, any failure by Tenant to observe or perform any other provision, covenant or condition of this Lease to be observed or performed by Tenant where such failure continues for thirty (30) days after written notice thereof from Landlord to Tenant; provided that if the nature of such default is such that the same cannot reasonably be cured within a thirty (30) day period, Tenant shall not be deemed to be in default if it diligently commences such cure within such period and thereafter diligently proceeds to rectify and cure such default, but in no event exceeding a period of time in excess of ninety (90) days after written notice thereof from Landlord to Tenant; or

19.1.3 To the extent permitted by law, (i) Tenant or any guarantor of this Lease being placed into receivership or conservatorship, or becoming subject to similar proceedings under Federal or State law, or (ii) a general assignment by Tenant or any guarantor of this Lease for the benefit of creditors, or (iii) the taking of any corporate action in furtherance of bankruptcy or dissolution whether or not there exists any proceeding under an insolvency or bankruptcy law, or (iv) the filing by or against Tenant or any guarantor of any proceeding under an insolvency or bankruptcy law, unless in the case of such a proceeding filed against Tenant or any guarantor the

same is dismissed within sixty (60) days, or (v) the appointment of a trustee or receiver to take possession of all or substantially all of the assets of Tenant or any guarantor, unless possession is restored to Tenant or such guarantor within thirty (30) days, or (vi) any execution or other judicially authorized seizure of all or substantially all of Tenant's assets located upon the Premises or of Tenant's interest in this Lease, unless such seizure is discharged within thirty (30) days; or

19.1.4 Abandonment of the Premises pursuant to California Civil Code Section 1951.3; or

19.1.5 The failure by Tenant to observe or perform according to the provisions of Articles 5, 14, 17 or 18 of this Lease where such failure continues for more than five (5) business days after notice from Landlord; or

19.1.6 Tenant's failure to occupy the Premises within ninety (90) business days after the Lease Commencement Date.

The notice periods provided herein are in lieu of, and not in addition to, any notice periods provided by law.

19.2 **Remedies Upon Default**. Upon the occurrence of any event of default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity (all of which remedies shall be distinct, separate and cumulative), the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive, without any notice or demand whatsoever.

19.2.1 Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution of any claim for damages therefor; and Landlord may recover from Tenant the following:

(a) The worth at the time of award of any unpaid rent which has been earned at the time of such termination; plus

(b) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(c) The worth at the time of award of the amount by which the unpaid rent for the balance of the Lease Term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(d) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom; and

(e) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

The term "**rent**" as used in this Section 19.2 shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Lease, whether to Landlord or to others. As used in Sections 19.2.1(a) and (b), above, the "worth at the time of award" shall be computed by allowing interest at the Interest Rate. As used in Section 19.2.1(c), above, the "worth at the time of award" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

19.2.2 Landlord shall have the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). Accordingly, if Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all rent as it becomes due.

19.2.3 Landlord shall at all times have the rights and remedies (which shall be cumulative with each other and cumulative and in addition to those rights and remedies available under Sections 19.2.1 and 19.2.2, above, or any law or other provision of this Lease), without prior demand or notice except as required by applicable law, to seek any declaratory, injunctive or other equitable relief, and specifically enforce this Lease, or restrain or enjoin a violation or breach of any provision hereof.

19.3 **Subleases of Tenant**. Whether or not Landlord elects to terminate this Lease on account of any default by Tenant, as set forth in this Article 19, Landlord shall have the right to terminate any and all subleases, licenses, concessions or other consensual arrangements for possession entered into by Tenant and affecting the Premises or may, in Landlord's sole discretion, succeed to Tenant's interest in such subleases, licenses, concessions or arrangements. In the event of Landlord's election to succeed to Tenant's interest in any such subleases, licenses, concessions or arrangements, Tenant shall, as of the date of notice by Landlord of such election, have no further right to or interest in the rent or other consideration receivable thereunder.

19.4 **Form of Payment After Default**. Following the second (2nd) occurrence of an economic event of default by Tenant (beyond the applicable notice and cure periods) occurring within any twelve (12) month period, Landlord shall have the right to require that any or all subsequent amounts paid by Tenant to Landlord hereunder, whether to cure the default in question or otherwise, be paid in the form of cash, money order, cashier's or certified check drawn on an institution acceptable to Landlord, or by other means approved by Landlord, notwithstanding any prior practice of accepting payments in any different form.

19.5 **Efforts to Relet**. No re-entry or repossession, repairs, maintenance, changes, alterations and additions, reletting, appointment of a receiver to protect Landlord's interests hereunder, or any other action or omission by Landlord shall be construed as an election by Landlord to terminate this Lease or Tenant's right to possession, or to accept a surrender of the

Premises, nor shall same operate to release Tenant in whole or in part from any of Tenant's obligations hereunder, unless express written notice of such intention is sent by Landlord to Tenant. Tenant hereby irrevocably waives any right otherwise available under any law to redeem or reinstate this Lease.

19.6 **Landlord Default**. Notwithstanding anything to the contrary set forth in this Lease, Landlord shall be in default in the performance of any obligation required to be performed by Landlord pursuant to this Lease if Landlord fails to perform such obligation within thirty (30) days after the receipt of notice from Tenant specifying in detail Landlord's failure to perform; provided, however, if the nature of Landlord's obligation is such that more than thirty (30) days are required for its performance, then Landlord shall not be in default under this Lease if it shall commence such performance within such thirty (30) day period and thereafter diligently pursues the same to completion. Upon any such default by Landlord under this Lease, Tenant may, except as otherwise specifically provided in this Lease to the contrary, exercise any of its rights provided at law or in equity, including, to the extent so provided, the initiation of an action for damages or termination. Any award from a court or arbitrator in favor of Tenant requiring payment by Landlord which is not paid by Landlord within the time period directed by such award, may be offset by Tenant from Rent next due and payable under this Lease; provided, however, Tenant may not deduct the amount of the award against more than fifty percent (50%) of Base Rent next due and owing (until such time as the entire amount of such judgment is deducted) to the extent following a foreclosure or a deed in lieu of foreclosure.

ARTICLE 20

COVENANT OF QUIET ENJOYMENT

Landlord covenants that Tenant, on paying the Rent, charges for services and other payments herein reserved and on keeping, observing and performing all the other TCCs, provisions and agreements herein contained on the part of Tenant to be kept, observed and performed, shall, during the Lease Term, peaceably and quietly have, hold and enjoy the Premises subject to the TCCs, provisions and agreements hereof without interference by any persons lawfully claiming by or through Landlord. The foregoing covenant is in lieu of any other covenant express or implied.

ARTICLE 21

SECURITY DEPOSIT

Concurrent with Tenant's execution of this Lease, Tenant shall deposit with Landlord a security deposit (the "**Security Deposit**") in the amount set forth in Section 8 of the Summary, as security for the faithful performance by Tenant of all of its obligations under this Lease. If Tenant defaults with respect to any provisions of this Lease, including, but not limited to, the provisions relating to the payment of Rent, the removal of property and the repair of resultant damage, Landlord may, without notice to Tenant, but shall not be required to apply all or any part of the Security Deposit for the payment of any Rent or any other sum in default and Tenant shall, upon demand therefor, restore the Security Deposit to its original amount. Any unapplied portion of the Security Deposit shall be returned to Tenant, or, at Landlord's option, to the last

assignee of Tenant's interest hereunder, within sixty (60) days following the expiration of the Lease Term. Tenant shall not be entitled to any interest on the Security Deposit. Tenant hereby irrevocably waives and relinquishes any and all rights, benefits, or protections, if any, Tenant now has, or in the future may have, under Section 1950.7 of the California Civil Code, any successor statute, and all other provisions of law, now or hereafter in effect, including, but not limited to, any provision of law which (i) establishes the time frame by which a landlord must refund a security deposit under a lease, or (ii) provides that a landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by a tenant, or to clean the subject premises. Tenant acknowledges and agrees that (A) any statutory time frames for the return of a security deposit are superseded by the express period identified in this Article 21, above, and (B) rather than be so limited, Landlord may claim from the Security Deposit (i) any and all sums expressly identified in this Article 21, above, and (ii) any additional sums reasonably necessary to compensate Landlord for any and all losses or damages caused by Tenant's default of this Lease, including, but not limited to, all damages or rent due upon termination of this Lease pursuant to Section 1951.2 of the California Civil Code.

ARTICLE 22

INTENTIONALLY OMITTED

ARTICLE 23

SIGNS

23.1 **Full Floors**. Subject to Landlord's prior written approval, in its reasonable discretion, and provided all signs are in keeping with the quality, design and style of the Building and Project, Tenant, if the Premises comprise an entire floor of the Building, at its sole cost and expense, may install identification signage anywhere in the Premises including in the elevator lobby of the Premises, provided that such signs must not be visible from the exterior of the Building.

23.2 **Multi-Tenant Floors**. If other tenants occupy space on the floor on which the Premises is located, Tenant's identifying signage shall be provided by Landlord, at Tenant's cost, and such signage shall be comparable to that used by Landlord for other similar floors in the Building and shall comply with Landlord's Building standard signage program. In addition, Landlord shall provide, at Tenant's cost, Building standard directory signage.

23.3 **Building Directory**. A building directory will be located in the lobby of the Building. Landlord, at Landlord's sole cost and expense, will arrange to have Tenant's name displayed on one (1) strip on that Building directory.

23.4 **Prohibited Signage and Other Items**. Any signs, notices, logos, pictures, names or advertisements which are installed and that have not been separately approved by Landlord may be removed without notice by Landlord at the sole expense of Tenant. Except as provided in Section 23.5, below, Tenant may not install any signs on the exterior or roof of the Project or the Common Areas. Any signs, window coverings, or blinds (even if the same are located

behind the Landlord-approved window coverings for the Building), or other items visible from the exterior of the Premises or Building, shall be subject to the prior approval of Landlord, in its sole discretion.

23.5 **Building-Top Signage/Monument Signage**.

23.5.1 **Building-Top Signage**. Notwithstanding anything to the contrary contained in this Article 23, the Original Tenant and its Permitted Transferees, shall have the right, but not the obligation, to install one (1) non-exclusive Building-top sign on the exterior of the Building facing El Camino Real but otherwise in the location designated by Landlord, at the sole cost and expense of Tenant (the "**Building-Top Signage**"). Such Building-Top Signage shall conform to all zoning and CC&Rs, and shall be subject to Landlord's reasonable review and approval, and in no event shall the Building-Top Signage include an "Objectionable Name," as that term is defined in Section 23.5.6 of this Lease. All costs associated with the Building-Top Signage, including, without limitation, the costs to purchase, install, maintain, and remove it, shall be borne exclusively by Tenant.

23.5.2 **Monument Signage**. In the event Landlord installs monument signage designed to serve the Building, Tenant shall have the non-exclusive right, but not the obligation, to have its name (as determined by Tenant) placed on one (1) line on such monument signage in the location designated by Landlord (the "**Monument Signage**"), and such signage shall be subject to Landlord's reasonable review and approval; provided, however, in no event shall the Monument Signage include an Objectionable Name. Landlord shall have the right to (i) position or prioritize Tenant's business name in any position on such Monument Signage as it shall determine in its sole discretion, from time to time, (ii) design and organize such Monument Signage (and the materials, design, script size, type face, colors and all other characteristics thereof) in such manner as it shall determine in its sole discretion, (iii) place such other names, business names, trade names or affiliate names representing such other tenants as it shall determine in its sole discretion, (iv) make such modifications to such Monument Signage as it shall desire from time to time, and (v) place thereon the name of (and/or other identifying information for) the Building and/or Project as Landlord shall determine in its sole discretion.

23.5.3 **Rights Personal**. The rights granted under this Section 23.5 are personal to the Original Tenant and its Permitted Transferees (and not any other assignee, sublessee or other transferee of the Original Tenant's interest in this Lease), and shall not be transferable in any other respect whatsoever. In the event that (i) the Lease shall be assigned to any other party other than the Original Tenant's Permitted Transferees, (ii) an event of default (after all notice and applicable cure periods have expired) exists under this Lease, (iii) Tenant shall be delinquent for any period in excess of forty-five (45) days in the payment of any amount of Rent, or (iv) the Original Tenant or its Permitted Transferees shall fail to actually occupy at least seventy-five percent (75%) of the Premises for any period in excess of thirty (30) days (except for time periods during repairs, remodeling or similar circumstances), Landlord shall have the right to cancel Tenant's rights under this Section 23.5 and to require Tenant to remove at Tenant's sole cost and expense Tenant's name from such Monument Signage and Building-Top Signage within thirty (30) days after delivery of Landlord's written notice to do so.

23.5.4 **Specifications and Permits**. The graphics, materials, color, design, lettering, size and specifications of Tenant's name on such Monument Signage and Building-Top Signage (collectively, the "**Sign Specifications**") shall be (i) subject to the prior written consent of Landlord, including, without limitation, as to the design, materials, color, size and all other aesthetic factors of such signage and which consent thereto shall be in Landlord's sole discretion; (ii) consistent with the size and quality of comparable signage on comparable institutionally owned first-class office buildings in the local market, (iii) in compliance with all Laws, (iv) subject to receipt by Tenant of all required governmental permits and approvals therefor, and (v) consistent with the and the overall character of the Building's/Project's architecture (as determined by Landlord). In addition, Tenant's name on such Monument Signage and Building-Top Signage shall be subject to the receipt of all required governmental permits and approvals (and the submission of copies thereof to Landlord), and shall be subject to all Applicable Laws.

23.5.5 **Cost and Maintenance**. The costs of the actual signs comprising Tenant's name on such Monument Signage and/or Building-Top Signage and the installation, design, construction, and any and all other costs associated with Tenant's name on such Monument Signage and/or Building-Top Signage, including, without limitation, utility charges and hook-up fees (if applicable), permits, and maintenance and repairs, shall be the sole responsibility of Tenant; provided that Landlord shall reasonably cooperate with Tenant's use of Common Areas to allow Tenant to install, operate, maintain and repair Tenant's name on such Monument Signage and/or Building-Top Signage. Should Tenant's name on such Monument Signage and/or Building-Top Signage require repairs and/or maintenance, Landlord shall have the right to provide notice thereof to Tenant and Tenant (except as set forth above) shall cause such repairs and/or maintenance to commence to be performed within thirty (30) days after receipt of such notice from Landlord, at Tenant's sole cost and expense; provided, however, if such repairs and/or maintenance are reasonably expected to require longer than thirty (30) days to perform, Tenant shall commence such repairs and/or maintenance within such thirty (30) day period and shall thereafter diligently prosecute such repairs and maintenance to completion at Tenant's sole cost and expense. Should Tenant fail to perform such repairs and/or maintenance within the periods described in the immediately preceding sentence, Landlord shall have the right to cause such work to be performed and to charge Tenant as Additional Rent for the actual cost of such work plus interest at the Interest Rate from the date of Landlord's payment of such actual costs to the date of Tenant's reimbursement to Landlord. Tenant shall bear a pro rata share (based upon the number of tenants identified on such Monument Signage) of all costs of maintenance and operation of such Monument Signage and all such costs shall be paid by Tenant to Landlord as Additional Rent within ten (10) days of receipt of Landlord's written demand therefor. Within a reasonable time following the expiration or earlier termination of this Lease (which shall in no event be later than thirty (30) days after such expiration or termination of this Lease), Tenant shall, at Tenant's sole cost and expense, commence, and thereafter shall diligently pursue, the removal of Tenant's name from such Monument Signage and/or Building-Top Signage, and shall cause the areas in which such Tenant's name on such Monument Signage and/or Building-Top Signage was located to be restored to the condition existing immediately prior to the placement of such Tenant's name on such Monument Signage and/or Building-Top Signage. If Tenant fails to timely remove Tenant's name from such Monument Signage and/or Building-Top Signage or to restore the areas in which Tenant's name on such Monument Signage and/or Building-Top Signage was located, as provided in the immediately preceding sentence, then Landlord may perform such work, and all actual costs reasonably incurred by

Landlord in so performing, plus interest at the Interest Rate from the date of Landlord's payment of such costs to the date of Tenant's reimbursement to Landlord, shall be reimbursed by Tenant to Landlord within thirty (30) days after Tenant's receipt of an invoice therefore. The terms of this Section 23.5.5 shall survive the expiration or earlier termination of this Lease.

23.5.6 **Objectionable Name**. In no event shall Tenant's signage include, identify or otherwise refer to a name which relates to an entity which is of a character or reputation, or is associated with a political faction or orientation, which is inconsistent with the quality of the Project, or which would otherwise reasonably offend a landlord of a Comparable Building (an "**Objectionable Name**"). The parties hereby agree that the name "*Service-now.com*" or "*Service-now*" or any reasonable derivation thereof, shall not be deemed an Objectionable Name.

ARTICLE 24

COMPLIANCE WITH LAW

Landlord covenants that as of the Lease Commencement Date, the Building, the Premises (including the Improvements), and the parking areas serving the Building, shall be in material compliance with all "Applicable Laws" (as that term is defined hereinbelow) in effect as of the Lease Commencement Date, and Landlord shall, at its sole cost and expense, correct any material deficiency in such condition promptly following receipt of written notice thereof from Tenant. Tenant shall not do anything or suffer anything to be done in or about the Premises or the Project which will in any way conflict with any law, statute, ordinance or other governmental rule, regulation or requirement now in force or which may hereafter be enacted or promulgated which is applicable to the Premises (collectively, "**Applicable Laws**"). At its sole cost and expense, Tenant shall promptly comply with all such Applicable Laws which relate to (i) Tenant's use of the Premises for non-general office use, (ii) the Alterations, or (iii) the Base Building, but, as to the Base Building, only to the extent such obligations are triggered by Tenant's Alterations, or use of the Premises for non-general office use. Should any standard or regulation now or hereafter be imposed on Landlord or Tenant by a state, federal or local governmental body charged with the establishment, regulation and enforcement of occupational, health or safety standards for employers, employees, landlords or tenants, then Tenant agrees, at its sole cost and expense, to comply promptly with such standards or regulations. The judgment of any court of competent jurisdiction or the admission of Tenant in any judicial action, regardless of whether Landlord is a party thereto, that Tenant has violated any of said governmental measures, shall be conclusive of that fact as between Landlord and Tenant. Landlord shall comply with all Applicable Laws relating to the Base Building or relating to compliance with laws in effect as of the Lease Commencement Date, provided that compliance with such Applicable Laws is not the responsibility of Tenant under this Lease, and provided further that Landlord's failure to comply therewith would (*x*) prohibit Tenant from obtaining or maintaining a certificate of occupancy for the Premises, (*y*) would unreasonably and materially affect the safety of Tenant's employees or create a significant health hazard for Tenant's employees, or (*z*) violate an affirmative mandate (directed specifically to the Project) of an applicable governmental authority. Landlord shall be permitted to include in Operating Expenses any costs or expenses incurred by Landlord under this Article 24 to the extent consistent with the terms of Section 4.2.4, above.

ARTICLE 25

LATE CHARGES

If any installment of Rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee when due, then Tenant shall pay to Landlord a late charge equal to five percent (5%) of the overdue amount plus any attorneys' fees incurred by Landlord by reason of Tenant's failure to pay Rent and/or other charges when due hereunder; provided, however, with regard to the first such failure in any twelve (12) month period, Landlord will waive such late charge to the extent Tenant cures such failure within three (3) days following Tenant's receipt of written notice from Landlord that the same was not received when due. The late charge shall be deemed Additional Rent and the right to require it shall be in addition to all of Landlord's other rights and remedies hereunder or at law and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner. In addition to the late charge described above, any Rent or other amounts owing hereunder which are not paid within ten (10) days after the date they are due shall bear interest from the date when due until paid at the "Interest Rate." For purposes of this Lease, the "**Interest Rate**" shall be an annual rate equal to the lesser of (i) the annual "**Bank Prime Loan**" rate cited in the Federal Reserve Statistical Release Publication H.15(519), published weekly (or such other comparable index as Landlord and Tenant shall reasonably agree upon if such rate ceases to be published), plus four (4) percentage points, and (ii) the highest rate permitted by applicable law.

ARTICLE 26

LANDLORD'S RIGHT TO CURE DEFAULT; PAYMENTS BY TENANT

26.1 **Landlord's Cure**. All covenants and agreements to be kept or performed by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any reduction of Rent, except to the extent, if any, otherwise expressly provided herein. If Tenant shall fail to perform any obligation under this Lease, and such failure shall continue in excess of the time allowed under Section 19.1.2, above, unless a specific time period is otherwise stated in this Lease, Landlord may, but shall not be obligated to, make any such payment or perform any such act on Tenant's part without waiving its rights based upon any default of Tenant and without releasing Tenant from any obligations hereunder.

26.2 **Tenant's Reimbursement**. Except as may be specifically provided to the contrary in this Lease, Tenant shall pay to Landlord, upon delivery by Landlord to Tenant of statements therefor: (i) sums equal to expenditures reasonably made and obligations reasonably incurred by Landlord in connection with the remedying by Landlord of Tenant's defaults pursuant to the provisions of Section 26.1; (ii) sums equal to all losses, costs, liabilities, damages and expenses referred to in Article 10 of this Lease; and (iii) sums equal to all expenditures reasonably made and obligations reasonably incurred by Landlord in collecting or attempting to collect the Rent or in enforcing or attempting to enforce any rights of Landlord under this Lease or pursuant to law, including, without limitation, all legal fees and other amounts so expended. Tenant's obligations under this Section 26.2 shall survive the expiration or sooner termination of the Lease Term.

ARTICLE 27

ENTRY BY LANDLORD

Landlord reserves the right at all reasonable times (during Building Hours with respect to items (i) and (ii) below) and upon at least twenty-four (24) hours prior notice to Tenant (except in the case of an emergency) to enter the Premises to (i) inspect them; (ii) show the Premises to prospective purchasers, or to current or prospective mortgagees, ground or underlying lessors or insurers, or during the last nine (9) months of the Lease Term, to prospective tenants; (iii) post notices of nonresponsibility; or (iv) alter, improve or repair the Premises or the Building, or for structural alterations, repairs or improvements to the Building or the Building's systems and equipment. Notwithstanding anything to the contrary contained in this Article 27, Landlord may enter the Premises at any time to (A) perform services required of Landlord, including janitorial service; (B) take possession due to any breach of this Lease in the manner provided herein; and (C) perform any covenants of Tenant which Tenant fails to perform. Landlord may make any such entries without the abatement of Rent, except as otherwise provided in this Lease, and may take such reasonable steps as required to accomplish the stated purposes; provided, however, except for (*x*) emergencies, (*y*) repairs, alterations, improvements or additions required by governmental or quasi-governmental authorities or court order or decree, or (*z*) repairs which are the obligation of Tenant hereunder, any such entry shall be performed in a manner so as not to unreasonably interfere with Tenant's use of the Premises and shall be performed after normal business hours if reasonably practical. With respect to items (*y*) and (*z*) above, Landlord shall use commercially reasonable efforts to not materially interfere with Tenant's use of, or access to, the Premises. Except as otherwise set forth in Section 6.4 , Tenant hereby waives any claims for damages or for any injuries or inconvenience to or interference with Tenant's business, lost profits, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. For each of the above purposes, Landlord shall at all times have a key with which to unlock all the doors in the Premises, excluding Tenant's vaults, safes and special security areas designated in advance by Tenant. In an emergency, Landlord shall have the right to use any means that Landlord may deem proper to open the doors in and to the Premises. Any entry into the Premises by Landlord in the manner hereinbefore described shall not be deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an actual or constructive eviction of Tenant from any portion of the Premises. No provision of this Lease shall be construed as obligating Landlord to perform any repairs, alterations or decorations except as otherwise expressly agreed to be performed by Landlord herein. Landlord will exercise its rights pursuant to this Article 27 in a manner so as to minimize any unreasonable interference with Tenant's use of the Premises.

ARTICLE 28

TENANT PARKING

28.1 **In General**. Tenant shall (i) rent from Landlord, on a monthly basis throughout the Lease, commencing on the Lease Commencement Date, the amount of reserved parking passes set forth in Section 9 of the Summary, and (ii) be entitled to use commencing on the Lease Commencement Date, the amount of unreserved parking passes identified in Section 9 of the Summary, on a monthly basis throughout the Lease Term, all of which parking passes shall

pertain to the Project's parking facility. Tenant's use of the foregoing parking passes shall be free of charge during the initial Lease Term only. Notwithstanding the foregoing or any provision to the contrary set forth in this Article 28, Tenant shall be responsible for the full amount of any taxes imposed by any governmental authority in connection with the renting of such parking passes by Tenant or the use of the parking facility by Tenant. Tenant's continued right to use the parking passes is conditioned upon Tenant abiding by all rules and regulations which are prescribed from time to time for the orderly operation and use of the parking facility where the parking passes are located, including any sticker or other identification system established by Landlord, Tenant's use of commercially reasonable efforts to cause Tenant's employees and visitors also comply with such rules and regulations and Tenant not being in default under this Lease. Landlord specifically reserves the right to change the size, configuration, design, layout and all other aspects of the Project parking facility at any time and Tenant acknowledges and agrees that Landlord may, without incurring any liability to Tenant and without any abatement of Rent under this Lease, from time to time, temporarily close-off or restrict access to the Project parking facility for purposes of permitting or facilitating any such construction, alteration or improvements; provided that Landlord shall provide Tenant with reasonable substitute parking in such event, to the extent reasonably necessary. Landlord may delegate its responsibilities hereunder to a parking operator in which case such parking operator shall have all the rights of control attributed hereby to the Landlord. The parking passes provided to Tenant pursuant to this Article 28 are provided to Tenant solely for use by Tenant's own personnel, employees, agents, contractors, and invitees, and such passes may not be transferred, assigned, subleased or otherwise alienated by Tenant without Landlord's prior approval. Tenant may validate visitor parking by such method or methods as the Landlord may establish, at the validation rate from time to time generally applicable to visitor parking.

28.2 **Supplemental Reserved Parking Passes**. During the initial Lease Term only, Tenant shall have the right (but not the obligation), subject to availability, to use up to an additional six (6) reserved parking passes (the "**Supplemental Reserved Parking Passes**") in the Building's parking facilities on a monthly basis throughout the remainder of the Lease Term, which each such Supplemental Reserved Parking Pass shall be in lieu of an equal number of unreserved parking passes. The cost of each of such Supplemental Reserved Parking Passes which Tenant has elected to use pursuant to this Section 28.2, shall be equal to the then-prevailing rate charged by Landlord for the use of the same. Tenant shall also be responsible for the full amount of any taxes imposed by any governmental authority in connection with the use of such Supplemental Reserved Parking Passes by Tenant or the use of the parking facility in which the Supplemental Reserved Parking Passes are located by Tenant. In addition, the location of the Supplemental Reserved Parking Passes will be reasonably determined by Landlord. Subject to availability, Tenant may exercise its right to any number of the then-available Supplemental Reserved Parking Passes, up to an aggregate total of six (6), beginning on the Lease Commencement Date, with written notice of commencement from Tenant to Landlord which specifies the number of Supplemental Reserved Parking Passes Tenant wishes to use, provided that once Tenant has elected its right to lease each such Supplemental Parking Pass pursuant to the terms of this Section 28.2, such Supplemental Reserved Parking Passes shall be leased by Tenant for the entire remaining Lease Term (as well as any subsequent extensions or renewals thereof).

ARTICLE 29

MISCELLANEOUS PROVISIONS

29.1 **Terms; Captions**. The words “Landlord” and “Tenant” as used herein shall include the plural as well as the singular. The necessary grammatical changes required to make the provisions hereof apply either to corporations or partnerships or individuals, men or women, as the case may require, shall in all cases be assumed as though in each case fully expressed. The captions of Articles and Sections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such Articles and Sections.

29.2 **Binding Effect**. Subject to all other provisions of this Lease, each of the covenants, conditions and provisions of this Lease shall extend to and shall, as the case may require, bind or inure to the benefit not only of Landlord and of Tenant, but also of their respective heirs, personal representatives, successors or assigns, provided this clause shall not permit any assignment by Tenant contrary to the provisions of Article 14 of this Lease.

29.3 **No Air Rights**. No rights to any view or to light or air over any property, whether belonging to Landlord or any other person, are granted to Tenant by this Lease. If at any time any windows of the Premises are temporarily darkened or the light or view therefrom is obstructed by reason of any repairs, improvements, maintenance or cleaning in or about the Project, the same shall be without liability to Landlord and without any reduction or diminution of Tenant’s obligations under this Lease.

29.4 **Modification of Lease**. Should any current or prospective mortgagee or ground lessor for the Building or Project require a modification of this Lease, which modification will not cause an increased cost or expense to Tenant or in any other way materially and adversely change the rights and obligations of Tenant hereunder, then and in such event, Tenant agrees that this Lease may be so modified and agrees to execute whatever documents are reasonably required therefor and to deliver the same to Landlord within ten (10) business days following a request therefor. At the request of Landlord or any mortgagee or ground lessor, Tenant agrees to execute a short form of Lease and deliver the same to Landlord within ten (10) business days following the request therefor.

29.5 **Transfer of Landlord’s Interest**. Tenant acknowledges that Landlord has the right to transfer all or any portion of its interest in the Project or Building and in this Lease, and Tenant agrees that in the event of any such transfer, Landlord shall automatically be released from all liability under this Lease not accrued as of the date of the transfer and Tenant agrees to look solely to such transferee for the performance of Landlord’s obligations hereunder after the date of transfer and such transferee shall be deemed to have fully assumed and be liable for all obligations of this Lease to be performed by Landlord, including the return of any Security Deposit, and Tenant shall attorn to such transferee. Tenant further acknowledges that Landlord may assign its interest in this Lease to a mortgage lender as additional security and agrees that such an assignment shall not release Landlord from its obligations hereunder and that Tenant shall continue to look to Landlord for the performance of its obligations hereunder.

29.6 **Prohibition Against Recording**. Except as provided in Section 29.4 of this Lease, neither this Lease, nor any memorandum, affidavit or other writing with respect thereto, shall be recorded by Tenant or by anyone acting through, under or on behalf of Tenant.

29.7 **Landlord's Title**. Landlord's title is and always shall be paramount to the title of Tenant. Nothing herein contained shall empower Tenant to do any act which can, shall or may encumber the title of Landlord.

29.8 **Relationship of Parties**. Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturer or any association between Landlord and Tenant.

29.9 **Application of Payments**. Landlord shall have the right to apply payments received from Tenant pursuant to this Lease, regardless of Tenant's designation of such payments, to satisfy any obligations of Tenant hereunder, in such order and amounts as Landlord, in its sole discretion, may elect, it nevertheless being acknowledged that Tenant may be free to make any such payments "under protest."

29.10 **Time of Essence**. Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

29.11 **Partial Invalidity**. If any term, provision or condition contained in this Lease shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision and condition of this Lease shall be valid and enforceable to the fullest extent possible permitted by law.

29.12 **No Warranty**. In executing and delivering this Lease, Tenant has not relied on any representations, including, but not limited to, any representation as to the amount of any item comprising Additional Rent or the amount of the Additional Rent in the aggregate or that Landlord is furnishing the same services to other tenants, at all, on the same level or on the same basis, or any warranty or any statement of Landlord which is not set forth herein or in one or more of the exhibits attached hereto.

29.13 **Landlord Exculpation**. The liability of Landlord or the Landlord Parties to Tenant for any default by Landlord under this Lease or arising in connection herewith or with Landlord's operation, management, leasing, repair, renovation, alteration or any other matter relating to the Project or the Premises shall be limited solely and exclusively to an amount which is equal to the net interest of Landlord (following payment of any outstanding liens and/or mortgages, whether attributable to sales or insurance proceeds or otherwise) in the Project (including any insurance or rental proceeds which Landlord receives). Neither Landlord, nor any of the Landlord Parties shall have any personal liability therefor, and Tenant hereby expressly waives and releases such personal liability on behalf of itself and all persons claiming by, through or under Tenant. The limitations of liability contained in this Section 29.13 shall inure to the benefit of Landlord's and the Landlord Parties' present and future partners, beneficiaries, officers, directors, trustees, shareholders, agents and employees, and their respective partners,

heirs, successors and assigns. Under no circumstances shall any present or future partner of Landlord (if Landlord is a partnership), or trustee or beneficiary (if Landlord or any partner of Landlord is a trust), have any liability for the performance of Landlord's obligations under this Lease. Notwithstanding any contrary provision herein, neither Landlord nor the Landlord Parties shall be liable under any circumstances for injury or damage to, or interference with, Tenant's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring.

29.14 **Entire Agreement**. It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Lease and this Lease constitutes the parties' entire agreement with respect to the leasing of the Premises and supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. None of the terms, covenants, conditions or provisions of this Lease can be modified, deleted or added to except in writing signed by the parties hereto.

29.15 **Right to Lease**. Landlord reserves the absolute right to effect such other tenancies in the Project as Landlord in the exercise of its sole business judgment shall determine to best promote the interests of the Building or Project. Tenant does not rely on the fact, nor does Landlord represent, that any specific tenant or type or number of tenants shall, during the Lease Term, occupy any space in the Building or Project.

29.16 **Force Majeure**. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent and other charges to be paid by Tenant pursuant to this Lease (collectively, a "**Force Majeure**"), notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure.

29.17 **Waiver of Redemption by Tenant**. Tenant hereby waives, for Tenant and for all those claiming under Tenant, any and all rights now or hereafter existing to redeem by order or judgment of any court or by any legal process or writ, Tenant's right of occupancy of the Premises after any termination of this Lease.

29.18 **Notices**. All notices, demands, statements, designations, approvals or other communications (collectively, "**Notices**") given or required to be given by either party to the other hereunder or by law shall be in writing, shall be (A) sent by United States certified or registered mail, postage prepaid, return receipt requested ("**Mail**"), (B) transmitted by telecopy, if such telecopy is promptly followed by a Notice sent by Mail, (C) delivered by a nationally recognized overnight courier, or (D) delivered personally. Any Notice shall be sent, transmitted, or delivered, as the case may be, to Tenant at the appropriate address set forth in Section 11 of the Summary, or to such other place as Tenant may from time to time designate in a Notice to

Landlord, or to Landlord at the addresses set forth below, or to such other places as Landlord may from time to time designate in a Notice to Tenant. Any Notice will be deemed given (i) three (3) days after the date it is posted if sent by Mail, (ii) the date the telecopy is transmitted, (iii) the date the overnight courier delivery is made, or (iv) the date personal delivery is made or attempted to be made. If Tenant is notified of the identity and address of Landlord's mortgagee or ground or underlying lessor, Tenant shall give to such mortgagee or ground or underlying lessor written notice of any default by Landlord under the terms of this Lease by registered or certified mail, and such mortgagee or ground or underlying lessor shall be given a reasonable opportunity to cure such default prior to Tenant's exercising any remedy available to Tenant. As of the date of this Lease, any Notices to Landlord must be sent, transmitted, or delivered, as the case may be, to the following addresses:

Kilroy Realty Corporation
12200 West Olympic Boulevard
Suite 200
Los Angeles, California 90064
Attention: Legal Department

with copies to:

Kilroy Realty Corporation
3611 Valley Centre Drive, Suite 550
San Diego, California 92130
Attention: Mr. Brian Galligan

and

Allen Matkins Leck Gamble Mallory & Natsis LLP
1901 Avenue of the Stars, Suite 1800
Los Angeles, California 90067
Attention: Anton N. Natsis, Esq.

29.19 **Joint and Several**. If there is more than one Tenant, the obligations imposed upon Tenant under this Lease shall be joint and several.

29.20 **Authority**. Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in California and that Tenant has full right and authority to execute and deliver this Lease and that each person signing on behalf of Tenant is authorized to do so. In such event, Tenant shall, within ten (10) days after execution of this Lease, deliver to Landlord satisfactory evidence of such authority and, if a corporation, upon demand by Landlord, also deliver to Landlord satisfactory evidence of (i) good standing in Tenant's state of incorporation and (ii) qualification to do business in California.

29.21 **Attorneys' Fees**. In the event that either Landlord or Tenant should bring suit for the possession of the Premises, for the recovery of any sum due under this Lease, or because of the breach of any provision of this Lease or for any other relief against the other, then all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party therein shall be paid by the other party, which obligation on the part of the other party shall be deemed to

have accrued on the date of the commencement of such action and shall be enforceable whether or not the action is prosecuted to judgment.

29.22 **Governing Law; WAIVER OF TRIAL BY JURY**. This Lease shall be construed and enforced in accordance with the laws of the State of California. IN ANY ACTION OR PROCEEDING ARISING HEREFROM, LANDLORD AND TENANT HEREBY CONSENT TO (I) THE JURISDICTION OF ANY COMPETENT COURT WITHIN THE STATE OF CALIFORNIA, (II) SERVICE OF PROCESS BY ANY MEANS AUTHORIZED BY CALIFORNIA LAW, AND (III) IN THE INTEREST OF SAVING TIME AND EXPENSE, TRIAL WITHOUT A JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR THEIR SUCCESSORS IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY.

29.23 **Submission of Lease**. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of, option for or option to lease, and it is not effective as a lease or otherwise until execution and delivery by both Landlord and Tenant.

29.24 **Brokers**. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, excepting only the real estate brokers or agents specified in Section 13 of the Summary (the "**Brokers**"), and that they know of no other real estate broker or agent who is entitled to a commission in connection with this Lease. Landlord shall pay the Brokers pursuant to the terms of separate commission agreements. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent, other than the Brokers, occurring by, through, or under the indemnifying party.

29.25 **Independent Covenants**. This Lease shall be construed as though the covenants herein between Landlord and Tenant are independent and not dependent and Tenant hereby expressly waives the benefit of any statute to the contrary and agrees that if Landlord fails to perform its obligations set forth herein, except as otherwise set forth in this Lease, Tenant shall not be entitled to make any repairs or perform any acts hereunder at Landlord's expense or to any setoff of the Rent or other amounts owing hereunder against Landlord.

29.26 **Project or Building Name and Signage**. Landlord shall have the right at any time to change the name of the Project or Building and to install, affix and maintain any and all signs on the exterior and on the interior of the Project or Building as Landlord may, in Landlord's sole discretion, desire. Tenant shall not use the name of the Project or Building or use pictures or illustrations of the Project or Building in advertising or other publicity or for any purpose other than as the address of the business to be conducted by Tenant in the Premises, without the prior written consent of Landlord.

29.27 **Counterparts**. This Lease may be executed in counterparts with the same effect as if both parties hereto had executed the same document. Both counterparts shall be construed together and shall constitute a single lease.

29.28 **Confidentiality**. Landlord and Tenant acknowledges that the content of this Lease and any related documents are confidential information. Except as required by law, court order, or pursuant to good corporate practice, Landlord and Tenant shall keep such confidential information strictly confidential and shall not disclose such confidential information to any person or entity other than Tenant's or Landlord's employees, their financial, legal, and space planning consultants and/or prospective purchasers of their respective businesses.

29.29 **Transportation Management**. Tenant shall fully comply with all present or future programs intended to manage parking, transportation or traffic in and around the Building, so long as Tenant's parking rights are not materially, adversely, affected, and in connection therewith, Tenant shall take responsible action for the transportation planning and management of all employees located at the Premises by working directly with Landlord, any governmental transportation management organization or any other transportation-related committees or entities.

29.30 **Building Renovations**. It is specifically understood and agreed that Landlord has made no representation or warranty to Tenant and has no obligation and has made no promises to alter, remodel, improve, renovate, repair or decorate the Premises, Building, or any part thereof and that no representations respecting the condition of the Premises or the Building have been made by Landlord to Tenant except as specifically set forth herein or in the Work Letter. However, Tenant hereby acknowledges that Landlord is currently renovating or may during the Lease Term renovate, improve, alter, or modify (collectively, the "**Renovations**") the Project, the Building and/or the Premises including without limitation the parking structure, common areas, systems and equipment, roof, and structural portions of the same, and in connection with any Renovations, Landlord may, among other things, temporarily erect scaffolding or other necessary structures in the Building, limit or eliminate access to portions of the Project, including portions of the common areas, or perform work in the Building, which work may create noise, dust or leave debris in the Building. Tenant hereby agrees that such Renovations and Landlord's actions in connection with such Renovations shall in no way constitute a constructive eviction of Tenant nor entitle Tenant to any abatement of Rent. Landlord shall have no responsibility or for any reason be liable to Tenant for any direct or indirect injury to or interference with Tenant's business arising from the Renovations, nor shall Tenant be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Premises or of Tenant's personal property or improvements resulting from the Renovations or Landlord's actions in connection with such Renovations, or for any inconvenience or annoyance occasioned by such Renovations or Landlord's actions. Landlord shall perform such Renovations in compliance with the terms of this Lease, including, without limitation, the terms of Section 1.1.3, and shall use commercially reasonable efforts to have all such work performed on a continuous basis, and once started, to be completed reasonably expeditiously, with such work being organized and conducted in a manner which will minimize any interference to Tenant's business operations in the Premises.

29.31 **No Violation**. Tenant hereby warrants and represents that neither its execution of nor performance under this Lease shall cause Tenant to be in violation of any agreement, instrument, contract, law, rule or regulation by which Tenant is bound, and Tenant shall protect, defend, indemnify and hold Landlord harmless against any claims, demands, losses, damages, liabilities, costs and expenses, including, without limitation, reasonable attorneys' fees and costs, arising from Tenant's breach of this warranty and representation.

29.32 **Communications and Computer Lines**. Tenant may install, maintain, replace, remove or use any communications or computer wires and cables (collectively, the "**Lines**") at the Project in or serving the Premises, provided that (i) Tenant shall obtain Landlord's prior written consent (not to be unreasonably withheld, conditioned, or delayed), use an experienced and qualified contractor approved in writing by Landlord, and comply with all of the other provisions of Articles 7 and 8 of this Lease, (ii) an acceptable number of spare Lines and space for additional Lines shall be maintained for existing and future occupants of the Project, as determined in Landlord's reasonable opinion, (iii) the Lines therefor (including riser cables) shall be (x) appropriately insulated to prevent excessive electromagnetic fields or radiation, (y) surrounded by a protective conduit reasonably acceptable to Landlord, and (z) identified in accordance with the "Identification Requirements," as that term is set forth hereinbelow, (iv) any new or existing Lines servicing the Premises shall comply with all applicable governmental laws and regulations, and (v) Tenant shall pay all costs in connection therewith. All Lines shall be clearly marked with adhesive plastic labels (or plastic tags attached to such Lines with wire) to show Tenant's name, suite number, telephone number and the name of the person to contact in the case of an emergency (A) every four feet (4') outside the Premises (specifically including, but not limited to, the electrical room risers and other Common Areas), and (B) at the Lines' termination point(s) (collectively, the "**Identification Requirements**"). Upon the expiration of the Lease Term, or immediately following any earlier termination of this Lease, Tenant shall, at Tenant's sole cost and expense, remove all Lines installed by Tenant, and repair any damage caused by such removal. Landlord reserves the right to require that Tenant remove any Lines located in or serving the Premises which are installed in violation of these provisions, or which are at any time (1) are in violation of any Applicable Laws, (2) are inconsistent with then-existing industry standards (such as the standards promulgated by the National Fire Protection Association (e.g., such organization's "2002 National Electrical Code")), or (3) otherwise represent a dangerous or potentially dangerous condition.

29.33 **Hazardous Substances**.

29.33.1 **Definitions**. For purposes of this Lease, the following definitions shall apply: "**Hazardous Material(s)**" shall mean any solid, liquid or gaseous substance or material that is described or characterized as a toxic or hazardous substance, waste, material, pollutant, contaminant or infectious waste, or any matter that in certain specified quantities would be injurious to the public health or welfare, or words of similar import, in any of the "Environmental Laws" as that term is defined below, or any other words which are intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity or reproductive toxicity and includes, without limitation, asbestos, petroleum (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), petroleum products, polychlorinated biphenyls, urea formaldehyde, radon gas, nuclear or

radioactive matter, medical waste, soot, vapors, fumes, acids, alkalis, chemicals, microbial matters (such as molds, fungi or other bacterial matters), biological agents and chemicals which may cause adverse health effects, including but not limited to, cancers and /or toxicity. "**Environmental Laws**" shall mean any and all federal, state, local or quasi-governmental laws (whether under common law, statute or otherwise), ordinances, decrees, codes, rulings, awards, rules, regulations or guidance or policy documents now or hereafter enacted or promulgated and as amended from time to time, in any way relating to (i) the protection of the environment, the health and safety of persons (including employees), property or the public welfare from actual or potential release, discharge, escape or emission (whether past or present) of any Hazardous Materials or (ii) the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of any Hazardous Materials.

29.33.2 **Compliance with Environmental Laws**. Landlord covenants that during the Lease Term, Landlord shall comply with all Environmental Laws in accordance with, and as required by, the TCCs of Article 24 of this Lease. Tenant represents and warrants that, except as herein set forth, it will not use, store or dispose of any Hazardous Materials in or on the Premises. However, notwithstanding the preceding sentence, Landlord agrees that Tenant may use, store and properly dispose of commonly available household cleaners and chemicals to maintain the Premises and Tenant's routine office operations (such as printer toner and copier toner) (hereinafter the "**Permitted Chemicals**"). Landlord and Tenant acknowledge that any or all of the Permitted Chemicals described in this paragraph may constitute Hazardous Materials. However, Tenant may use, store and dispose of same, provided that in doing so, Tenant fully complies with all Environmental Laws.

29.33.3 **Landlord's Right of Environmental Audit.** Landlord may, upon reasonable notice to Tenant, be granted access to and enter the Premises no more than once annually to perform or cause to have performed an environmental inspection, site assessment or audit. Such environmental inspector or auditor may be chosen by Landlord, in its sole discretion, and be performed at Landlord's sole expense. To the extent that the report prepared upon such inspection, assessment or audit, indicates the presence of Hazardous Materials brought onto the Premises by or on behalf of Tenant in violation of Environmental Laws, or provides recommendations or suggestions to prohibit the release, discharge, escape or emission of any Hazardous Materials brought onto the Premises by or on behalf of Tenant at, upon, under or within the Premises, or to comply with any Environmental Laws, Tenant shall promptly, at Tenant's sole expense, comply with such recommendations or suggestions, including, but not limited to performing such additional investigative or subsurface investigations or remediation(s) as recommended by such inspector or auditor. Notwithstanding the above, if at any time, Landlord has actual notice or reasonable cause to believe that Tenant has violated, or permitted any violations of any Environmental Law, then Landlord will be entitled to perform its environmental inspection, assessment or audit at any time, notwithstanding the above mentioned annual limitation, and Tenant must reimburse Landlord for the cost or fees incurred for such as Additional Rent if a violation is discovered.

29.33.4 **Indemnifications**. Landlord agrees to indemnify, defend, protect and hold harmless the Tenant Parties from and against any liability, obligation, damage or costs, including without limitation, attorneys' fees and costs, resulting directly or indirectly from any use, presence, removal or disposal of any Hazardous Materials to the extent such liability,

obligation, damage or costs was a result of actions caused or knowingly permitted by Landlord or a Landlord Party. Tenant agrees to indemnify, defend, protect and hold harmless the Landlord Parties from and against any liability, obligation, damage or costs, including without limitation, attorneys' fees and costs, resulting directly or indirectly from any use, presence, removal or disposal of any Hazardous Materials or breach of any provision of this section, to the extent such liability, obligation, damage or costs was a result of actions caused or permitted by Tenant or a Tenant Party. Nothing in this Lease shall impose any liability on Tenant for any Hazardous Materials in existence on the Premises, Building, or Project, prior to the Lease Commencement Date or brought onto the Premises, Building, or Project after the Lease Commencement Date by any third parties not under Tenant's control.

29.34 **No Discrimination**. Tenant covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through Tenant, and this Lease is made and accepted upon and subject to the following conditions: that there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, sex, religion, marital status, ancestry or national origin in the leasing, subleasing, transferring, use, or enjoyment of the Premises, nor shall Tenant itself, or any person claiming under or through Tenant, establish or permit such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of tenants, lessees, sublessees, subtenants or vendees in the Premises.

ARTICLE 30

SPRINGING LETTER OF CREDIT

30.1 **Delivery of Springing Letter of Credit**. In the event the "L-C Delivery Condition" (as that term is defined in Section 30.3.1 below) is so triggered, Tenant shall, within ten (10) business days after the date such L-C Delivery Condition is so triggered (the "**L-C Delivery Date**"), deliver to Landlord an unconditional, clean, irrevocable letter of credit (the "**L-C**") in an amount equal to the "L-C Amount" (as that term is set forth in Section 30.3.1 below), which L-C shall be issued by a money-center, solvent and nationally recognized bank (a bank which accepts deposits, maintains accounts, has a California office which will negotiate a letter of credit, and whose deposits are insured by the FDIC) reasonably acceptable to Landlord (such approved, issuing bank being referred to herein as the "**Bank**"), which Bank must have a short term Fitch Rating which is not less than "F1", and a long term Fitch Rating which is not less than "A" (or in the event such Fitch Ratings are no longer available, a comparable rating from Standard and Poor's Professional Rating Service or Moody's Professional Rating Service) (collectively, the "**Bank's Credit Rating Threshold**"), and which L-C shall be in the form of **Exhibit H**, attached hereto, or which L-C shall be in a form reasonably acceptable to Landlord, and in any event reasonably consistent with the form attached hereto as **Exhibit H**. Tenant shall pay all expenses, points and/or fees incurred by Tenant in obtaining the L-C. The L-C shall (i) be "callable" at sight, irrevocable and unconditional (provided that an officer of Landlord or other authorized agent certifies that the amounts to be drawn are due and owing pursuant to the TCCs of this Lease), (ii) be maintained in effect, whether through renewal or extension, for the period commencing on the date of this Lease and continuing until the date (the "**L-C Expiration Date**") that is no less than one hundred twenty (120) days after the expiration of the Lease Term, and Tenant shall deliver a new L-C or certificate of renewal or extension to Landlord at least

thirty (30) days prior to the expiration of the L-C then held by Landlord, without any action whatsoever on the part of Landlord, (iii) be fully assignable by Landlord, its successors and assigns (but not separate from Landlord's or its Lender's interest in this Lease), (iv) permit partial draws and multiple presentations and drawings, and (v) be otherwise subject to the Uniform Customs and Practices for Documentary Credits (1993-Rev), International Chamber of Commerce Publication #500, or the International Standby Practices-ISP 98, International Chamber of Commerce Publication #590. Landlord, or its then managing agent, shall have the right to draw down an amount up to the face amount of the L-C if any of the following shall have occurred or be applicable: (A) such amount is due to Landlord under the terms and conditions of this Lease, or (B) Tenant has filed a voluntary petition under the U. S. Bankruptcy Code or any state bankruptcy code (collectively, "**Bankruptcy Code**") which is not dismissed within sixty (60) days after filing, or (C) an involuntary petition has been filed against Tenant under the Bankruptcy Code which is not dismissed within sixty (60) days after filing, or (D) the Bank has notified Landlord that the L-C will not be renewed or extended through the L-C Expiration Date (and Tenant has failed to provide the Landlord with a replacement Letter of Credit conforming in all respects to the requirements of this Article 30 [including, but not limited to, the requirements placed on the issuing Bank more particularly set forth in Section 30.1, above]), in the amount of the then-applicable L-C amount, or (E) Tenant is placed into receivership or conservatorship, or becomes subject to similar proceedings under Federal or State law which is not dismissed within sixty (60) days after filing, or (F) Tenant executes an assignment for the benefit of creditors, or (G) if any of the Bank's Fitch Ratings (or other comparable ratings to the extent the Fitch Ratings are no longer available) have been reduced below the Bank's Credit Rating Threshold, and Tenant has failed to provide Landlord with a replacement letter of credit, conforming in all respects to the requirements of this Article 30 (including, but not limited to, the requirements placed on the issuing Bank more particularly set forth in this Section 30.1 above), in the amount of the applicable L-C Amount, within ten (10) business days following Landlord's written demand therefor (with no other notice or cure or grace period being applicable thereto, notwithstanding anything in this Lease to the contrary) (each of the foregoing being an "**L-C Draw Event**"). The L-C shall be honored by the Bank regardless of whether Tenant disputes Landlord's right to draw upon the L-C. In addition, in the event the Bank is placed into receivership or conservatorship by the Federal Deposit Insurance Corporation or any successor or similar entity, then, effective as of the date such receivership or conservatorship occurs, said L-C shall be deemed to fail to meet the requirements of this Article 30, and, within ten (10) business days following Landlord's notice to Tenant of such receivership or conservatorship (the "**L-C FDIC Replacement Notice**"), Tenant shall replace such L-C with a substitute letter of credit from a different issuer (which issuer shall meet or exceed the Bank's Credit Rating Threshold and shall otherwise be acceptable to Landlord in its reasonable discretion) and that complies in all respects with the requirements of this Article 30. If Tenant fails to replace such L-C with such conforming, substitute letter of credit pursuant to the terms and conditions of this Section 30.1, then, notwithstanding anything in this Lease to the contrary, Landlord shall have the right to declare Tenant in default of this Lease for which there shall be no notice or grace or cure periods being applicable thereto (other than the aforesaid ten (10) business day period). Tenant shall be responsible for the payment of any and all costs incurred with the review of any replacement L-C (including without limitation Landlord's reasonable attorneys' fees), which replacement is required pursuant to this Section or is otherwise requested by Tenant.

30.2 **Application of L-C**. Tenant hereby acknowledges and agrees that Landlord is entering into this Lease in material reliance upon the ability of Landlord to draw upon the L-C upon the occurrence of any L-C Draw Event. In the event of any L-C Draw Event, Landlord may, but without obligation to do so, and without notice to Tenant, draw upon the L-C, in part or in whole, to cure any such L-C Draw Event and/or to compensate Landlord for any and all damages of any kind or nature sustained or which Landlord reasonably estimates that it will sustain resulting from Tenant's breach or default of the Lease as permitted by the TCCs of this Lease, including, without limitation, those specifically identified in Section 1951.2 of the California Civil Code. The use, application or retention of the L-C, or any portion thereof, by Landlord shall not prevent Landlord from exercising any other right or remedy provided by this Lease or by any applicable law, it being intended that Landlord shall not first be required to proceed against the L-C, and such L-C shall not operate as a limitation on any recovery to which Landlord may otherwise be entitled. Tenant agrees not to interfere in any way with payment to Landlord of the proceeds of the L-C, either prior to or following a "draw" by Landlord of any portion of the L-C, regardless of whether any dispute exists between Tenant and Landlord as to Landlord's right to draw upon the L-C; provided that the foregoing will not waive Tenant's right to claim a default by Landlord for a wrongful draw and pursue all remedies available for such default. No condition or term of this Lease shall be deemed to render the L-C conditional to justify the issuer of the L-C in failing to honor a drawing upon such L-C in a timely manner. Landlord and Tenant hereby acknowledge and agree that it is their intent and agreement that, in the event Tenant becomes a debtor under any chapter of the Bankruptcy Code, Tenant is placed into receivership or conservatorship, and/or there is an event of a receivership, conservatorship or a bankruptcy filing by, or on behalf of, Tenant, (i) the L-C constitutes a separate and independent contract between Landlord and the Bank, (ii) Tenant is not a third party beneficiary of such contract, (iii) Tenant has no property interest whatsoever in the L-C or the proceeds thereof, and (iv) neither Tenant, any trustee, nor Tenant's bankruptcy estate shall have any right to restrict or limit Landlord's claim and/or rights to the L-C and/or the proceeds thereof by application of Section 502(b)(6) of the U. S. Bankruptcy Code or otherwise.

30.3 **L-C Amount; Maintenance of L-C by Tenant; Liquidated Damages**.

30.3.1 **L-C Delivery Condition/L-C Amount**. As of the date of this Lease, the Tenant shall have no initial obligation to deliver an L-C to Landlord. Notwithstanding any provision to the contrary contained in this Lease, if, as of the end of any calendar quarter occurring during the Lease Term, either (A) Tenant's "Cash on Hand" (as that term is defined below) is less than Fifteen Million and 00/100 Dollars ($15,000,000.00), or (B) Tenant's " Revenues" (as that term is defined below) for the trailing twelve (12) month prior ending on the last day of such calendar quarter is less than or equal to Fifty Million and 00/100 Dollars ($50,000,000.00) (the occurrence of either items (A) or (B) shall be referred to herein as the "**L-C Delivery Condition**"), Tenant shall, within ten (10) days following the delivery to Landlord of the "Quarterly Financial Information" (as that term is defined below) showing that such L-C Delivery Condition has been triggered, deliver an L-C to Landlord in the L-C Amount without any requirement upon Landlord to first deliver notice to Tenant stating that the L-C Delivery Condition has been triggered. The "**L-C Amount**" shall be equal to the sum of One Million Five Hundred Thousand and 00/100 Dollars ($1,500,000.00). For purposes hereof, the term "**Cash on Hand**," shall mean the total cash and cash equivalents determined in

accordance with Generally Acceptable Accounting Principles ("**GAAP**"). "**Revenues**" shall mean revenues determined in accordance with GAAP. When reviewing whether or not the foregoing L-C Delivery Condition has been triggered, Landlord shall review Tenant's Cash on Hand as of the date of such Quarterly Financial Information and corresponding Revenue (determined on a trailing twelve (12) month basis ending on the date of such Quarterly Financial Information). If, as of the end of any calendar quarter occurring after the date Tenant delivers an L-C to Landlord pursuant to the foregoing, both (A) Tenant's Cash on Hand is greater than Fifteen Million and 00/100 Dollars ($15,000,000.00) as of the end of such calendar quarter, ***and*** (B) Tenant's Revenues is greater than or equal to Fifty Million and 00/100 Dollars ($50,000,000.00) for the trailing twelve (12) month period ending on the last day of such calendar quarter (as shown on the applicable Quarterly Financial Information), then Tenant shall have the right to cause the L-C Amount to be reduced to an amount equal to Zero and 00/100 Dollars ($0.00), and Landlord shall timely execute and deliver such commercially reasonable documents to the issuer(s) of the L-C as are presented to Landlord by such issuer(s) and as may be reasonably necessary to effectuate the change to the applicable L-C Amount. Notwithstanding the foregoing, if the L-C Amount has been so reduced pursuant to the terms of the foregoing sentence, but Tenant thereafter triggers the L-C Delivery Condition, the L-C shall immediately be reissued in the initial L-C Amount (as set forth in this Section 30.3.1 above) within ten (10) days following Tenant's delivery to Landlord of the Quarterly Financial Information showing that the L-C Delivery Condition has been triggered (the "**Reestablishment Notice**"). In connection with the TCCs of this Section 30.3.1, Tenant shall submit to Landlord, within forty-five (45) days following the end of each calendar quarter occurring during the Lease Term, Tenant's unaudited financial statements, together with the calculation of its Cash on Hand and Revenues. Likewise, Tenant shall submit to Landlord, within (A) seventy-five (75) days following the end of each calendar year during the Lease Term (to the extent Tenant is not a publicly traded company), or (B) the applicable Securities and Exchange Commission ("**SEC**") deadline for the filing of Tenant's form 10-K (to the extent the Tenant is a publicly traded company) (the applicable date identified in either (A) or (B) shall be referred to as the "**Audited Statements Year-End Deadline**"), Tenant's audited financial statements, together with its calculation of the Revenues and Cash on Hand (such audited financial statements and calculations, together with the unaudited financial statements and calculations required by the preceding sentence, the "**Quarterly Financial Information**"); provided further, however, that if Tenant fails to provide the Quarterly Financial Information within five (5) business days following its receipt of notification from Landlord that the same was not received within such forty-five (45) day period or the Audited Statements Year-End Deadline, as the case may be, then Tenant shall be deemed to have failed to have maintained the L-C Delivery Condition, and the corresponding Reestablishment Notice shall be deemed to have been delivered by Landlord to Tenant as of the expiration of such five (5) business day period and Tenant shall be obligated to again deliver an L-C to Landlord in the initial L-C Amount (as set forth in this Section 30.3.1 above). Notwithstanding any provision to the contrary set forth in this Section 30.3.1, in no event shall the L-C Amount be reduced during any period in which Tenant is in economic or material non-economic default under this Lease (after any applicable notice and cure period), but such decrease shall take place retroactively after such default is cured, provided that no such decrease shall thereafter take effect in the event this Lease is terminated early due to such default by Tenant.

30.3.2 **In General**. If, as a result of any drawing by Landlord of all or any portion of the L-C, the amount of the L-C shall be less than the L-C Amount, Tenant shall, within ten (10) business days thereafter, provide Landlord with additional letter(s) of credit in an

amount equal to the deficiency, and any such additional letter(s) of credit shall comply with all of the provisions of this Article 30, and if Tenant fails to comply with the foregoing, the same shall be subject to the terms of Section 30.3.3 below. Tenant further covenants and warrants that it will neither assign nor encumber the L-C or any part thereof and that neither Landlord nor its successors or assigns will be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance. Without limiting the generality of the foregoing, if the L-C expires earlier than the L-C Expiration Date, Landlord will accept a renewal thereof (such renewal letter of credit to be in effect and delivered to Landlord, as applicable, not later than thirty (30) days prior to the expiration of the L-C), which shall be irrevocable and automatically renewable as above provided through the L-C Expiration Date upon the same terms as the expiring L-C or such other terms as may be acceptable to Landlord in its sole discretion. If Tenant exercises its option to extend the Lease Term pursuant to Section 2.2 of this Lease, and the L-C Delivery Condition has been triggered (or otherwise continues in effect), then, not later than one hundred twenty (120) days prior to the commencement of the Option Term, Tenant shall deliver to Landlord a new L-C or certificate of renewal or extension evidencing the L-C Expiration Date as one hundred twenty (120) days after the expiration of the Option Term. However, if the L-C is not timely renewed, or if Tenant fails to maintain the L-C in the amount and in accordance with the terms set forth in this Article 30, Landlord shall have the right to either (x) present the L-C to the Bank in accordance with the terms of this Article 30, and the proceeds of the L-C may be applied by Landlord against any Rent payable by Tenant under this Lease that is not paid when due and/or to pay for all losses and damages that Landlord is entitled to under the TCCs of this Lease. including, without limitation, those specifically identified in Section 1951.2 of the California Civil Code, or (y) pursue its remedy under Section 30.3.3 below. In the event Landlord elects to exercise its rights under the foregoing item (x), (I) any unused proceeds shall constitute the property of Landlord (and not Tenant's property or, in the event of a receivership, conservatorship, or a bankruptcy filing by Tenant, property of such receivership, conservatorship or Tenant's bankruptcy estate) and need not be segregated from Landlord's other assets, and (II) Landlord agrees to pay to Tenant within thirty (30) days after the L-C Expiration Date the amount of any proceeds of the L-C received by Landlord and not applied against any Rent payable by Tenant under this Lease that was not paid when due or used to pay for any losses and/or damages suffered by Landlord (or reasonably estimated by Landlord that it will suffer) as a result of any breach or default by Tenant under this Lease; provided, however, that if prior to the L-C Expiration Date a voluntary petition is filed by Tenant, or an involuntary petition is filed against Tenant by any of Tenant's creditors, under the Bankruptcy Code, then Landlord shall not be obligated to make such payment in the amount of the unused L-C proceeds until either all preference issues relating to payments under this Lease have been resolved in such bankruptcy or reorganization case or such bankruptcy or reorganization case has been dismissed.

30.3.3 **FAILURE TO MAINTAIN; REPLACE AND/OR REINSTATE L-C; LIQUIDATED DAMAGES**. IN THE EVENT THAT TENANT FAILS, WITHIN (I) THAT PERIOD SET FORTH IN SECTION 30.3.2 ABOVE, OR (II) THAT PERIOD SET FORTH IN THE L-C FDIC REPLACEMENT NOTICE, TO PROVIDE LANDLORD WITH ADDITIONAL L-C(S) IN AN AMOUNT EQUAL TO THE DEFICIENCY OR A REPLACEMENT L-C (AS APPLICABLE), THEN TENANT'S MONTHLY INSTALLMENT OF BASE RENT SHALL BE INCREASED TO ONE HUNDRED TEN PERCENT (110%) OF ITS OTHERWISE EXISTING LEVEL DURING THE PERIOD COMMENCING ON THE DATE WHICH IS THE LAST DAY OF THE PERIOD IDENTIFIED IN SECTION 30.3.1 OR

THE L-C FDIC REPLACEMENT NOTICE (AS APPLICABLE), AND ENDING ON THE EARLIER TO OCCUR OF (X) THE DATE TENANT PROVIDES LANDLORD WITH ADDITIONAL L-C(S) IN AN AMOUNT EQUAL TO THE DEFICIENCY AS CONTEMPLATED BY THE TERMS OF SECTION 30.3.2 ABOVE, OR THE L-C FDIC REPLACEMENT NOTICE (AS APPLICABLE), OR (Y) THE DATE WHICH IS NINETY (90) DAYS AFTER THE LAST DAY OF THE PERIOD IDENTIFIED IN SECTION 30.3.1 OR THE L-C FDIC REPLACEMENT NOTICE (AS APPLICABLE). IN THE EVENT THAT TENANT FAILS, DURING SUCH NINETY (90) DAY PERIOD FOLLOWING THE LAST DAY OF THE PERIOD IDENTIFIED IN SECTION 30.3.1 OR THE L-C FDIC REPLACEMENT NOTICE (AS APPLICABLE), TO PROVIDE LANDLORD WITH ADDITIONAL L-C(S) IN AN AMOUNT EQUAL TO THE DEFICIENCY OR A REPLACEMENT L-C (AS APPLICABLE), THEN TENANT'S MONTHLY INSTALLMENT OF BASE RENT SHALL BE INCREASED TO ONE HUNDRED TWENTY PERCENT (120%) OF ITS OTHERWISE EXISTING LEVEL DURING THE PERIOD COMMENCING ON THE DATE WHICH IS NINETY (90) DAYS AFTER THE LAST DAY OF THE PERIOD IDENTIFIED IN SECTION 30.3.1 OR THE L-C FDIC REPLACEMENT NOTICE (AS APPLICABLE) AND ENDING ON THE DATE SUCH ADDITIONAL L-C(S) ARE ISSUED IN AN AMOUNT EQUAL TO THE DEFICIENCY OR SUCH A REPLACEMENT L-C IS ISSUED (AS APPLICABLE) PURSUANT TO THE TERMS OF SECTION 30.3.1 OR THE L-C FDIC REPLACEMENT NOTICE (AS APPLICABLE). THE PARTIES AGREE THAT IT WOULD BE IMPRACTICABLE AND EXTREMELY DIFFICULT TO ASCERTAIN THE ACTUAL DAMAGES SUFFERED BY LANDLORD AS A RESULT OF TENANT'S FAILURE TO TIMELY PROVIDE LANDLORD WITH ADDITIONAL L-C(S) IN AN AMOUNT EQUAL TO THE DEFICIENCY AS REQUIRED IN SECTION 30.3.1, OR A REPLACEMENT L-C AS CONTEMPLATED BY THE L-C FDIC REPLACEMENT NOTICE (AS APPLICABLE), AND THAT UNDER THE CIRCUMSTANCES EXISTING AS OF THE DATE OF THIS LEASE, THE LIQUIDATED DAMAGES PROVIDED FOR IN THIS SECTION 30.3.3 REPRESENT A REASONABLE ESTIMATE OF THE DAMAGES WHICH LANDLORD WILL INCUR AS A RESULT OF SUCH FAILURE, PROVIDED, HOWEVER, THAT THIS PROVISION SHALL NOT WAIVE OR AFFECT LANDLORD'S RIGHTS AND TENANT'S INDEMNITY OBLIGATIONS UNDER OTHER SECTIONS OF THIS LEASE (EXCEPT THAT THE PARTIES SPECIFICALLY AGREE THAT THE FOREGOING PROVISION WAS AGREED TO IN LIEU OF MAKING FAILURE TO PROVIDE LANDLORD WITH ADDITIONAL L-C(S) IN AN AMOUNT EQUAL TO THE DEFICIENCY OR A REPLACEMENT L-C (AS APPLICABLE) A DEFAULT UNDER THIS LEASE). THE PARTIES ACKNOWLEDGE THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTION 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO LANDLORD PURSUANT TO CALIFORNIA CIVIL CODE SECTION 1671. THE PARTIES HAVE SET FORTH THEIR INITIALS BELOW TO INDICATE THEIR AGREEMENT WITH THE LIQUIDATED DAMAGES PROVISION CONTAINED IN THIS SECTION 30.3.3.

JTF JCH	AC FL
LANDLORD'S INITIALS	TENANT'S INITIALS

30.3.4 **Increase in L-C Amount**. Notwithstanding the initial L-C Amount and the possible reduction thereof (as more particularly contemplated in Section 30.3.1 above), in the event that Tenant exercises its right to lease particular First Refusal Space, but only to the extent Tenant is then required by the terms of this Article 30 to deliver an L-C to Landlord in the initial L-C Amount, (I) the L-C Amount shall thereafter be adjusted based upon the total amount of Monthly Installments of Base Rent then due and owing (i.e., attributable to the initial Premises and any such First Refusal Space), and (II) Tenant shall deliver to Landlord, concurrently with Tenant's execution of the applicable amendment to this Lease with respect to such First Refusal Space, either (y) an additional L-C which, when combined with the L-C then being held by Landlord totals the full L-C Amount then required under this Article 30, or (z) an entirely new L-C in the total L-C Amount then required under this Article 30.

30.4 **Transfer and Encumbrance**. The L-C shall also provide that Landlord may, at any time and without notice to Tenant and without first obtaining Tenant's consent thereto, transfer (one or more times) all of its interest in and to the L-C to another party, person or entity, as a part of the assignment by Landlord of its rights and interests in and to this Lease. In the event of a transfer of Landlord's interest in this Lease, Landlord shall transfer the L-C to the transferee and thereupon Landlord shall, without any further agreement between the parties, be released by Tenant from all liability therefor, and it is agreed that the provisions hereof shall apply to every transfer or assignment of the whole of said L-C to a new landlord. In connection with any such transfer of the L-C by Landlord, Tenant shall, at Landlord's sole cost and expense, execute and submit to the Bank such applications, documents and instruments as may be necessary to effectuate such transfer and, Landlord shall be responsible for paying the Bank's transfer and processing fees in connection therewith; provided, however, Tenant shall use commercially reasonable efforts to minimize and cap any transfer or processing fees within the face of the L-C.

30.5 **L-C Not a Security Deposit**. Landlord and Tenant (1) acknowledge and agree that in no event or circumstance shall the L-C or any renewal thereof or substitute therefor or any proceeds thereof be deemed to be or treated as a "security deposit" under any law applicable to security deposits in the commercial context, including, but not limited to, Section 1950.7 of the California Civil Code, as such Section now exists or as it may be hereafter amended or succeeded (the "**Security Deposit Laws**"), (2) acknowledge and agree that the L-C (including any renewal thereof or substitute therefor or any proceeds thereof) is not intended to serve as a security deposit, and the Security Deposit Laws shall have no applicability or relevancy thereto, and (3) waive any and all rights, duties and obligations that any such party may now, or in the future will, have relating to or arising from the Security Deposit Laws as applicable to the L-C. Tenant hereby irrevocably waives and relinquishes the provisions of Section 1950.7 of the California Civil Code and any successor statue, and all other provisions of law, now or hereafter in effect as applicable to the L-C, which (x) establish the time frame by which a landlord must refund a security deposit under a lease, and/or (y) provide that a landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by a tenant or to clean the premises, it being agreed that Landlord may, in addition, claim those sums specified in this Article 30 and/or those sums reasonably necessary to (a) compensate Landlord for any loss or damage caused by Tenant's breach of this Lease, including any damages Landlord suffers following termination of this Lease, and/or (b) compensate Landlord for any and all damages arising out of, or incurred in connection with,

the termination of this Lease, including, without limitation, those specifically identified in Section 1951.2 of the California Civil Code.

30.6 **Waiver of Certain Relief**. Tenant unconditionally and irrevocably waives (and as an independent covenant hereunder, covenants not to assert) any right to claim or obtain any of the following relief in connection with the L-C:

30.6.1 A temporary restraining order, temporary injunction, permanent injunction, or other order that would prevent, restrain or restrict the presentment of sight drafts drawn under any L-C or the Bank's honoring or payment of sight draft(s); or

30.6.2 Any attachment, garnishment, or levy in any manner upon either the proceeds of any L-C or the obligations of the Bank (either before or after the presentment to the Bank of sight drafts drawn under such L-C) based on any theory whatever.

Notwithstanding the foregoing, Tenant does not waive the right to pursue any other claims available to it for an improper draw upon the L-C or improper use of the proceeds of any draw or similar claims against Landlord relating to the L-C.

[*Signature page immediately follows.*]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed the day and date first above written.

"LANDLORD":

KILROY REALTY, L.P.,
a Delaware limited partnership

BY: Kilroy Realty Corporation,
a Maryland corporation,
general partner

By: /s/ Jeffrey C. Hawken

Name: Jeffrey C. Hawken

Its: Executive Vice President
Chief Operating Officer

By: /s/ John T. Fucci

Name: John T. Fucci

Its: Sr. Vice President
Asset Management

"TENANT":

SERVICE-NOW.COM,
a California corporation

By: /s/ Andrew Chedrick

Name: Andrew Chedrick

Its: CFO

By: /s/ Frederic Luddy

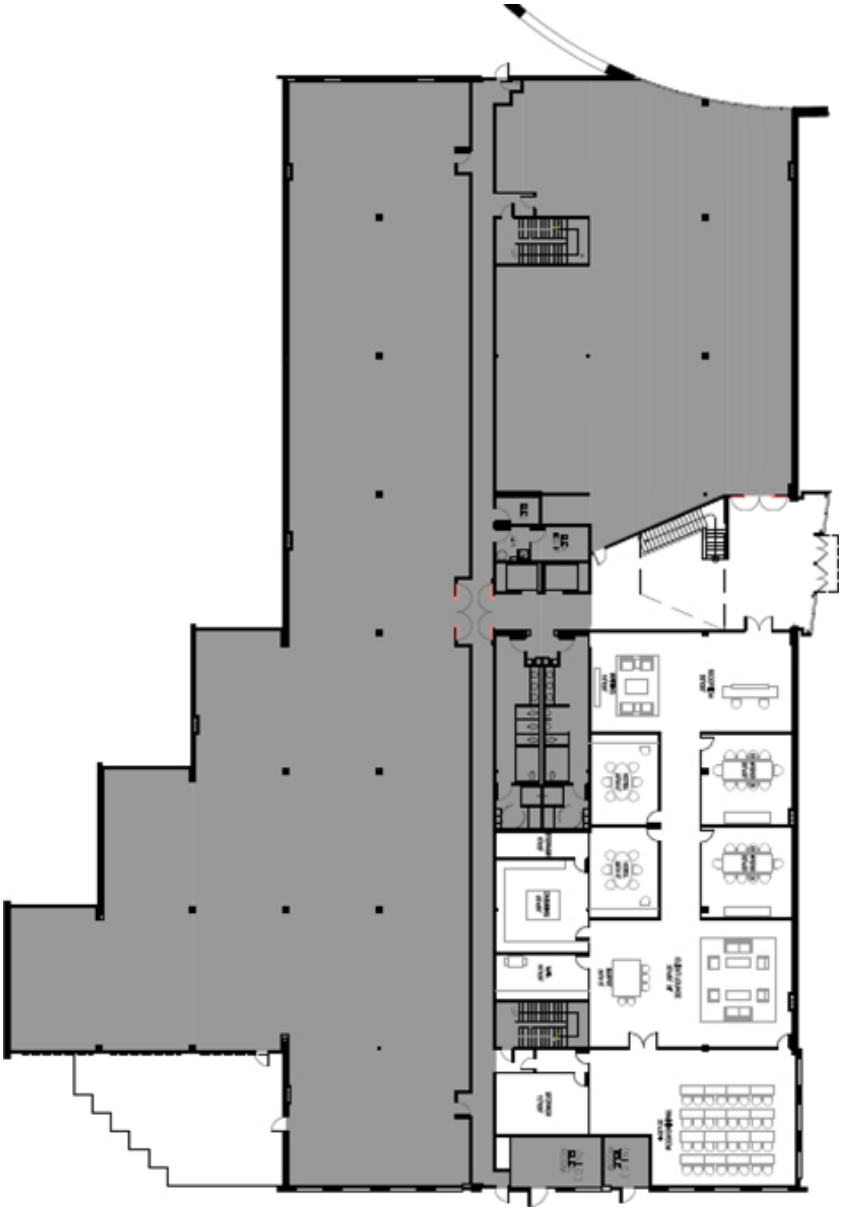
Name: Frederic Luddy

Its: CEO

EXHIBIT A

CARMEL VALLEY CORPORATE CENTER

OUTLINE OF PREMISES




ADMIN / FINANCE / LEGAL
SALES / MARKETING
DEVELOPMENT
OPERATIONS
CUSTOMER CARE

EXHIBIT A

EXHIBIT A-1

CARMEL VALLEY CORPORATE CENTER

OUTLINE OF THE PROJECT

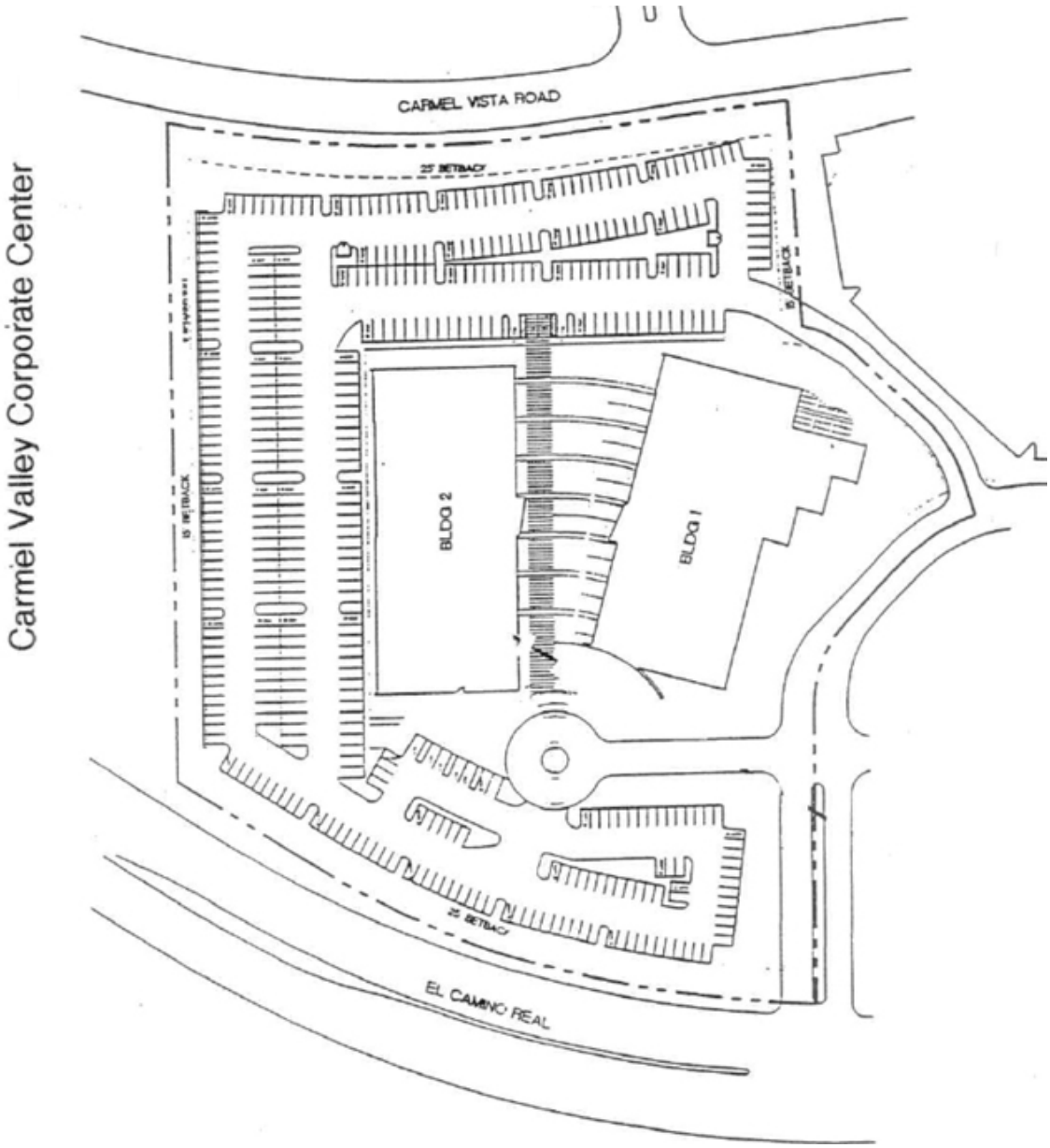


EXHIBIT B

CARMEL VALLEY CORPORATE CENTER

WORK LETTER

This Work Letter shall set forth the terms and conditions relating to the construction of the Premises. This Work Letter is essentially organized chronologically and addresses the issues of the construction of the Premises, in sequence, as such issues will arise during the actual construction of the Premises. All references in this Work Letter to Articles or Sections of "this Lease" shall mean the relevant portions of Articles 1 through 29 of the Office Lease to which this Work Letter is attached as **Exhibit B**, and all references in this Work Letter to Sections of "this Work Letter" shall mean the relevant portions of Sections 1 through 5 of this Work Letter.

SECTION 1

DELIVERY OF THE PREMISES AND BASE BUILDING

Upon the full execution and delivery of this Lease by Landlord and Tenant, Landlord shall deliver the Premises and "Base Building," as that term is defined in Section 8.2 of the Lease, to Tenant, and Tenant shall accept the Premises and Base Building from Landlord in their presently existing, "as-is" condition. As indicated in Section 1.1.1 of this Lease, the taking of possession of the Premises by Tenant shall conclusively establish that the Premises and the Building were at such time in good and sanitary order, condition and repair, subject only to (i) the last two (2) sentences of Section 1.1.1 of this Lease, (ii) punchlist items provided to Landlord in writing within thirty (30) days following Landlord's delivery of the Premises to Tenant, (iii) latent defects to the extent identified and, thereafter, promptly communicated to Landlord, during the first twelve (12) months of the Lease Term, and (iv) Landlord's ongoing obligations set forth in Sections 1.1.3 and 29.33, and Articles 7 and 24 of this Lease.

SECTION 2

IMPROVEMENTS

2.1 Improvement Allowance. Tenant shall be entitled to a one-time improvement allowance (the "**Improvement Allowance**") in the amount of Fifty and 00/100 Dollars ($50.00) per rentable square foot of the Premises (i.e., a total amount equal to One Million Eight Hundred Twenty-Four Thousand and 00/100 Dollars ($1,824,000.00) based on the Premises containing 36,480 rentable square feet of space), for the costs relating to the initial design and construction of the improvements, which are permanently affixed to the Premises (the "**Improvements**"), which Improvements may include the installation of a security system (subject to Landlord's approval [as more particularly contemplated by the terms of this Work Letter]); provided, however, in connection with the Tenant's installation of any security system, Tenant shall at all times provide Landlord with a contact person who can disarm the security system and who is familiar with the functions of the alarm system in the event of a malfunction. In no event shall Landlord be obligated to make disbursements pursuant to this Work Letter in the event that Tenant fails to timely pay any portion of the "Over-Allowance Amount," as that term is defined,

and within the time frames more particularly set forth, in Section 4.2.1, nor shall Landlord be obligated to pay a total amount which exceeds the Improvement Allowance. Notwithstanding the foregoing or any contrary provision of this Lease, all Improvements shall be deemed Landlord's property under the terms of this Lease. Any unused portion of the Improvement Allowance remaining as of July 31, 2011, shall remain with Landlord and Tenant shall have no further right thereto.

2.2 Disbursement of the Improvement Allowance.

2.2.1 Improvement Allowance Items. Except as otherwise set forth in this Work Letter, the Improvement Allowance shall be disbursed by Landlord (each of which disbursements shall be made pursuant to Landlord's disbursement process, including, without limitation, Landlord's receipt of invoices for all costs and fees described herein) only for the following items and costs (collectively the "**Improvement Allowance Items**"):

2.2.1.1 Payment of (i) the fees of the "Architect" and the "Engineers," as those terms are defined in Section 3.1 of this Work Letter and (ii) the actual cost of installing telephone and data cabling, and any signage permitted by the Lease, which amounts identified in the foregoing items (i) and (ii) shall, notwithstanding any provision to the contrary contained in this Work Letter, not to exceed an aggregate amount equal to Five and 75/100 Dollars ($5.75) per rentable square foot of the Premises;

2.2.1.2 The payment of plan check, permit and license fees relating to construction of the Improvements;

2.2.1.3 The cost of construction of the Improvements, including, without limitation, testing and inspection costs and costs of utilities. In no event shall Tenant or its contractor be charged for parking, access, freight elevator use or similar items in connection with the Improvements;

2.2.1.4 The cost of any changes in the Base Building when such changes are required by the Construction Drawings, such cost to include all direct architectural and/or engineering fees and expenses incurred in connection therewith;

2.2.1.5 The cost of any changes to the Construction Drawings or Improvements required by all applicable building codes (the "**Code**");

2.2.1.6 The cost of the "Coordination Fee," as that term is defined in Section 4.2.2.1 of this Work Letter;

2.2.1.7 Sales and use taxes;

2.2.1.8 The cost of Tenant's project manager(s) retained in connection with the construction of the Improvements; provided, however, in no event shall an amount in excess of four percent (4%) of the Improvement Allowance be used to pay for the cost of Tenant's project manager or managers; and

2.2.1.9 Moving expenses expressly attributable to Tenant's moving into the Premises, not to exceed an aggregate amount equal to $1.00 per rentable square foot of the Premises.

2.2.2 Disbursement of Improvement Allowance. During the construction of the Improvements, Landlord shall make monthly disbursements of the Improvement Allowance for Improvement Allowance Items and shall authorize the release of monies as follows.

2.2.2.1 Monthly Disbursements. On or before the day of each calendar month, as reasonably determined by Landlord, during the construction of the Improvements, Tenant shall deliver to Landlord: (i) a request for payment of the "Contractor," as that term is defined in Section 4.1.1 of this Work Letter, approved by Tenant, in a form to be provided by Landlord, showing the schedule, by trade, of percentage of completion of the Improvements in the Premises, detailing the portion of the work completed and the portion not completed; (ii) invoices from all of "Tenant's Agents," as that term is defined in Section 4.1.2 of this Work Letter, for labor rendered and materials delivered to the Premises; (iii) executed mechanic's lien releases from all of Tenant's Agents which shall comply with the appropriate provisions, as reasonably determined by Landlord, of California Civil Code Section 3262(d); and (iv) all other information reasonably requested by Landlord. Tenant's request for payment shall constitute, to Tenant's then-existing actual knowledge, Tenant's acceptance and approval of the work furnished and/or the materials supplied as set forth in Tenant's payment request; provided, however, the parties acknowledge that in no event shall the Contractor be a third-party beneficiary with regard to any such acceptance and approval under this sentence. Thereafter, Landlord shall deliver a check to Tenant made jointly payable to Contractor and Tenant (or solely to Tenant to the extent Tenant has previously paid in full to Contractor the amounts corresponding to such request for payment) in payment of the lesser of: (A) "Landlord's Ratio," as that term is set forth below, of the amounts so requested by Tenant, as set forth in this Section 2.2.2.1, above, less a ten percent (10%) retention (the aggregate amount of such retentions to be known as the "**Final Retention**"), and (B) the balance of any remaining available portion of the Improvement Allowance (not including the Final Retention), provided that Landlord does not dispute any request for payment based on non-compliance of any work with the "Approved Working Drawings," as that term is defined in Section 3.4 below, or due to any substandard work, or for any other reasonably substantiated reason, it being hereby acknowledged that Tenant shall pay "Tenant's Ratio," as that term is set forth below, of the corresponding amounts so requested by Tenant, less a similar ten (10%) retention. Landlord's payment of such amounts shall not be deemed Landlord's approval or acceptance of the work furnished or materials supplied as set forth in Tenant's payment request.

2.2.2.2 Final Retention. Subject to the provisions of this Work Letter, a check for the Final Retention payable jointly to Tenant and Contractor shall be delivered by Landlord to Tenant following the substantial completion of construction of the Improvements, provided that (i) Tenant delivers to Landlord properly executed mechanic's lien releases in compliance with both California Civil Code Section 3262(d)(2) and either Section 3262(d)(3) or Section 3262(d)(4) from all of Tenant's Agents, (ii) Landlord has determined that no substandard work exists which adversely affects the mechanical, electrical, plumbing, heating, ventilating and air conditioning, life-safety or other systems of the Building, the curtain wall of the Building, the structure or exterior appearance of the Building, (iii) Architect delivers to Landlord a certificate,

in a form reasonably acceptable to Landlord, certifying that the construction of the Improvements in the Premises has been substantially completed, (iv) Tenant records a valid Notice of Completion in accordance with the requirements of Section 4.3 of this Work Letter, and (v) a certificate of occupancy (or its equivalent) has been issued for the Premises. Upon substantial completion of the Improvements, and in conjunction with the Final Retention and disbursement thereof, as set forth in this Section 2.2.2.2, above, Tenant shall perform a final costs analysis to determine the actual "Final Costs" of the Improvements so constructed. Thereafter, Tenant shall submit such analysis to Landlord for Landlord's review. In the event it is determined that there remains any unpaid portion of the Improvement Allowance (in addition to the Final Retention), Tenant shall submit to Landlord an invoice for such amount (which excess shall in no event exceed the amount paid by Tenant as an Over-Allowance Amount or supplement thereto) and Landlord shall promptly pay such unpaid portion of the Improvement Allowance to Tenant (but only to the extent otherwise reimbursable hereunder for Improvement Allowance Items).

2.2.2.3 Other Terms. Landlord shall only be obligated to make disbursements from the Improvement Allowance to the extent costs are incurred by Tenant for Improvement Allowance Items. All Improvement Allowance Items for which the Improvement Allowance has been made available shall be deemed Landlord's property under the terms of this Lease.

2.3 Building Standards. Landlord has established or may establish specifications for certain Building standard components to be used in the construction of the Improvements in the Premises. The quality of Improvements shall be equal to or of greater quality than the quality of such Building standards, provided that Landlord may, at Landlord's option, require the Improvements to comply with certain Building standards. Landlord may make changes to said specifications for Building standards from time to time. Removal requirements regarding the Improvements are addressed in Article 8 of this Lease.

SECTION 3

CONSTRUCTION DRAWINGS

3.1 Selection of Architect/Construction Drawings. Subject to Landlord's approval, which approval shall not be unreasonably withheld, delayed, or conditioned, Tenant shall, on or before September 13, 2010, select and retain an architect/space planner (the "**Architect**") to prepare the "Construction Drawings," as that term is defined in this Section 3.1; provided, however, Landlord hereby pre-approves Hollander Design Group as Architect. The Architect shall be retained by Tenant pursuant to a contract form approved by Landlord, which approval shall not be unreasonably withheld and a fully executed version thereof shall be delivered to Landlord on or before September 13, 2010. Tenant shall retain the engineering consultants reasonably approved by Landlord (the "**Engineers**") to prepare all plans and engineering working drawings relating to the structural, mechanical, electrical, plumbing and HVAC work in the Premises, which is not part of the Base Building. The plans and drawings to be prepared by Architect and the Engineers hereunder shall be known collectively as the "**Construction Drawings**." All Construction Drawings shall comply with the reasonable drawing format and specifications determined by Landlord, and shall be subject to Landlord's approval; provided,

however, Landlord shall only disapprove any such Construction Drawing to the extent of a "Design Problem," as that term is defined below. Tenant and Architect shall verify, in the field, the dimensions and conditions as shown on the relevant portions of the Base Building plans, and Tenant and Architect shall be solely responsible for the same, and Landlord shall have no responsibility in connection therewith. Landlord's review of the Construction Drawings as set forth in this Section 3, shall be for its sole purpose and shall not imply Landlord's review of the same, or obligate Landlord to review the same, for quality, design, Code compliance or other like matters. Accordingly, notwithstanding that any Construction Drawings are reviewed by Landlord or its space planner, architect, engineers and consultants, and notwithstanding any advice or assistance which may be rendered to Tenant by Landlord or Landlord's space planner, architect, engineers, and consultants, Landlord shall have no liability whatsoever in connection therewith and shall not be responsible for any omissions or errors contained in the Construction Drawings, and Tenant's waiver and indemnity set forth in this Lease shall specifically apply to the Construction Drawings. Landlord shall be solely responsible for any third-party fees or costs incurred by Landlord in connection with its review of the Construction Drawings. A "**Design Problem**" is defined as, and shall be deemed to exist if there could be (i) an affect on the exterior appearance of the Building, (ii) a material, adverse affect on the Base Building portions of the Premises Buildings (including without limitation the Building Structure), (iii) a material adverse affect on the Building Systems or the operation and maintenance thereof, or (iv) any failure to comply with Applicable Laws.

3.2 Final Space Plan. On or before September 13, 2010, Tenant shall supply Landlord with four (4) hard copies signed by Tenant of its final space plan for the Premises and concurrently with Tenant's delivery of such hard copies, Tenant shall send to Landlord via electronic mail one (1) .pdf electronic copy of such final space plan. The final space plan (the "**Final Space Plan**") shall include a layout and designation of all offices, rooms and other partitioning, their intended use, and equipment to be contained therein. The Final Space Plan shall be delivered before any architectural working drawings or engineering drawings have been commenced. Landlord may request clarification or more specific drawings for special use items not included in the Final Space Plan. Landlord shall advise Tenant within five (5) business days after Landlord's receipt of the Final Space Plan for the Premises if the same is unsatisfactory or incomplete in any respect; provided, however, Landlord shall only disapprove such Final Space Plans to the extent of a Design Problem. Landlord shall set forth with reasonable specificity in what respect the Final Space Plan is unsatisfactory or incomplete (based upon a commercially reasonable standard). If Tenant is so advised, Tenant shall promptly cause the Final Space Plan to be revised to correct any deficiencies or other matters Landlord may reasonably require, and immediately thereafter Architect shall promptly re-submit the Final Space Plan to Landlord for its approval. Such procedure shall continue (except that the time frame to consent to any revisions shall be shortened to three (3) business days) until the Final Space Plan is approved by Landlord.

3.3 Final Working Drawings. After the Final Space Plan has been approved by Landlord, Tenant shall supply the Engineers with a complete listing of standard and non-standard equipment and specifications, including, without limitation, B.T.U. calculations, electrical requirements and special electrical receptacle requirements for the Premises, to enable the Engineers and the Architect to complete the "Final Working Drawings" (as that term is defined below) in the manner as set forth below. Upon the approval of the Final Space Plan by Landlord

and Tenant, Tenant shall promptly cause the Architect and the Engineers to complete the architectural and engineering drawings for the Premises, and Architect shall compile a fully coordinated set of architectural, structural, mechanical, electrical and plumbing working drawings in a form which is complete to allow subcontractors to bid on the work and to obtain all applicable permits (collectively, the "**Final Working Drawings**") and shall submit the same to Landlord for Landlord's approval. Tenant shall supply Landlord with four (4) hard copies signed by Tenant of the Final Working Drawings, and concurrently with Tenant's delivery of such hard copies, Tenant shall send to Landlord via electronic mail one (1) .pdf electronic copy of such Final Working Drawings. Landlord shall, within five (5) business days after Landlord's receipt of all of the Final Working Drawings, either (i) approve the Final Working Drawings, (ii) approve the Final Working Drawings subject to specified conditions, which conditions must be stated in a reasonably clear and complete manner, and shall only be conditions reasonably intended to address a potential Design Problem, or (iii) disapprove and return the Construction Drawings to Tenant with requested revisions; provided, however, Landlord shall only disapprove such Final Working Drawings to the extent of a Design Problem. If Landlord disapproves the Final Working Drawings, Tenant may resubmit the Final Working Drawings to Landlord at any time, and Landlord shall approve or disapprove the resubmitted Final Working Drawings, based upon the criteria set forth in this Section 3.3, within three (3) business days after Landlord receives such resubmitted Final Working Drawings. Such procedure shall be repeated until the Final Working Drawings are approved.

3.4 Approved Working Drawings. The Final Working Drawings shall be approved by Landlord (the "**Approved Working Drawings**") prior to the commencement of construction of the Premises by Tenant. Tenant shall, on or before October 19, 2010, submit the Approved Working Drawings to the appropriate municipal authorities for all applicable building permits. Tenant hereby agrees that neither Landlord nor Landlord's consultants shall be responsible for obtaining any building permit or certificate of occupancy for the Premises and that obtaining the same shall be Tenant's responsibility; provided, however, that Landlord shall cooperate with Tenant in executing permit applications and performing other ministerial acts reasonably necessary to enable Tenant to obtain any such permit or certificate of occupancy. No changes, modifications or alterations in the Approved Working Drawings may be made without the prior written consent of Landlord, which consent may not be unreasonably withheld. Tenant shall use commercially reasonable efforts to procure all permits required in connection with the construction of the Improvements on or before November 15, 2010.

3.5 Electronic Approvals. Notwithstanding any provision to the contrary contained in the Lease or this Work Letter, Landlord may, in Landlord's sole and absolute discretion, transmit or otherwise deliver any of the approvals required under this Work Letter via electronic mail to Tenant's representative identified in Section 5.1 of this Work Letter, or by any of the other means identified in Section 29.18 of this Lease.

SECTION 4

CONSTRUCTION OF THE IMPROVEMENTS

4.1 Tenant's Selection of Contractors.

4.1.1 The Contractor. A general contractor shall be retained by Tenant to construct the Improvements. Such general contractor ("**Contractor**") shall be selected by Tenant from a list of general contractors mutually and reasonably agreed upon by Landlord, and Tenant shall deliver to Landlord notice of its selection of the Contractor upon such selection; provided, however, Landlord hereby pre-approves Crew Builders, Pacific Building Group and Johnson and Jennings as Contractor.

4.1.2 Tenant's Agents. All subcontractors, laborers, materialmen, and suppliers used by Tenant (such subcontractors, laborers, materialmen, and suppliers, and the Contractor to be known collectively as "**Tenant's Agents**") must be approved in writing by Landlord, which approval shall not be unreasonably withheld or delayed and which approval shall, if withheld or conditioned with regard to any such Tenant's Agents, be made within two (2) business days following Landlord's receipt of the corresponding request for such approval from Tenant. If Landlord does not approve any of Tenant's proposed subcontractors, laborers, materialmen or suppliers, Tenant shall submit other proposed subcontractors, laborers, materialmen or suppliers for Landlord's written approval.

4.2 Construction of Improvements by Tenant's Agents.

4.2.1 Construction Contract; Cost Budget. Tenant shall, on or before November 1, 2010, engage the Contractor pursuant to a contract form (collectively, the "**Contract**") approved by Landlord, which approval shall not be unreasonably withheld. Prior to the commencement of the construction of the Improvements, and after Tenant has accepted all bids for the Improvements, Tenant shall provide Landlord with a detailed breakdown, by trade, of the final costs to be incurred or which have been incurred, as set forth more particularly in Sections 2.2.1.1 through 2.2.1.8, above, in connection with the design and construction of the Improvements to be performed by or at the direction of Tenant or the Contractor, which costs form a basis for the amount of the Contract (the "**Final Costs**"). Prior to the commencement of construction of the Improvements, Tenant shall determine the amount (the "**Over-Allowance Amount**") by which the Final Costs exceed the Improvement Allowance. Tenant will also determine the ratio of the Over-Allowance Amount to the Improvement Allowance to the total cost of the Improvements (for purposes of example only, assuming the Over-Allowance Amount is Sixty Thousand and 00/100 Dollars ($60,000.00) and the Improvement Allowance is Two Hundred Forty Thousand and 00/100 Dollars ($240,000.00), such that the total cost of the Improvements is reasonably anticipated to be Three Hundred Thousand and 00/100 Dollars ($300,000.00), the ratio applicable thereto would be twenty percent (20%) Over-Allowance Amount and eighty percent (80%) Improvement Allowance). The ratio applicable to the Over-Allowance Amount may be referred to herein as "**Tenant's Ratio**", and the ratio applicable to the Improvement Allowance may be referred to herein as "**Landlord's Ratio**." Tenant's determination of the Over-Allowance Amount, Tenant's Ratio and Landlord's Ratio are subject to Landlord's reasonable approval. The Over-Allowance Amount shall be disbursed by Landlord in

accordance with Section 2.2 above. In the event that, after the Final Costs have been delivered by Tenant to Landlord, the costs relating to the design and construction of the Improvements shall change, any additional costs necessary to such design and construction in excess of the Final Costs, shall be paid by Tenant to Landlord immediately as an addition to the Over-Allowance Amount or at Landlord's option, Tenant shall make payments for such additional costs out of its own funds, but Tenant shall continue to provide Landlord with the documents described in Sections 2.2.2.1(i), (ii), (iii) and (iv) of this Work Letter, above, for Landlord's approval, prior to Tenant paying such costs.

4.2.2 Tenant's Agents.

4.2.2.1 Landlord's General Conditions for Tenant's Agents and Improvement Work. Tenant's and Tenant's Agent's construction of the Improvements shall comply with the following: (i) the Improvements shall be constructed in strict accordance with the Approved Working Drawings; (ii) Tenant's Agents shall submit schedules of all work relating to the Improvements to Contractor and Contractor shall, within five (5) business days of receipt thereof, inform Tenant's Agents of any changes which are necessary thereto, and Tenant's Agents shall adhere to such corrected schedule; and (iii) Tenant shall abide by all reasonable rules made by Landlord's Building manager with respect to the use of freight, loading dock and service elevators, storage of materials, and any other matter in connection with this Work Letter, including, without limitation, the construction of the Improvements. Notwithstanding any provision to the contrary contained in this Work Letter, Tenant shall pay a logistical coordination fee (the "**Coordination Fee**") to Landlord in an amount equal to the product of (x) one percent (1%), and (y) the sum of the Improvement Allowance, the Over Allowance Amount, as such amount may be increased hereunder, and any other amounts expended by Tenant in connection with the design and construction of the Improvements, which Coordination Fee shall be for services relating to the coordination of the construction of the Improvements.

4.2.2.2 Indemnity. Tenant's indemnity of Landlord as set forth in this Lease shall also apply with respect to any and all costs, losses, damages, injuries and liabilities related in any way to any negligence or willful misconduct of Tenant or Tenant's Agents, or anyone directly or indirectly employed by any of them, or in connection with Tenant's non-payment of any amount arising out of the Improvements and/or Tenant's disapproval of all or any portion of any request for payment.

4.2.2.3 Requirements of Tenant's Agents. Each of Tenant's Agents shall guarantee to Tenant and for the benefit of Landlord that the portion of the Improvements for which it is responsible shall be free from any defects in workmanship and materials for a period of not less than one (1) year from the date of completion thereof. Each of Tenant's Agents shall be responsible for the replacement or repair, without additional charge, of all work done or furnished in accordance with its contract that shall become defective within one (1) year after the completion of the work performed by such contractor or subcontractors. The correction of such work shall include, without additional charge, all additional expenses and damages incurred in connection with such removal or replacement of all or any part of the Improvements, and/or the Building and/or common areas that may be damaged or disturbed thereby. All such warranties or guarantees as to materials or workmanship of or with respect to the Improvements shall be contained in the Contract or subcontract and shall be written such that such guarantees or

warranties shall inure to the benefit of both Landlord and Tenant, as their respective interests may appear, and can be directly enforced by either. Tenant covenants to give to Landlord any assignment or other assurances which may be necessary to effect such right of direct enforcement.

4.2.2.4 Insurance Requirements.

4.2.2.4.1 General Coverages. All of Tenant's Agents shall carry worker's compensation insurance covering all of their respective employees, and shall also carry public liability insurance, including property damage, all with limits, in form and with companies as are reasonably required by Landlord.

4.2.2.4.2 Special Coverages. Tenant shall cause its Contractor to carry "Builder's All Risk" insurance in an amount approved by Landlord covering the construction of the Improvements, and such other insurance as Landlord may reasonably require, it being understood and agreed that the Improvements shall be insured by Tenant pursuant to this Lease immediately upon completion thereof. Such insurance shall be in amounts and shall include such extended coverage endorsements as may be reasonably required by Landlord, and in form and with companies as are required to be carried by Tenant as set forth in this Lease; provided, however, Tenant's Contractor shall carry excess liability and Completed Operation Coverage insurance, each in amounts not less than $5,000,000 per incident, $5,000,000 in aggregate.

4.2.2.4.3 General Terms. Certificates for all insurance carried pursuant to this Section 4.2.2.4 shall be delivered to Landlord before the commencement of construction of the Improvements and before the Contractor's equipment is moved onto the site. All such policies of insurance must contain a provision that the company writing said policy will give Landlord thirty (30) days prior written notice (ten (10) days for nonpayment of premiums) of any cancellation or lapse of the effective date or any reduction in the amounts of such insurance. In the event that the Improvements are damaged by any cause during the course of the construction thereof, Tenant shall cause the same to be repaired at no cost to Landlord or by application of the Improvement Allowance. Tenant's Agents shall maintain all of the foregoing insurance coverage in force until the Improvements are fully completed and accepted by Landlord, except for any Products and Completed Operation Coverage insurance required by Landlord, which is to be maintained for ten (10) years following completion of the work and acceptance by Landlord and Tenant. All policies carried under this Section 4.2.2.4 shall name Landlord and Tenant, as additional insureds, as their interests may appear, as well as Contractor and Tenant's Agents. All insurance, except Workers' Compensation, maintained by Tenant's Agents shall preclude subrogation claims by the insurer against anyone insured thereunder. Such insurance shall provide that it is primary insurance as respects the owner and that any other insurance maintained by owner is excess and noncontributing with the insurance required hereunder. The requirements for the foregoing insurance shall not derogate from the provisions for indemnification of Landlord by Tenant under Section 4.2.2.2 of this Work Letter.

4.2.3 Governmental Compliance. The Improvements shall comply in all respects with the following: (i) the Code and other state, federal, city or quasi-governmental laws, codes, ordinances and regulations, as each may apply according to the rulings of the

controlling public official, agent or other person; (ii) applicable standards of the American Insurance Association (formerly, the National Board of Fire Underwriters) and the National Electrical Code; and (iii) building material manufacturer's specifications.

4.2.4 Inspection by Landlord. Landlord shall have the right to inspect the Improvements at all times, provided however, that Landlord's failure to inspect the Improvements shall in no event constitute a waiver of any of Landlord's rights hereunder nor shall Landlord's inspection of the Improvements constitute Landlord's approval of the same. Should Landlord disapprove any portion of the Improvements, Landlord shall notify Tenant in writing of such disapproval and shall specify the items disapproved. Any defects or deviations in, and/or disapproval by Landlord of, the Improvements shall be rectified by Tenant at no expense to Landlord.

4.2.5 Meetings. Commencing upon the execution of this Lease, Tenant shall hold weekly meetings at a reasonable time, with the Architect and the Contractor regarding the progress of the preparation of Construction Drawings and the construction of the Improvements, which meetings shall be held at a location designated by Landlord and reasonably approved by Tenant, and Landlord and/or its agents shall receive prior notice of, and shall have the right to attend, all such meetings, and, upon Landlord's request, certain of Tenant's Agents shall attend such meetings. In addition, minutes shall be taken at all such meetings, a copy of which minutes shall be promptly delivered to Landlord. One such meeting each month shall include the review of Contractor's current request for payment.

4.3 Notice of Completion; Copy of Record Set of Plans. Within twenty (20) days after completion of construction of the Improvements, Tenant shall cause a Notice of Completion to be recorded in the office of the Recorder of the county in which the Building is located in accordance with Section 3093 of the Civil Code of the State of California or any successor statute, and shall furnish a copy thereof to Landlord upon such recordation. If Tenant fails to do so, Landlord may execute and file the same as Tenant's agent for such purpose, at Tenant's sole cost and expense. At the conclusion of construction, (i) Tenant shall cause the Architect and Contractor (A) to update the Approved Working Drawings as necessary to reflect all changes made to the Approved Working Drawings during the course of construction, (B) to certify to the best of their knowledge that the "record-set" of as-built drawings are true and correct, which certification shall survive the expiration or termination of this Lease, and (C) to deliver to Landlord two (2) sets of copies of such record set of drawings within one hundred twenty (120) days following issuance of a certificate of occupancy for the Premises, and (ii) Tenant shall deliver to Landlord a copy of all warranties, guaranties, and operating manuals and information relating to the improvements, equipment, and systems in the Premises.

SECTION 5

MISCELLANEOUS

5.1 Tenant's Representative. Tenant has designated Mr. Dean Petersen as its sole representative with respect to the matters set forth in this Work Letter (whose e-mail address for the purposes of this Work Letter is deanp@irvinghughes.com), who, shall have full authority and responsibility to act on behalf of the Tenant as required in this Work Letter.

EXHIBIT B

5.2 Landlord's Representative. Landlord has designated Mr. Richard Mount as its sole representative with respect to the matters set forth in this Work Letter (whose e-mail address for the purposes of this Work Letter is rmount@kilroyrealty.com), who, until further notice to Tenant, shall have full authority and responsibility to act on behalf of the Landlord as required in this Work Letter.

5.3 Time of the Essence in This Work Letter. Unless otherwise indicated, all references herein to a "number of days" shall mean and refer to calendar days. If any item requiring approval is timely disapproved by Landlord, the procedure for preparation of the document and approval thereof shall be repeated until the document is approved by Landlord.

5.4 Tenant's Lease Default. Notwithstanding any provision to the contrary contained in the Lease or this Work Letter, if any economic or material, non-economic default (beyond any applicable notice and cure periods) by Tenant under the Lease or this Work Letter (including, without limitation, any failure by Tenant to fund any portion of the Over-Allowance Amount) occurs at any time on or before the substantial completion of the Improvements, then (i) in addition to all other rights and remedies granted to Landlord pursuant to the Lease, Landlord shall have the right to withhold payment of all or any portion of the Improvement Allowance, and (ii) all other obligations of Landlord under the terms of the Lease and this Work Letter shall be forgiven until such time as such default is cured pursuant to the terms of the Lease.

EXHIBIT B

EXHIBIT C

CARMEL VALLEY CORPORATE CENTER

FORM OF NOTICE OF LEASE TERM DATES

To: _____
_____
_____
_____

Re: Office Lease dated _____, 200_ between _____, a _____("Landlord"), and _____, a _____("Tenant") concerning Suite ____on floor(s) ____of the office building located at _____, _____, California.

Gentlemen:

In accordance with the Office Lease (the "Lease"), we wish to advise you and/or confirm as follows:

1. The Lease Term shall commence on or has commenced on _____for a term of _____ending on _____.
2. Rent commenced to accrue on _____, in the amount of _____.
3. If the Lease Commencement Date is other than the first day of the month, the first billing will contain a pro rata adjustment. Each billing thereafter, with the exception of the final billing, shall be for the full amount of the monthly installment as provided for in the Lease.
4. Your rent checks should be made payable to _____at _____.
5. The exact number of rentable/usable square feet within the Premises is _____square feet.

6. Tenant's Share as adjusted based upon the exact number of usable square feet within the Premises is _____%.

"Landlord":

KILROY REALTY, L.P.,
a Delaware limited partnership

By: _____
Its: _____

Agreed to and Accepted
as of _____, 200_.

"Tenant":

_____
a _____

By: _____
Its: _____

EXHIBIT D

CARMEL VALLEY CORPORATE CENTER

RULES AND REGULATIONS

Tenant shall faithfully observe and comply with the following Rules and Regulations. Landlord shall not be responsible to Tenant for the nonperformance of any of said Rules and Regulations by or otherwise with respect to the acts or omissions of any other tenants or occupants of the Project. In the event of any conflict between the Rules and Regulations and the other provisions of this Lease, the latter shall control.

1. Tenant shall not alter any lock or install any new or additional locks or bolts on any doors or windows of the Premises without obtaining Landlord's prior written consent. Tenant shall bear the cost of any lock changes or repairs required by Tenant. Two keys will be furnished by Landlord for the Premises, and any additional keys required by Tenant must be obtained from Landlord at a reasonable cost to be established by Landlord. Upon the termination of this Lease, Tenant shall restore to Landlord all keys of stores, offices, and toilet rooms, either furnished to, or otherwise procured by, Tenant and in the event of the loss of keys so furnished, Tenant shall pay to Landlord the cost of replacing same or of changing the lock or locks opened by such lost key if Landlord shall deem it necessary to make such changes.

2. All doors opening to public corridors shall be kept closed at all times except for normal ingress and egress to the Premises.

3. Landlord reserves the right to close and keep locked all entrance and exit doors of the Building during such hours as are customary for comparable buildings in the San Diego, California area. Tenant, its employees and agents must be sure that the doors to the Building are securely closed and locked when leaving the Premises if it is after the normal hours of business for the Building. Any tenant, its employees, agents or any other persons entering or leaving the Building at any time when it is so locked, or any time when it is considered to be after normal business hours for the Building, may be required to sign the Building register. Access to the Building may be refused unless the person seeking access has proper identification or has a previously arranged pass for access to the Building. Landlord will furnish passes to persons for whom Tenant requests same in writing. Tenant shall be responsible for all persons for whom Tenant requests passes and shall be liable to Landlord for all acts of such persons. The Landlord and his agents shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. In case of invasion, mob, riot, public excitement, or other commotion, Landlord reserves the right to prevent access to the Building or the Project during the continuance thereof by any means it deems appropriate for the safety and protection of life and property.

4. No furniture, freight or equipment of any kind shall be brought into the Building without prior notice to Landlord. All moving activity into or out of the Building shall be scheduled with Landlord and done only at such time and in such manner as Landlord reasonably designates. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy property brought into the Building and also the times and manner of moving the

same in and out of the Building. Safes and other heavy objects shall, if considered necessary by Landlord, stand on supports of such thickness as is necessary to properly distribute the weight. Landlord will not be responsible for loss of or damage to any such safe or property in any case. Any damage to any part of the Building, its contents, occupants or visitors by moving or maintaining any such safe or other property shall be the sole responsibility and expense of Tenant.

5. No furniture, packages, supplies, equipment or merchandise will be received in the Building or carried up or down in the elevators, except between such normal office hours, in such specific elevator and by such personnel as shall be reasonably designated by Landlord.

6. The requirements of Tenant will be attended to only upon application at the management office for the Project or at such office location designated by Landlord. Employees of Landlord shall not perform any work or do anything outside their regular duties unless under special instructions from Landlord.

7. No sign, advertisement, notice or handbill shall be exhibited, distributed, painted or affixed by Tenant on any part of the Premises or the Building without the prior written consent of the Landlord. Tenant shall not disturb, solicit, peddle, or canvass any occupant of the Project and shall cooperate with Landlord and its agents of Landlord to prevent same.

8. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, and no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the tenant who, or whose servants, employees, agents, visitors or licensees shall have caused same.

9. Tenant shall not overload the floor of the Premises, nor (except to the extent of hanging pictures and the link) mark, drive nails or screws, or drill into the partitions, woodwork or drywall or in any way deface the Premises or any part thereof without Landlord's prior written consent. Tenant shall not purchase spring water, ice, towel, linen, maintenance or other like services from any person or persons not approved by Landlord.

10. Except for vending machines intended for the sole use of Tenant's employees and invitees, no vending machine or machines other than fractional horsepower office machines shall be installed, maintained or operated upon the Premises without the written consent of Landlord.

11. Tenant shall not use or keep in or on the Premises, the Building, or the Project any kerosene, gasoline, explosive material, corrosive material, material capable of emitting toxic fumes, or other inflammable or combustible fluid chemical, substitute or material. Tenant shall provide material safety data sheets for any Hazardous Material used or kept on the Premises.

12. Tenant shall not without the prior written consent of Landlord use any method of heating or air conditioning other than that supplied by Landlord.

13. Tenant shall not use, keep or permit to be used or kept, any foul or noxious gas or substance in or on the Premises, or permit or allow the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Project by reason of

noise, odors, or vibrations, or interfere with other tenants or those having business therein, whether by the use of any musical instrument, radio, phonograph, or in any other way. Tenant shall not throw anything out of doors, windows or skylights or down passageways.

14. Tenant shall not bring into or keep within the Project, the Building or the Premises any firearms, animals, birds, aquariums, or, except in areas designated by Landlord, bicycles or other vehicles.

15. No cooking shall be done or permitted on the Premises, nor shall the Premises be used for the storage of merchandise, for lodging or for any improper, objectionable or immoral purposes. Notwithstanding the foregoing, Underwriters' laboratory-approved equipment and microwave ovens may be used in the Premises for heating food and brewing coffee, tea, hot chocolate and similar beverages for employees and visitors, provided that such use is in accordance with all applicable federal, state, county and city laws, codes, ordinances, rules and regulations.

16. The Premises shall not be used for manufacturing or for the storage of merchandise except as such storage may be incidental to the use of the Premises provided for in the Summary. Tenant shall not occupy or permit any portion of the Premises to be occupied as an office for a messenger-type operation or dispatch office, public stenographer or typist, or for the manufacture or sale of liquor, narcotics, or tobacco in any form, or as a medical office, or as a barber or manicure shop, or as an employment bureau without the express prior written consent of Landlord. Tenant shall not engage or pay any employees on the Premises except those actually working for such tenant on the Premises nor advertise for laborers giving an address at the Premises.

17. Landlord reserves the right to exclude or expel from the Project any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of these Rules and Regulations.

18. Tenant, its employees and agents shall not loiter in or on the entrances, corridors, sidewalks, lobbies, courts, halls, stairways, elevators, vestibules or any Common Areas for the purpose of smoking tobacco products or for any other purpose, nor in any way obstruct such areas, and shall use them only as a means of ingress and egress for the Premises. Furthermore, in no event shall Tenant, its employees or agents smoke tobacco products within the Building or within seventy-five feet (75') of any entrance into the Building or into any other Project building.

19. Tenant shall not waste electricity, water or air conditioning and agrees to cooperate fully with Landlord to ensure the most effective operation of the Building's heating and air conditioning system, and shall refrain from attempting to adjust any controls. Tenant shall participate in recycling programs undertaken by Landlord.

20. Tenant shall store all its trash and garbage within the interior of the Premises. No material shall be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in San Diego, California without violation of any law or ordinance governing such disposal. All trash, garbage and refuse disposal shall be made only through entry-ways and

elevators provided for such purposes at such times as Landlord shall designate. If the Premises is or becomes infested with vermin as a result of the use or any misuse or neglect of the Premises by Tenant, its agents, servants, employees, contractors, visitors or licensees, Tenant shall forthwith, at Tenant's expense, cause the Premises to be exterminated from time to time to the satisfaction of Landlord and shall employ such licensed exterminators as shall be approved in writing in advance by Landlord.

21. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any governmental agency.

22. Any persons employed by Tenant to do janitorial work shall be subject to the prior written approval of Landlord, and while in the Building and outside of the Premises, shall be subject to and under the control and direction of the Building manager (but not as an agent or servant of such manager or of Landlord), and Tenant shall be responsible for all acts of such persons.

23. No awnings or other projection shall be attached to the outside walls of the Building without the prior written consent of Landlord, and no curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises other than Landlord standard drapes. All electrical ceiling fixtures hung in the Premises or spaces along the perimeter of the Building must be fluorescent and/or of a quality, type, design and a warm white bulb color approved in advance in writing by Landlord. Neither the interior nor exterior of any windows shall be coated or otherwise sunscreened without the prior written consent of Landlord. Tenant shall be responsible for any damage to the window film on the exterior windows of the Premises and shall promptly repair any such damage at Tenant's sole cost and expense. Tenant shall keep its window coverings closed during any period of the day when the sun is shining directly on the windows of the Premises. Prior to leaving the Premises for the day, Tenant shall draw or lower window coverings and extinguish all lights. Tenant shall abide by Landlord's regulations concerning the opening and closing of window coverings which are attached to the windows in the Premises, if any, which have a view of any interior portion of the Building or Building Common Areas.

24. The sashes, sash doors, skylights, windows, and doors that reflect or admit light and air into the halls, passageways or other public places in the Building shall not be covered or obstructed by Tenant, nor shall any bottles, parcels or other articles be placed on the windowsills.

25. Tenant must comply with requests by the Landlord concerning the informing of their employees of items of importance to the Landlord.

26. Tenant must comply with applicable "**NO-SMOKING**" ordinances and all related, similar or successor ordinances, rules, regulations or codes. If Tenant is required under the ordinance to adopt a written smoking policy, a copy of said policy shall be on file in the office of the Building. In addition, no smoking of any substance shall be permitted within the Project except in specifically designated outdoor areas. Within such designated outdoor areas, all remnants of consumed cigarettes and related paraphernalia shall be deposited in ash trays and/or waste receptacles. No cigarettes shall be extinguished and/or left on the ground or any other surface of the Project. Cigarettes shall be extinguished only in ashtrays. Furthermore, in

no event shall Tenant, its employees or agents smoke tobacco products or other substances within any interior areas of the Project or within seventy-five feet (75') of any entrance into the Building or into any other Project building.

27. Except as otherwise expressly provided in this Lease, Tenant hereby acknowledges that Landlord shall have no obligation to provide guard service or other security measures for the benefit of the Premises, the Building or the Project. Tenant hereby assumes all responsibility for the protection of Tenant and its agents, employees, contractors, invitees and guests, and the property thereof, from acts of third parties, including keeping doors locked and other means of entry to the Premises closed, whether or not Landlord, at its option, elects to provide security protection for the Project or any portion thereof. Tenant further assumes the risk that any safety and security devices, services and programs which Landlord elects, in its sole discretion, to provide may not be effective, or may malfunction or be circumvented by an unauthorized third party, and Tenant shall, in addition to its other insurance obligations under this Lease, obtain its own insurance coverage to the extent Tenant desires protection against losses related to such occurrences. Tenant shall cooperate in any reasonable safety or security program developed by Landlord or required by law.

28. All non-standard office equipment of any electrical or mechanical nature shall be placed by Tenant in the Premises in settings that minimize, absorb or prevent any vibration, noise and annoyance.

29. Tenant shall not use in any space or in the public halls of the Building, any hand trucks except those equipped with rubber tires and rubber side guards.

30. No auction, liquidation, fire sale, going-out-of-business or bankruptcy sale shall be conducted in the Premises without the prior written consent of Landlord.

31. No tenant shall use or permit the use of any portion of the Premises for living quarters, sleeping apartments or lodging rooms.

32. Tenant shall install and maintain, at Tenant's sole cost and expense, an adequate, visibly marked and properly operational fire extinguisher next to any duplicating or photocopying machines or similar heat producing equipment, which may or may not contain combustible material, in the Premises.

Landlord reserves the right at any time to change or rescind any one or more of these Rules and Regulations, or to make such other and further reasonable Rules and Regulations as in Landlord's judgment may from time to time be necessary for the management, safety, care and cleanliness of the Premises, Building, the Common Areas and the Project, and for the preservation of good order therein, as well as for the convenience of other occupants and tenants therein. Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular tenants, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of any other tenant, nor prevent Landlord from thereafter enforcing any such Rules or Regulations against any or all tenants of the Project. Tenant shall be deemed to have read these Rules and Regulations and to have agreed to abide by them as a condition of its occupancy of the Premises.

EXHIBIT E

CARMEL VALLEY CORPORATE CENTER

FORM OF TENANT'S ESTOPPEL CERTIFICATE

The undersigned as Tenant under that certain Office Lease (the "Lease") made and entered into as of _____, 200_ by and between _____as Landlord, and the undersigned as Tenant, for Premises on the _____floor(s) of the office building located at _____, _____, California _____, certifies as follows:

1. Attached hereto as Exhibit A is a true and correct copy of the Lease and all amendments and modifications thereto. The documents contained in Exhibit A represent the entire agreement between the parties as to the Premises.

2. The undersigned currently occupies the Premises described in the Lease, the Lease Term commenced on _____, and the Lease Term expires on _____, and the undersigned has no option to terminate or cancel the Lease or to purchase all or any part of the Premises, the Building and/or the Project.

3. Base Rent became payable on _____.

4. The Lease is in full force and effect and has not been modified, supplemented or amended in any way except as provided in Exhibit A.

5. Tenant has not transferred, assigned, or sublet any portion of the Premises nor entered into any license or concession agreements with respect thereto except as follows:

6. Tenant shall not modify the documents contained in Exhibit A without the prior written consent of Landlord's mortgagee.

7. All monthly installments of Base Rent, all Additional Rent and all monthly installments of estimated Additional Rent have been paid when due through _____. The current monthly installment of Base Rent is $____.

8. To the undersigned's knowledge, all conditions of the Lease to be performed by Landlord necessary to the enforceability of the Lease have been satisfied and Landlord is not in default thereunder. In addition, the undersigned has not delivered any notice to Landlord regarding a default by Landlord thereunder.

9. No rental has been paid more than thirty (30) days in advance and no security has been deposited with Landlord except as provided in the Lease.

10. To the undersigned's knowledge, as of the date hereof, there are no existing defenses or offsets, or, to the undersigned's knowledge, claims or any basis for a claim, that the undersigned has against Landlord.

11. If Tenant is a corporation or partnership, each individual executing this Estoppel Certificate on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in California and that Tenant has full right and authority to execute and deliver this Estoppel Certificate and that each person signing on behalf of Tenant is authorized to do so.

12. There are no actions pending against the undersigned under the bankruptcy or similar laws of the United States or any state.

13. To the undersigned's knowledge, other than in compliance with all applicable laws and incidental to the ordinary course of the use of the Premises, the undersigned has not used or stored any hazardous substances in the Premises.

14. To the undersigned's knowledge, all improvement work to be performed by Landlord under the Lease has been completed in accordance with the Lease and has been accepted by the undersigned and all reimbursements and allowances due to the undersigned under the Lease in connection with any improvement work have been paid in full.

The undersigned acknowledges that this Estoppel Certificate may be delivered to Landlord or to a prospective mortgagee or prospective purchaser, and acknowledges that said prospective mortgagee or prospective purchaser will be relying upon the statements contained herein in making the loan or acquiring the property of which the Premises are a part and that receipt by it of this certificate is a condition of making such loan or acquiring such property.

Executed at _____on the __day of _____, 200_.

"Tenant":

_____ ,
a _____

By: _____
Its: _____

By: _____
Its: _____

EXHIBIT F

CARMEL VALLEY CORPORATE CENTER

FORM OF RECOGNITION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
1901 Avenue of the Stars, 18th Floor
Los Angeles, California 90067
Attention: Anton N. Natsis, Esq.

RECOGNITION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS

This Recognition of Covenants, Conditions, and Restrictions (this "**Agreement**") is entered into as of the ____ day of ____, 200__, by and between _____("Landlord"), and _____("Tenant"), with reference to the following facts:

A. Landlord and Tenant entered into that certain Office Lease Agreement dated _____, 200_(the "Lease"). Pursuant to the Lease, Landlord leased to Tenant and Tenant leased from Landlord space (the "**Premises**") located in an office building on certain real property described in **Exhibit A** attached hereto and incorporated herein by this reference (the "**Property**").

B. The Premises are located in an office building located on real property which is part of an area owned by Landlord containing approximately __(__) acres of real property located in the City of _____, California (the "**Project**"), as more particularly described in **Exhibit B** attached hereto and incorporated herein by this reference.

C. Landlord, as declarant, has previously recorded, or proposes to record concurrently with the recordation of this Agreement, a Declaration of Covenants, Conditions, and Restrictions (the "**Declaration**"), dated _____, 200_, in connection with the Project.

D. Tenant is agreeing to recognize and be bound by the terms of the Declaration, and the parties hereto desire to set forth their agreements concerning the same.

NOW, THEREFORE, in consideration of (a) the foregoing recitals and the mutual agreements hereinafter set forth, and (b) for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows,

1. Tenant's Recognition of Declaration. Notwithstanding that the Lease has been executed prior to the recordation of the Declaration, Tenant agrees to recognize and by bound by all of the terms and conditions of the Declaration.

2. Miscellaneous.

2.1 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, estates, personal representatives, successors, and assigns.

2.2 This Agreement is made in, and shall be governed, enforced and construed under the laws of, the State of California.

2.3 This Agreement constitutes the entire understanding and agreements of the parties with respect to the subject matter hereof, and shall supersede and replace all prior understandings and agreements, whether verbal or in writing. The parties confirm and acknowledge that there are no other promises, covenants, understandings, agreements, representations, or warranties with respect to the subject matter of this Agreement except as expressly set forth herein.

2.4 This Agreement is not to be modified, terminated, or amended in any respect, except pursuant to any instrument in writing duly executed by both of the parties hereto.

2.5 In the event that either party hereto shall bring any legal action or other proceeding with respect to the breach, interpretation, or enforcement of this Agreement, or with respect to any dispute relating to any transaction covered by this Agreement, the losing party in such action or proceeding shall reimburse the prevailing party therein for all reasonable costs of litigation, including reasonable attorneys' fees, in such amount as may be determined by the court or other tribunal having jurisdiction, including matters on appeal.

2.6 All captions and heading herein are for convenience and ease of reference only, and shall not be used or referred to in any way in connection with the interpretation or enforcement of this Agreement.

2.7 If any provision of this Agreement, as applied to any party or to any circumstance, shall be adjudged by a court of competent jurisdictions to be void or unenforceable for any reason, the same shall not affect any other provision of this Agreement, the application of such provision under circumstances different from those adjudged by the court, or the validity or enforceability of this Agreement as a whole.

2.8 Time is of the essence of this Agreement.

2.9 The Parties agree to execute any further documents, and take any further actions, as may be reasonable and appropriate in order to carry out the purpose and intent of this Agreement.

2.10 As used herein, the masculine, feminine or neuter gender, and the singular and plural numbers, shall each be deemed to include the others whenever and whatever the context so indicates.

SIGNATURE PAGE OF RECOGNITION OF

COVENANTS, CONDITIONS AND RESTRICTIONS

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

"Landlord":

_____,
a _____

By: _____
Its: _____

"Tenant":

_____,
a _____

By: _____
Its: _____

By: _____
Its: _____

EXHIBIT G

CARMEL VALLEY CORPORATE CENTER

MARKET RENT DETERMINATION FACTORS

When determining Market Rent, the following rules and instructions shall be followed.

1. **RELEVANT FACTORS**. The "**Comparable Transactions**" shall be the "Net Equivalent Lease Rates" per rentable square foot, at which tenants, are, pursuant to transactions consummated within twelve (12) months prior to the commencement of the Option Term, leasing non-sublease, non-encumbered space comparable in location and quality to the Premises containing a square footage comparable to that of the Premises for a term of five (5) years, in an arm's-length transaction, which comparable space is located in "Comparable Buildings." The terms of the Comparable Transactions shall be calculated as a "Net Equivalent Lease Rate" pursuant to the terms of this **Exhibit G**, and shall take into consideration only the following terms and concessions: (i) the rental rate and escalations for the Comparable Transactions, (ii) the amount of parking rent per parking permit paid in the Comparable Transactions, if any, (iii) operating expense and tax protection granted in such Comparable Transactions such as a base year or expense stop (although for each such Comparable Transaction the base rent shall be adjusted to a triple net base rent using reasonable estimates of operating expenses and taxes as reasonably determined by Landlord for each such Comparable Transaction); (iv) rental abatement concessions, if any, being granted such tenants in connection with such comparable space, (v) any "Renewal Allowance," as defined herein below, to be provided by Tenant in connection with the Option Term as compared to the improvements or allowances provided or to be provided in the Comparable Transactions, taking into account the contributory value of the existing improvements in the Premises, such value to be based upon the age, design, quality of finishes, and layout of the existing improvements, and (vi) all other monetary concessions (including the value of any signage), if any, being granted such tenants in connection with such Comparable Transactions. Notwithstanding any contrary provision hereof, in determining the Market Rent, no consideration shall be given to any period of rental abatement, if any, granted to tenants in Comparable Transactions in connection with the design, permitting and construction of improvements, or any commission paid or not paid in connection with such Comparable Transaction. The Market Rent shall include adjustment of the stated size of the Premises based upon the standards of measurement utilized in the Comparable Transactions. The Market Rent shall additionally be subject to appropriate adjustments (if any) to account for differences in the then-existing financial condition of the Tenant vis-à-vis the subject tenants under the Comparable Transactions and taking into account any applicable credit enhancements (e.g., security deposits, letters of credit, guaranties, etc.).

2. **TENANT SECURITY**. The Market Rent shall additionally include a determination as to whether, and if so to what extent, Tenant must provide Landlord with financial security, such as an enhanced security deposit, a letter of credit or guaranty, for Tenant's Rent obligations during the Option Term; provided, however, Tenant shall only be obligated to provide additional financial security to the extent Tenant's then-existing financial condition is materially worse than those existing as of the date of this Lease. Such determination

shall be made by reviewing the extent of financial security then generally being imposed in Comparable Transactions from tenants of comparable financial condition and credit history to the then existing financial condition and credit history of Tenant (with appropriate adjustments to account for differences in the then-existing financial condition of Tenant and such other tenants, and giving reasonable consideration to Tenant's prior performance history during the Lease Term).

3. **RENEWAL IMPROVEMENT ALLOWANCE**. Notwithstanding anything to the contrary set forth in this **Exhibit G**, once the Market Rent for the Option Term is determined as a Net Equivalent Lease Rate, if, in connection with such determination, it is deemed that Tenant is entitled to an improvement or comparable allowance for the improvement of the Premises, (the total dollar value of such allowance shall be referred to herein as the "**Renewal Allowance**"), Landlord shall pay the Renewal Allowance to Tenant pursuant to a commercially reasonable disbursement procedure determined by Landlord and the terms of Article 8 of this Lease, the rental rate component of the Market Rent shall be increased to be a rental rate which takes into consideration that Tenant will receive payment of such Renewal Allowance and, accordingly, such payment (with interest at a then-applicable, commercially reasonable amortization rate) shall be factored into the base rent component of the Market Rent. Notwithstanding any provision to the contrary, in no event shall Tenant be obligated to accept a Renewal Allowance once the Market Rent has been determined, and in the event Tenant elects not to accept such a Renewal Allowance, the Market Rent shall be adjusted accordingly to take account of such non-election.

4. **COMPARABLE BUILDINGS**. For purposes of this Lease, the term "**Comparable Buildings**" shall mean first-class multi-tenant occupancy office buildings which are comparable to the Building in terms of age (based upon the date of completion of construction or major renovation), designed characteristics, quality of construction, level of services and amenities (including, but not limited to, the type (e.g., surface, covered, subterranean) and amount of parking), size and appearance, and are located in the "**Comparable Area**," which is the "Del Mar Heights Area." The "**Del Mar Heights Area**" shall be the area containing Comparable Buildings which have reasonably comparable freeway access to the Project and which are within an area bounded by Del Mar Heights Road on the North side, Highway 56 on the South side, I-5 on the West side and Carmel Valley Road on the East side.

EXHIBIT H

CARMEL VALLEY CORPORATE CENTER

FORM OF LETTER OF CREDIT

(Letterhead of a money center bank acceptable to the Landlord)

FAX NO. [(__) __-__]
SWIFT: [Insert No., if any]

[Insert Bank Name And Address]

DATE OF ISSUE:_____

BENEFICIARY:
[Insert Beneficiary Name And Address]

APPLICANT:
[Insert Applicant Name And Address]

LETTER OF CREDIT NO.____

EXPIRATION DATE:_____
_____AT OUR COUNTERS

AMOUNT AVAILABLE:
USD[Insert Dollar Amount]
(U.S. DOLLARS [Insert Dollar Amount])

LADIES AND GENTLEMEN:

WE HEREBY ESTABLISH OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____IN YOUR FAVOR FOR THE ACCOUNT OF [Insert Tenant's Name], A [Insert Entity Type], UP TO THE AGGREGATE AMOUNT OF USD[Insert Dollar Amount] ([Insert Dollar Amount] U.S. DOLLARS) EFFECTIVE IMMEDIATELY AND EXPIRING ON (Expiration Date) AVAILABLE BY PAYMENT UPON PRESENTATION OF YOUR DRAFT AT SIGHT DRAWN ON [Insert Bank Name] WHEN ACCOMPANIED BY THE FOLLOWING DOCUMENT(S):

1. THE ORIGINAL OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT AND AMENDMENT(S), IF ANY.

2. BENEFICIARY'S SIGNED STATEMENT PURPORTEDLY SIGNED BY AN AUTHORIZED REPRESENTATIVE OF [Insert Landlord's Name], A [Insert Entity Type] ("LANDLORD") STATING THE FOLLOWING:

"THE UNDERSIGNED HEREBY CERTIFIES THAT THE LANDLORD, EITHER (A) UNDER THE LEASE (DEFINED BELOW), OR (B) AS A RESULT OF THE TERMINATION OF SUCH LEASE, HAS THE RIGHT TO DRAW DOWN THE AMOUNT OF USD_____IN ACCORDANCE WITH THE TERMS OF THAT CERTAIN OFFICE LEASE DATED [Insert Lease Date], AS AMENDED (COLLECTIVELY, THE "LEASE"), OR SUCH

AMOUNT CONSTITUTES DAMAGES OWING BY THE TENANT UNDER SUCH LEASE TO BENEFICIARY RESULTING FROM THE BREACH OF SUCH LEASE BY THE TENANT THEREUNDER, AND SUCH AMOUNT REMAINS UNPAID AT THE TIME OF THIS DRAWING."

OR

"THE UNDERSIGNED HEREBY CERTIFIES THAT WE HAVE RECEIVED A WRITTEN NOTICE OF [Insert Bank Name]'S ELECTION NOT TO EXTEND ITS STANDBY LETTER OF CREDIT NO. _____AND HAVE NOT RECEIVED A REPLACEMENT LETTER OF CREDIT WITHIN AT LEAST SIXTY (60) DAYS PRIOR TO THE PRESENT EXPIRATION DATE."

OR

"THE UNDERSIGNED HEREBY CERTIFIES THAT BENEFICIARY IS ENTITLED TO DRAW DOWN THE FULL AMOUNT OF LETTER OF CREDIT NO. _____AS THE RESULT OF THE FILING OF A VOLUNTARY PETITION UNDER THE U.S. BANKRUPTCY CODE OR A STATE BANKRUPTCY CODE BY THE TENANT UNDER THAT CERTAIN OFFICE LEASE DATED [Insert Lease Date], AS AMENDED (COLLECTIVELY, THE "LEASE"), WHICH FILING HAS NOT BEEN DISMISSED AT THE TIME OF THIS DRAWING."

OR

"THE UNDERSIGNED HEREBY CERTIFIES THAT BENEFICIARY IS ENTITLED TO DRAW DOWN THE FULL AMOUNT OF LETTER OF CREDIT NO. _____AS THE RESULT OF AN INVOLUNTARY PETITION HAVING BEEN FILED UNDER THE U.S. BANKRUPTCY CODE OR A STATE BANKRUPTCY CODE AGAINST THE TENANT UNDER THAT CERTAIN OFFICE LEASE DATED [Insert Lease Date], AS AMENDED (COLLECTIVELY, THE "LEASE"), WHICH FILING HAS NOT BEEN DISMISSED AT THE TIME OF THIS DRAWING."

SPECIAL CONDITIONS:

PARTIAL DRAWINGS AND MULTIPLE PRESENTATIONS MAY BE MADE UNDER THIS STANDBY LETTER OF CREDIT, PROVIDED, HOWEVER, THAT EACH SUCH DEMAND THAT IS PAID BY US SHALL REDUCE THE AMOUNT AVAILABLE UNDER THIS STANDBY LETTER OF CREDIT.

ALL INFORMATION REQUIRED WHETHER INDICATED BY BLANKS, BRACKETS OR OTHERWISE, MUST BE COMPLETED AT THE TIME OF DRAWING. [Please Provide The Required Forms For Review, And Attach As Schedules To The Letter Of Credit.]

ALL SIGNATURES MUST BE MANUALLY EXECUTED IN ORIGINALS.

EXHIBIT H

ALL BANKING CHARGES ARE FOR THE APPLICANT'S ACCOUNT.

IT IS A CONDITION OF THIS STANDBY LETTER OF CREDIT THAT IT SHALL BE DEEMED AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR A PERIOD OF ONE YEAR FROM THE PRESENT OR ANY FUTURE EXPIRATION DATE, UNLESS AT LEAST SIXTY (60) DAYS PRIOR TO THE EXPIRATION DATE WE SEND YOU NOTICE BY NATIONALLY RECOGNIZED OVERNIGHT COURIER SERVICE THAT WE ELECT NOT TO EXTEND THIS LETTER OF CREDIT FOR ANY SUCH ADDITIONAL PERIOD. SAID NOTICE WILL BE SENT TO THE ADDRESS INDICATED ABOVE, UNLESS A CHANGE OF ADDRESS IS OTHERWISE NOTIFIED BY YOU TO US IN WRITING BY RECEIPTED MAIL OR COURIER. ANY NOTICE TO US WILL BE DEEMED EFFECTIVE ONLY UPON ACTUAL RECEIPT BY US AT OUR DESIGNATED OFFICE. IN NO EVENT, AND WITHOUT FURTHER NOTICE FROM OURSELVES, SHALL THE EXPIRATION DATE BE EXTENDED BEYOND A FINAL EXPIRATION DATE OF (i.e., 120 days from the Lease Expiration Date).

THIS LETTER OF CREDIT MAY BE TRANSFERRED SUCCESSIVELY IN WHOLE ONLY UP TO THE THEN AVAILABLE AMOUNT IN FAVOR OF A NOMINATED TRANSFEREE ("TRANSFEREE"), ASSUMING SUCH TRANSFER TO SUCH TRANSFEREE IS IN COMPLIANCE WITH ALL APPLICABLE U.S. LAWS AND REGULATIONS. AT THE TIME OF TRANSFER, THE ORIGINAL LETTER OF CREDIT AND ORIGINAL AMENDMENT(S) IF ANY, MUST BE SURRENDERED TO US TOGETHER WITH OUR TRANSFER FORM (AVAILABLE UPON REQUEST) AND PAYMENT OF OUR CUSTOMARY TRANSFER FEES BY APPLICANT. IN CASE OF ANY TRANSFER UNDER THIS LETTER OF CREDIT, THE DRAFT AND ANY REQUIRED STATEMENT MUST BE EXECUTED BY THE TRANSFEREE AND WHERE THE BENEFICIARY'S NAME APPEARS WITHIN THIS STANDBY LETTER OF CREDIT, THE TRANSFEREE'S NAME IS AUTOMATICALLY SUBSTITUTED THEREFOR.

ALL DRAFTS REQUIRED UNDER THIS STANDBY LETTER OF CREDIT MUST BE MARKED: "DRAWN UNDER [Insert Bank Name] STANDBY LETTER OF CREDIT NO. _____."

WE HEREBY AGREE WITH YOU THAT IF DRAFTS ARE PRESENTED TO [Insert Bank Name] UNDER THIS LETTER OF CREDIT AT OR PRIOR TO [Insert Time – (*e.g.*, 11:00 AM)], ON A BUSINESS DAY, AND PROVIDED THAT SUCH DRAFTS PRESENTED CONFORM TO THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT, PAYMENT SHALL BE INITIATED BY US IN IMMEDIATELY AVAILABLE FUNDS BY OUR CLOSE OF BUSINESS ON THE SUCCEEDING BUSINESS DAY. IF DRAFTS ARE PRESENTED TO [Insert Bank Name] UNDER THIS LETTER OF CREDIT AFTER [Insert Time – (*e.g.*, 11:00 AM)], ON A BUSINESS DAY, AND PROVIDED THAT SUCH DRAFTS CONFORM WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT, PAYMENT SHALL BE INITIATED BY US IN IMMEDIATELY AVAILABLE FUNDS BY OUR CLOSE OF BUSINESS ON THE SECOND SUCCEEDING BUSINESS DAY. AS USED IN THIS LETTER OF CREDIT, "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY, SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN THE STATE OF CALIFORNIA ARE AUTHORIZED OR REQUIRED

BY LAW TO CLOSE. IF THE EXPIRATION DATE FOR THIS LETTER OF CREDIT SHALL EVER FALL ON A DAY WHICH IS NOT A BUSINESS DAY THEN SUCH EXPIRATION DATE SHALL AUTOMATICALLY BE EXTENDED TO THE DATE WHICH IS THE NEXT BUSINESS DAY.

PRESENTATION OF A DRAWING UNDER THIS LETTER OF CREDIT MAY BE MADE ON OR PRIOR TO THE THEN CURRENT EXPIRATION DATE HEREOF BY HAND DELIVERY, COURIER SERVICE, OVERNIGHT MAIL, OR FACSIMILE. PRESENTATION BY FACSIMILE TRANSMISSION SHALL BE BY TRANSMISSION OF THE ABOVE REQUIRED SIGHT DRAFT DRAWN ON US TOGETHER WITH THIS LETTER OF CREDIT TO OUR FACSIMILE NUMBER, [Insert Fax Number – (_____) _____-_____], ATTENTION: [Insert Appropriate Recipient], WITH TELEPHONIC CONFIRMATION OF OUR RECEIPT OF SUCH FACSIMILE TRANSMISSION AT OUR TELEPHONE NUMBER [Insert Telephone Number – (_____) _____-_____] OR TO SUCH OTHER FACSIMILE OR TELEPHONE NUMBERS, AS TO WHICH YOU HAVE RECEIVED WRITTEN NOTICE FROM US AS BEING THE APPLICABLE SUCH NUMBER. WE AGREE TO NOTIFY YOU IN WRITING, BY NATIONALLY RECOGNIZED OVERNIGHT COURIER SERVICE, OF ANY CHANGE IN SUCH DIRECTION. ANY FACSIMILE PRESENTATION PURSUANT TO THIS PARAGRAPH SHALL ALSO STATE THEREON THAT THE ORIGINAL OF SUCH SIGHT DRAFT AND LETTER OF CREDIT ARE BEING REMITTED, FOR DELIVERY ON THE NEXT BUSINESS DAY, TO [Insert Bank Name] AT THE APPLICABLE ADDRESS FOR PRESENTMENT PURSUANT TO THE PARAGRAPH FOLLOWING THIS ONE.

WE HEREBY ENGAGE WITH YOU THAT ALL DOCUMENT(S) DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS STANDBY LETTER OF CREDIT WILL BE DULY HONORED IF DRAWN AND PRESENTED FOR PAYMENT AT OUR OFFICE LOCATED AT [Insert Bank Name], [Insert Bank Address], ATTN: [Insert Appropriate Recipient], ON OR BEFORE THE EXPIRATION DATE OF THIS CREDIT, (Expiration Date).

IN THE EVENT THAT THE ORIGINAL OF THIS STANDBY LETTER OF CREDIT IS LOST, STOLEN, MUTILATED, OR OTHERWISE DESTROYED, WE HEREBY AGREE TO ISSUE A DUPLICATE ORIGINAL HEREOF UPON RECEIPT OF A WRITTEN REQUEST FROM YOU AND A CERTIFICATION BY YOU (PURPORTEDLY SIGNED BY YOUR AUTHORIZED REPRESENTATIVE) OF THE LOSS, THEFT, MUTILATION, OR OTHER DESTRUCTION OF THE ORIGINAL HEREOF.

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED HEREIN, THIS STANDBY LETTER OF CREDIT IS SUBJECT TO THE “INTERNATIONAL STANDBY PRACTICES” (ISP 98) INTERNATIONAL CHAMBER OF COMMERCE (PUBLICATION NO. 590).

Very truly yours,

(Name of Issuing Bank)

EXHIBIT H

By: _____

EXHIBIT H

FIRST AMENDMENT TO OFFICE LEASE

This FIRST AMENDMENT TO OFFICE LEASE ("**First Amendment**") is made and entered into as of the 17th day of September, 2010, by and between KILROY REALTY, L.P., a Delaware limited partnership ("**Landlord**"), and SERVICE-NOW.COM, a California corporation ("**Tenant**").

RECITALS:

A. Landlord and Tenant entered into that certain Office Lease dated August 27, 2010 (the "**Lease**"), whereby Landlord leases to Tenant and Tenant leases from Landlord those certain spaces commonly known as Suites 100 and 200 (the "**Premises**") located and addressed at 12225 El Camino Real, San Diego, California (the "**Building**"). The Building is part of the office building project commonly known as "*Carmel Valley Corporate Center*." The Premises was inadvertently identified in the Lease as containing approximately 36,480 rentable square feet of space.

B. Landlord and Tenant desire to correct the square footage references in the Lease, and to otherwise amend the Lease as more particularly set forth in this First Amendment.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Capitalized Terms**. All undefined terms when used herein shall have the same respective meanings as are given such terms in the Lease unless expressly provided otherwise in this First Amendment.

2. **Square Footage of the Premises**. Landlord and Tenant acknowledge and agree that Section 2.2 of the Lease Summary inadvertently described the Premises as containing approximately 36,480 rentable square feet of space. Notwithstanding the foregoing, Landlord and Tenant expressly acknowledge and agree that any and all such references to "36,480 rentable square feet of space" should be deleted and replaced with "37,810 rentable square feet of space" (the "**Premises Rentable Square Footage**"). The Premises Rentable Square Footage shall be comprised of (a) approximately 7,641 rentable square feet of space located on the first (1st) floor of the Building and commonly known as Suite 100, and (b) approximately 30,169 rentable square feet of space located on the second (2nd) floor of the Building and commonly known as Suite 200, each as further identified on **Exhibit A** to this First Amendment. Accordingly, any and all references to 6,311 rentable square feet of space shall be deleted and replaced with 7,641 rentable square feet of space, and any and all amounts, percentages and figures appearing or referred to in the Lease based upon such incorrect amounts (*i.e.*, either 36,480 rentable square

feet of space, or 6,311 rentable square feet of space) shall be revised so that such amounts, percentages, and figures appearing or referred to in the Lease are based on the correct amounts (i.e., either 37,810 rentable square feet of space or 7,641 rentable square feet of space [as the case may be]). Moreover, the parties acknowledge and agree that the 7,641 rentable square feet of space referred to herein and identified on **Exhibit A** attached hereto shall continue to be referred to as Suite 100. Notwithstanding any provision to the contrary contained in this First Amendment, Landlord and Tenant hereby acknowledge and agree that Section 1.2 of the Lease (Verification of Rentable Square Feet of Premises and Building) shall remain unmodified and in full and effect.

3. **Rent**.

3.1 **Base Rent**. Further to the updated rentable square footage documented above, Landlord and Tenant hereby acknowledge and agree that Section 4 of the Summary, is hereby amended and restated in its entirety with the following:

"4. Base Rent (Article 3):

Period During Lease Term	Annual Base Rent**	Monthly Installment of Base Rent**	Monthly Rental Rate per Rentable Square Foot**
Months 1 – 12*	$1,225,044.00	$102,087.00	$ 2.70
Months 13 – 24	$1,261,795.32	$105,149.61	$ 2.78
Months 25 – 36	$1,299,649.18	$108,304.10	$ 2.86
Months 37 – 48	$1,338,638.65	$ 111,553.22	$ 2.95
Months 49 – 60	$1,378,797.81	$114,899.82	$ 3.04
Months 61 – 72	$1,420,161.75	$118,346.81	$ 3.13
Months 73 – 84	$1,462,766.60	$121,897.22	$ 3.22
Months 85 – 96	$1,506,649.60	$125,554.13	$ 3.32

* Subject to abatement pursuant to Section 3.2, below.

** The initial Annual Base Rent (and Monthly Installment of Base Rent) for the entire Premises was calculated by multiplying the initial Monthly Rental Rate per Rentable Square Foot by the number of rentable square feet of space in the Premises. In all subsequent Lease Years, the calculation of Annual Base Rent (and Monthly Installment of Base Rent) reflects an annual increase of three percent (3%)."

3.2 **Rent Abatement**. Notwithstanding any provision to the contrary contained in the Lease, the second (2nd) sentence of Section 3.2 of the Lease is hereby deleted and of no further force or effect and is replaced with the following:

> "The foregoing abatement of Base Rent provided to Tenant pursuant to this Section 3.2 shall not exceed an aggregate of Eight Hundred Sixteen Thousand Six Hundred Ninety-Six and 00/100 Dollars ($816,696.00) (the **"Base Rent Abatement"**)."

3.3 **Tenant's Share**. Landlord and Tenant acknowledge and agree that Section 6 of the Lease Summary inadvertently described the Tenant's Share as being approximately 60.3175%. Notwithstanding the foregoing, Landlord and Tenant acknowledge and agree that Tenant's Share is, as has been throughout the Lease Term, 62.5165% (the **"Tenant's Share"**).

4. **Security Deposit**. Notwithstanding anything in the Lease to the contrary, the Security Deposit held by Landlord pursuant to the Lease, as amended hereby, shall equal One Hundred Twenty-Five Thousand Five Hundred Fifty-Four and 13/100 Dollars ($125,554.13). Landlord and Tenant acknowledge that, in accordance with Article 21 of the Lease, Tenant has previously delivered the sum of One Hundred Twenty-One Thousand One Hundred Thirty-Seven and 66/100 Dollars ($121,137.66) to Landlord as security for the faithful performance by Tenant of the terms, covenants and conditions of the Lease. Concurrently with Tenant's execution of this First Amendment, Tenant shall deposit with Landlord an amount equal to Four Thousand Four Hundred Sixteen and 47/100 Dollars ($4,416.47) to be held by Landlord as a part of the Security Deposit. To the extent that the total amount held by Landlord at any time as security for the Lease, as hereby amended, is less than One Hundred Twenty-Five Thousand Five Hundred Fifty-Four and 13/100 Dollars ($125,554.13), Tenant shall pay the difference to Landlord within ten (10) days following Tenant's receipt of notice thereof from Landlord.

5. **Improvement Allowance**. Notwithstanding any provision to the contrary set forth in the Lease, the amount of the "Improvement Allowance" set forth in Section 14 of the Summary and Section 2.1 of the Work Letter attached to the Lease as **Exhibit B** (the **"Work Letter"**) is hereby deleted and replaced with the total amount of One Million Eight Hundred Ninety Thousand Five Hundred and 00/100 Dollars ($1,890,500.00) (ie., Fifty and 00/100 Dollars ($50.00) per each of the 37,810 rentable square feet located within the Premises).

6. **Brokers**. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this First Amendment, excepting only the real estate brokers or agents specified in Section 13 of the Summary (collectively, the **"Brokers"**), and that they know of no other real estate broker or agent who is entitled to a commission in connection with this First Amendment. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including without limitation reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any real estate broker or agent other than the Brokers. The terms of this Section 6 shall survive the expiration or earlier termination of the Lease Term.

7. **Conflict**. In the event of any conflict between the Lease and this First Amendment, the terms of this First Amendment shall prevail.

8. **No Further Modification**. Except as specifically set forth in this First Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full and effect.

[Signatures follow on next page]

IN WITNESS WHEREOF, this First Amendment has been executed as of the day and year first above-written.

"LANDLORD"

KILROY REALTY, L.P.,
a Delaware limited partnership

By: Kilroy Realty Corporation,
a Maryland corporation,
General Partner

By: /s/ Jeffrey C. Hawken

Its: Jeffrey C. Hawken
Executive Vice President
Chief Operating Officer

By: /s/ John T. Fucci

Its: JOHN T. FUCCI
SR. VICE PRESIDENT
ASSET MANAGEMENT

"TENANT"

SERVICE-NOW.COM,
a California corporation

By: /s/ Andrew Chedrick

Its: CFO

By: /s/ Ethan Christensen

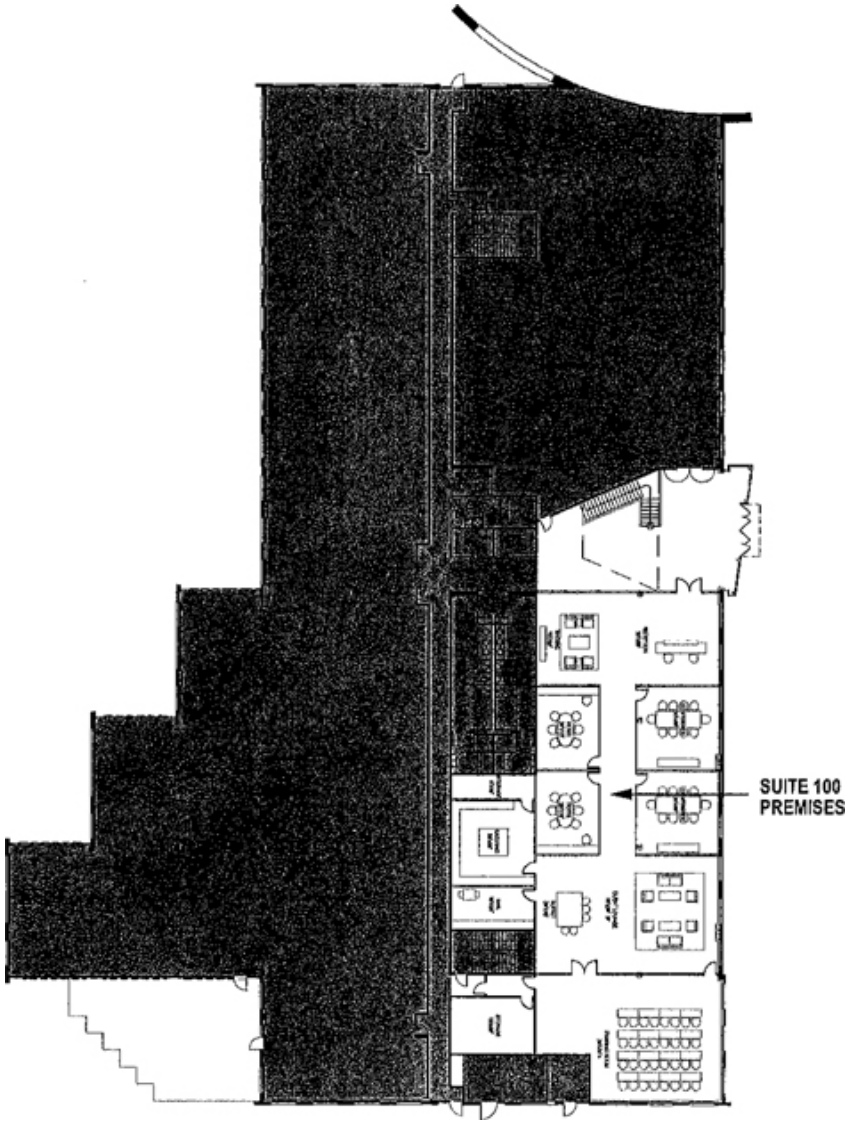
Its: General Counsel

EXHIBIT A

CARMEL VALLEY CORPORATE CENTER

OUTLINE OF SUITE 100 AND SUITE 200

Suite 100



Suite 200

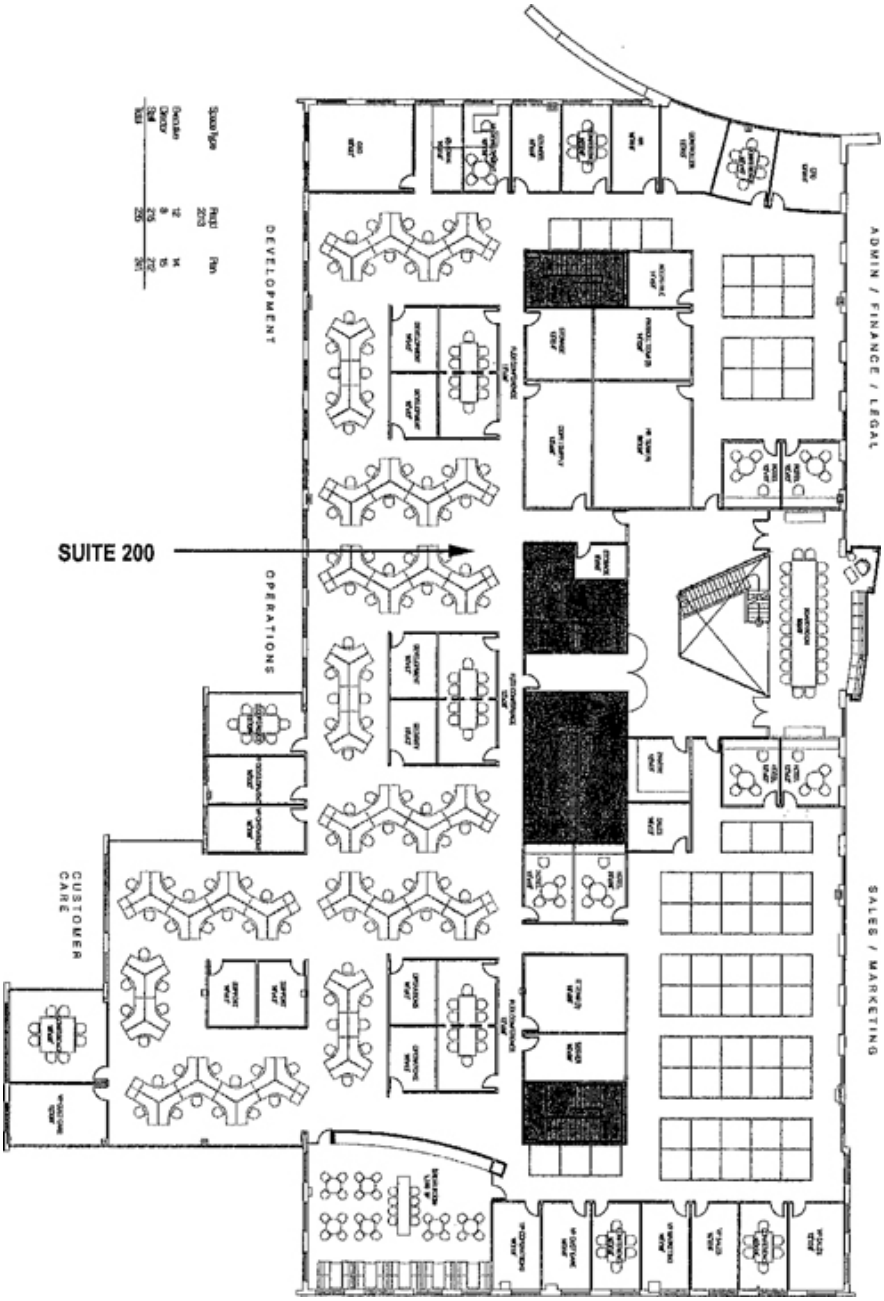


EXHIBIT A

SECOND AMENDMENT TO OFFICE LEASE

This SECOND AMENDMENT TO OFFICE LEASE ("**Second Amendment**") is made and entered into as of the 30 day of November, 2010, by and between KILROY REALTY, L.P., a Delaware limited partnership ("**Landlord**"), and SERVICE-NOW.COM, a California corporation ("**Tenant**").

R E C I T A L S :

A. Landlord and Tenant entered into that certain Office Lease dated August 27, 2010 (the "**Original Lease**"), as amended by that certain First Amendment to Office Lease dated September 17, 2010 (the "**First Amendment**"), whereby Landlord leases to Tenant and Tenant leases from Landlord those certain spaces, consisting of a total of 37,810 rentable square feet of space commonly known as Suites 100 and 200 (the "**Premises**") located and addressed at 12225 El Camino Real, San Diego, California (the "**Building**"). The Building is part of the office building project commonly known as "*Carmel Valley Corporate Center*." The Original Lease and First Amendment shall hereafter collectively be referred to as the "**Lease**").

B. Tenant desires to expand the Existing Premises to include that certain space consisting of approximately 6,311 rentable square feet of space commonly known as Suite 125 and located on the first (1st) floor of the Building (the "**Expansion Premises**"), as delineated on **Exhibit A** attached hereto and made a part hereof, and to make other modifications to the Lease, and in connection therewith, Landlord and Tenant desire to amend the Lease as hereinafter provided.

A G R E E M E N T :

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Capitalized Terms**. All capitalized terms when used herein shall have the same meaning as is given such terms in the Lease unless expressly superseded by the terms of this Second Amendment.

2. **Modification of Premises**. Effective as of the May 1, 2011 (the "**Expansion Commencement Date**"), Tenant shall lease from Landlord and Landlord shall lease to Tenant the Expansion Premises. Consequently, effective upon the Expansion Commencement Date, the Existing Premises shall be increased to include the Expansion Premises. Landlord and Tenant hereby acknowledge that such addition of the Expansion Premises to the Existing Premises shall, effective as of the Expansion Commencement Date, increase the size of the Premises to approximately 44,121 rentable square feet. The Existing Premises and the Expansion Premises may hereinafter collectively be referred to as the "**Premises**."

3. **Expansion Term**. The term of Tenant's lease of the Expansion Premises (the "**Expansion Term**") shall commence on the Expansion Commencement Date and shall expire coterminously with Tenant's Lease of the Existing Premises on the Lease Expiration Date, unless sooner terminated as provided in the Lease, as hereby amended.

4. **Base Rent**.

4.1. **In General**. Notwithstanding any provision to the contrary contained in the Lease, Landlord and Tenant hereby acknowledge that the Base Rent Schedule set forth in Section 4 of the Summary of Basic Lease Information attached to the Original Lease (the "**Summary**") (as amended by Section 3.4 of the First Amendment) is hereby deleted and of no further force and is replaced with the following (accordingly, Tenant shall pay Base Rent attributable to the Existing Premises and the Expansion Premises pursuant to the following schedule):

Period During Lease Term	Annual Base Rent	Monthly Installment of Base Rent	Monthly Rental Rate per Rentable Square Foot	Rentable Square Footage
Lease Commencement Date – April 30, 2011*	$1,225,044.00	$102,087.00	$ 2.70	37,810
May 1, 2011 – last day of Lease Year 1*D	$1,429,520.40	$119,126.70	$ 2.70	44,121
Lease Year 2D	$1,472,406.00	$122,700.50	$ 2.78	44,121
Lease Year 3	$1,516,578.24	$126,381.52	$ 2.86	44,121
Lease Year 4	$1,562,075.52	$130,172.96	$ 2.95	44,121
Lease Year 5	$1,608,937.80	$134,078.15	$ 3.04	44,121
Lease Year 6	$1,657,206.00	$138,100.50	$ 3.13	44,121
Lease Year 7	$1,706,922.12	$142,243.51	$ 3.22	44,121
Lease Year 8	$1,758,129.48	$146,510.82	$ 3.32	44,121

* Subject to Existing Premises Base Rent Abatement pursuant to Section 3.2, of the Original Lease, as amended by Section 4.3 of the Second Amendment.
D Subject to Expansion Premises Base Rent Abatement pursuant to Section 4.2 of the Second Amendment.

4.2 **Expansion Premises Abated Base Rent**. Provided that Tenant is not then in default of the Lease (as hereby amended), then during the eight (8) month period commencing on May 1, 2011 and ending on December 31, 2011 (the "**Expansion Premises Base Rent Abatement Period**"), Tenant shall not be obligated to pay any Base Rent otherwise attributable to the Expansion Premises during such Expansion Premises Base Rent Abatement Period (the "**Expansion Premises Base Rent Abatement**"). Tenant acknowledges and agrees that the foregoing Expansion Premises Base Rent Abatement has been granted to Tenant as additional consideration for entering into this Second Amendment, and for agreeing to pay the Rent and performing the terms and conditions otherwise required under the Lease (as hereby amended). If Tenant shall be in default under the Lease, as amended, or if the Lease, as amended, is terminated for any reason other than Landlord's breach of the Lease, as amended, then the dollar amount of the unapplied portion of the Expansion Premises Base Rent Abatement as of the date of such default or termination, as the case may be, shall be converted to a credit to be applied to the Base Rent applicable at the end of the Lease Term applicable to the Expansion Premises and Tenant shall immediately be obligated to begin paying Base Rent for the Expansion Premises in full. The right to the Expansion Premises Base Rent Abatement shall be personal to the Original Tenant and may only be exercised by the Original Tenant and/or its Permitted Transferees (and not any assignee, sublessee or other transferee of the Original Tenant's interest in the Lease, as amended).

4.3 **Existing Premises Abated Base Rent**. Notwithstanding any provision set forth herein or in the Lease to the contrary, Landlord and Tenant hereby expressly acknowledge and agree that as of the date of this Second Amendment, Section 3.2 of the Original Lease, as amended by Section 3.2 of the First Amendment) is deleted in its entirety and is of no further force or effect and replaced with the following:

> "Notwithstanding any provision to the contrary contained herein (specifically including Section 3.2, above) and provided that Tenant faithfully performs all of the terms and conditions of this Lease, Landlord hereby agrees to abate Tenant's obligation to pay monthly Base Rent during the eight (8) month period comprising the second (2nd), third (3rd), fourth (4th), fifth (5th), sixth (6th), seventh (7th), eighth (8th), and ninth (9th) full calendar months of the initial Lease Term (the "**Existing Premises Base Rent Abatement Period**"). The foregoing abatement of Base Rent provided to Tenant pursuant to this Section 3.2 shall not exceed an aggregate of Eight Hundred Sixteen Thousand Six Hundred Ninety-Six and 00/100 Dollars ($816,696.00) (the "**Existing Premises Base Rent Abatement**"). During the Existing Premises Base Rent Abatement Period, Tenant shall still be responsible for the payment of all of its other monetary obligations under this Lease (including, but not limited to, electricity). In the event of a default by Tenant under the terms of this Lease that results in early termination pursuant to the provisions of Article 19, below, then as a part of the recovery set forth in Section 19.2, below, Landlord shall be entitled to recover the then-unamortized portion of the

monthly Base Rent that was abated under the provisions of this Section 3.2, which Base Rent Abatement shall be amortized on a level payment basis over a period of eighty-eight (88) months, employing an interest factor of zero percent (0%).”

5. **Tenant’s Share of Direct Expenses**. Commencing on the Expansion Commencement Date, Tenant shall pay Tenant’s Share of Direct Expenses in connection with the Existing Premises and the Expansion Premises in accordance with the terms of Article 4 of the Lease, as amended, provided that with respect to the calculation of Tenant’s Share of Direct Expenses in connection with the Existing Premises and Expansion Premises, Tenant’s Share shall equal 72.9514%.

6. **Expansion Improvements**. Except as specifically set forth herein, Landlord shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Expansion Premises, and Tenant shall accept the Expansion Premises in its presently existing, “as-is” condition. Landlord shall construct the improvements in the Expansion Premises pursuant to the terms of the Work Letter, attached to the Original Lease (as amended) as **Exhibit B** (the “**Work Letter**”). Notwithstanding any provision to the contrary set forth in the Lease (specifically including Section 5 of the First Amendment), the amount of the “Improvement Allowance” set forth in Section 14 of the Summary and Section 2.1 of the Work Letter as amended by Section 5 of the First Amendment, is hereby deleted and replaced with the total amount of Two Million Two Hundred Six Thousand Fifty and 00/100 Dollars ($2,206,050.00) (*i.e.*, Fifty and 00/100 Dollars ($50.00) per each of the 44,121 rentable square feet located within the entire Premises (including the Existing Premises and the Expansion Premises)).

7. **Brokers**. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Second Amendment other than Irving Hughes and Cassidy Turley (collectively, the “**Brokers**”), and that they know of no other real estate broker or agent who is entitled to a commission in connection with this Second Amendment. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including, without limitation, reasonable attorneys’ fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of the indemnifying party’s dealings with any real estate broker or agent, other than the Brokers, occurring by, through, or under the indemnifying party. The terms of this Section 7 shall survive the expiration or earlier termination of this Second Amendment.

8. **Parking**. In addition to Tenant’s parking rights under the Lease, effective as of the Expansion Commencement Date and continuing throughout the Expansion Term, Tenant shall be entitled to rent up to twenty-four (24) unreserved parking passes (of which, up to two (2) parking passes may be for the use of reserved parking space) in connection with Tenant’s lease of the Expansion Premises (the “**Expansion Parking Passes**”). The location of the reserved parking space shall be mutually agreed upon between Landlord and Tenant, subject to availability. Except as set forth in this Section 8, Tenant shall lease the Expansion Parking Passes in accordance with the provisions of Article 28 of the Original Lease.

9. **No Further Modification**. Except as set forth in this Second Amendment, all of the terms and provisions of the Lease shall apply with respect to the Expansion Premises and shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, this Second Amendment has been executed as of the day and year first above written.

"LANDLORD"

KILROY REALTY, L.P.,
a Delaware limited partnership

By: Kilroy Realty Corporation,
a Maryland corporation,
General Partner

By: /s/ Jeffrey C. Hawken

Its: Jeffrey C. Hawken
Executive Vice President
Chief Operating Officer

By: /s/ John T. Fucci

Its: JOHN T. FUCCI
SR. VICE PRESIDENT
ASSET MANAGEMENT

"TENANT"

SERVICE-NOW.COM,
a California corporation

By: /s/ Andrew Chedrick

Its: Chief Financial Officer

By: /s/ Ethan Christensen

Its: General Counsel

EXHIBIT A

CARMEL VALLEY CORPORATE CENTER

OUTLINE OF EXPANSION PREMISES

[ATTACHED]

Exhibit 10.11

LEASE

BETWEEN

THE IRVINE COMPANY LLC

AND

SERVICE-NOW.COM

LEASE

THIS LEASE is made as of the 14th day of February, 2012, by and between **THE IRVINE COMPANY LLC**, a Delaware limited liability company, hereafter called "**Landlord**," and **SERVICE-NOW.COM,** a California corporation, hereafter called "**Tenant**."

ARTICLE 1. BASIC LEASE PROVISIONS

Each reference in this Lease to the "**Basic Lease Provisions**" shall mean and refer to the following collective terms, the application of which shall be governed by the provisions in the remaining Articles of this Lease.

1. **Tenant's Trade Name**: N/A

2. **Premises:** Suite Nos. 100, 200, 300
   Address of Building: 4810 Eastgate Mall, San Diego, CA 92121
   Project Description: Bridge Point
   (The Premises are more particularly described in Section 2.1).

3. **Use of Premises**: General office, training and software development and for no other use.

4. **Estimated Commencement Date**: July 1, 2012

5. **Lease Term**: 96 months, plus such additional days as may be required to cause this Lease to expire on the final day of the calendar month.

6. **Basic Rent**:

Months of Term or Period	Monthly Rate Per Rentable Square Foot	Monthly Basic Rent (rounded to the nearest dollar)
1 to 12	$ 1.35	$ 127,633.00
13 to 24	$ 1.41	$ 133,306.00
25 to 36	$ 1.47	$ 138,978.00
37 to 48	$ 1.54	$ 145,596.00
49 to 60	$ 1.61	$ 152,214.00
61 to 72	$ 1.68	$ 158,832.00
73 to 84	$ 1.76	$ 166,396.00
85 to 96	$ 1.84	$ 173,959.00

Notwithstanding the above schedule of Basic Rent to the contrary, as long as Tenant is not in Default (as defined in Section 14.1) under this Lease, Tenant shall be entitled to an abatement of 5 full calendar months of Basic Rent in the aggregate amount of $638,165.00 (i.e. $127,633.00 per month) (the "Abated Basic Rent") for the 2nd through 6th full calendar months of the Term (the "Abatement Period"). Only Basic Rent shall be abated during the Abatement Period and all other additional rent and other costs and charges specified in this Lease shall remain as due and payable pursuant to the provisions of this Lease.

7. **Expense Recovery Period**: Every twelve month period during the Term (or portion thereof during the first and last Lease years) ending June 30.

8. **Floor Area of Premises**: approximately 94,543 rentable square feet

   Floor Area of Building: approximately 94,543 rentable square feet

9. **Letter of Credit**: $191,355.00

10. **Broker(s)**: Irvine Realty Company ("**Landlord's Broker**") and Colliers International/San Diego - La Jolla Village Dr and Colliers International/Pleasanton ("**Tenant's Broker**")

11. **Parking**: 407 parking spaces in accordance with the provisions set forth in **Exhibit F** to this Lease.

12. **Address for Payments and Notices**:

LANDLORD

Payment Address:

THE IRVINE COMPANY LLC
Department #9907
Los Angeles, CA 90084-9907

Notice Address:

THE IRVINE COMPANY LLC
550 Newport Center Drive
Newport Beach, CA 92660
Attn: Senior Vice President, Property Operations
Irvine Office Properties

with a copy of notices to:

The Irvine Company LLC
9191 Towne Center Drive, Suite 170
San Diego, CA, 92122
Attn: Property Manager

TENANT

Prior to Commencement Date:

SERVICE-NOW.COM
12225 El Camino Real, Suite 100
San Diego, CA 92130
Attn: CFO

After Commencement Date:

SERVICE-NOW.COM
4810 Eastgate Mall
San Diego, CA 92121
Attn: CFO

In either event, with a copy to:
SERVICE-NOW.COM
181 Metro Drive, Suite 280
San Jose, CA 95110
Attn: CFO

LIST OF LEASE EXHIBITS (All exhibits, riders and addenda attached to this Lease are hereby incorporated into and made a part of this Lease):

Exhibit A	Description of Premises
Exhibit A-1	First Right Space
Exhibit B	Operating Expenses
Exhibit C	Utilities and Services
Exhibit D	Tenant’s Insurance
Exhibit E	Rules and Regulations
Exhibit F	Parking
Exhibit G	Additional Provisions
Exhibit G-1	Alpha Mechanical, Inc. Letter
Exhibit H	Irrevocable Standby Letter of Credit
Exhibit X	Work Letter
Exhibit Y	Project Description
Exhibit Z	Tenant Identification Signage Criteria

ARTICLE 2. PREMISES

2.1. LEASED PREMISES. Landlord leases to Tenant and Tenant leases from Landlord the Premises shown in **Exhibit A** (the "**Premises**"), containing approximately the floor area set forth in Item 8 of the Basic Lease Provisions (the "**Floor Area**"). The Premises are located in the building identified in Item 2 of the Basic Lease Provisions (the "**Building**"), which is a portion of the project described in Item 2 (the "**Project**"). Landlord and Tenant stipulate and agree that the Floor Area of Premises set forth in Item 8 of the Basic Lease Provisions is correct.

2.2. ACCEPTANCE OF PREMISES. Tenant acknowledges that neither Landlord nor any representative of Landlord has made any representation or warranty with respect to the Premises, the Building or the Project or the suitability or fitness of either for any purpose, except as set forth in this Lease. Tenant acknowledges that the flooring materials which may be installed within portions of the Premises located on the ground floor of the Building may be limited by the moisture content of the Building slab and underlying soils. The taking of possession or use of the Premises by Tenant for any purpose other than construction shall conclusively establish that the Premises and the Building were in satisfactory condition and in conformity with the provisions of this Lease in all respects, except for those matters which Tenant shall have brought to Landlord's attention on a written punch list. The punch list shall be limited to any items required to be accomplished by Landlord under the Work Letter (if any) attached as **Exhibit X**, and shall be delivered to Landlord within 30 days after the Commencement Date (as defined herein). Nothing contained in this Section 2.2 shall affect the commencement of the Term or the obligation of Tenant to pay rent. Landlord shall diligently complete all punch list items of which it is notified as provided above.

ARTICLE 3. TERM

3.1. GENERAL. The term of this Lease ("**Term**") shall be for the period shown in Item 5 of the Basic Lease Provisions. The Term shall commence ("**Commencement Date**") on the earlier of (a) the date the Premises are deemed "ready for occupancy" (as hereinafter defined) and possession thereof is delivered to Tenant, or (b) the date Tenant commences its business activities within the Premises. Promptly following request by Landlord, the parties shall memorialize on a form provided by Landlord (the "**Commencement Memorandum**") the actual Commencement Date and the expiration date ("**Expiration Date**") of this Lease; should Tenant fail to execute and return the Commencement Memorandum to Landlord within 10 business days (or provide specific written objections thereto within that period), then Landlord's determination of the Commencement and Expiration Dates as set forth in the Commencement Memorandum shall be conclusive. The Premises shall be deemed "**ready for occupancy**" when Landlord, to the extent applicable, has substantially completed all the work required to be completed by Landlord pursuant to the Work Letter (if any) attached to this Lease but for minor punch list matters, and has obtained the requisite governmental approvals for Tenant's occupancy in connection with such work.

3.2. DELAY IN POSSESSION. If Landlord, for any reason whatsoever, cannot deliver possession of the Premises to Tenant on or before the Estimated Commencement Date set forth in Item 4 of the Basic Lease Provisions, this Lease shall not be void or voidable nor shall Landlord be liable to Tenant for any resulting loss or damage. However, Tenant shall not be liable for any rent until the Commencement Date occurs as provided in Section 3.1 above, except that if Landlord's failure to substantially complete all work required of Landlord pursuant to Section 3.1(i) above is attributable to any action or inaction by Tenant (including without limitation any Tenant Delay described in the Work Letter, if any, attached to this Lease), then the Premises shall be deemed ready for occupancy, and Landlord shall be entitled to full performance by Tenant (including the payment of rent), as of the date Landlord would have been able to substantially complete such work and deliver the Premises to Tenant but for Tenant's delay(s).

ARTICLE 4. RENT AND OPERATING EXPENSES

4.1. BASIC RENT. From and after the Commencement Date, Tenant shall pay to Landlord without deduction or offset a Basic Rent for the Premises in the total amount shown (including subsequent adjustments, if any) in Item 6 of the Basic Lease Provisions (the "**Basic Rent**"). If the Commencement Date is other than the first day of a calendar month, any rental adjustment shown in Item 6 shall be deemed to occur on the first day of the next calendar month following the specified monthly anniversary of the Commencement Date. The Basic Rent shall be due and payable in advance commencing on the Commencement Date and continuing thereafter on the first day of each successive calendar month of the Term, as prorated for any partial month. No demand, notice or invoice shall be required. An installment in the amount of 1 full month's Basic Rent at the initial rate specified in Item 6 of the Basic Lease Provisions shall be delivered to Landlord concurrently with Tenant's execution of this Lease and shall be applied against the Basic Rent first due hereunder; the next installment of Basic Rent shall be due on the first day of the seventh calendar month of the Term, which installment shall, if applicable, be appropriately prorated to reflect the amount prepaid for that calendar month.

4.2. OPERATING EXPENSES. Tenant shall pay Tenant's Share of Operating Expenses in accordance with **Exhibit B** of this Lease.

4.3. LETTER OF CREDIT. Tenant shall deliver to Landlord, concurrently with Tenant's execution of this Lease, a letter of credit in the amount stated in Item 9 of the Basic Lease Provisions, which letter of credit shall be in form and with the substance of **Exhibit H** attached hereto. The letter of credit shall be issued by a financial institution acceptable to Landlord with a branch in San Diego County, California, at which draws on the letter of credit will be accepted. The letter of credit shall provide for automatic yearly

renewals throughout the Term of this Lease and shall have an outside expiration date (if any) that is not earlier than thirty (30) days after the expiration of the Lease Term. In the event the letter of credit is not continuously renewed through the period set forth above, or upon any breach under this Lease by Tenant, including specifically Tenant's failure to pay Rent or to abide by its obligations under Sections 7.1 and 15.2 below, Landlord shall be entitled to draw upon said letter of credit by the issuance of Landlord's sole written demand to the issuing financial institution. Any such draw shall be without waiver of any rights Landlord may have under this Lease or at law or in equity as a result of any Default hereunder by Tenant.

ARTICLE 5. USES

5.1. USE. Tenant shall use the Premises only for the purposes stated in Item 3 of the Basic Lease Provisions and for no other use whatsoever. The uses prohibited under this Lease shall include, without limitation, use of the Premises or a portion thereof for (i) offices of any agency or bureau of the United States or any state or political subdivision thereof; (ii) offices or agencies of any foreign governmental or political subdivision thereof; or (iii) schools, temporary employment agencies or other training facilities which are not ancillary to corporate, executive or professional office use. Tenant shall not do or permit anything to be done in or about the Premises which will in any way interfere with the rights or quiet enjoyment of other occupants of the Building or the Project, or use or allow the Premises to be used for any unlawful purpose, nor shall Tenant permit any nuisance or commit any waste in the Premises or the Project. Tenant shall not perform any work or conduct any business whatsoever in the Project other than inside the Premises. Tenant shall comply at its expense with all present and future laws, ordinances and requirements of all governmental authorities that pertain to Tenant or its use of the Premises.

5.2. SIGNS. Landlord shall affix and maintain a sign (restricted solely to Tenant's name as set forth herein or such other name as Landlord may consent to in writing, which consent shall not be unreasonably withheld) adjacent to the entry door of the Premises, together with a directory strip listing Tenant's name as set forth herein in the lobby directory of the Building. Any subsequent changes to that initial signage shall be at Tenant's sole expense. All signage shall conform to the criteria for signs established by Landlord and shall be ordered through Landlord. Except for the Exterior Signage described in Exhibit G of this Lease, Tenant shall not place or allow to be placed any other sign, decoration or advertising matter of any kind that is visible from the exterior of the Premises. Any violating sign or decoration may be immediately removed by Landlord at Tenant's expense without notice and without the removal constituting a breach of this Lease or entitling Tenant to claim damages.

5.3 HAZARDOUS MATERIALS. Tenant shall not generate, handle, store or dispose of hazardous or toxic materials (as such materials may be identified in any federal, state or local law or regulation) in the Premises or Project without the prior written consent of Landlord; provided that the foregoing shall not be deemed to proscribe the use by Tenant of customary office supplies in normal quantities so long as such use comports with all applicable laws.

ARTICLE 6. LANDLORD SERVICES

6.1. UTILITIES AND SERVICES. Landlord and Tenant shall be responsible to furnish those utilities and services to the Premises to the extent provided in **Exhibit C**, subject to the conditions and payment obligations and standards set forth in this Lease. Landlord shall not be liable for any failure to furnish any services or utilities when the failure is the result of any accident or other cause beyond Landlord's reasonable control, nor shall Landlord be liable for damages resulting from power surges or any breakdown in telecommunications facilities or services. Landlord's temporary inability to furnish any services or utilities shall not entitle Tenant to any damages, relieve Tenant of the obligation to pay rent or constitute a constructive or other eviction of Tenant, except that Landlord shall diligently attempt to restore the service or utility promptly. Tenant shall comply with all rules and regulations which Landlord may reasonably establish for the provision of services and utilities, and shall cooperate with all reasonable conservation practices established by Landlord. Landlord shall at all reasonable times have free access to all electrical and mechanical installations of Landlord.

Notwithstanding anything to the contrary in this Lease, in the event that Tenant is prevented from using, and does not use, the Premises or any portion thereof as a result of (i) any repair, maintenance, alteration or other work performed by Landlord (including those required or permitted by Landlord hereunder), or which Landlord failed to perform, after the Commencement Date and required by this Lease, which substantially interferes with Tenant's use of or ingress to or egress from the Building, the Building parking facility or the Premises, (ii) any failure to provide the services, utilities, or the use of or ingress to and egress from the Building, the Building parking facility or the Premises, required by this Lease, or (iii) the presence of hazardous or toxic materials (not brought onto the Premises or into the Building by Tenant, its employees, agents or contractors) in violation of applicable law which is required to be remediated, abated, mitigated and/or removed in accordance with applicable law (any such set of circumstances as set forth in items (i), (ii) or (iii) above, to be known as an **"Abatement Event"**), then Tenant shall give Landlord written notice of such Abatement Event, and, if such Abatement Event continues for five (5) consecutive business days, or ten (10) non-consecutive business days in any twelve (12) month period, after Landlord's receipt of any such notice (the **"Eligibility Period"**), then, so long as the cause for the Abatement Event was within the reasonable control of Landlord, or Landlord is otherwise obligated under the terms of this Lease to provide such work or service, rent (including Monthly Installments of Basic Rent and Tenant's Share of Operating Expenses) (**"Rent"**) shall be abated or

reduced, as the case may be, after the expiration of the Eligibility Period, for such time that such Abatement Event continues (the **"Abatement Period"**), in the proportion that the rentable area of the portion of the Premises that Tenant is prevented from using, and does not use, bears to the total rentable area of the Premises; provided, however, that in the event that Tenant is prevented from using, and does not use, a portion of the Premises for a period of time in excess of the Eligibility Period and the remaining portion of the Premises is not sufficient to allow Tenant to effectively conduct its business therein, and if Tenant does not conduct its business from such remaining portion, then, so long as the cause for the Abatement Event was within the reasonable control of Landlord, for such time after the expiration of the Eligibility Period during which Tenant is so prevented from effectively conducting its business therein, the Rent for the entire Premises shall be abated for such time as Tenant continues to be so prevented from using, and does not use, the Premises. If, however, Tenant reoccupies any portion of the Premises during the Abatement Period, the Rent allocable to such reoccupied portion, based on the proportion that the rentable area of such reoccupied portion of the Premises bears to the total rentable area of the Premises, shall be payable by Tenant to Landlord from the date Tenant reoccupies such portion of the Premises. To the extent Tenant is entitled to abatement without regard to the Eligibility Period because of an event described in Sections 11 or 12 of this Lease, then the Eligibility Period shall not be applicable.

6.2. OPERATION AND MAINTENANCE OF COMMON AREAS. During the Term, Landlord shall operate all Common Areas within the Building and the Project. The term "**Common Areas**" shall mean all areas within the Building and other buildings in the Project which are not held for exclusive use by persons entitled to occupy space, including without limitation parking areas and structures, driveways, sidewalks, landscaped and planted areas, hallways and interior stairwells not located within the premises of any tenant, common electrical rooms, entrances and lobbies, elevators, and restrooms not located within the premises of any tenant.

6.3. USE OF COMMON AREAS. The occupancy by Tenant of the Premises shall include the use of the Common Areas in common with Landlord and with all others for whose convenience and use the Common Areas may be provided by Landlord, subject, however, to compliance with Rules and Regulations described in Article 17 below. Landlord shall at all times during the Term have exclusive control of the Common Areas, and may restrain or permit any use or occupancy, except as otherwise provided in this Lease or in Landlord's rules and regulations. Tenant shall keep the Common Areas clear of any obstruction or unauthorized use related to Tenant's operations. Landlord may temporarily close any portion of the Common Areas for repairs, remodeling and/or alterations, to prevent a public dedication or the accrual of prescriptive rights, or for any other reasonable purpose. Landlord's temporary closure of any portion of the Common Areas for such purposes shall not deprive Tenant of reasonable access to the Premises.

6.4. CHANGES AND ADDITIONS BY LANDLORD. Landlord reserves the right to make alterations or additions to the Building or the Project or to the attendant fixtures, equipment and Common Areas, and such change shall not entitle Tenant to any abatement of rent or other claim against Landlord. No such change shall deprive Tenant of reasonable access to or use of the Premises.

ARTICLE 7. REPAIRS AND MAINTENANCE

7.1. TENANT'S MAINTENANCE AND REPAIR. Subject to Articles 11 and 12 and Exhibit G, Tenant at its sole expense shall make all repairs necessary to keep the Premises and all improvements and fixtures therein in good condition and repair, excepting ordinary wear and tear. Notwithstanding Section 7.2 below, Tenant's maintenance obligation shall include without limitation all appliances, interior glass, doors, door closures, hardware, fixtures, electrical, plumbing, fire extinguisher equipment and other equipment installed in the Premises and all Alterations constructed by Tenant pursuant to Section 7.3 below, together with any supplemental HVAC equipment servicing the server room in the Premises. All repairs and other work performed by Tenant or its contractors shall be subject to the terms of Sections 7.3 and 7.4 below. Alternatively, should Landlord or its management agent agree to make a repair on behalf of Tenant and at Tenant's request, Tenant shall promptly reimburse Landlord as additional rent for all reasonable costs incurred (including the standard supervision fee not to exceed 3%) upon submission of an invoice.

7.2. LANDLORD'S MAINTENANCE AND REPAIR. Subject to Articles 11 and 12, Landlord shall provide service, maintenance and repair with respect to the heating, ventilating and air conditioning ("**HVAC**") equipment of the Building (exclusive of any supplemental HVAC equipment servicing the server room in the Premises) and shall maintain in good repair the Common Areas, roof, foundations, footings, the exterior surfaces of the exterior walls of the Building (including exterior glass), and the structural, electrical, mechanical (including life safety and sprinklers) and plumbing systems of the Building (including elevators, if any, serving the Building), except to the extent provided in Section 7.1 above. Landlord need not make any other improvements or repairs except as specifically required under this Lease, and nothing contained in this Section 7.2 shall limit Landlord's right to reimbursement from Tenant for maintenance, repair costs and replacement costs as provided elsewhere in this Lease. Notwithstanding any provision of the California Civil Code or any similar or successor laws to the contrary, Tenant understands that it shall not make repairs at Landlord's expense or by rental offset. Except as provided in Section 11.1 and Article 12 below, there shall be no abatement of rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of any repairs, alterations or improvements to any portion of the Building, including repairs to the Premises, nor shall any related activity by Landlord constitute an actual or constructive eviction; provided, however, that in making repairs, alterations or improvements, Landlord shall interfere as little as reasonably practicable with the conduct of Tenant's business in the Premises. Tenant hereby waives any and all rights under

and benefits of subsection 1 of Section 1932, and Sections 1941 and 1942 of the California Civil Code, or any similar or successor laws now or hereafter in effect.

7.3. ALTERATIONS. Except for cosmetic alteration projects that do not exceed $100,000.00 during each calendar year and that satisfy the criteria in the next following sentence (which work shall require notice to Landlord but not Landlord's consent), Tenant shall make no alterations, additions, decorations or improvements (collectively referred to as "**Alterations**") to the Premises without the prior written consent of Landlord. Landlord's consent shall not be unreasonably withheld as long as the proposed Alterations do not affect the structural, electrical or mechanical components or systems of the Building, are not visible from the exterior of the Premises, and utilize only Landlord's building standard materials ("**Standard Improvements**"). Landlord may impose, as a condition to its consent, any requirements that Landlord in its reasonable discretion may deem reasonable or desirable. Without limiting the generality of the foregoing, Tenant shall use Landlord's designated mechanical and electrical contractors for all Alterations work affecting the mechanical or electrical systems of the Building. Should Tenant perform any Alterations work that would necessitate any ancillary Building modification or other expenditure by Landlord, then Tenant shall promptly fund the cost thereof to Landlord. Tenant shall obtain all required permits for the Alterations and shall perform the work in compliance with all applicable laws, regulations and ordinances with contractors reasonably acceptable to Landlord, and except for cosmetic Alterations not requiring a permit, Landlord shall be entitled to a supervision fee in the amount of 3% of the cost of the Alterations, which includes any architectural fee. Any request for Landlord's consent shall be made in writing and shall contain architectural plans describing the work in detail reasonably satisfactory to Landlord. Landlord may elect to cause its architect to review Tenant's architectural plans. Should the Alterations proposed by Tenant and consented to by Landlord change the floor plan of the Premises, then Tenant shall, at its expense, furnish Landlord with as-built drawings and CAD disks compatible with Landlord's systems. Alterations shall be constructed in a good and workmanlike manner using materials of a quality reasonably approved by Landlord Unless Landlord otherwise agrees in writing, all Alterations affixed to the Premises, including without limitation all Tenant Improvements constructed pursuant to the Work Letter (except as otherwise provided in the Work Letter), but excluding moveable trade fixtures and furniture, shall become the property of Landlord and shall be surrendered with the Premises at the end of the Term, except that Landlord may, by notice to Tenant given at the time of Tenant's request for such Alteration, or within 10 days of written notice from Tenant if the Alteration did not require Landlord's consent, require Tenant to remove by the Expiration Date, or sooner termination date of this Lease, all or any Alterations (including without limitation all telephone and data cabling) installed by Tenant (collectively, the "**Required Removables**"), and to restore the affected area to its pre-existing condition or better. Tenant, at the time it requests approval for a proposed Alteration, may request in writing that Landlord advise Tenant whether the Alteration or any portion thereof, is a Required Removable. Within 10 days after receipt of Tenant's request, Landlord shall advise Tenant in writing as to which portions of the subject Alterations are Required Removables. In connection with its removal of Required Removables, Tenant shall repair any damage to the Premises arising from that removal and shall restore the affected area to its pre-existing condition, reasonable wear and tear excepted. Notwithstanding the foregoing, Tenant shall not be obligated to remove the Tenant Improvements described in Exhibit X of this Lease at the end of the Term or earlier expiration of this Lease.

7.4. MECHANIC'S LIENS. Tenant shall keep the Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by or for Tenant. Upon request by Landlord, Tenant shall promptly cause any such lien to be released by posting a bond in accordance with California Civil Code Section 3143 or any successor statute. In the event that Tenant shall not, within 15 days following the imposition of any lien, cause the lien to be released of record by payment or posting of a proper bond, Landlord shall have, in addition to all other available remedies, the right to cause the lien to be released by any means it deems proper, including payment of or defense against the claim giving rise to the lien. All expenses so incurred by Landlord, including Landlord's attorneys' fees, shall be reimbursed by Tenant promptly following Landlord's demand, together with interest from the date of payment by Landlord at the maximum rate permitted by law until paid. Tenant shall give Landlord no less than 20 days' prior notice in writing before commencing construction of any kind on the Premises.

7.5. ENTRY AND INSPECTION. Landlord shall at all reasonable times have the right to enter the Premises to inspect them, to supply services in accordance with this Lease, to make repairs and renovations as reasonably deemed necessary by Landlord, and to submit the Premises to prospective or actual purchasers or encumbrance holders (or, during the final nine months of the Term or when an uncured Default exists, to prospective tenants), all without being deemed to have caused an eviction of Tenant and without abatement of rent except as provided elsewhere in this Lease. If reasonably necessary, Landlord may temporarily close all or a portion of the Premises to perform repairs, alterations and additions. Except in emergencies or to provide Building services, Landlord shall provide Tenant with reasonable prior verbal notice of entry and shall use reasonable efforts to minimize any interference with Tenant's use of the Premises.

ARTICLE 8. SPACE PLANNING AND SUBSTITUTION

Intentionally omitted.

ARTICLE 9. ASSIGNMENT AND SUBLETTING

9.1. RIGHTS OF PARTIES.

(a) Except as otherwise specifically provided in this Article 9, Tenant may not, either voluntarily or by operation of law, assign, sublet, encumber, or otherwise transfer all or any part of Tenant's interest in this Lease, or permit the Premises to be occupied by anyone other than Tenant (each, a "**Transfer**"), without Landlord's prior written consent, which consent shall not unreasonably be withheld in accordance with the provisions of Section 9.1(b). For purposes of this Lease, references to any subletting, sublease or variation thereof shall be deemed to apply not only to a sublease effected directly by Tenant, but also to a sub-subletting or an assignment of subtenancy by a subtenant at any level. Except as otherwise specifically provided in this Article 9, no Transfer (whether voluntary, involuntary or by operation of law) shall be valid or effective without Landlord's prior written consent and, at Landlord's reasonable election, such a Transfer shall constitute a material default of this Lease.

(b) Except as otherwise specifically provided in this Article 9, if Tenant or any subtenant hereunder desires to transfer an interest in this Lease, Tenant shall first notify Landlord in writing and shall request Landlord's consent thereto. Tenant shall also submit to Landlord in writing: (i) the name and address of the proposed transferee; (ii) the nature of any proposed subtenant's or assignee's business to be carried on in the Premises; (iii) the terms and provisions of any proposed sublease or assignment (including without limitation the rent and other economic provisions, term, improvement obligations and commencement date); (iv) evidence that the proposed assignee or subtenant will comply with the requirements of **Exhibit D** to this Lease; and (v) any other information requested by Landlord and reasonably related to the Transfer. Landlord shall not unreasonably withhold its consent, provided: (1) the use of the Premises will be consistent with the provisions of this Lease and with Landlord's commitment to other tenants of the Building and Project; (2) any proposed subtenant or assignee demonstrates that it is financially responsible by submission to Landlord of all reasonable information as Landlord may request concerning the proposed subtenant or assignee, including, but not limited to, a balance sheet of the proposed subtenant or assignee as of a date within 90 days of the request for Landlord's consent and statements of income or profit and loss of the proposed subtenant or assignee for the two-year period preceding the request for Landlord's consent; (3) the proposed assignee or subtenant is neither an existing tenant or occupant of the Project nor a prospective tenant with whom Landlord or Landlord's affiliate has been actively negotiating to become a tenant at the Project, except that Landlord will not enforce this restriction if it does not have sufficient available space to accommodate the proposed transferee; and (4) the proposed transferee is not an SDN (as defined below) and will not impose additional burdens or security risks on Landlord. If Landlord consents to the proposed Transfer, then the Transfer may be effected within 30 days after the date of the consent upon the terms described in the information furnished to Landlord; provided that any material change in the terms shall be subject to Landlord's consent as set forth in this Section 9.1(b). Landlord shall approve or disapprove any requested Transfer within 15 days following receipt of Tenant's written notice and the information set forth above. Except in connection with a Permitted Transfer (as defined below), if Landlord approves the Transfer Tenant shall pay a transfer fee of $1,000.00 to Landlord concurrently with Tenant's execution of a Transfer consent prepared by Landlord.

(c) Notwithstanding the provisions of Subsection (b) above, and except in connection with a "**Permitted Transfer**" (as defined below), in lieu of consenting to a proposed assignment or subletting of more than 50% of the Floor Area of Premises for more than 50% of the remaining Lease Term, Landlord may elect to terminate this Lease in its entirety in the event of an assignment, or terminate this Lease as to the portion of the Premises proposed to be subleased with a proportionate abatement in the rent payable under this Lease, such termination to be effective on the date that the proposed sublease or assignment would have commenced. Landlord may thereafter, at its option, assign or re-let any space so recaptured to any third party, including without limitation the proposed transferee identified by Tenant. Notwithstanding the foregoing, should Landlord so elect to terminate this Lease (or terminate as to a portion of the Premises), Tenant may, by notice to Landlord within 5 business days thereafter, elect to rescind its transfer request, in which event Landlord's termination election shall be null and void, this Lease shall continue in full force and effect, and Tenant will not consummate its proposed transfer.

(d) Should any Transfer occur, Tenant shall, except in connection with a Permitted Transfer, promptly pay or cause to be paid to Landlord, as additional rent, 50% of any amounts paid by the assignee or subtenant, however described and whether funded during or after the Lease Term, to the extent such amounts are in excess of the sum of (i) the scheduled Basic Rent payable by Tenant hereunder (or, in the event of a subletting of only a portion of the Premises, the Basic Rent allocable to such portion as reasonably determined by Landlord) and (ii) the direct out-of-pocket costs, as evidenced by third party invoices provided to Landlord, incurred by Tenant to effect the Transfer. For purposes herein, such transfer costs shall include all reasonable and customary expenses directly incurred by Tenant attributable to the Transfer, including brokerage fees, legal fees, construction costs, and Landlord's review fee.

(e) Notwithstanding anything to the contrary in this Section 9, Tenant may assign this Lease to a successor to Tenant by merger, consolidation, reorganization, or the purchase of substantially all of Tenant's assets, stock, or ownership interest or assign this Lease or sublet all or a portion of the Premises to an Affiliate (defined below), without the consent of Landlord but subject to the provisions of Section 9.2, provided that all of the following conditions are satisfied (a "**Permitted Transfer**"): (i) Tenant is not then in Default hereunder; (ii) Tenant gives Landlord written notice at least 10 business days before such Permitted Transfer; and (iii) the successor entity resulting from any merger or consolidation of

Tenant or the sale of all or substantially all of the assets of Tenant, has a net worth (computed in accordance with generally accepted accounting principles, except that intangible assets such as goodwill, patents, copyrights, and trademarks shall be excluded in the calculation ("**Net Worth**")) at the time of the Permitted Transfer that is at least equal to the Net Worth of Tenant immediately before the Permitted Transfer. Tenant's notice to Landlord shall include reasonable information and documentation evidencing the Permitted Transfer and showing that each of the above conditions has been satisfied. If requested by Landlord, Tenant's successor shall sign and deliver to Landlord a commercially reasonable form of assumption agreement. "**Affiliate**" shall mean an entity controlled by, controlling or under common control with Tenant, or a permitted transferee in a Permitted Transfer.

9.2. EFFECT OF TRANSFER. No subletting or assignment, even with the consent of Landlord, shall relieve Tenant, or any successor-in-interest to Tenant hereunder, of its obligation to pay rent and to perform all its other obligations under this Lease. Notwithstanding the foregoing, Landlord may relieve the original Tenant of its obligations under this Lease if Landlord determines, in its sole judgment, that the assignee has the financial capability of assuming Tenant's obligations for the Term of the Lease. Each assignee, other than Landlord, shall be deemed to assume all obligations of Tenant under this Lease and shall be liable jointly and severally with Tenant for the payment of all rent, and for the due performance of all of Tenant's obligations, under this Lease. Such joint and several liability shall not be discharged or impaired by any subsequent modification or extension of this Lease. Consent by Landlord to one or more transfers shall not operate as a waiver or estoppel to the future enforcement by Landlord of its rights under this Lease.

9.3. SUBLEASE REQUIREMENTS. Any sublease, license, concession or other occupancy agreement entered into by Tenant shall be subordinate and subject to the provisions of this Lease, and if this Lease is terminated during the term of any such agreement, Landlord shall have the right to: (i) treat such agreement as cancelled and repossess the subject space by any lawful means, or (ii) require that such transferee attorn to and recognize Landlord as its landlord (or licensor, as applicable) under such agreement. Landlord shall not, by reason of such attornment or the collection of sublease rentals, be deemed liable to the subtenant for the performance of any of Tenant's obligations under the sublease. If Tenant is in Default (hereinafter defined), Landlord is irrevocably authorized to direct any transferee under any such agreement to make all payments under such agreement directly to Landlord (which Landlord shall apply towards Tenant's obligations under this Lease) until such Default is cured. No collection or acceptance of rent by Landlord from any transferee shall be deemed a waiver of any provision of Article 9 of this Lease, an approval of any transferee, or a release of Tenant from any obligation under this Lease, whenever accruing. In no event shall Landlord's enforcement of any provision of this Lease against any transferee be deemed a waiver of Landlord's right to enforce any term of this Lease against Tenant or any other person.

ARTICLE 10. INSURANCE AND INDEMNITY

10.1. TENANT'S INSURANCE. Tenant, at its sole cost and expense, shall provide and maintain in effect the insurance described in **Exhibit D**. Evidence of that insurance must be delivered to Landlord prior to the Commencement Date.

10.2. LANDLORD'S INSURANCE. Landlord shall provide the following types of insurance, with or without deductible and in amounts and coverages as may be determined by Landlord in its discretion: property insurance, subject to standard exclusions (such as, but not limited to, earthquake and flood exclusions), covering the Building or Project and commercial general liability coverage. In addition, Landlord may, at its election, obtain insurance coverages for such other risks as Landlord or its Mortgagees may from time to time deem appropriate, including earthquake. Landlord shall be entitled to self-insure any of the foregoing types of insurance coverages. Landlord shall not be required to carry insurance of any kind on any tenant improvements or Alterations in the Premises installed by Tenant or its contractors or otherwise removable by Tenant (collectively, **"Tenant Installations"**), or on any trade fixtures, furnishings, equipment, interior plate glass, signs or items of personal property in the Premises, and Landlord shall not be obligated to repair or replace any of the foregoing items should damage occur. All proceeds of insurance maintained by Landlord upon the Building and Project shall be the property of Landlord, whether or not Landlord is obligated to or elects to make any repairs.

10.3. JOINT INDEMNITY.

(a) To the fullest extent permitted by law, but subject to Section 10.5 below, Tenant shall defend, indemnify and hold harmless Landlord, its agents, lenders, and any and all affiliates of Landlord who have an interest in the property, from and against any and all claims, liabilities, costs or expenses arising after the Commencement Date from Tenant's use or occupancy of the Premises, the Building or the Common Areas, or from the conduct of its business, or from any activity, work, or thing done, permitted or suffered by Tenant or its agents, employees, subtenants, vendors, contractors, invitees or licensees in or about the Premises, the Building or the Common Areas, or from any Default in the performance of any obligation on Tenant's part to be performed under this Lease, or from any act or negligence of Tenant or its agents, employees, subtenants, vendors, contractors, invitees or licensees. Landlord may, at its option, require Tenant to assume Landlord's defense in any action covered by this Section 10.3(a) through counsel reasonably satisfactory to Landlord. Notwithstanding the foregoing, Tenant shall not be obligated to indemnify Landlord against any liability or expense to the extent such liability or expense: (i) is ultimately determined to have been caused by the negligence or willful

misconduct of Landlord, its agents, contractors or employees, or (ii) covered by Landlord's indemnity obligations set forth in Section 10.3(b) below.

(b) To the fullest extent permitted by law, but subject to Section 10.5 below, Landlord shall defend, indemnify and hold harmless Tenant, its agents, lenders, and any and all affiliates of Tenant, from and against any and all claims, liabilities, costs or expenses arising either before or after the Commencement Date from the negligence or willful misconduct of Landlord, its employees, agents or contractors, in connection with the condition, maintenance or repair of the Building and the Common Areas of the Project. Tenant may, at its option, require Landlord to assume Tenant's defense in any action covered by this Section 10.3(b) through counsel reasonably satisfactory to Tenant. Notwithstanding the foregoing, Landlord shall not be obligated to indemnify Tenant against any liability or expense to the extent such liability or expense: (i) is ultimately determined to have been caused by the negligence or willful misconduct of Tenant, its agents, contractors or employees, or (ii) is covered by Tenant's indemnity obligations set forth in Section 10.3(a) above.

10.4. LANDLORD'S NONLIABILITY. Unless caused by the negligence or intentional misconduct of Landlord, its agents, employees or contractors but subject to Section 10.5 below, Landlord shall not be liable to Tenant, its employees, agents and invitees, and Tenant hereby waives all claims against Landlord, its employees and agents for loss of or damage to any property, or any injury to any person, resulting from any condition including, but not limited to, acts or omissions (criminal or otherwise) of third parties and/or other tenants of the Project, or their agents, employees or invitees, fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak or flow from or into any part of the Premises or from the breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning, electrical works or other fixtures in the Building, whether the damage or injury results from conditions arising in the Premises or in other portions of the Building. It is understood that any such condition may require the temporary evacuation or closure of all or a portion of the Building. Should Tenant elect to receive any service from a concessionaire, licensee or third party tenant of Landlord, Tenant shall not seek recourse against Landlord for any breach or liability of that service provider. Notwithstanding anything to the contrary contained in this Lease, in no event shall Landlord be liable for Tenant's loss or interruption of business or income (including without limitation, Tenant's consequential damages, lost profits or opportunity costs), or for interference with light or other similar intangible interests.

10.5. WAIVER OF SUBROGATION. Landlord and Tenant each hereby waives all rights of recovery against the other on account of loss and damage occasioned to the property of such waiving party to the extent that the waiving party is entitled to proceeds for such loss and damage under any property insurance policies carried or otherwise required to be carried by this Lease; provided however, that the foregoing waiver shall not apply to the extent of Tenant's obligation to pay deductibles under any such policies and this Lease. By this waiver it is the intent of the parties that neither Landlord nor Tenant shall be liable to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage insured against under any property insurance policies, even though such loss or damage might be occasioned by the negligence of such party, its agents, employees, contractors or invitees. The foregoing waiver by Tenant shall also inure to the benefit of Landlord's management agent for the Building.

ARTICLE 11. DAMAGE OR DESTRUCTION

11.1. RESTORATION.

(a) If the Building of which the Premises are a part is damaged as the result of an event of casualty, then subject to the provisions below, Landlord shall repair that damage as soon as reasonably possible unless Landlord reasonably determines that: (i) the Premises have been materially damaged and there is less than 1 year of the Term remaining on the date of the casualty; (ii) any Mortgagee (defined in Section 13.1) requires that the insurance proceeds be applied to the payment of the mortgage debt; or (iii) proceeds necessary to pay the full cost of the repair are not available from Landlord's insurance, plus deductible, including without limitation earthquake insurance. Should Landlord elect not to repair the damage for one of the preceding reasons, Landlord shall so notify Tenant in the "Casualty Notice" (as defined below), and this Lease shall terminate as of the date of delivery of that notice.

(b) As soon as reasonably practicable following the casualty event but not later than 60 days thereafter, Landlord shall notify Tenant in writing ("**Casualty Notice**") of Landlord's election, if applicable, to terminate this Lease. If this Lease is not so terminated, the Casualty Notice shall set forth the anticipated period for repairing the casualty damage. If the anticipated repair period exceeds 270 days or 30 days if during the last year of the Term, and if the damage is so extensive as to reasonably prevent Tenant's substantial use and enjoyment of the Premises, then either party may elect to terminate this Lease by written notice to the other within 10 days following delivery of the Casualty Notice.

(c) In the event that neither Landlord nor Tenant terminates this Lease pursuant to Section 11.1(b), Landlord shall repair all material damage to the Premises or the Building as soon as reasonably possible and this Lease shall continue in effect for the remainder of the Term. Upon notice from Landlord, Tenant shall assign or endorse over to Landlord (or to any party designated by Landlord) all property insurance proceeds payable to Tenant under Tenant's insurance with respect to any Tenant Installations; provided if the estimated cost to repair such Tenant Installations exceeds the amount of

insurance proceeds received by Landlord from Tenant's insurance carrier, the excess cost of such repairs shall be paid by Tenant to Landlord prior to Landlord's commencement of repairs. Within 15 days of demand, Tenant shall also pay Landlord for any additional excess costs that are determined during the performance of the repairs to such Tenant Installations.

(d) From and after the casualty event, the rental to be paid under this Lease shall be abated in the same proportion that the Floor Area of the Premises that is rendered unusable by the damage from time to time bears to the total Floor Area of the Premises.

(e) Notwithstanding the provisions of subsections (a), (b) and (c) of this Section 11.1, but subject to Section 10.5, the cost of any repairs shall be borne by Tenant, and Tenant shall not be entitled to termination rights, if the damage is due to the fault or neglect of Tenant or its employees, subtenants, contractors, invitees or representatives. In addition, the provisions of this Section 11.1 shall not be deemed to require Landlord to repair any Tenant Installations, fixtures and other items that Tenant is obligated to insure pursuant to **Exhibit D** or under any other provision of this Lease.

11.2. LEASE GOVERNS. Tenant agrees that the provisions of this Lease, including without limitation Section 11.1, shall govern any damage or destruction and shall accordingly supersede any contrary statute or rule of law.

ARTICLE 12. EMINENT DOMAIN

Either party may terminate this Lease if any material part of the Premises is taken or condemned for any public or quasi-public use under Law, by eminent domain or private purchase in lieu thereof (a "**Taking**"). Landlord shall also have the right to terminate this Lease if there is a Taking of any portion of the Building or Project which would have a material adverse effect on Landlord's ability to profitably operate the remainder of the Building. The termination shall be effective as of the effective date of any order granting possession to, or vesting legal title in, the condemning authority. If this Lease is not terminated, Basic Rent and Tenant's Share of Operating Expenses shall be appropriately adjusted to account for any reduction in the square footage of the Building or Premises. All compensation awarded for a Taking shall be the property of Landlord and the right to receive compensation or proceeds in connection with a Taking are expressly waived by Tenant; provided, however, Tenant may file a separate claim for Tenant's personal property and Tenant's reasonable relocation expenses, provided the filing of the claim does not diminish the amount of Landlord's award. If only a part of the Premises is subject to a Taking and this Lease is not terminated, Landlord, with reasonable diligence, will restore the remaining portion of the Premises as nearly as practicable to the condition immediately prior to the Taking. Tenant agrees that the provisions of this Lease shall govern any Taking and shall accordingly supersede any contrary statute or rule of law.

ARTICLE 13. SUBORDINATION; ESTOPPEL CERTIFICATE

13.1. SUBORDINATION. Tenant accepts this Lease subject and subordinate to any mortgage(s), deed(s) of trust, ground lease(s) or other lien(s) now or subsequently arising upon the Premises, the Building or the Project, and to renewals, modifications, refinancings and extensions thereof (collectively referred to as a "**Mortgage**"). The party having the benefit of a Mortgage shall be referred to as a "**Mortgagee**". This clause shall be self-operative, but upon request from a Mortgagee, Tenant shall execute a commercially reasonable subordination and attornment agreement in favor of the Mortgagee, provided such agreement provides a non-disturbance covenant benefiting Tenant. Alternatively, a Mortgagee shall have the right at any time to subordinate its Mortgage to this Lease. Upon request, Tenant, without charge, shall attorn to any successor to Landlord's interest in this Lease in the event of a foreclosure of any mortgage. Tenant agrees that any purchaser at a foreclosure sale or lender taking title under a deed in lieu of foreclosure shall not be responsible for any act or omission of a prior landlord, shall not be subject to any offsets or defenses Tenant may have against a prior landlord, and shall not be liable for the return of the Security Deposit not actually recovered by such purchaser nor bound by any rent paid in advance of the calendar month in which the transfer of title occurred; provided that the foregoing shall not release the applicable prior landlord from any liability for those obligations. Tenant acknowledges that Landlord's Mortgagees and their successors-in-interest are intended third party beneficiaries of this Section 13.1. As of the date hereof, there is no loan encumbering the Building.

Notwithstanding the foregoing in this Section to the contrary, as a condition precedent to the future subordination of this Lease to a future Mortgage, Landlord shall be required to provide Tenant with a non-disturbance, subordination, and attornment agreement in favor of Tenant from any Mortgagee who comes into existence after the Commencement Date. Such non-disturbance, subordination, and attornment agreement in favor of Tenant shall provide that, so long as Tenant is paying the Rent due under the Lease and is not otherwise in default under the Lease beyond any applicable cure period, its right to possession and the other terms of the Lease shall remain in full force and effect. Such non-disturbance, subordination, and attornment agreement may include other commercially reasonable provisions in favor of the Mortgagee, including, without limitation, additional time on behalf of the Mortgagee to cure defaults of the Landlord and provide that (a) neither Mortgagee nor any successor-in-interest shall be bound by (i) any payment of the Rent, or other sum due under this Lease for more than 1 month in advance or (ii) any amendment or modification of the Lease made without the express written consent of Mortgagee or any successor-in-interest; (b) neither Mortgagee nor any successor-in-interest will be liable for (i) any act or omission or warranties of any prior landlord (including Landlord), (ii) the breach of any warranties or obligations relating to construction of improvements on the Building or any tenant finish work performed or to have been performed by any prior landlord (including Landlord), or (iii) the return of any Security

Deposit, except to the extent such deposits have been received by Mortgagee; and (c) neither Mortgagee nor any successor-in-interest shall be subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord).

13.2. ESTOPPEL CERTIFICATE. Tenant shall, within 10 business days after receipt of a written request from Landlord, execute and deliver a commercially reasonable estoppel certificate in favor of those parties as are reasonably requested by Landlord (including a Mortgagee or a prospective purchaser of the Building or the Project).

ARTICLE 14. DEFAULTS AND REMEDIES

14.1. TENANT'S DEFAULTS. In addition to any other event of default set forth in this Lease, the occurrence of any one or more of the following events shall constitute a "**Default**" by Tenant:

(a) The failure by Tenant to make any payment of Rent required to be made by Tenant, as and when due, where the failure continues for a period of 3 business days after written notice from Landlord to Tenant. The term "**Rent**" as used in this Lease shall be deemed to mean the Basic Rent and all other sums required to be paid by Tenant to Landlord pursuant to the terms of this Lease

(b) The assignment, sublease, encumbrance or other Transfer of the Lease by Tenant, either voluntarily or by operation of law, whether by judgment, execution, transfer by intestacy or testacy, or other means, without the prior written consent of Landlord unless otherwise authorized in Article 9 of this Lease.

(c) The discovery by Landlord that any financial statement provided by Tenant, or by any affiliate, successor or guarantor of Tenant, was materially and intentionally false.

(d) Except where a specific time period is otherwise set forth for Tenant's performance in this Lease (in which event the failure to perform by Tenant within such time period shall be a Default), the failure or inability by Tenant to observe or perform any of the covenants or provisions of this Lease to be observed or performed by Tenant, other than as specified in any other subsection of this Section 14.1, where the failure continues for a period of 30 days after written notice from Landlord to Tenant. However, if the nature of the failure is such that more than 30 days are reasonably required for its cure, then Tenant shall not be deemed to be in Default if Tenant commences the cure within 30 days, and thereafter diligently pursues the cure to completion.

The notice periods provided herein are in lieu of, and not in addition to, any notice periods provided by law, and Landlord shall not be required to give any additional notice under California Code of Civil Procedure Section 1161, or any successor statute, in order to be entitled to commence an unlawful detainer proceeding.

14.2. LANDLORD'S REMEDIES.

(a) Upon the occurrence of any Default by Tenant, then in addition to any other remedies available to Landlord, Landlord may exercise the following remedies:

(i) Landlord may terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. Such termination shall not affect any accrued obligations of Tenant under this Lease. Upon termination, Landlord shall have the right to reenter the Premises and remove all persons and property. Landlord shall also be entitled to recover from Tenant:

(1) The worth at the time of award of the unpaid Rent which had been earned at the time of termination;

(2) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such loss that Tenant proves could have been reasonably avoided;

(3) The worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such loss that Tenant proves could be reasonably avoided;

(4) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result from Tenant's default, including, but not limited to, the cost of recovering possession of the Premises, commissions and other expenses of reletting, including necessary repair, renovation, improvement and alteration of the Premises for a new tenant, reasonable attorneys' fees, and any other reasonable costs; and

(5) At Landlord's election, all other amounts in addition to or in lieu of the foregoing as may be permitted by law. Any sum, other than Basic Rent, shall be computed on the basis of the average monthly amount accruing during the 24 month period immediately prior to Default, except that if it becomes necessary to compute such rental before the 24 month period has occurred, then the computation shall be on the basis of the average monthly amount during the shorter period. As used in

subparagraphs (1) and (2) above, the "worth at the time of award" shall be computed by allowing interest at the rate of 10% per annum. As used in subparagraph (3) above, the "worth at the time of award" shall be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1%.

(ii) Landlord may elect not to terminate Tenant's right to possession of the Premises, in which event Landlord may continue to enforce all of its rights and remedies under this Lease, including the right to collect all rent as it becomes due. Efforts by the Landlord to maintain, preserve or relet the Premises, or the appointment of a receiver to protect the Landlord's interests under this Lease, shall not constitute a termination of the Tenant's right to possession of the Premises. In the event that Landlord elects to avail itself of the remedy provided by this subsection (ii), Landlord shall not unreasonably withhold its consent to an assignment or subletting of the Premises subject to the reasonable standards for Landlord's consent as are contained in this Lease.

(b) The various rights and remedies reserved to Landlord in this Lease or otherwise shall be cumulative and, except as otherwise provided by California law, Landlord may pursue any or all of its rights and remedies at the same time. No delay or omission of Landlord to exercise any right or remedy shall be construed as a waiver of the right or remedy or of any breach or Default by Tenant. The acceptance by Landlord of rent shall not be a (i) waiver of any preceding breach or Default by Tenant of any provision of this Lease, other than the failure of Tenant to pay the particular rent accepted, regardless of Landlord's knowledge of the preceding breach or Default at the time of acceptance of rent, or (ii) a waiver of Landlord's right to exercise any remedy available to Landlord by virtue of the breach or Default. The acceptance of any payment from a debtor in possession, a trustee, a receiver or any other person acting on behalf of Tenant or Tenant's estate shall not waive or cure a Default under Section 14.1. No payment by Tenant or receipt by Landlord of a lesser amount than the rent required by this Lease shall be deemed to be other than a partial payment on account of the earliest due stipulated rent, nor shall any endorsement or statement on any check or letter be deemed an accord and satisfaction and Landlord shall accept the check or payment without prejudice to Landlord's right to recover the balance of the rent or pursue any other remedy available to it. Tenant hereby waives any right of redemption or relief from forfeiture under California Code of Civil Procedure Section 1174 or 1179, or under any successor statute, in the event this Lease is terminated by reason of any Default by Tenant. No act or thing done by Landlord or Landlord's agents during the Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender shall be valid unless in writing and signed by Landlord. No employee of Landlord or of Landlord's agents shall have any power to accept the keys to the Premises prior to the termination of this Lease, and the delivery of the keys to any employee shall not operate as a termination of the Lease or a surrender of the Premises.

14.3. LATE PAYMENTS. Any Rent due under this Lease that is not paid to Landlord within 5 days of the date when due shall bear interest at the maximum rate permitted by law from the date due until fully paid. The payment of interest shall not cure any Default by Tenant under this Lease. In addition, Tenant acknowledges that the late payment by Tenant to Landlord of rent will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult and impracticable to ascertain. Those costs may include, but are not limited to, administrative, processing and accounting charges, and late charges which may be imposed on Landlord by the terms of any ground lease, mortgage or trust deed covering the Premises. Accordingly, if any rent due from Tenant shall not be received by Landlord or Landlord's designee within 5 days after the date due, then Tenant shall pay to Landlord, in addition to the interest provided above, a late charge for each delinquent payment equal to the greater of (i) 5% of that delinquent payment or (ii) $100.00. Acceptance of a late charge by Landlord shall not constitute a waiver of Tenant's Default with respect to the overdue amount, nor shall it prevent Landlord from exercising any of its other rights and remedies. Notwithstanding the foregoing, Landlord will not assess a late charge until Landlord has given written notice of such late payment for the first late payment in any twelve (12) month period and after Tenant has not cured such late payment within three (3) days from receipt of such notice. No other notices will be required during the following twelve (12) months for a late charge to be incurred.

14.4. RIGHT OF LANDLORD TO PERFORM. If Tenant is in Default of any of its obligations under the Lease, Landlord shall have the right to perform such obligations. Tenant shall reimburse Landlord for the cost of such performance upon demand together with an administrative charge equal to 10% of the cost of the work performed by Landlord.

14.5. DEFAULT BY LANDLORD. Landlord shall not be deemed to be in default in the performance of any obligation under this Lease unless and until it has failed to perform the obligation within 30 days after written notice by Tenant to Landlord specifying in reasonable detail the nature and extent of the failure; provided, however, that if the nature of Landlord's obligation is such that more than 30 days are required for its performance, then Landlord shall not be deemed to be in default if it commences performance within the 30 day period and thereafter diligently pursues the cure to completion. Tenant hereby waives any right to terminate or rescind this Lease as a result of any default by Landlord hereunder or any breach by Landlord of any promise or inducement relating hereto, and Tenant agrees that its remedies shall be limited to a suit for actual damages and/or injunction and shall in no event include any consequential damages, lost profits or opportunity costs.

14.6. EXPENSES AND LEGAL FEES. Should either Landlord or Tenant bring any action in connection with this Lease, the prevailing party shall be entitled to recover as a part of the action its reasonable attorneys' fees, and all other reasonable costs. The prevailing party for the purpose of this paragraph shall be determined by the trier of the facts.

14.7. WAIVER OF JURY TRIAL/JUDICIAL REFERENCE.

(a) **LANDLORD AND TENANT EACH ACKNOWLEDGES THAT IT IS AWARE OF AND HAS HAD THE ADVICE OF COUNSEL OF ITS CHOICE WITH RESPECT TO ITS RIGHT TO TRIAL BY JURY, AND EACH PARTY DOES HEREBY EXPRESSLY AND KNOWINGLY WAIVE AND RELEASE ALL SUCH RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY HERETO AGAINST THE OTHER (AND/OR AGAINST ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR SUBSIDIARY OR AFFILIATED ENTITIES) ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, TENANT'S USE OR OCCUPANCY OF THE PREMISES, AND/OR ANY CLAIM OF INJURY OR DAMAGE.**

(b) In the event that the jury waiver provisions of Section 14.7 (a) are not enforceable under California law, then, unless otherwise agreed to by the parties, the provisions of this Section 14.7 (b) shall apply. Landlord and Tenant agree that any disputes arising in connection with this Lease (including but not limited to a determination of any and all of the issues in such dispute, whether of fact or of law) shall be resolved (and a decision shall be rendered) by way of a general reference as provided for in Part 2, Title 8, Chapter 6 (§§ 638 et. seq.) of the California Code of Civil Procedure, or any successor California statute governing resolution of disputes by a court appointed referee. Nothing within this Section 14.7 shall apply to an unlawful detainer action.

14.8 SATISFACTION OF JUDGMENT. The obligations of Landlord do not constitute the personal obligations of the individual partners, trustees, directors, officers, members or shareholders of Landlord or its constituent partners or members. Should Tenant recover a money judgment against Landlord, such judgment shall be satisfied only from the interest of Landlord in the Project and out of the rent or other income from such property receivable by Landlord, and no action for any deficiency may be sought or obtained by Tenant.

ARTICLE 15. END OF TERM

15.1. HOLDING OVER. If Tenant holds over for any period after the Expiration Date (or earlier termination of the Term) without the prior written consent of Landlord, such tenancy shall constitute a tenancy at sufferance only and a Default by Tenant; such holding over with the prior written consent of Landlord shall constitute a month-to-month tenancy commencing on the 1st day following the termination of this Lease and terminating 30 days following delivery of written notice of termination by either Landlord or Tenant to the other. In either of such events, possession shall be subject to all of the terms of this Lease, except that Basic Rent shall be 150% of Basic Rent for the month immediately preceding the date of termination. The acceptance by Landlord of monthly hold-over rental in a lesser amount shall not constitute a waiver of Landlord's right to recover the full amount due unless otherwise agreed in writing by Landlord. If Tenant fails to surrender the Premises upon the expiration of this Lease despite demand to do so by Landlord, Tenant shall indemnify and hold Landlord harmless from all loss or liability, including without limitation, any claims made by any succeeding tenant relating to such failure to surrender. The foregoing provisions of this Section 15.1 are in addition to and do not affect Landlord's right of re-entry or any other rights of Landlord under this Lease or at law.

15.2. SURRENDER OF PREMISES; REMOVAL OF PROPERTY. Upon the Expiration Date or upon any earlier termination of this Lease, Tenant shall quit and surrender possession of the Premises to Landlord in as good order, condition and repair as when received or as hereafter may be improved by Landlord or Tenant, reasonable wear and tear and repairs which are Landlord's obligation excepted, and shall remove or fund to Landlord the cost of removing all voice and/or data transmission cabling installed by or for Tenant and Required Removables, together with all personal property and debris, and shall perform all work required under Section 7.3 of this Lease. If Tenant shall fail to comply with the provisions of this Section 15.2, Landlord may effect the removal and/or make any repairs, and the cost to Landlord shall be additional rent payable by Tenant upon demand.

ARTICLE 16. PAYMENTS AND NOTICES

All sums payable by Tenant to Landlord shall be paid, without deduction or offset, in lawful money of the United States to Landlord at its address set forth in Item 12 of the Basic Lease Provisions, or at any other place as Landlord may designate in writing. Unless this Lease expressly provides otherwise, as for example in the payment of rent pursuant to Section 4.1, all payments shall be due and payable within 5 days after demand. All payments requiring proration shall be prorated on the basis of the number of days in the pertinent calendar month or year, as applicable. Any notice, election, demand, consent, approval or other communication to be given or other document to be delivered by either party to the other may be delivered to the other party, at the address set forth in Item 12 of the Basic Lease Provisions, by personal service, or by any courier or "overnight" express mailing service. Either party may, by written notice to the other, served in the manner provided in this Article, designate a different address. The refusal to accept delivery of a notice, or the inability to deliver the notice (whether due to a change of address for which notice was not duly given or other good reason), shall be deemed delivery and receipt of the notice as of the date of attempted delivery. If more than one person or entity is named as Tenant under this Lease, service of any notice upon any one of them shall be deemed as service upon all of them.

ARTICLE 17. RULES AND REGULATIONS

Tenant agrees to comply with the Rules and Regulations attached as **Exhibit E**, and any reasonable and nondiscriminatory amendments, modifications and/or additions as may be adopted and published by written notice to tenants by Landlord for the safety, care, security, good order, or cleanliness of the Premises, Building, Project and/or Common Areas. Landlord shall not be liable to Tenant for any violation of the Rules and Regulations or the breach of any covenant or condition in any lease or any other act or conduct by any other tenant, and the same shall not constitute a constructive eviction hereunder. One or more waivers by Landlord of any breach of the Rules and Regulations by Tenant or by any other tenant(s) shall not be a waiver of any subsequent breach of that rule or any other. Tenant's failure to keep and observe the Rules and Regulations shall constitute a default under this Lease. In the case of any conflict between the Rules and Regulations and this Lease, this Lease shall be controlling.

ARTICLE 18. BROKER'S COMMISSION

The parties recognize as the broker(s) who negotiated this Lease the firm(s) whose name(s) is (are) stated in Item 10 of the Basic Lease Provisions, and agree that Landlord shall be responsible for the payment of brokerage commissions to those broker(s) unless otherwise provided in this Lease. It is understood that Landlord's Broker represents only Landlord in this transaction and Tenant's Broker (if any) represents only Tenant. Each party warrants that it has had no dealings with any other real estate broker or agent in connection with the negotiation of this Lease, and agrees to indemnify and hold the other party harmless from any cost, expense or liability (including reasonable attorneys' fees) for any compensation, commissions or charges claimed by any other real estate broker or agent employed or claiming to represent or to have been employed by the indemnifying party in connection with the negotiation of this Lease. The foregoing agreement shall survive the termination of this Lease.

ARTICLE 19. TRANSFER OF LANDLORD'S INTEREST

In the event of any transfer of Landlord's interest in the Premises, the transferor shall be automatically relieved of all obligations on the part of Landlord accruing under this Lease from and after the date of the transfer, provided that Tenant is duly notified of the transfer. Any funds held by the transferor in which Tenant has an interest, including without limitation, the Security Deposit, shall be turned over, subject to that interest, to the transferee. No Mortgagee to which this Lease is or may be subordinate shall be responsible in connection with the Security Deposit unless the Mortgagee actually receives the Security Deposit. It is intended that the covenants and obligations contained in this Lease on the part of Landlord shall, subject to the foregoing, be binding on Landlord, its successors and assigns, only during and in respect to their respective successive periods of ownership.

ARTICLE 20. INTERPRETATION

20.1. NUMBER. Whenever the context of this Lease requires, the words "Landlord" and "Tenant" shall include the plural as well as the singular.

20.2. HEADINGS. The captions and headings of the articles and sections of this Lease are for convenience only, are not a part of this Lease and shall have no effect upon its construction or interpretation.

20.3. JOINT AND SEVERAL LIABILITY. If more than one person or entity is named as Tenant, the obligations imposed upon each shall be joint and several and the act of or notice from, or notice or refund to, or the signature of, any one or more of them shall be binding on all of them with respect to the tenancy of this Lease, including, but not limited to, any renewal, extension, termination or modification of this Lease.

20.4. SUCCESSORS. Subject to Sections 13.1 and 22.3 and to Articles 9 and 19 of this Lease, all rights and liabilities given to or imposed upon Landlord and Tenant shall extend to and bind their respective heirs, executors, administrators, successors and assigns. Nothing contained in this Section 20.4 is intended, or shall be construed, to grant to any person other than Landlord and Tenant and their successors and assigns any rights or remedies under this Lease.

20.5. TIME OF ESSENCE. Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

20.6. CONTROLLING LAW/VENUE. This Lease shall be governed by and interpreted in accordance with the laws of the State of California. Should any litigation be commenced between the parties in connection with this Lease, such action shall be prosecuted in the applicable State Court of California in the county in which the Building is located.

20.7. SEVERABILITY. If any term or provision of this Lease, the deletion of which would not adversely affect the receipt of any material benefit by either party or the deletion of which is consented to by the party adversely affected, shall be held invalid or unenforceable to any extent, the remainder of this Lease shall not be affected and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

20.8. WAIVER. One or more waivers by Landlord or Tenant of any breach of any term, covenant or condition contained in this Lease shall not be a waiver of any subsequent breach of the same or any

other term, covenant or condition. Consent to any act by one of the parties shall not be deemed to render unnecessary the obtaining of that party's consent to any subsequent act. No breach of this Lease shall be deemed to have been waived unless the waiver is in a writing signed by the waiving party.

20.9. INABILITY TO PERFORM. In the event that either party shall be delayed or hindered in or prevented from the performance of any work or in performing any act required under this Lease by reason of any cause beyond the reasonable control of that party, then the performance of the work or the doing of the act shall be excused for the period of the delay and the time for performance shall be extended for a period equivalent to the period of the delay. The provisions of this Section 20.9 shall not operate to excuse Tenant from the prompt payment of Rent.

20.10. ENTIRE AGREEMENT. This Lease and its exhibits and other attachments cover in full each and every agreement of every kind between the parties concerning the Premises, the Building, and the Project, and all preliminary negotiations, oral agreements, understandings and/or practices, except those contained in this Lease, are superseded and of no further effect. Tenant waives its rights to rely on any representations or promises made by Landlord or others which are not contained in this Lease. No verbal agreement or implied covenant shall be held to modify the provisions of this Lease, any statute, law, or custom to the contrary notwithstanding.

20.11. QUIET ENJOYMENT. Upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, and subject to the other provisions of this Lease, Tenant shall have the right of quiet enjoyment and use of the Premises for the Term without hindrance or interruption by Landlord or any other person claiming by or through Landlord.

20.12. SURVIVAL. All covenants of Landlord or Tenant which reasonably would be intended to survive the expiration or sooner termination of this Lease, including without limitation any warranty or indemnity hereunder, shall so survive and continue to be binding upon and inure to the benefit of the respective parties and their successors and assigns.

ARTICLE 21. EXECUTION AND RECORDING

21.1. COUNTERPARTS. This Lease may be executed in one or more counterparts, each of which shall constitute an original and all of which shall be one and the same agreement.

21.2. CORPORATE AND PARTNERSHIP AUTHORITY. If Tenant is a corporation, limited liability company or partnership, each individual executing this Lease on behalf of the entity represents and warrants that he is duly authorized to execute and deliver this Lease and that this Lease is binding upon the corporation, limited liability company or partnership in accordance with its terms. Tenant shall, at Landlord's request, deliver a certified copy of its organizational documents or an appropriate certificate authorizing or evidencing the execution of this Lease.

21.3. EXECUTION OF LEASE; NO OPTION OR OFFER. The submission of this Lease to Tenant shall be for examination purposes only, and shall not constitute an offer to or option for Tenant to lease the Premises. Execution of this Lease by Tenant and its return to Landlord shall not be binding upon Landlord, notwithstanding any time interval, until Landlord has in fact executed and delivered this Lease to Tenant, it being intended that this Lease shall only become effective upon execution by Landlord and delivery of a fully executed counterpart to Tenant.

21.4. RECORDING. Tenant shall not record this Lease without the prior written consent of Landlord. Tenant, upon the request of Landlord, shall execute and acknowledge a "short form" memorandum of this Lease for recording purposes.

21.5. AMENDMENTS. No amendment or mutual termination of this Lease shall be effective unless in writing signed by authorized signatories of Tenant and Landlord, or by their respective successors in interest. No actions, policies, oral or informal arrangements, business dealings or other course of conduct by or between the parties shall be deemed to modify this Lease in any respect.

ARTICLE 22. MISCELLANEOUS

22.1. NONDISCLOSURE OF LEASE TERMS. Tenant acknowledges that the content of this Lease and any related documents are confidential information. Except to the extent disclosure is required by law, or due to a merger, acquisition or further financing, Tenant shall keep such confidential information strictly confidential and shall not disclose such confidential information to any person or entity other than Tenant's financial, legal and space-planning consultants, provided, however, that Tenant may disclose the terms to prospective subtenants or assignees under this Lease or pursuant to legal requirement.

22.2. TENANT'S FINANCIAL STATEMENTS. The application, financial statements and tax returns, if any, submitted and certified to by Tenant as an accurate representation of its financial condition have been prepared, certified and submitted to Landlord as an inducement and consideration to Landlord to enter into this Lease. Tenant shall during the Term furnish Landlord with current annual financial statements accurately reflecting Tenant's financial condition upon written request from Landlord within 10 business days following Landlord's request; provided, however, that so long as Tenant is a publicly traded corporation on a nationally recognized stock exchange, the foregoing obligation to deliver the statements shall be waived.

22.3. MORTGAGEE PROTECTION. No act or failure to act on the part of Landlord which would otherwise entitle Tenant to be relieved of its obligations hereunder or to terminate this Lease shall result in such a release or termination unless (a) Tenant has given notice by registered or certified mail to any Mortgagee of a Mortgage covering the Building whose address has been furnished to Tenant and (b) such Mortgagee is afforded a reasonable opportunity to cure the default by Landlord (which shall in no event be less than 30 days), including, if necessary to effect the cure, time to obtain possession of the Building by power of sale or judicial foreclosure provided that such foreclosure remedy is diligently pursued. Tenant shall comply with any written directions by any Mortgagee to pay Rent due hereunder directly to such Mortgagee without determining whether a default exists under such Mortgagee's Mortgage.

22.4. SDN LIST. Tenant hereby represents and warrants that neither Tenant nor any officer, director, employee, partner, member or other principal of Tenant (collectively, "**Tenant Parties**") is listed as a Specially Designated National and Blocked Person ("**SDN**") on the list of such persons and entities issued by the U.S. Treasury Office of Foreign Assets Control (OFAC). In the event Tenant or any Tenant Party is or becomes listed as an SDN, Tenant shall be deemed in breach of this Lease and Landlord shall have the right to terminate this Lease immediately upon written notice to Tenant.

LANDLORD:

THE IRVINE COMPANY LLC,
a Delaware limited liability company

By /s/ Ray Wirta
Ray Wirta
President

By /s/ Douglas G. Holte
Douglas G. Holte
President
Office Properties

TENANT:

SERVICE-NOW.COM,
a California corporation

By /s/ Michael P. Scarpelli

Printed Name Michael P. Scarpelli

Title CFO

By /s/ Dale R. Brown

Printed Name Dale R. Brown

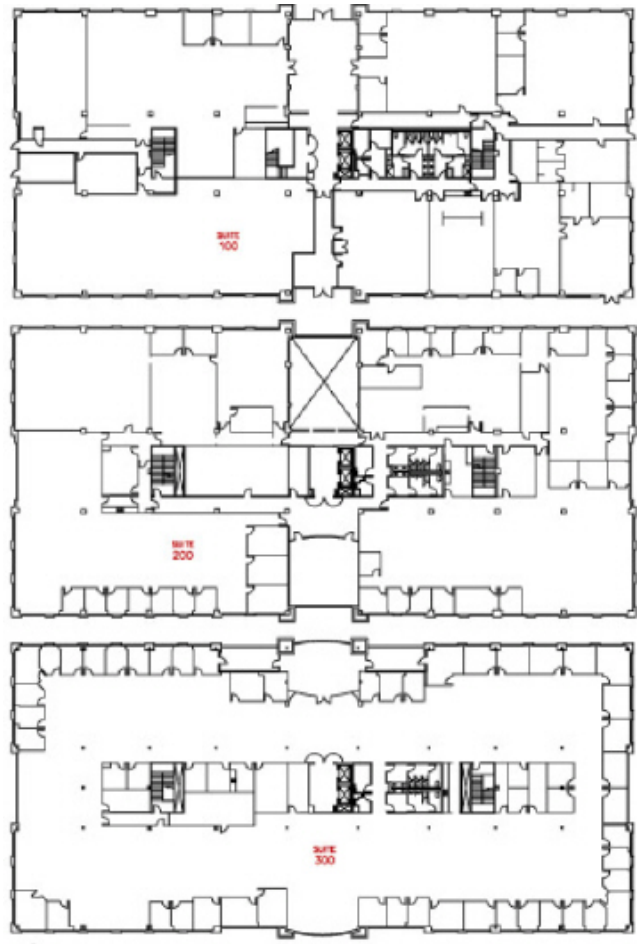
Title VP of Finance

IRVINE COMPANY Since 1864 | OFFICE PROPERTIES

EXHIBIT A

DESCRIPTION OF PREMISES

4810 Eastgate Mall



Stevenson Systems, Inc.

EXHIBIT A-1

FIRST RIGHT SPACE

EXHIBIT B

Operating Expenses
(Net)

(a) From and after the Commencement Date, Tenant shall pay to Landlord, as additional rent, Tenant's Share of all Operating Expenses, as defined in Section (f) below, incurred by Landlord in the operation of the Building and the Project. The initial estimate of Operating Expenses is $0.4517 a square foot. The term "**Tenant's Share**" means that portion of any Operating Expenses determined by multiplying the cost of such item by a fraction, the numerator of which is the Floor Area and the denominator of which is the total rentable square footage, as determined from time to time by Landlord, of (i) the Building, for expenses determined by Landlord to benefit or relate substantially to the Building rather than the entire Project, and (ii) all or some of the buildings in the Project, for expenses determined by Landlord to benefit or relate substantially to all or some of the buildings in the Project rather than any specific building. Landlord reserves the right to allocate to the entire Project any Operating Expenses which may benefit or substantially relate to a particular building within the Project in order to maintain greater consistency of Operating Expenses among buildings within the Project. In the event that Landlord determines that the Premises or the Building incur a non-proportional benefit from any expense, or is the non-proportional cause of any such expense, Landlord may allocate a greater percentage of such Operating Expense to the Premises or the Building. In the event that any management and/or overhead fee payable or imposed by Landlord for the management of Tenant's Premises is calculated as a percentage of the rent payable by Tenant and other tenants of Landlord, then the full amount of such management and/or overhead fee which is attributable to the rent paid by Tenant shall be additional rent payable by Tenant, in full, provided, however, that Landlord may elect to include such full amount as part of Tenant's Share of Operating Expenses.

(b) Commencing prior to the start of the first full "**Expense Recovery Period**" of the Lease (as defined in Item 7 of the Basic Lease Provisions), and prior to the start of each full or partial Expense Recovery Period thereafter, Landlord shall give Tenant a written estimate of the amount of Tenant's Share of Operating Expenses for the applicable Expense Recovery Period. Tenant shall pay the estimated amounts to Landlord in equal monthly installments, in advance, concurrently with payments of Basic Rent. If Landlord has not furnished its written estimate for any Expense Recovery Period by the time set forth above, Tenant shall continue to pay monthly the estimated Tenant's Share of Operating Expenses in effect during the prior Expense Recovery Period; provided that when the new estimate is delivered to Tenant, Tenant shall, at the later of (i) 30 days following receipt of such estimate, or (ii) at the next monthly payment date, pay any accrued estimated Tenant's Share of Operating Expenses based upon the new estimate. Landlord may from time to time change the Expense Recovery Period to reflect a calendar year or a new fiscal year of Landlord, as applicable, in which event Tenant's Share of Operating Expenses shall be equitably prorated for any partial year.

(c) Within 180 days after the end of each Expense Recovery Period, Landlord shall furnish to Tenant a statement (a "**Reconciliation Statement**") showing in reasonable detail the actual or prorated Tenant's Share of Operating Expenses incurred by Landlord during such Expense Recovery Period, and the parties shall within 30 days thereafter make any payment or allowance necessary to adjust Tenant's estimated payments of Tenant's Share of Operating Expenses, if any, to the actual Tenant's Share of Operating Expenses as shown by the Reconciliation Statement. Any delay or failure by Landlord in delivering any Reconciliation Statement shall not constitute a waiver of Landlord's right to require Tenant to pay Tenant's Share of Operating Expenses pursuant hereto. Any amount due Tenant shall be credited against installments next coming due under this **Exhibit B**, and any deficiency shall be paid by Tenant together with the next installment. Should Tenant fail to object in writing to Landlord's determination of Tenant's Share of Operating Expenses within 90 days following delivery of Landlord's Reconciliation Statement, Landlord's determination of Tenant's Share of Operating Expenses for the applicable Expense Recovery Period shall be conclusive and binding on Tenant for all purposes and any future claims by Tenant to the contrary shall be barred.

(d) Even though this Lease has terminated and the Tenant has vacated the Premises, when the final determination is made of Tenant's Share of Operating Expenses for the Expense Recovery Period in which this Lease terminates, Tenant shall within 30 days of written notice pay the entire increase over the estimated Tenant's Share of Operating Expenses already paid. Conversely, any overpayment by Tenant shall be rebated by Landlord to Tenant not later than 30 days after such final determination. However, in lieu thereof, Landlord may deliver a reasonable estimate of the anticipated reconciliation amount to Tenant prior to the Expiration Date of the Term, in which event the appropriate party shall fund the amount by the Expiration Date.

(e) If, at any time during any Expense Recovery Period, any one or more of the Operating Expenses are increased to a rate(s) or amount(s) in excess of the rate(s) or amount(s) used in calculating the estimated Tenant's Share of Operating Expenses for the year, then the estimate of Tenant's Share of Operating Expenses may be increased by written notice from Landlord for the month in which such rate(s) or amount(s) becomes effective and for all succeeding months by an amount equal to the estimated amount of Tenant's Share of the increase. Landlord shall give Tenant written notice of the amount or estimated amount of the increase, the month in which the increase will become effective, Tenant's Share thereof and the months for which the payments are due. Tenant shall pay the increase to Landlord as part of the Tenant's monthly payments of estimated expenses as provided in paragraph (b) above, commencing with the month in which effective.

(f) The term "**Operating Expenses**" shall mean and include all Project Costs, as defined in Section (g) below, and Property Taxes, as defined in Section (h) below.

(g) The term "**Project Costs**" shall mean all expenses of operation, management, repair, replacement and maintenance of the Building and the Project, including without limitation all appurtenant Common Areas (as defined in Section 6.2 of the Lease), and shall include the following charges by way of illustration but not limitation: water and sewer charges; insurance premiums, deductibles, or reasonable premium equivalents or deductible equivalents should Landlord elect to self insure any risk that Landlord is authorized to insure hereunder; license, permit, and inspection fees; light; power; window washing; trash pickup; janitorial services to any interior Common Areas; heating, ventilating and air conditioning; supplies; materials; equipment; tools; reasonable fees for consulting services; access control/security costs, inclusive of the reasonable cost of improvements made to enhance access control systems and procedures; establishment of reasonable reserves for replacement of the roof of the Building (provided that any deficiencies will be covered from future reserves); costs incurred in connection with compliance with any laws or changes in laws applicable to the Building or the Common Areas of the Project; the cost of any capital improvements, replacements, or repairs that exceed $20,000 per year, (other than tenant improvements for specific tenants) to the extent of the amortized amount thereof over the useful life of such capital improvements or replacements (for HVAC deemed to be 20 years) (or, if such capital improvements or replacements are anticipated to achieve a cost savings as to the Operating Expenses, any shorter estimated period of time over which the cost of the capital improvements or replacements would be recovered from the estimated cost savings) calculated at a market cost of funds, all as reasonably determined by Landlord, for each year of useful life of such capital expenditure whether such capital expenditure occurs during or prior to the Term; costs associated with the maintenance of an air conditioning, heating and ventilation service agreement, and maintenance of any communications or networked data transmission equipment, conduit, cabling, wiring and related telecommunications facilitating automation and control systems, remote telecommunication or data transmission infrastructure within the Building and/or the Project, and any other maintenance, repair and non-capital replacement costs associated with such infrastructure; capital costs (amortized as set forth above) associated with a requirement related to demands on utilities by Project tenants, including without limitation the cost to obtain additional voice, data and modem connections; labor; reasonably allocated wages and salaries, fringe benefits, and payroll taxes for administrative and other personnel directly applicable to the Building and/or Project, including both Landlord's personnel and outside personnel; any expense incurred pursuant to Sections 6.1, 6.2, 7.2, 10.2, and **Exhibits C** and **F** of the Lease; and reasonable and market-competitive overhead and/or management fees for the professional operation of the Project, provided that in no event shall the management fees for the Building (expressed as a percentage of gross receipts for the Building) exceed 3%. It is understood and agreed that Project Costs may include competitive charges for direct services (including, without limitation, management and/or operations services) provided by any subsidiary, division or affiliate of Landlord.

Notwithstanding the foregoing, in any given Expense Recovery Period earthquake insurance deductibles included in Project Costs shall be limited to an amount not to exceed $1.00 per rentable square foot of the Premises as an expense to Tenant per casualty event.

(h) The term "**Property Taxes**" as used herein shall include any form of federal, state, county or local government or municipal taxes, fees, charges or other impositions of every kind (whether general, special, ordinary or extraordinary) related to the ownership, leasing or operation of the Premises, Building or Project, including without limitation, the following: (i) all real estate taxes or personal property taxes levied against the Premises, the Building or Project, as such property taxes may be reassessed from time to time; and (ii) other taxes, charges and assessments which are levied with respect to this Lease or to the Building and/or the Project, and any improvements, fixtures and equipment and other property of Landlord located in the Building and/or the Project, (iii) all assessments and fees for public improvements, services, and facilities and impacts thereon, including without limitation arising out of any Community Facilities Districts, "Mello Roos" districts, similar assessment districts, and any traffic impact mitigation assessments or fees; (iv) any tax, surcharge or assessment which shall be levied in addition to or in lieu of real estate or personal property taxes, and (v) taxes based on the receipt of rent (including gross receipts or sales taxes applicable to the receipt of rent), and (vi) costs and expenses incurred in contesting the amount or validity of any Property Tax by appropriate proceedings. Notwithstanding the foregoing, general net income or franchise taxes or transfer fees imposed against Landlord shall be excluded.

(i) Notwithstanding the foregoing provisions of this Exhibit B, Operating Expenses shall exclude the following:

(1) All costs and expenses of operation of any child care, health club, restaurants and retail space in the Building;

(2) The wages and benefits of any employee who does not devote substantially all of his or her employed time to the Project unless such wages and benefits are prorated to reflect time spent on operating and managing the Project vis-à-vis time spent on matters unrelated to operating and managing the Project; provided that in no event shall Operating Costs include wages and/or benefits attributable to personnel above the level of portfolio property manager or chief engineer;

(3) Interest on debt or amortization on any Mortgage or Mortgages encumbering the Building;

(4) All costs relating to activities for the marketing (including commissions), solicitation and execution or renewal of leases of space in the Project, including, without limitation, accounting and legal fees, advertising, printing costs and brochures, space planning, tenant allowances, leasehold improvements and other tenant concessions;

(5) Costs associated with the sale or refinancing of the Project, including, without limitation, attorneys' fees, accounting costs, closing costs, consulting or brokerage commissions, origination fees or points, and interest cost or charges;

(6) Costs associated with the acquisition of the fee, ground lease (including payments due under a ground lease), air rights or development rights with respect to the Project;

(7) Cost of decorating, redecorating, or tenant installations incurred in connection with preparing rentable space for a new tenant (or retaining a tenant);

(8) Expenses in connection with services or other benefits which are not provided to Tenant or for which Tenant is charged for directly but which are provided to another tenant or occupant of the Project;

(9) Costs incurred by Landlord for repairs, replacements and/or restoration to or of the Building to the extent that Landlord is actually reimbursed by insurance or condemnation proceeds or by tenants (other than through Operating Expense pass-through), warrantors or other third persons;

(10) Costs incurred by Landlord for improvements or replacements (including structural additions), repairs, equipment and tools which are of a "capital" nature and/or which are considered "capital" improvements or replacements under GAAP, except for capital repairs/replacements to: (i) repair or replace existing items with like kind; (ii) required to comply with governmental codes or requirements; or (iii) to effectuate efficiencies in Building systems, and then to the extent included in Project Costs by the express terms of Section (g) of this Exhibit B;

(11) Overhead and profit increments paid to subsidiaries or affiliates of Landlord for services provided to the Building or any other portion of the Project to the extent the same exceeds the costs that would generally be charged for such services if rendered on a competitive basis (based upon a standard of similar office buildings in the general market area of the Premises) by unaffiliated third parties capable of providing such service;

(12) The cost of alterations of rentable space in the Building leased to Tenant and other tenants;

(13) Costs arising from the gross negligence or intentional misconduct of Landlord or its employees, contractors or agents;

(14) Costs incurred to remove, remedy, contain, or treat any hazardous material, which hazardous material is brought onto the Project (A) before the date of this Lease and (B) after the date hereof by Landlord or any other tenant of the Project or any other person other than Tenant, its employees, agents, licensees, subtenants or invitees, and is of such a nature, at that time, that a federal, state or municipal governmental authority, if it had then had knowledge of the presence of such hazardous material, in the state, and under the conditions, that it then exists on the Project, would have then required the removal of such hazardous material or other remedial or containment action with respect thereto;

(15) Penalties and interest charges as a result of Landlord not paying bills when due or within any grace period;

(16) Ground rent or similar payments to a ground lessor;

(17) Costs related to Landlord's charitable or political contributions;

(18) Costs including attorney fees arising from claims, potential disputes or disputes between Landlord and tenants of the Project, except to the extent that the resolution of such claims or disputes will provide a tangible benefit to the Project and its tenants generally and not just for Landlord;

(19) Damage and repairs due to Landlord's, its employees', servants' or agents', gross negligence or willful misconduct;

(20) Electric power costs or other utility costs for which any tenant directly contracts with the utility company; and

(21) All costs associated with the operation of the business of the entity which constitutes "Landlord" (as distinguished from the costs of operating, maintaining, repairing, replacing and managing the Building or Project) including, but not limited to, Landlord's or Landlord's managing agent's general corporate overhead and general administrative expenses.

(j) Provided no Default has occurred, Tenant shall have the right to cause a certified public accountant, engaged on a non-contingency fee basis, to audit Operating Expenses by inspecting

Landlord's general ledger of expenses not more than once during any Expense Recovery Period. However, to the extent that insurance premiums or any other component of Operating Expenses is determined by Landlord on the basis of an internal allocation of costs utilizing information Landlord in good faith deems proprietary, such expense component shall not be subject to audit so long as it does not exceed the amount per square foot typically imposed by landlords of other first class business parks in the vicinity of the Project. Tenant shall give notice to Landlord of Tenant's intent to audit within 60 days after delivery of Landlord's Reconciliation Statement which sets forth Tenant's Share of Landlord's actual Operating Expenses to Tenant. Such audit shall be conducted at a mutually agreeable time during normal business hours at the office of Landlord or its management agent where such accounts are maintained. If Tenant's audit determines that actual Operating Expenses have been overstated by more than 5%, then subject to Landlord's right to review and/or contest the audit results, Landlord shall reimburse Tenant for the reasonable out-of-pocket costs of such audit. Tenant's rent shall be appropriately adjusted to reflect any overstatement in Operating Expenses. All of the information obtained by Tenant and/or its auditor in connection with such audit, as well as any compromise, settlement, or adjustment reached between Landlord and Tenant as a result thereof, shall be held in strict confidence and, except as may be required pursuant to litigation, shall not be disclosed to any third party, directly or indirectly, by Tenant or its auditor or any of their officers, agents or employees. Landlord may require Tenant's auditor to execute a separate confidentiality agreement affirming the foregoing as a condition precedent to any audit. In the event of a violation of this confidentiality covenant in connection with any audit, then in addition to any other legal or equitable remedy available to Landlord, Tenant shall forfeit its right to any reconciliation or cost reimbursement payment from Landlord due to said audit (and any such payment theretofore made by Landlord shall be promptly returned by Tenant), and Tenant shall have no further audit rights under this Lease.

EXHIBIT C

UTILITIES AND SERVICE

Tenant shall be responsible for and shall pay promptly, directly to the appropriate supplier, all charges for electricity metered to the Premises, telephone, telecommunications service, janitorial service, interior landscape maintenance and all other utilities, materials and services furnished directly to Tenant or the Premises or used by Tenant in, on or about the Premises during the Term, together with any taxes thereon. Landlord shall make a reasonable determination of Tenant's proportionate share of the cost of water, gas, sewer, refuse pickup and any other utilities and services servicing the Common Areas of the Project, and Tenant shall pay such amount to Landlord, as an item of additional rent, within 30 days after delivery of Landlord's statement or invoice therefor. Alternatively, Landlord may elect to include such cost in the definition of Project Costs in which event Tenant shall pay Tenant's proportionate share of such costs in the manner set forth in Section 4.2.

EXHIBIT D

TENANT'S INSURANCE

The following requirements for Tenant's insurance shall be in effect during the Term, and Tenant shall also cause any subtenant to comply with the requirements. Landlord reserves the right to adopt reasonable nondiscriminatory modifications and additions to these requirements.

1. Tenant shall maintain, at its sole cost and expense, during the entire Term: (i) commercial general liability insurance with respect to the Premises and the operations of Tenant in, on or about the Premises, including but not limited to coverage for personal injury, contractual liability, independent contractors, broad form property damage, fire legal liability, products liability (if a product is manufactured within or sold from the Premises), and liquor law liability (if alcoholic beverages are sold, served or consumed within the Premises), which policy(ies) shall be written on an "occurrence" basis and for not less than $2,000,000 combined single limit per occurrence for bodily injury, death, and property damage liability; (ii) workers' compensation insurance coverage as required by law, together with employers' liability insurance coverage of at least $1,000,000 each accident and each disease; (iii) with respect to Alterations constructed by Tenant under this Lease, builder's risk insurance, in an amount equal to the replacement cost of the work; and (iv) insurance against fire, vandalism, malicious mischief and such other additional perils as may be included in a standard "special form" policy, insuring all Alterations, trade fixtures, furnishings, equipment and items of personal property in the Premises, in an amount equal to not less than 90% of their replacement cost (with replacement cost endorsement), which policy shall also include business interruption coverage in an amount sufficient to cover 6 months of loss. In no event shall the limits of any policy be considered as limiting the liability of Tenant under this Lease.

2. All policies of insurance required to be carried by Tenant pursuant to this **Exhibit D** shall be written by insurance companies authorized to do business in the State of California and with a general policyholder rating of not less than "A-" and financial rating of not less than "VIII" in the most current Best's Insurance Report. The deductible or other retained limit under any policy carried by Tenant shall be commercially reasonable, and Tenant shall be responsible for payment of such deductible or retained limit with waiver of subrogation in favor of Landlord. Any insurance required of Tenant may be furnished by Tenant under any blanket policy carried by it or under a separate policy. A certificate of insurance, certifying that the policy has been issued, provides the coverage required by this Exhibit and contains the required provisions, together with endorsements acceptable to Landlord evidencing the waiver of subrogation and additional insured provisions required below, shall be delivered to Landlord prior to the date Tenant is given the right of possession of the Premises. Proper evidence of the renewal of any insurance coverage shall also be delivered to Landlord not less than 10 days prior to the expiration of the coverage. In the event of a loss covered by any policy under which Landlord is an additional insured, Landlord shall be entitled to review a copy of such policy.

3. Tenant's commercial general liability insurance shall contain a provision that the policy shall be primary to and noncontributory with any policies carried by Landlord, together with a provision including Landlord and any other parties in interest designated by Landlord as additional insureds. Tenant's policies described in Subsections 1 (ii), (iii) and (iv) above shall each contain a waiver by the insurer of any right to subrogation against Landlord, its agents, employees, contractors and representatives. Tenant also waives its right of recovery for any deductible or retained limit under same policies enumerated above. All of Tenant's policies shall contain a provision that the insurer will not cancel or change the coverage provided by the policy without first giving Landlord 30 days prior written notice, except for 10 days prior written notice for nonpayment of premium. Tenant shall also name Landlord as an additional insured on any excess or umbrella liability insurance policy carried by Tenant.

NOTICE TO TENANT: IN ACCORDANCE WITH THE TERMS OF THIS LEASE, TENANT MUST PROVIDE EVIDENCE OF THE REQUIRED INSURANCE TO LANDLORD'S MANAGEMENT AGENT PRIOR TO BEING AFFORDED ACCESS TO THE PREMISES.

EXHIBIT E

RULES AND REGULATIONS

The following Rules and Regulations shall be in effect at the Building. Landlord reserves the right to adopt reasonable nondiscriminatory modifications and additions at any time. In the case of any conflict between these regulations and the Lease, the Lease shall be controlling.

1. The sidewalks, halls, passages, elevators, stairways, and other common areas shall not be obstructed by Tenant or used by it for storage, for depositing items, or for any purpose other than for ingress to and egress from the Premises. Should Tenant have access to any balcony or patio area, Tenant shall not place any furniture other personal property in such area without the prior written approval of Landlord.

2. Neither Tenant nor any employee or contractor of Tenant shall go upon the roof of the Building without the prior written consent of Landlord, as set forth in the Lease.

3. Intentionally omitted.

4. No antenna or satellite dish shall be installed by Tenant without the prior written agreement of Landlord.

5. The sashes, sash doors, windows, glass lights, solar film and/or screen, and any lights or skylights that reflect or admit light into the halls or other places of the Building shall not be covered or obstructed. If Landlord, by a notice in writing to Tenant, shall object to any curtain, blind, tinting, shade or screen attached to, or hung in, or used in connection with, any window or door of the Premises, the use of that curtain, blind, tinting, shade or screen shall be immediately discontinued and removed by Tenant. No awnings shall be permitted on any part of the Premises.

6. The installation and location of any unusually heavy equipment in the Premises, including without limitation file storage units, safes and electronic data processing equipment, shall require the prior written approval of Landlord. The moving of large or heavy objects shall occur only between those hours as may be designated by, and only upon previous notice to, Landlord. No freight, furniture or bulky matter of any description shall be received into or moved out of the lobby of the Building or carried in any elevator other than the freight elevator (if available) designated by Landlord unless approved in writing by Landlord.

7. Any pipes or tubing used by Tenant to transmit water to an appliance or device in the Premises must be made of copper or stainless steel, and in no event shall plastic tubing be used for that purpose.

8. Tenant shall not place any lock(s) on any door in the Premises or Building without Landlord’s prior written consent, which consent shall not be unreasonably withheld. Upon the termination of its tenancy, Tenant shall deliver to Landlord all the keys to offices, rooms and toilet rooms and all access cards which shall have been furnished to Tenant or which Tenant shall have had made.

9. Tenant shall not install equipment requiring electrical or air conditioning service in excess of that to be provided by Landlord under the Lease without prior written approval from Landlord.

10. Tenant shall not use space heaters within the Premises.

11. Tenant shall not do or permit anything to be done in the Premises, or bring or keep anything in the Premises, which shall in any way increase the insurance on the Building, or on the property kept in the Building, or interfere with the rights of other tenants, or conflict with any government rule or regulation.

12. Tenant shall not use or keep any foul or noxious gas or substance in the Premises.

13. Tenant shall not permit the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Building by reason of noise, odors and/or vibrations, or interfere in any way with other tenants or those having business with other tenants.

14. Tenant shall not permit any animals or birds be kept by Tenant in or about the Building.

15. Neither Tenant nor its employees, agents, contractors, invitees or licensees shall bring any firearm, whether loaded or unloaded, into the Project at any time.

16. Smoking anywhere within the Premises or Building is strictly prohibited, and Landlord may enforce such prohibition pursuant to Landlord’s leasehold remedies. Smoking is permitted outside the Building and within the project only in areas designated by Landlord.

17. Tenant shall not install an aquarium of any size in the Premises unless otherwise approved by Landlord.

18. Tenant shall not utilize any name selected by Landlord from time to time for the Building and/or the Project as any part of Tenant's corporate or trade name. Landlord shall have the right to change the name, number or designation of the Building or Project without liability to Tenant. Tenant shall not use any picture of the Building in its advertising, stationery or in any other manner.

19. Tenant shall, upon request by Landlord, supply Landlord with the names and telephone numbers of personnel designated by Tenant to be contacted on an after-hours basis should circumstances warrant.

20. Landlord may from time to time grant tenants individual and temporary variances from these Rules, provided that any variance does not have a material adverse effect on the use and enjoyment of the Premises by Tenant.

EXHIBIT F

PARKING

Tenant shall be entitled to the number of vehicle parking spaces set forth in Item 11 of the Basic Lease Provisions, which spaces shall be unreserved and unassigned, on those portions of the Common Areas designated by Landlord for parking ("**Parking Area**"). Tenant shall not use more parking spaces than such number. Landlord shall provide Tenant with 5 stenciled visitor parking spaces to be located in the front of the main lobby area to the Building. During the Term, there shall be no charge for the parking spaces. All parking spaces shall be used only for parking of vehicles no larger than full size passenger automobiles, sport utility vehicles or pickup trucks. Tenant shall not permit or allow any vehicles that belong to or are controlled by Tenant or Tenant's employees, suppliers, shippers, customers or invitees to be loaded, unloaded or parked in areas other than those designated by Landlord for such activities. If Tenant permits or allows any of the prohibited activities described above, then Landlord shall have the right, without notice, in addition to such other rights and remedies that Landlord may have, to remove or tow away the vehicle involved and charge the costs to Tenant. Parking within the Common Areas shall be limited to striped parking stalls, and no parking shall be permitted in any driveways, access ways or in any area which would prohibit or impede the free flow of traffic within the Common Areas. There shall be no parking of any vehicles for longer than a 96 hour period unless otherwise authorized by Landlord, and vehicles which have been abandoned or parked in violation of the terms hereof may be towed away at the owner's expense. Nothing contained in this Lease shall be deemed to create liability upon Landlord for any damage to motor vehicles of visitors or employees, for any loss of property from within those motor vehicles, or for any injury to Tenant, its visitors or employees, unless ultimately determined to be caused by the sole negligence or willful misconduct of Landlord. Landlord shall have the right to establish, and from time to time amend, and to enforce against all users all reasonable rules and regulations (including the designation of areas for employee parking) that Landlord may deem necessary and advisable for the proper and efficient operation and maintenance of parking within the Common Areas. Landlord shall have the right to construct, maintain and operate lighting facilities within the parking areas; to change the area, level, location and arrangement of the parking areas and improvements therein; to restrict parking by tenants, their officers, agents and employees to employee parking areas; to enforce parking charges (by operation of meters or otherwise); and to do and perform such other acts in and to the parking areas and improvements therein as, in the use of good business judgment, Landlord shall determine to be advisable. Any person using the parking area shall observe all directional signs and arrows and any posted speed limits. In no event shall Tenant interfere with the use and enjoyment of the parking area by other tenants of the Project or their employees or invitees. Parking areas shall be used only for parking vehicles. Washing, waxing, cleaning or servicing of vehicles, unless otherwise authorized by Landlord. Tenant shall be liable for any damage to the parking areas caused by Tenant or Tenant's employees, suppliers, shippers, customers or invitees, including without limitation damage from excess oil leakage. Tenant shall have no right to install any fixtures, equipment or personal property in the parking areas.

EXHIBIT G

ADDITIONAL PROVISIONS

1. **LANDLORD RESPONSIBILITIES**.

(a) Landlord will deliver the Premises and Parking Area in conformance with the provisions of Title III of the Americans With Disabilities Act ("ADA") and in compliance with all life safety, Title 24 and seismic codes. Said costs of compliance shall be Landlord's sole cost and expense and shall not be part of Project Costs. Landlord shall correct, repair or replace any non-compliance of the Building and the Common Areas with any revisions or amendments to applicable building codes, including the ADA, becoming effective after the execution of this Lease, provided that the amortized cost of such repairs or replacements (amortized over the useful life thereof) shall be included as Project Costs payable by Tenant. All other ADA compliance issues which pertain to the Premises after the Commencement Date in connection with Tenant's construction of any Alterations or other improvements in the Premises and the operation of Tenant's business and employment practices in the Premises, shall be the responsibility of Tenant at its sole cost and expense. The repairs, corrections or replacements required of Landlord or of Tenant under the foregoing provisions of this Section shall be made promptly following notice of non-compliance from any applicable governmental agency.

(b) Landlord warrants to Tenant that the roof, plumbing, fire sprinkler system, lighting, heating, ventilation and air conditioning systems and electrical systems serving the Premises and Parking Area shall be in good operating condition on the Commencement Date of this Lease. Landlord shall correct all HVAC deficiencies prior to the Commencement Date as delineated in the Alpha Mechanical, Inc. report dated February 9, 2012 and attached hereto as **Exhibit G-1**. Provided that Tenant shall notify Landlord of a non-compliance with the foregoing warranty not later than 6 months following the Commencement Date and further provided that such condition was not caused by Tenant, its agents, employees or contractors, then Landlord shall, except as otherwise provided in this Lease, promptly after receipt of written notice from Tenant setting forth the nature and extent of such non-compliance, rectify same at Landlord's sole cost and expense (and not as a Project Cost). Landlord will cause any existing warranties Landlord has or will have for the above items to be assigned to Tenant.

(c) Landlord shall correct, repair and/or replace, at its sole cost and expense and not as a Project Cost, the structural components of the roof, the load-bearing walls and the foundations and footings of the Building serving the Premises. Notwithstanding the foregoing, Landlord's obligation contained in this Section to bear such costs and expenses shall not apply: (i) to the cost of replacing the roof membrane and accompanying roof materials as and when such replacement is required, nor (ii) to the extent of the negligence or willful misconduct by Tenant, its employees, agents, contractors, licensees or invitees (in which case Tenant shall be responsible for the reasonable costs of such repairs and/or replacements). The repairs or replacements required of Landlord pursuant to this Section shall be made promptly following notice from Tenant.

2. **TEMPORARY SPACE**. Landlord shall lease to Tenant, and Tenant shall lease from Landlord, approximately 10,000 rentable square feet of space in the Project for Tenant's temporary use until the Commencement Date of the Lease (the "Temporary Premises"). The lease of the Temporary Premises shall be subject to all of the terms of the Lease except that: (i) the lease term for the Temporary Premises shall commence ("Commencement Date for the Temporary Premises") on the date Landlord makes the Temporary Premises available to Tenant following the execution of this Lease, and shall continue thereafter until 30 days after the Commencement Date of the Lease, or, if applicable, the sooner termination of the Lease; (ii) there shall be no charge for the Temporary Premises during Tenant's occupancy thereof; and (iii) Tenant shall take possession of the Temporary Premises in its existing condition (i.e., "as-is"), and waives any right or claim against Landlord arising out of the condition of the Temporary Premises. If Tenant fails to vacate the Temporary Premises by 30 days after the Commencement Date of the Lease, then Tenant's occupancy thereafter shall be subject to the provisions of Section 15.3 of the Lease.

3. **RIGHT TO EXTEND**. Provided that Tenant is not in Default under any provision of this Lease at the time of exercise of the extension right granted herein, and provided further that Tenant is occupying at least 60% of the Building (or in the event Tenant leases one or more of the First Right Spaces Tenant shall occupy at least 75% of the then total rentable square feet of the Premises) and has not assigned or sublet any of its interest in this Lease (except in connection with a Permitted Transfer of this Lease to an Affiliate as described in Section 9.1(e) hereof), Tenant may extend the Term of this Lease for one period of 60 months. Tenant shall exercise its right to extend the Term by and only by delivering to Landlord, not less than 9 months nor more than 12 months prior to the expiration date of the Term, Tenant's written notice of its irrevocable commitment to extend (the "**Commitment Notice**"). Should Tenant fail timely to deliver the Commitment Notice, then this extension right shall thereupon lapse and be of no further force or effect.

The Basic Rent payable under the Lease during the extension of the Term shall be at the prevailing market rental rate (including periodic adjustments) for comparable and similarly improved office space being leased by Landlord in the Project as of the commencement of the extension period, based on a reasonable extrapolation of Landlord's then-current leasing rates (the "**Prevailing Rate**"). In the event that the parties are not able to agree on the Prevailing Rate within 120 days prior to the expiration date of the Term, then either party may elect, by written notice to the other party, to cause said rental, including subsequent adjustments, to be determined by appraisal as follows.

Within 10 business days following receipt of such appraisal election, the parties shall attempt to agree on an appraiser to determine the Prevailing Rate. If the parties are unable to agree in that time, then each party shall designate an appraiser within 10 business days thereafter. Should either party fail to so designate an appraiser within that time, then the appraiser designated by the other party shall determine the Prevailing Rate. Should each of the parties timely designate an appraiser, then the two appraisers so designated shall appoint a third appraiser who shall, acting alone, determine the fair market rental value of the Premises. Any appraiser designated hereunder shall have an M.A.I. certification or equivalent with not less than 5 years experience in the valuation of commercial office buildings in San Diego County, California.

Within 10 business days following the selection of the appraiser, Landlord and Tenant shall each submit in writing to the appraiser its determination of the rental rate for the extension period (respectively, the "**Landlord's Determination**" and the "**Tenant's Determination**"). Should either party fail timely to submit its rental determination, then the determination of the other party shall be conclusive and binding on the parties. The appraiser shall not disclose to either party the rental determination of the other party until the expiration of that 10 business day period or, if sooner, the appraiser's receipt of both the Landlord's Determination and the Tenant's Determination.

Within 30 days following the selection of the appraiser and such appraiser's receipt of the Landlord's Determination and the Tenant's Determination, the appraiser shall determine whether the rental rate determined by Landlord or by Tenant more accurately reflects Prevailing Rate for the Premises, as reasonably extrapolated to the commencement of the extension term. Accordingly, either the Landlord's Determination or the Tenant's Determination shall be selected by the appraiser as the fair market rental rate for the extension period. In determining such value, the appraiser shall first consider rental comparables for the Building and the Project, provided that if adequate comparables do not exist then the appraiser may consider transactions involving similarly improved space shown on Exhibit Y with appropriate adjustments for differences in location and quality of project. In no event shall the appraiser attribute factors for market tenant improvement allowances or brokerage commissions to reduce said fair market rental (it being understood, however, that if a proposed third party tenant transaction for the Premises would require the payment of a brokerage commission by Landlord and if Tenant is then being actively represented by a broker, Landlord shall pay a comparable commission to Tenant's broker). At any time before the decision of the appraiser is rendered, either party may, by written notice to the other party, accept the rental terms submitted by the other party, in which event such terms shall be deemed adopted as the agreed fair market rental. The fees of the appraiser(s) shall be borne entirely by the party whose determination of the fair market rental rate was not accepted by the appraiser.

Within 20 days after the determination of the fair market rental, Landlord shall prepare a reasonably appropriate amendment to this Lease for the extension period and Tenant shall execute and return same to Landlord within 10 days. Should the fair market rental not be established by the commencement of the extension period, then Tenant shall continue paying rent at the rate in effect during the last month of the initial Term, and a lump sum adjustment shall be made promptly upon the determination of such new rental.

If Tenant fails to timely comply with any of the provisions of this paragraph, Tenant's right to extend the Term may, at Landlord's election and in addition to any other remedies that may be available to Landlord, be extinguished, in which event the Lease shall automatically terminate as of the initial expiration date of the Term. Any attempt to assign or transfer any right or interest created by this paragraph to other than an Affiliate shall be void from its inception. Tenant shall have no other right to extend the Term beyond the single 60 month extension created by this paragraph. Unless agreed to in a writing signed by Landlord and Tenant, any extension of the Term, whether created by an amendment to this Lease or by a holdover of the Premises by Tenant, or otherwise, shall be deemed a part of, and not in addition to, any duly exercised extension period permitted by this paragraph. Time is specifically made of the essence in this Section.

4. **RIGHT OF FIRST OFFER**. Provided Tenant is not then in Default hereunder, Landlord hereby grants Tenant a one-time right ("**First Right**") to lease, during the initial 96 month Term of this Lease, each of the following spaces: (i) approximately 47,000 rentable square feet of office space at the building known as 4760 Eastgate Mall and (ii) approximately 65,000 rentable square feet of office space at the building known as 4820 Eastgate mall, all shown on **Exhibit A-1** hereto (collectively "**First Right Space**") in accordance with and subject to the provisions of this Section; provided that this First Right shall cease to be effective during the final 12 months of the Term unless and until Tenant exercises its extension option set forth in Paragraph 3 of Exhibit G above. Except as otherwise provided below, prior to leasing the First Right Space, or any portion thereof, to any other party during the period that this First Right is in effect and after determining that the existing tenant in the First Right Space will not extend or renew the term of its lease, Landlord shall give Tenant written notice of the basic economic terms including but not limited to the Basic Rent, term, operating expense base, security deposit, and tenant improvement allowance (collectively, the "**Economic Terms**"), upon which Landlord is willing to lease such particular First Right Space to Tenant or to a third party; provided that the Economic Terms shall exclude brokerage commissions and other Landlord payments that do not directly inure to the tenant's benefit. In no event shall Landlord give Tenant a notice of availability earlier than 6 months prior to the termination date of the existing leases relating to the First Right Space. It is understood that should Landlord intend to lease other office space in addition to the First Right Space as part of a single transaction, then Landlord's notice shall so provide and all such space shall collectively be subject to the following provisions. Within 10 business days after receipt of Landlord's notice, Tenant must give Landlord written notice pursuant to

which Tenant shall elect to (i) lease all, but not less than all, of the space specified in Landlord's notice (the "**Designated Space**") upon such Economic Terms and the same non-Economic Terms as set forth in this Lease; (ii) refuse to lease the Designated Space, specifying that such refusal is not based upon the Economic Terms, but upon Tenant's lack of need for the Designated Space, in which event Landlord may lease the Designated Space upon any terms it deems appropriate; or (iii) refuse to lease the Designated Space, specifying that such refusal is based upon said Economic Terms, in which event Tenant shall also specify revised Economic Terms upon which Tenant shall be willing to lease the Designated Space. In the event that Tenant does not so respond in writing to Landlord's notice within said period, Tenant shall be deemed to have elected clause (ii) above. In the event Tenant gives Landlord notice pursuant to clause (iii) above, Landlord may elect to either (x) lease the Designated Space to Tenant upon such revised Economic Terms and the same other non-Economic Terms as set forth in this Lease, or (y) lease the Designated Space to any third party upon Economic Terms which are more than 5% more favorable to Landlord than those Economic Terms proposed by Tenant. Should Landlord so elect to lease the Designated Space to Tenant, then Landlord shall promptly prepare and deliver to Tenant an amendment to this Lease consistent with the foregoing, and Tenant shall execute and return same to Landlord within 10 business days. Tenant's failure to timely return the amendment shall entitle Landlord to specifically enforce Tenant's commitment to lease the Designated Space, to lease such space to a third party, and/or to pursue any other available legal remedy. Notwithstanding the foregoing, it is understood that Tenant's First Right shall be subject to any extension or expansion rights previously granted by Landlord to any third party tenant in the Building, as well as to any such rights which may hereafter be granted by Landlord to any third party tenant occupying the First Right Space or any portion thereof, and Landlord shall in no event be obligated to initiate this First Right prior to leasing any portion of the First Right Space to the then-current occupant thereof. Tenant's rights under this Section shall be personal to the original Tenant named in this Lease and may not be assigned or transferred (except in connection with a Permitted Transfer of this Lease to an Affiliate as described in Section 9.1(e) hereof). Any other attempted assignment or transfer shall be void and of no force or effect.

5. **EXTERIOR/MONUMENT SIGNAGE**. Tenant shall have the right to install: (i) one non-exclusive monument sign facing Eastgate Mall and (ii) 2 exterior Building top signs as follows (one facing Eastgate Mall and one above the lobby entrance facing north) (collectively, the "**Exterior Signage**"), which signage shall consist of "ServiceNow." The type and design of such signage shall be subject to the prior written approval of Landlord and the City of San Diego, and shall be consistent with Landlord's signage criteria for the Project attached hereto as **Exhibit Z**. Fabrication, installation, insurance, and maintenance of such signage shall be at Tenant's sole cost and expense. Tenant understands and agrees that Landlord shall reasonably pre-approve the designated contractor selected by Tenant for installing the Exterior Signage. Except for the foregoing, no sign, advertisement or notice visible from the exterior of the Premises shall be inscribed, painted or affixed by Tenant on any part of the Premises without the prior consent of Landlord. Tenant's signage right shall belong solely to the original Tenant and may not be transferred or assigned (except in connection with an assignment of this Lease to an Affiliate as described in Section 9.1(e) hereof) without Landlord's prior written consent which will not be unreasonably withheld by Landlord. In the event Tenant, exclusive of any subtenant(s), fails to occupy at least 60% of the Building (or in the event Tenant leases one or more of the First Right Spaces, then Tenant fails to occupy at least 75% of the then total rentable square feet of the Premises), then Tenant shall, within thirty (30) days following notice from Landlord, remove the Exterior Signage at Tenant's expense. Tenant shall remove such signage promptly following the expiration or earlier termination of the Lease. Any such removal shall be at Tenant's sole expense, and Tenant shall bear the cost of any resulting repairs to the Building that are reasonably necessary due to the removal.

6**. TENANT'S SECURITY SYSTEM.** Subject to the terms of this Lease, including, without limitation Section 7.3 of this Lease, Tenant may, at its own expense, install its own security system ("**Tenant's Security System**") in the Premises, provided, however, that Tenant shall coordinate the installation and operation of Tenant's Security System with Landlord to assure that Tenant's Security is compatible with Landlord's security system and the Building's systems and equipment and to the extent that Tenant's Security System is not compatible with Landlord's security system and the Building systems equipment, Tenant shall not be entitled to install or operate it (and Tenant shall not actually install or operate Tenant's Security System unless Tenant has obtained Landlord's approval of such compatability in writing prior to such installation or operation). Tenant shall be solely responsible, at Tenant's sole cost and expense, for the monitoring, operation and removal of Tenant's Security System.

7. **SATELLITE DISH**. Tenant shall have the right to maintain and operate within an area designated by Landlord on the roof of the Building (the "**Licensed Area**"), during the Term of this Lease, communication equipment (the "**Dish**") at a location determined by Landlord (of which the height, appearance and installation procedures must be approved in writing by Landlord) in accordance with and subject to the following terms. Tenant shall utilize a contractor reasonably acceptable to Landlord to install the Dish, which contractor shall comply with Landlord's construction rules for the Building, including without limitation Landlord's standard insurance requirements. Landlord reserves the right upon reasonable notice to Tenant to require either (a) the relocation of all equipment installed by Tenant to another location on the roof of the Building, or (b) the removal of any or all of such equipment should Landlord determine that its presence may result in damage to the Building and that Tenant has not made satisfactory arrangements to protect Landlord therefrom. Tenant shall use the Licensed Area only for the operation and maintenance of the Dish and the necessary mechanical and electrical equipment to service the Dish. The right to utilize the Dish and Licensed Area shall be limited solely to Tenant, and in no event may Tenant assign or sublicense such right to other than an Affiliate. Tenant shall not use or permit any other person to use the Licensed Area for any improper use or for any operation which would constitute a nuisance, and Tenant shall at all times conform to and cause all persons using any part of the Licensed

Area to comply with all public laws, ordinances and regulations from time to time applicable thereto and to all operations thereon. Tenant shall require its employees, when using the Licensed Area, to stay within the immediate confines thereof. In the event a cable television system is operating in the area, Tenant shall at all times conduct its operations so as to ensure that the cable television system shall not be subject to harmful interference as a result of such operations by Tenant. Upon notification from Landlord of any such interference, Tenant agrees to immediately take the necessary steps to correct such situation, and Tenant's failure to do so shall be deemed a default under the terms of this Lease. During the Lease Term, Tenant shall comply with any standards promulgated by applicable governmental authorities or otherwise reasonably established by Landlord regarding the generation of electromagnetic fields. Should Landlord determine in good faith at any time that the Dish poses a health or safety hazard to occupants of the Building, Landlord may require Tenant to remove the Dish or make other arrangements satisfactory to Landlord. Any claim or liability resulting from the use of the Dish shall be subject to Tenant's indemnification obligation as set forth in Section 10.3 of the Lease. Upon the expiration or earlier termination of this Lease, Tenant shall remove the Dish and all other equipment installed by it and shall restore the Licensed Area to its original condition.

8. **SUPPLEMENTAL HVAC UNIT**. Tenant shall have the right to install and maintain up to 2 supplemental air condition units servicing only the Premises on the roof of the Building ("**Supplemental HVAC Unit**"). The costs of operating, maintaining and repairing any Supplemental HVAC Unit shall be borne solely by Tenant; provided that Landlord shall provide the maintenance and repair to such Supplemental HVAC Unit and charge Tenant the same as additional rent. Such costs shall include all metered electrical charges, together with the cost to supply cooling water or other means of heat dissipation for the Supplemental HVAC Unit. Should Tenant desire to install such Supplemental HVAC Unit, the plans and specifications must be submitted in advance to Landlord and approved in writing by Landlord. Such installation shall be at Tenant's sole expense and shall include installation of a separate meter for the operation of the Supplemental HVAC Unit.

EXHIBIT G-1

ALPHA MECHANICAL, INC. LETTER

Alpha Mechanical, Inc.
4885 Greencraig Lane • San Diego, CA 92123 • (858) 279-1300

February 9, 2012

Irvine Co., 4810 Eastgate Mall
RE: Building equipment condition/evaluation

As per your request, the following is an evaluation/condition report for the HVAC equipment at above said address.

AC#1
Make: Trane
Model #: SXHGC9040-90 ton
Serial #: C99J19645M-year 1999

- Found VFD for supply fan #1 running at a slower speed than #2. Signal from unit was at 60% but unable to diagnose problem due to a bad display on VFD and no other displays are on sight. It is probable that the VFD will need to be replaced.
- The return/outside air modulating motor is bad and outside air damper section is frozen and inoperable
- All compressors and condenser fan motors are operable at this time.
- Condenser coils are in good condition.

The unit overall condition is good. With repairs to this unit and proper preventative maintenance the life expectancy should be 5+ years.

AC #2
Make: Trane
Model #: SXHGC9040-90 ton
Serial #: C99J19644M-year 1999

- Found line voltage wiring at condenser fan fuse block over heated and broken. Made temporary repair to wire to check fans. Will need to make permanent repairs to fuse block All condenser fans are operable.
- Found fuses blown to control transformers due to corroded wiring. Made repairs to wiring and replaced fuses in order to check unit operation.
- Compressor 1C is grounded and needs to be replaced.
- All 3 VFD display modules for the return and supply fans are missing.
- The west side supply fan has been disabled due to a grounded VFD. The supply fan motor checks good with a meter but unable to test run.
- The return/outside air damper linkage is broken and outside damper section frozen and inoperable.
- The condenser coils are in good condition.

The unit overall condition is good. With repairs to this unit and proper preventative maintenance the life expectancy should be 5+ years.

AC #3
Make: Trane
Model #: SXHGD1140-105 ton
Serial #: C99J19647M-year 1999

- The return/outside air damper linkage is disconnected and outside damper section frozen and inoperable.
- All 3 VFD display modules for return and supply fans are missing.
- Supply and return fan belts need replaced.
- All compressors and condenser fans are operable.
- The condenser coils are in good condition.

The unit overall condition is good. With repairs to this unit and proper preventative maintenance the life expectancy should be 5+ years.

Heating hot water boiler
Make: Raypak
Model #: H9-2072
Serial #: 9912165413-year 1998-99

- The auto fill make up water station for the hot water loop is defective and needs to be replaced.
- The loop temperature gauges are bad.
- The manual high limit control is bad and the auto high limit control is out of range.
- The heat exchanger is severely sooted and needs a complete tear down, cleaning of burners/heat exchanger and further inspection.
- There is no low water cutout installed on the boiler.
- The combustion air intake has been altered and ducted to each induction fan motor.
- The boiler had a lock out flame failure possibly due to that the boiler doesn’t have a bypass for cold water start up. When starting a boiler in a cold water state without a minimum inlet water temperature, condensation occurs in the burner chamber resulting in sooting and other failures.
- A portion of the original control components have been removed and after market parts installed and wired into system altering its original design and functionality.

Due to the current known condition, alteration of original manufacturers design, existing state of boiler and extensive cost of attempting to return the equipment back to original specifications and functionality, Alpha Mechanical recommends replacement. The boiler is non operational at this time.

Hot water circulation pumps
Make: B&G
Model #:NA-10 HP

East pump

- The pump/motor assembly is in good condition. There are no signs of water leaks or noisy bearings.

West pump

- This pump was not running at time of inspection and there is no manual override switch located on the roof and no control front end to alternate motors.
- Visual inspection of pump shows no signs of seal leakage and motor does rotate by hand.
- Insulation on roof for hot water piping is intact and in fair/good condition.

Exhaust fan #9-bathrooms
Make: Greenheck
Model #: CUBE-120-4
Serial#: 99K08577

- Needs drive belt replaced. Overall unit condition is good.

Exhaust fan #8-elevator
Make: Greenheck
Model #:CUBE-240-10
Serial #: 99K0866

- Needs belt. Overall unit condition is good.

Exhaust fan #2-parking garage
Make: Greenheck
Model #: 36-TCF-9-HCH-II
Serial #: 79K11183

- Unit is operational and in good condition.

Exhaust fan #3-parking garage (located on roof)
Make: Greenheck
Model #: M-30-TCF-9-UBRM-II
Serial #: 99K05672

- Needs drive belt replaced. Overall unit condition is good.

Exhaust fan #4-parking garage (located on roof)
Make: Greenheck
Model #: M-30-TCF-9-UBRM-II
Serial #: 99K05671

- Needs drive belt replaced. Overall unit condition is good.

Made visual inspections of medium pressure ducting and VAV boxes throughout building for deficiencies and air leaks. None were found at this time. We were unable to view any operational errors on VAV boxes as there is no front end at building site.

EXHIBIT H

IRREVOCABLE STANDBY LETTER OF CREDIT

Number:_____
Date: _____
Amount: _____
Expiration: _____

BENEFICIARY
The Irvine Company LLC
550 Newport Center Drive
Newport Beach, CA 92660
Attn: Senior Vice President, Finance
Office Properties

ACCOUNT PARTY
_____
_____
_____
_____

We hereby issue our Irrevocable Letter of Credit No. _____in favor of The Irvine Company LLC ("Beneficiary"), its successors by operations of law or transferee(s), for the account of _____. We undertake to honor your sight draft, upon presentation at our office in Los Angeles, California, for any sum or sums not to exceed a total of _____($ _____) in favor of Beneficiary when accompanied by the original of this Letter of Credit.

Partial and multiple drawings are permitted under this Letter of Credit. In the event of a partial draw, the amount of the draft shall be endorsed on the reverse side hereof.

THIS LETTER OF CREDIT IS TRANSFERABLE, BUT ONLY IN ITS ENTIRETY, AND MAY BE SUCCESSIVELY TRANSFERRED. TRANSFER OF THIS LETTER OF CREDIT SHALL BE EFFECTED BY US UPON YOUR SUBMISSION OF THIS ORIGINAL LETTER OF CREDIT, INCLUDING ALL AMENDMENTS, IF ANY, ACCOMPANIED BY THE ATTACHED TRANSFER REQUEST FORM DULY COMPLETED AND SIGNED, WITH THE SIGNATURE THEREON AUTHENTICATED BY YOUR BANK ALONG WITH PAYMENT OF OUR TRANSFER CHARGES AS INDICATED THEREIN. IN ANY EVENT, THIS LETTER OF CREDIT WILL NOT BE TRANSFERRED TO ANY PERSON OR ENTITY LISTED IN OR OTHERWISE SUBJECT TO ANY SANCTION OR EMBARGO UNDER ANY APPLICABLE RESTRICTIONS.

It is a condition of this Letter of Credit that it shall remain enforceable as of the issuance date hereof and shall expire on [— insert date that _____from the issuance date —]; and it shall be deemed automatically extended for successive one-year periods without amendment from the present or any future expiry date unless at least thirty (30) days prior to the expiration date we send you our notice in writing by certified mail, return receipt requested or courier, that we elect not to extend this Letter of Credit for any subsequent year.

The draft must be marked "Drawn under _____Letter of Credit No._____dated _____."

WE ENGAGE WITH YOU THAT DOCUMENTS PRESENTED UNDER AND IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT WILL BE DULY HONORED ON PRESENTATION IF PRESENTED AT OUR OFFICE AT [_____], ATTN: STANDBY LETTER OF CREDIT UNIT, ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT. THE ORIGINAL LETTER OF CREDIT MUST ACCOMPANY THE DOCUMENTS PRESENTED FOR PAYMENT HEREUNDER FOR ENDORSEMENT.
EXCEPT WHEN THE AMOUNT OF THE DRAWING FULLY UTILIZES THIS LETTER OF CREDIT, WE UNDERTAKE TO RETURN THE ORIGINAL LETTER OF CREDIT TO YOU WITH THE AMOUNT OF THE PAYMENT ENDORSED THEREON.

There are no other conditions of this letter of credit. Except so far as otherwise stated, this credit is subject to the International Standby Practices 1998, International Chamber of Commerce Publication No. 590 ("ISP98"), and as to the matters not governed by ISP98, shall be construed in accordance in accordance with the law of the State of California.

PLEASE ADDRESS ALL CORRESPONDENCE REGARDING THIS LETTER OF CREDIT TO THE ATTENTION OF THE STANDBY LETTER OF CREDIT UNIT, [_____], INCLUDING THE LETTER OF CREDIT NUMBER MENTIONED ABOVE. FOR TELEPHONE ASSISTANCE, PLEASE CONTACT THE STANDBY CLIENT SERVICE UNIT AT 1-800-634-1969, SELECT OPTION 1, OR (213)-XXX-XXXX, AND HAVE THIS LETTER OF CREDIT NUMBER AVAILABLE.

By: _____
By: _____

EXHIBIT X
WORK LETTER

DOLLAR ALLOWANCE
[SECOND GENERATION SPACE]

The Tenant Improvement work (herein "**Tenant Improvements**") shall consist of any work required to complete the Premises pursuant to plans and specifications approved by both Landlord and Tenant. All of the Tenant Improvement work shall be performed by a contractor engaged by Landlord and selected on the basis of competitive bids submitted by 3 general contractors designated by Landlord and reasonably approved by Tenant. The work shall be undertaken in accordance with the procedures and requirements set forth below.

I. ARCHITECTURAL AND CONSTRUCTION PROCEDURES

A. Tenant has approved, or shall approve within the time period set forth below, a detailed space plan for the Premises, prepared by the architect engaged by Landlord for the work described herein ("**Landlord's Architect**"), which includes interior partitions, ceilings, interior finishes, interior office doors, suite entrance, floor coverings, window coverings, lighting, electrical and telephone outlets, plumbing connections, heavy floor loads and other special requirements ("**Preliminary Plan**"), and (ii) an estimate, prepared by the contractor engaged by Landlord for the work herein ("**Landlord's Contractor**"), of the cost for which Landlord will complete or cause to be completed the Tenant Improvements ("**Preliminary Cost Estimate**"). Tenant shall approve or disapprove the Preliminary Plan by signing and delivering same to Landlord within 3 business days of its receipt by Tenant. If Tenant disapproves any matter, Tenant shall specify in detail the reasons for disapproval and Landlord shall attempt to modify the Preliminary Plan to incorporate Tenant's suggested revisions in a mutually satisfactory manner. Notwithstanding the foregoing, however, Tenant shall approve in all respects a Preliminary Plan not later than **February 29, 2012** ("**Plan Approval Date**"), it being understood that Tenant's failure to do so shall constitute a "Tenant Delay" for purposes of this Lease.

B. On or before the Plan Approval Date, Tenant shall provide in writing to Landlord or Landlord's Architect all specifications and information requested by Landlord for the preparation of final construction documents and costing, including without limitation Tenant's final selection of wall and floor finishes, complete specifications and locations (including load and HVAC requirements) of Tenant's equipment, and details of all other non-building standard improvements to be installed in the Premises (collectively, "**Programming Information**"). Tenant's failure to provide the Programming Information by the Plan Approval Date shall constitute a Tenant Delay for purposes of this Lease . Tenant understands that final construction documents for the Tenant Improvements shall be predicated on the Programming Information, and accordingly that such information must be accurate and complete.

C. Upon Tenant's approval of the Preliminary Plan and Preliminary Cost Estimate and delivery of the complete Programming Information, Landlord's Architect and engineers shall prepare and deliver to the parties working drawings and specifications ("**Working Drawings and Specifications**"), and Landlord's Contractor shall prepare a final construction cost estimate ("**Final Cost Estimate**") for the Tenant Improvements in conformity with the Working Drawings and Specifications. Tenant shall have 5 business days from the receipt thereof to approve or disapprove the Working Drawings and Specifications and the Final Cost Estimate, and any disapproval or requested modification shall be limited to items not contained in the approved Preliminary Plan or Preliminary Cost Estimate. Tenant shall also have the right to change the plans if it finds the costs do not meet the Landlord Contribution. Should Tenant disapprove the Working Drawings and Specifications and the Final Cost Estimate, such disapproval shall be accompanied by a detailed list of revisions. Any revision requested by Tenant and accepted by Landlord shall be incorporated by Landlord's Architect into a revised set of Working Drawings and Specifications and Final Cost Estimate, and Tenant shall approve same in writing within 3 business days of receipt without further revision. Tenant's failure to comply in a timely manner with any of the requirements of this paragraph shall constitute a Tenant Delay. Without limiting the rights of Landlord for Tenant Delays as set forth herein, in the event Tenant has not approved both the Working Drawings and Specifications and the Final Cost Estimate within 60 days following the date of this Lease, then Landlord may, at its option, elect to terminate this Lease by written notice to Tenant. In the event Landlord elects to effect such a termination, Tenant shall, within 10 days following demand by Landlord, pay to Landlord any costs incurred by Landlord in connection with the preparation or review of plans, construction estimates, price quotations, drawings or specifications under this Work Letter and for all costs incurred in the preparation and execution of this Lease, including any leasing commissions.

D. It is understood that the Preliminary Plan and the Working Drawings and Specifications, together with any Changes thereto, shall be subject to the prior approval of Landlord. Landlord shall identify any disapproved items within 3 business days (or 2 business days

in the case of Changes) after receipt of the applicable document. Should Landlord approve work that would necessitate any ancillary Building modification or other expenditure by Landlord, then except to the extent of any remaining balance of the "Landlord Contribution" as described below, Tenant shall, in addition to its other obligations herein, fund the cost thereof to Landlord as follows: (i) 33% by June 1, 2012, (ii) 33% upon 50% of the completion of the Tenant Improvements and (iii) the remaining balance upon substantial completion of the Tenant Improvements. All payments shall be made to Landlord within 30 days upon receipt of invoices.

E. Upon approval of the Working Drawings and Specifications, Landlord shall submit them to competitive bid as provided above. Each bidding contractor shall use the electrical, mechanical, plumbing and fire/life safety engineers and subcontractors designated by Landlord. All other subcontractors shall be subject to Landlord's reasonable approval, and Landlord may require that one or more designated subtrades be union contractors. The lowest responsible bidder shall be selected as Landlord's general contractor and the bid amount shall be deemed the "Final Cost Estimate" for purposes hereof.

F. In the event that Tenant requests in writing a revision in the approved Working Drawings and Specifications ("**Change**"), then provided such Change is acceptable to Landlord, Landlord shall advise Tenant by written change order as soon as is practical of any increase in the Completion Cost and/or any Tenant Delay such Change would cause. Tenant shall approve or disapprove such change order in writing within 2 business days following its receipt from Landlord. It is understood that Landlord shall have no obligation to interrupt or modify the Tenant Improvement work pending Tenant's approval of a change order.

G. Notwithstanding any provision in the Lease to the contrary, if Tenant fails to comply with any of the time periods specified in this Work Letter, fails otherwise to approve or reasonably disapprove any submittal within 3 business days, fails to approve in writing the Preliminary Plan by the Plan Approval Date, fails to provide all of the Programming Information requested by Landlord by the Plan Approval Date, fails to approve in writing the Working Drawings and Specifications within the time provided herein, requests any Changes, fails to make timely payment of any sum due hereunder, furnishes inaccurate or erroneous specifications or other information, or otherwise delays in any manner the completion of the Tenant Improvements (including without limitation by specifying materials that are not readily available) or the issuance of an occupancy certificate (any of the foregoing being referred to in this Lease as "**Tenant Delay**"), then Tenant shall bear any resulting additional construction cost or other expenses, and the Commencement Date shall be deemed to have occurred for all purposes, including Tenant's obligation to pay Rent, as of the date Landlord reasonably determines that it would have been able to deliver the Premises to Tenant but for the collective Tenant Delays. Should Landlord determine that the Commencement Date should be advanced in accordance with the foregoing, it shall so notify Tenant in writing. Landlord's determination shall be conclusive unless Tenant notifies Landlord in writing, within 5 business days thereafter, of Tenant's election to contest same by binding arbitration with the American Arbitration Association under its Arbitration Rules for the Real Estate Industry, and judgment on the arbitration award may be entered in any court having jurisdiction thereof. Pending the outcome of such arbitration proceedings, Tenant shall make timely payment of all rent due under this Lease based upon the Commencement Date set forth in the aforesaid notice from Landlord.

H. Landlord shall permit Tenant and its agents to enter the Premises upon execution of the Lease by both parties in order that Tenant may perform any work to be performed by Tenant hereunder through its own contractors, subject to Landlord's prior written approval, and in a manner and upon terms and conditions and at times satisfactory to Landlord's representative. The foregoing license to enter the Premises prior to the Commencement Date is, however, conditioned upon Tenant's contractors and their subcontractors and employees working in harmony and not interfering with the work being performed by Landlord. If at any time that entry shall cause disharmony or interfere with the work being performed by Landlord, this license may be withdrawn by Landlord upon 24 hours written notice to Tenant. That license is further conditioned upon the compliance by Tenant's contractors with all requirements imposed by Landlord on third party contractors and subcontractors, including without limitation the maintenance by Tenant and its contractors and subcontractors of workers' compensation and public liability and property damage insurance in amounts and with companies and on forms satisfactory to Landlord, with certificates of such insurance being furnished to Landlord prior to proceeding with any such entry. The entry shall be deemed to be under all of the provisions of the Lease except as to the covenants to pay Rent unless Tenant commences business activities within the Premises. Landlord shall not be liable in any way for any injury, loss or damage which may occur to any such work being performed by Tenant, the same being solely at Tenant's risk. In no event shall the failure of Tenant's contractors to complete any work in the Premises extend the Commencement Date.

I. Tenant hereby designates Marion Fridman, Telephone No. (858) 436-7435, as its representative, agent and attorney-in-fact for the purpose of receiving notices, approving

submittals and issuing requests for Changes, and Landlord shall be entitled to rely upon authorizations and directives of such person(s) as if given directly by Tenant. Landlord shall also provide copies of any notices to Mike Scarpelli, CFO, at the address provided in Item 12 of the Basic Lease Provisions. Tenant may amend the designation of its construction representative(s) at any time upon delivery of written notice to Landlord.

II. COST OF TENANT IMPROVEMENTS

A. Landlord shall complete, or cause to be completed, the Tenant Improvements, at the construction cost shown in the Final Cost Estimate (subject to the provisions of this Work Letter), in accordance with final Working Drawings and Specifications approved by both Landlord and Tenant. Landlord shall pay towards the final construction costs ("**Completion Cost**") as incurred a maximum of $4,727,150.00 ("**Landlord Contribution**"), based on $50.00 per rentable square foot of the Premises, and Tenant shall be fully responsible for the remainder ("**Tenant Contribution**"). Notwithstanding the foregoing, Tenant may utilize a portion of the Landlord Contribution not to exceed $472,715.00 toward the out-of-pocket expenses incurred by Tenant for relocating to the Premises, including furniture moving, data cabling costs and consulting costs ("**Moving Allowance**"). Tenant shall be reimbursed for such expenses by submitting copies of all supporting third-party invoices to Landlord within 120 days after the Commencement Date. Landlord shall reimburse Tenant in one installment within 30 days following receipt of all such invoices. If the actual cost of completion of the Tenant Improvements is less than the maximum amount provided for the Landlord Contribution, such savings shall inure to the benefit of Landlord and Tenant shall not be entitled to any credit or payment or to apply the savings toward additional work.

In addition to the Landlord Contribution, Landlord shall make available to Tenant an amount not to exceed $945,430.00 ("**Additional Contribution**") for the Tenant Improvements hereunder to be utilized by Tenant not later than December 31, 2012 in connection with the initial Tenant Improvement work, which amount shall be amortized over the 96 month Lease Term at 8% per annum and repaid in monthly installments with the Basic Rent. Upon determination of the amount of the Additional Contribution, if any, Landlord shall memorialize same, together with the monthly repayment schedule, in writing and Tenant shall promptly acknowledge same.

B. The Completion Cost shall include all direct costs of Landlord in completing the Tenant Improvements, including but not limited to the following: (i) payments made to architects, engineers, contractors, subcontractors and other third party consultants in the performance of the work, (ii) permit fees and other sums paid to governmental agencies, (iii) costs of all materials incorporated into the work or used in connection with the work (excluding any furniture, trade fixtures and personal property equipment relating to the Premises), and (iv) keying and signage costs. The Completion Cost shall also include an administrative/supervision fee to be paid to Landlord in the amount of 3% of the Landlord Contribution.

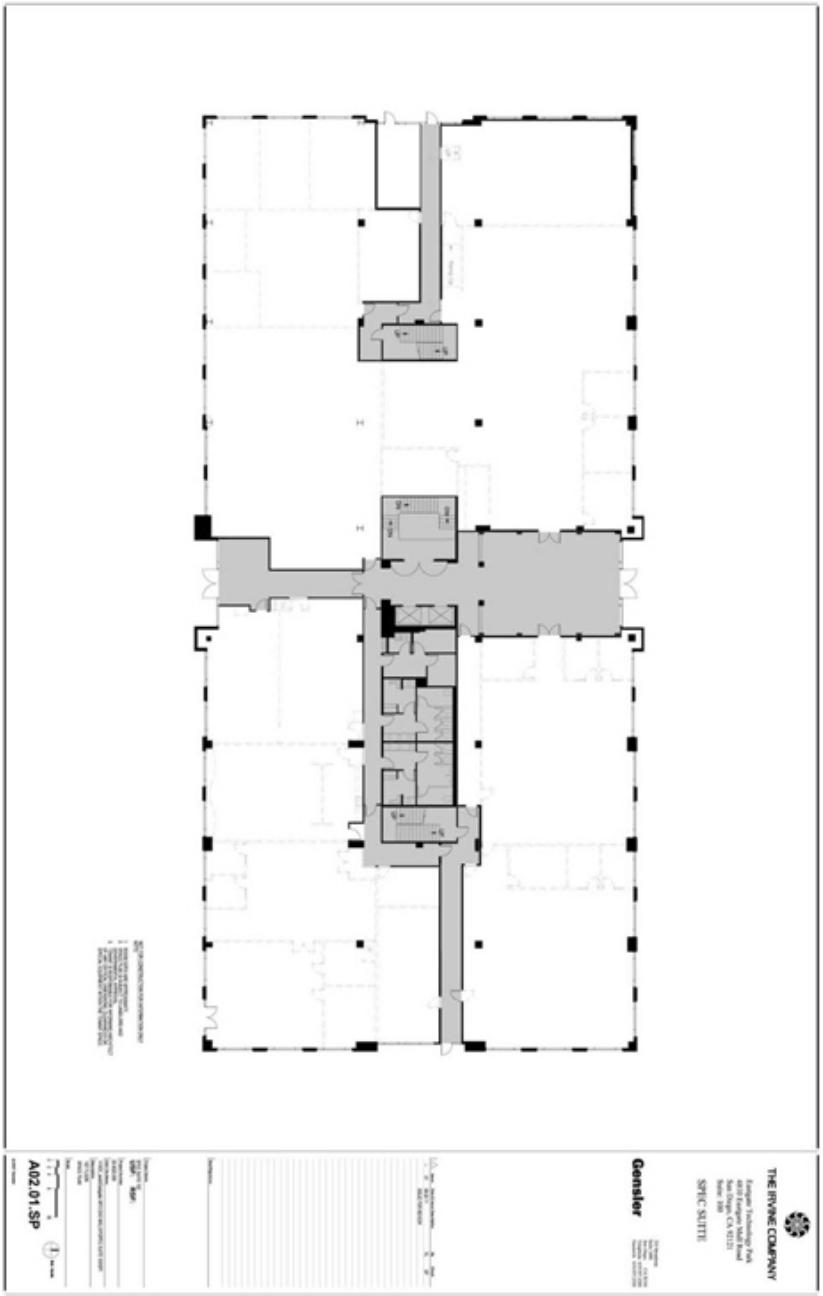
C. Tenant shall pay to Landlord the amount of the Tenant Contribution set forth in the approved Final Cost Estimate as follows: (i) 33% by June 1, 2012, (ii) 33% upon 50% of the completion of the Tenant Improvements and (iii) the remaining balance upon substantial completion of the Tenant Improvements. All payments shall be made to Landlord within 30 days upon receipt of invoices. In addition, if the actual Completion Cost of the Tenant Improvements is greater than the Final Cost Estimate because of modifications or extras requested by Tenant and not reflected on the approved working drawings, or because of Tenant Delays, then to the extent it is in excess of any unused portion of the Landlord Contribution, Tenant shall pay to Landlord, within 30 days following submission of an invoice therefor, all such additional costs, including any additional architectural fee. If Tenant defaults in the payment of any sums due under this Work Letter, Landlord shall (in addition to all other remedies) have the same rights as in the case of Tenant's failure to pay rent under the Lease.

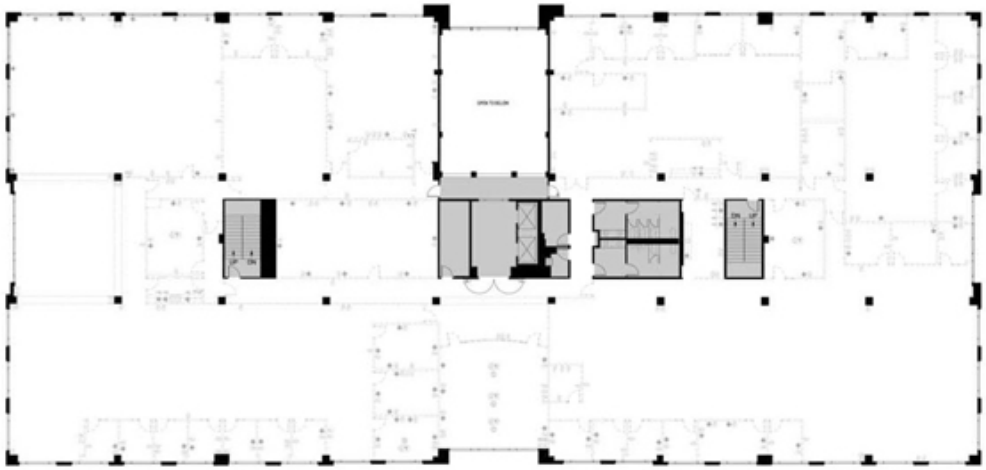
III. LANDLORD WORK. Landlord, at Landlord's sole cost and expense and not as a Completion Cost or Project Cost, shall demolish all existing improvements on the first, second and third floors of the Building, including the ceiling, and leave the floors in a "warm shell" condition, as shown on Exhibit X-1, attached hereto. Additionally, Landlord shall demolish any portion of the Common Area corridor on the first floor provided that exiting remains compliant in accordance with the City of San Diego building code.

Exhibit X-1

IRVINE COMPANY Since 1864 | OFFICE PROPERTIES

4810 Eastgate Mall





THE IRVINE COMPANY

Eastgate Technology Park
6030 Eastgate Mall Road
San Diego, CA 92121
Suite: 200

SPEC SUITE

Gensler

	Date	Issue/Revision Description	By	Check
1	01	12.20.11 ISSUE FOR PRICING PLAN	MH	JK
2	02	12.21.11 ADDENDUM 1	MH	JK

Drawing Number

Project Name
SPEC SUITE 200
USF: 20,806 RSF: 33,037

Project Number
10-020-00

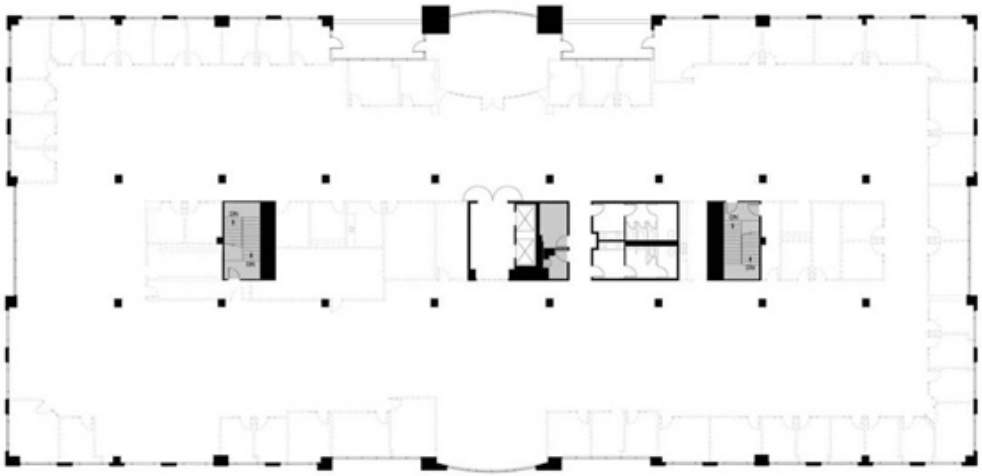
CAD File Name
C:\CAD_work\Eastgate\A11\10-020 Spec Suite 200\Pricing Plan

Description
SPEC SUITE
PRICING PLAN

Scale
0 2 4 8 16
1 not to scale

A02.02.PP

©2011 Gensler



THE IRVINE COMPANY

Eastgate Technology Park
4810 Eastgate Mall Road
San Diego, CA 92121
Suite: 300

ServiceNow

Gensler

	Date	Sheet Issue Description	By	Chkd
1	7/	SD 3 D	D	JS
		SDUE DEMOLITION PLAN		

Checked By:

Project Name:
ServiceNow Lab DD
USF: 28,520 RSF: 32,592

Project Number:
S-1523.06

CAD File Name:
C:\SD_work\Gensler-M13\SAC\WALLSDEMO.PLAN

Description:
DEMOLITION PLAN

Scale:
1 2 4 8 16

A02.03.DP

EXHIBIT Y

PROJECT DESCRIPTION

4810 Eastgate Mall
Exhibit Y

EXHIBIT Z

TENANT IDENTIFICATION
SIGNAGE CRITERIA

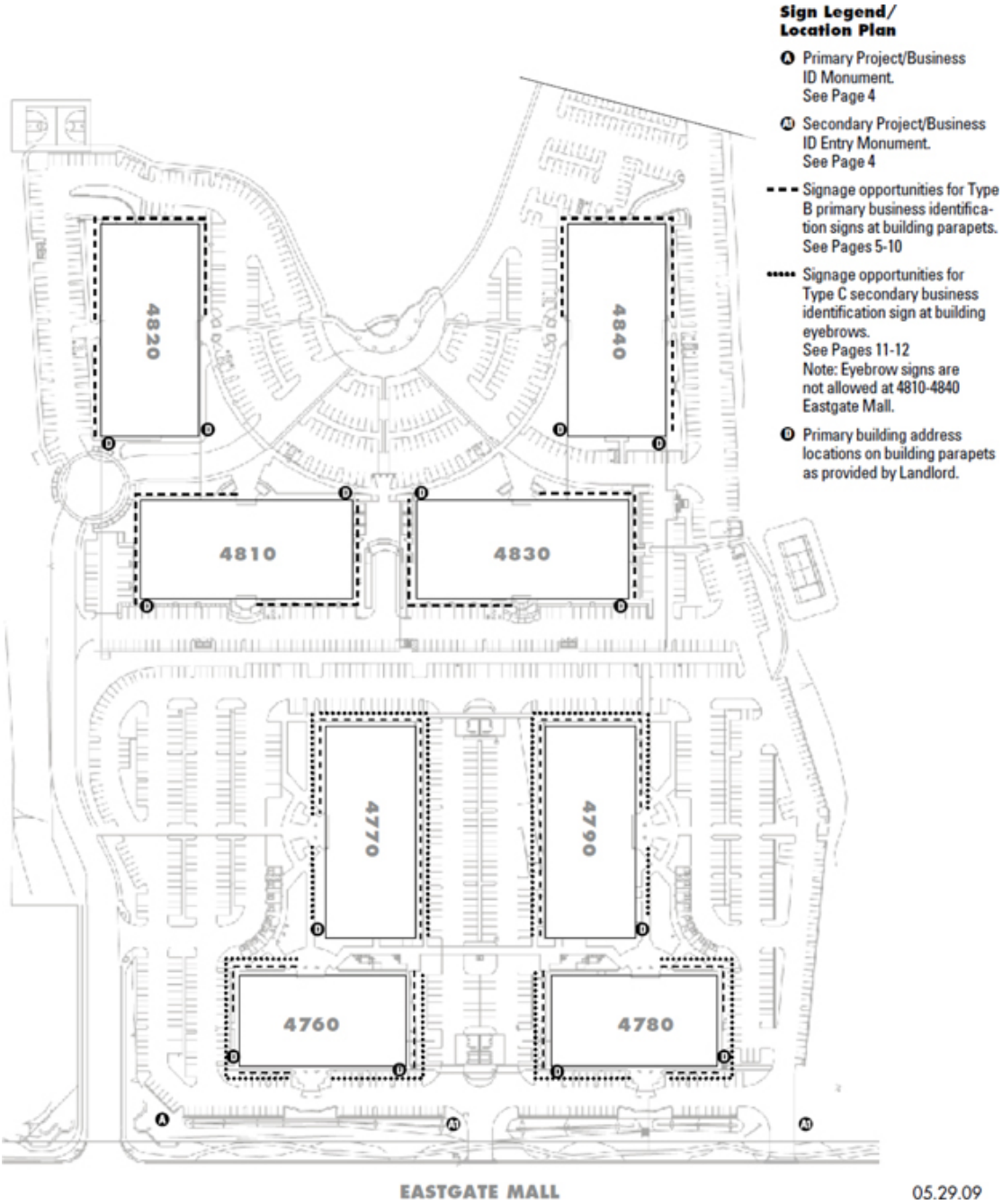
Bridge Point
San Diego, California

4760 – 4790 & 4810 – 4840 Eastgate Mall

Tenant Identification
Signage Criteria

IRVINE COMPANY
Since 1864

May 29, 2009


Sign Legend/
Location Plan
A Primary Project/Business ID Monument. See Page 4
A1 Secondary Project/Business ID Entry Monument. See Page 4
Signage opportunities for Type B primary business identification signs at building parapets. See Pages 5-10
Signage opportunities for Type C secondary business identification sign at building eyebrows. See Pages 11-12 Note: Eyebrow signs are not allowed at 4810-4840 Eastgate Mall.
D Primary building address locations on building parapets as provided by Landlord.
4820
4840
4810
4830
4770
4790
4760
4780
EASTGATE MALL
05.29.09

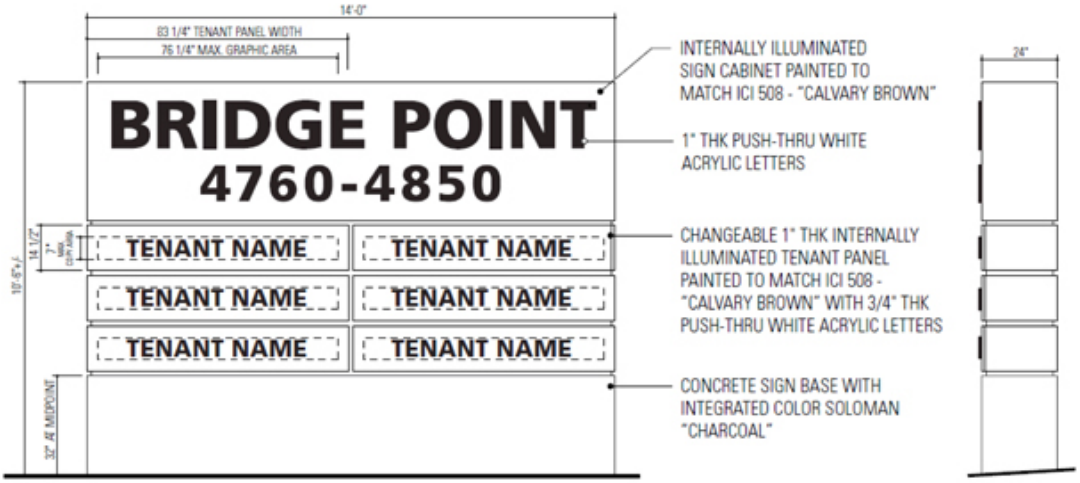
Sign Type A
Standard Project/Business
Identification Monument Signs

Location:	Near entrances to property (refer to location plan on page 2).
Sign Copy:	The sign will display project standard building address numerals and up to six (6) Business names. Symbols are not allowed.
Maximum Number:	There is one (1) Primary Project Monument sign and two (2) Secondary Project Entry Monuments.
Maximum Size:	Business identification signs must be contained with changeable panel(s), centered horizontally and vertically, as specified by Landlord. See Page 4.
Type Face:	Project Standard font Frutiger *75* Black. All copy to consist of capital letters only.
Method of Illumination:	Business name panels are internally illuminated. Copy shall be white translucent push-thru acrylic letters per layout standards.

05.29.09

Sign Type A

Standard Project/Business Identification Monument Signs

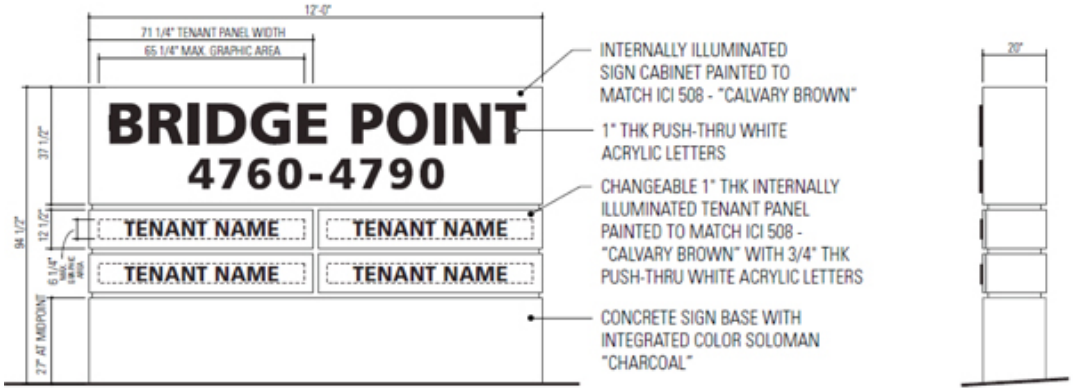


ELEVATION – PRIMARY PROJECT MONUMENT - SIGN **A**

1/4" = 1'-0"

SIDE VIEW

1/4" = 1'-0"



ELEVATION – PROJECT ENTRY MONUMENT - SIGN **A1**

1/4" = 1'-0"

DRAWING IS APPROXIMATE

SIDE VIEW

1/4" = 1'-0"

05.29.09

Sign Type B
Primary Business Identification Parapet Signs
Buildings 4760 – 4790

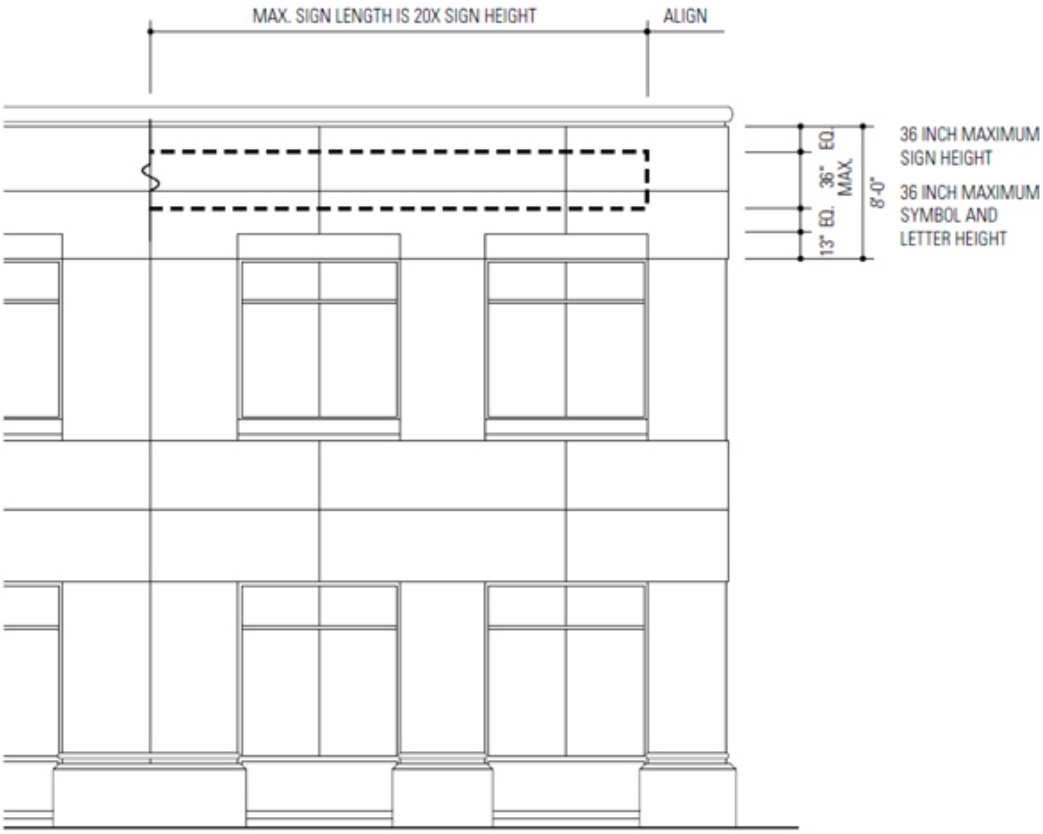
Location:	At the parapet level of the building on designated elevations (refer to location plan on page 2).
Sign Copy:	Limited to the name of business only. Subtitles and other copy are not allowed. Copy/symbol may be displayed on a single line or two lines. Acceptable formats include: 1. Logotype only 2. Logotype and symbol 3. Symbol only
Maximum Number:	One (1) primary business identification sign is permitted per building elevation, one (1) per building corner, and a maximum of two (2) per building.
Maximum Size:	Signs are to be Justified to outside edge of first window jamb edge of major building face. Maximum sign height is 36 inches. Maximum symbol and letter height is 36 inches. Maximum symbol area is 18 square feet. Maximum copy area is 100 square feet. Maximum sign length is 20 times letter height. Refer to Page 6 for details.
Type Face:	Project standard typeface (Frutiger 75 Black) or Business corporate logotype subject to Landlord's approval.
Color:	Business Corporate Color(s) subject to Landlord's approval, or Project standard color: Day/Night Acrylic.
Sign Materials:	Business name shall consist of individual metal fabricated reverse-channel letters. Exposed raceways or sign hangers are not allowed. Minimum letter thickness is 4 inches. No continuous cabinet sign forms are permitted unless cabinets encapsulating corporate symbols subject to Landlord's approval.
Method of Illumination:	Non-illuminated individual letters or individual letters with internal illumination using project standard warm white glass tube neon – 3500K triphosper or equivalent LED lamps. Exposed neon is not allowed.

05.29.09

Sign Type B

Primary Business Identification Parapet Signs

Buildings 4760 – 4790



TYPICAL PARTIAL BUILDING ELEVATION – BLDGS. 4760 THRU 4790

1/8" = 1'-0"

DRAWING IS APPROXIMATE

05.29.09

Sign Type B
Primary Business Identification Parapet Signs
Buildings 4810 & 4830

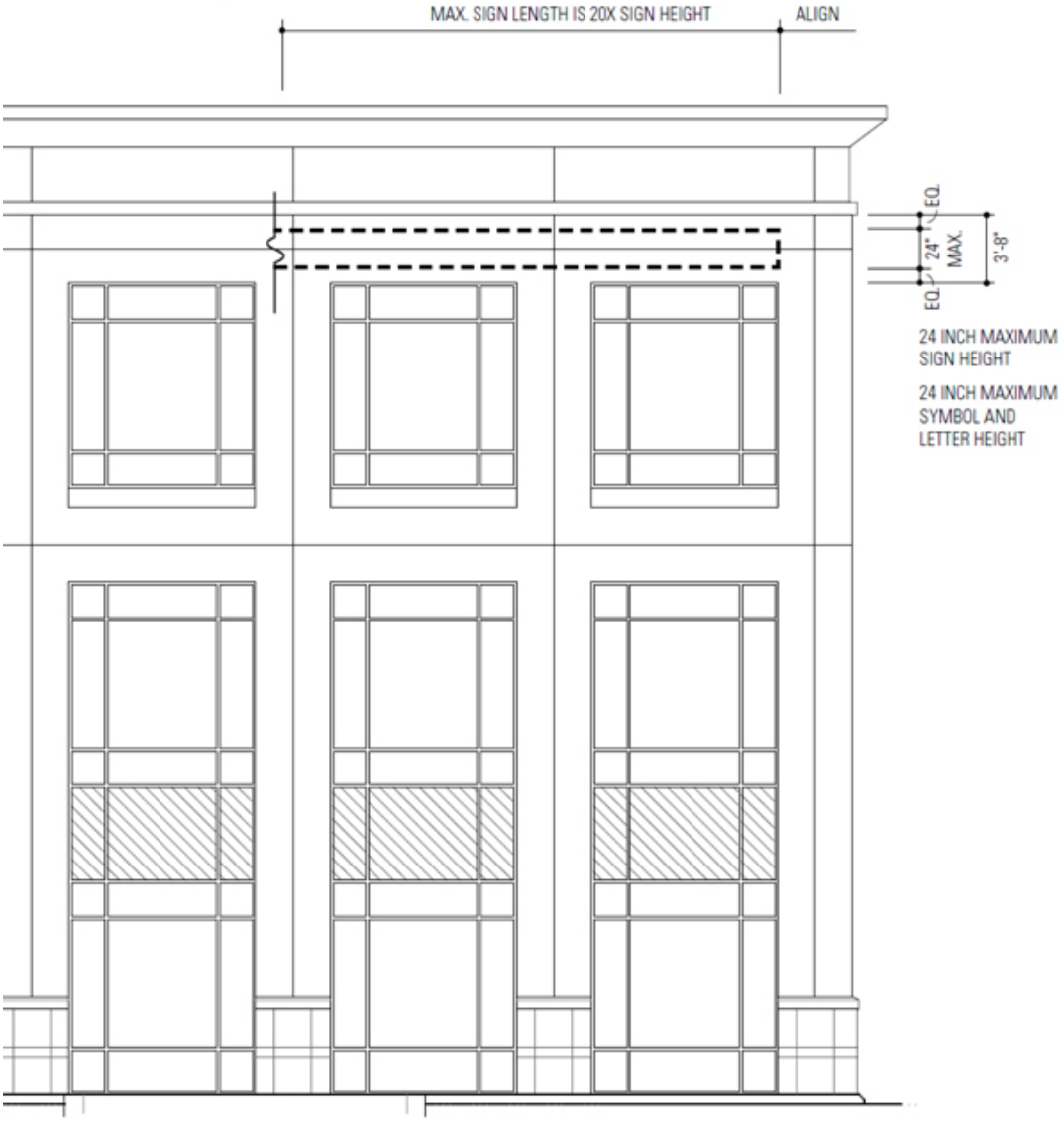
Location:	At the parapet level of the building on designated elevations (refer to location plan on page 2).
Sign Copy:	Limited to the name of business only. Subtitles and other copy are not allowed. Copy/ symbol may be displayed on a single line or two lines. Acceptable formats include: 1. Logotype only 2 Logotype and symbol 3. Symbol only
Maximum Number:	one (1) primary business identification sign is permitted per building elevation, one (1) per building corner, and a maximum of two (2) per building.
Maximum Size:	Signs are to be justified to outside edge of first window jamb edge of major building face. Maximum sign height is 24 inches. Maximum symbol and letter height is 24 inches. Maximum symbol area is 18 square feet. Maximum copy area is 75 square feet. Maximum sign length is 20 times letter height. Refer to Page 8 for details.
Type Face:	Project standard typeface (Frutiger 75 Black) or Business corporate logotype subject to Landlord's approval.
Color:	Business Corporate Color(s) subject to Landlord's approval, or Project standard color: Day/Night Acrylic
Sign Materials:	Business name shall consist of individual metal fabricated reverse-channel letters. Exposed raceways or sign hangers are not allowed. Minimum letter thickness is 4 inches. No continuous cabinet sign forms are permitted unless cabinets encapsulating corporate symbols subject to Landlord's approval.
Method of Illumination:	Non-illuminated individual letters or individual letters with internal illumination using project standard warm white glass tube neon – 3500K triphosper or equivalent LED lamps. Exposed neon is not allowed.

05.29.09

Sign Type B

Primary Business Identification Parapet Signs

Buildings 4810 & 4830



TYPICAL PARTIAL BUILDING ELEVATION – BLDGS. 4810 & 4830

1/8" = 1'-0"

DRAWING IS APPROXIMATE

05.29.09

Sign Type B
Primary Business Identification Parapet Signs
Buildings 4820 & 4840

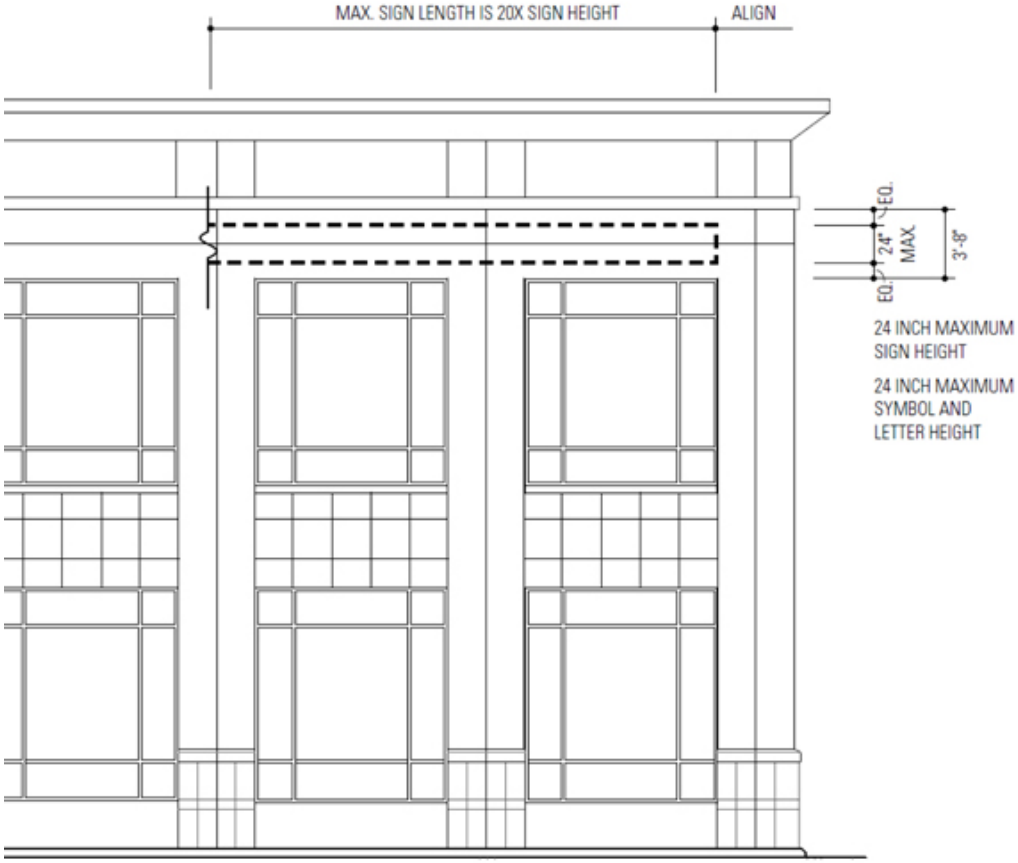
Location:	At the parapet level of the building on designated elevations (refer to location plan on page 2).
Sign Copy:	Limited to the name of business only. Subtitles and other copy are not allowed. Copy/symbol may be displayed on a single line or two lines. Acceptable formats include: 1. Logotype only 2. Logotype and symbol 3. Symbol only
Maximum Number:	One (1) primary business identification sign is permitted per building elevation, one (l) per building corner, and a maximum of two (2) per building.
Maximum Size:	Signs are to be justified to outside edge of first window jamb edge of major building face. Maximum sign height is 24 inches. Maximum symbol and letter height is 24 inches. Maximum symbol area is 18 square feet. Maximum copy area is 75 square feet. Maximum sign length is 20 times letter height. Refer to Page 10 for details.
Type Face:	Project standard typeface (Frutiger 75 Black) or Business corporate logotype subject to Landlord's approval.
Color:	Business Corporate Color(s) subject to Landlord's approval or Project standard color: Day/Night Acrylic
Sign Materials:	Business name shall consist of individual metal fabricated reverse-channel letters. Exposed raceways or sign hangers are not allowed. Minimum letter thickness is 4 inches. No continuous cabinet sign forms are permitted unless cabinets encapsulating corporate symbols subject to Landlord's approval.
Method of Illumination:	Non-illuminated individual letters or individual letters with internal illumination using project standard warm white glass tube neon – 3500K triphosper or equivalent LED lamps. Exposed neon is not allowed.

05.29.09

Sign Type B

Primary Business Identification Parapet Signs

Buildings 4820 & 4840



TYPICAL PARTIAL BUILDING ELEVATION – BLDGS. 4820 & 4840

1/8" = 1'-0"

DRAWING IS APPROXIMATE

05.29.09

Sign Type C
Secondary Business Identification Eyebrow Signs
Buildings 4760 – 4790

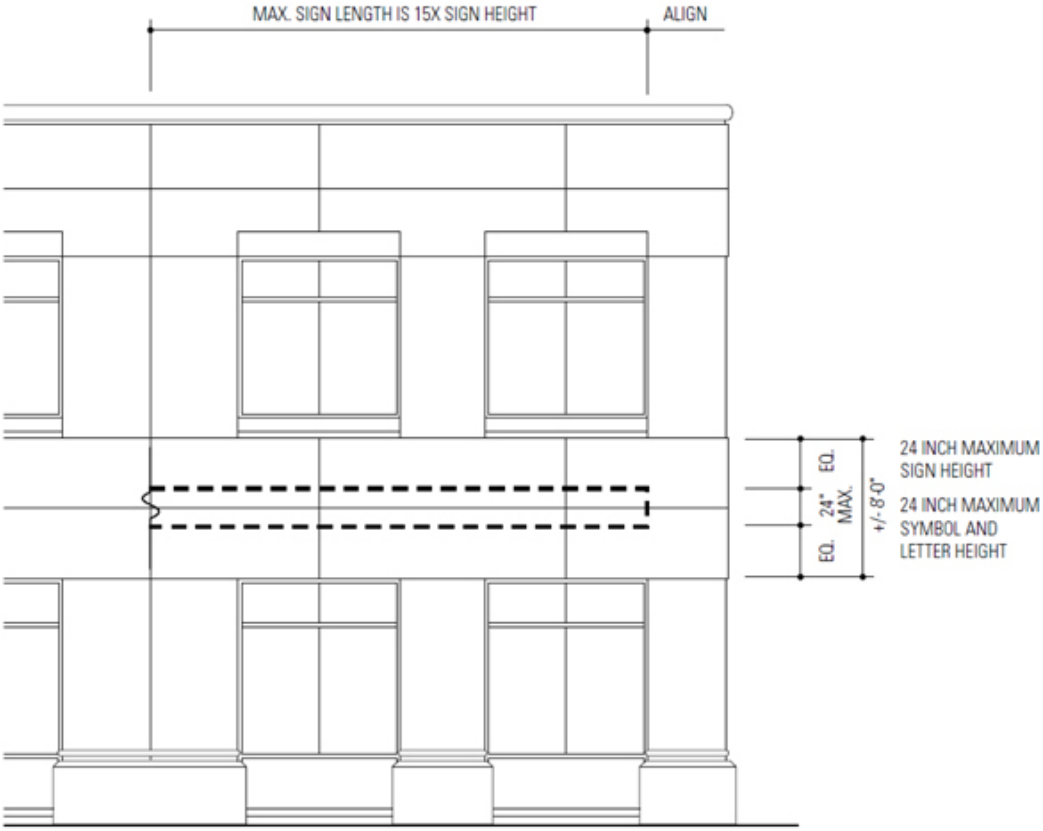
Location:	At the eyebrow level of the building on designated, elevations (refer to location plan on page 2).
Sign Copy:	Limited to the name of business only. Subtitles and other copy are not allowed. Copy/symbols to be on single line. Acceptable formats include: 1. Logotype only 2. Logotype and symbol 3. Symbol only
Maximum Number:	Two (2) secondary business identification signs are permitted per building elevation (one (1) per end elevation), with a maximum of four (4) per building.
Maximum Size:	Signs are to be centered on designated fascias above primary building entry. Maximum sign height is 24 inches. Maximum symbol and letter height is 24 inches. Maximum symbol area is 13.5 square feet. Maximum copy area is 56 square feet. Maximum sign length is 15 times letter height. Refer to Page 12 for details.
Type Face:	Project standard typeface (Frutiger 75 Black) or Business corporate logotype subject to Landlord's approval.
Color:	Business Corporate Color(s) subject to Landlord's approval or Project standard color: Day/Night Acrylic
Sign Materials:	Business name shall consist of individual metal fabricated reverse-channel letters. Exposed raceways or sign hangers are not allowed. Minimum letter thickness is 4 inches. No continuous cabinet sign forms are permitted unless cabinets encapsulating corporate symbols, subject to Landlord's approval.
Method of Illumination:	Non-illuminated individual letters or individual letters with internal illumination using project standard warm white glass tube neon – 3500K triphosper or equivalent LED lamps. Exposed neon is not allowed.

05.29.09

Sign Type C

Secondary Business Identification Eyebrow Signs

Buildings 4760 – 4790



TYPICAL PARTIAL ELEVATION – BLDGS. 4760 THRU 4790

1/8" = 1'-0"

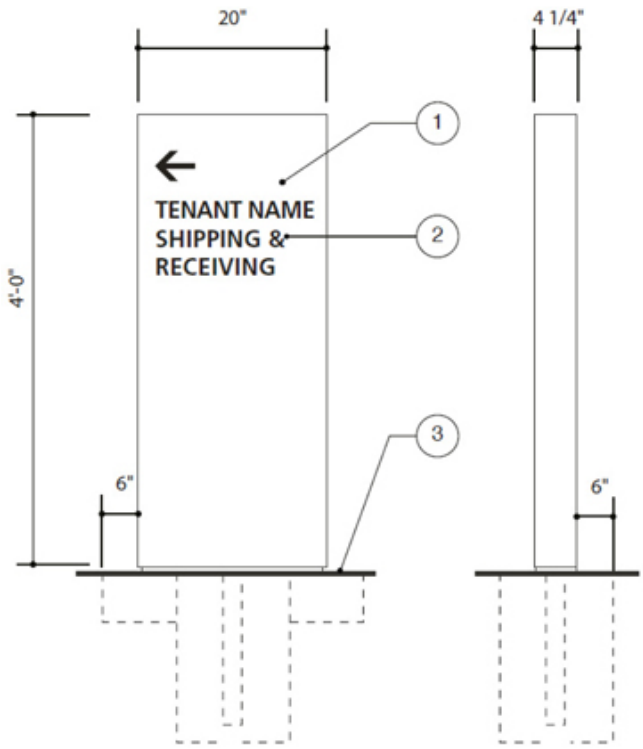
DRAWING IS APPROXIMATE

05.29.09

Sign Type C

Shipping/Receiving Directional

Designated businesses may install on site shipping & receiving directional signs at locations as determined by Landlord. All signs shall conform to the project standards as shown below. One sign shall be allowed per business.



DESIGN NOTES:

1. 4 1/4" DEEP .125 THICK ALUMINUM FABRICATED CABINET WITH 4" X 2" INTERNAL RECTANGULAR TUBE FRAMING TO EXTEND DOWN 1'-6" FOR FOOTING. ALL SURFACES TO HAVE ACRYLIC POLYURETHANE PAINT FINISH. COLOR ICI 508 "CAVALRY BROWN".
2. HP REFLECTIVE WHITE VINYL GRAPHICS. FONT: FRUTIGER 65 BOLD, ALL CAPTIAL LETTERS.
3. SMOOTH FINISH CONCRETE CONTINUOUS MOW STRIP MIN. 6" ON ALL SIDES. REQUIRED ONLY WHEN SIGNS ARE LOCATED IN TURF OR PLANTED AREAS.

ST-17 ELEVATION
SCALE: 3/4" = 1'-0"

SIDE VIEW
SCALE: 3/4" = 1'-0"

DRAWING IS APPROXIMATE

05.29.09

Project Standard Typeface
Frutiger 75 Black

ABCDEFGHIJKLMN
OPQRSTUVWXYZ

1234567890

05.29.09

EXHIBIT 16.1

March 30, 2012

U.S. Securities and Exchange Commission
Office of the Chief Accountant
100 F Street, NE
Washington, DC 20549

Dear Sir or Madam:

We have read the change in independent registered public accounting firm disclosure pursuant to Item 304 of Regulation SK, captioned “Change in Accountants” in the Registration Statement on Form S-1 of ServiceNow, Inc. dated March 30, 2012, and agree with the statements concerning our Firm contained therein.

Very truly yours,

/s/ Grant Thornton LLP

EXHIBIT 21.1

SUBSIDIARIES

Name of Subsidiary	Jurisdiction of Incorporation or Organization
ServiceNow Delaware LLC	Delaware
SN Europe CV	Bermuda
ServiceNow Canada Inc.	Canada
ServiceNow Nederland BV	Netherlands
Service-now.com GmbH	Germany
Service-now.com UK Ltd	United Kingdom
ServiceNow Denmark ApS	Denmark
ServiceNow France SAS	France
ServiceNow Australia Pty Ltd	Australia
ServiceNow Switzerland CmbH	Switzerland
ServiceNow Sweden AB	Sweden

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the use in this Registration Statement on Form S-1 of ServiceNow, Inc. of our report dated March 30, 2012 relating to the financial statements of Service-now.com, which appears in such Registration Statement. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ PricewaterhouseCoopers LLP
San Diego, California
March 30, 2012